



ATLANTIC INTERNATIONAL STUDIES JOURNAL

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ENEMY

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SUDAN AND THE
IMPLICATIONS FOR A
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The Atlantic International Studies Journal: An Introduction

The Atlantic International Studies (ATLIS) Journal is Canada's first and only peer-reviewed, academic journal strictly for undergraduate students. Published at Mount Allison University in Sackville, New Brunswick, the Journal is in its seventh year and is garnering increasing attention. It is nationally archived and copies are held in the United Nations Department of Peacekeeping Operations Office of Military Affairs in New York.

The purpose of the Journal is to allow undergraduate students in the Atlantic Canada region to showcase their research, whether it is for a class, an independent study, or a thesis project. The Journal is interdisciplinary and aims to include papers from students in any year of their undergraduate degree. It recognizes that students

The first six issues of the ATLIS Journal were published by the ATLIS Organization following its yearly academic conference. The Journal is now being published by the Centre for International Studies (CIS) at Mount Allison following ATLIS' incorporation as a CIS working group. While many of this year's conference presenters are included in the Journal, the articles selected were not limited to the speakers' papers.

Inside these pages you will find articles on topics as diverse as gender and water in Latin America, LGBT rights as human rights in Uganda, the global financial system, and the harmonization of theories of international relations. While submitters were not asked to follow the conference theme of "Alternative Solution: Looking to a Sustainable Future,"

most of them do look at current issues facing the international arena and examine the sustainability of various alternatives to these problems.

The conference and Journal are run by students for students. If you enjoy the Journal and are interested in getting involved with ATLIS in future years you have several options. You can attend our conference, submit to the Journal, volunteer to peer review articles, or become a staff member and actively planning and preparing our activities throughout the year.

The ATLIS Organization was created in the winter of 2003 at Mount Allison with the purpose of fostering informed undergraduate participation in international issues through scholarship and social and political involvement. ATLIS is committed to finding innovative ways to engage students with the world around them. ATLIS actively seeks partnerships with other organizations and clubs, other universities, faculty, and experts in diverse fields of international studies.

For more information visit: atlismta.org

The Centre for International Studies (CIS) is a joint student-faculty run organization designed to engage Mount Allison students, faculty, and the wider community across disciplines in critical learning, dialogue, and innovative, collaborative action on pressing global issues. It does so through hosting conferences and speakers, compiling databases of resources and of internship opportunities, and supporting the creation of Working Groups on areas of interest to students.

For more information visit: cismta.ca

The Democratic Republic of the Congo

International Judicial Structures, Domestic Courts, and Confronting the Human Rights Abuses Against Children in the Recent Congolese Wars

Rachel Gardner

After the United Nations released a mapping report on October 1st, 2010 that provided evidence of extensive human rights violations in the Democratic Republic of the Congo (DRC), it became apparent that some form of justice was necessary to ensure that those responsible were held accountable and that such abuses could be prevented in the future. Indeed, the recorded human rights abuses against children were horrific, and it is difficult to imagine the next generation being able to cope with the memories of the death and violence during the civil wars extending from 1993 to 2003. There are numerous international treaties and conventions applicable to these human rights violations. However, while the DRC's judicial structures contain sections allowing prosecution under imperatives of international human rights law, the process of enforcing sentences upon individuals after conviction is flawed and virtually non-existent at this point in time. The currently weak political system of the DRC requires transitional justice mechanisms, particularly international judicial bodies, to combat the problem of impunity and address the human rights abuses committed against children. While a number of transitional judicial bodies exist to aid in developing of a culture of justice, including the International Criminal Court, international criminal tribunals, and hybrid courts, hybrid courts appear to offer the greatest ability to strengthen state judicial systems in the post-conflict period.

BACKGROUND: ABUSES AGAINST
CHILDREN IN THE DRC FROM 1993-2003

The United Nations released a controversial

mapping report that documented the most serious violations of human rights and international humanitarian law committed within the DRC between March 1993 and June 2003. This report was highly contested by the states of Rwanda and Uganda, whose armies were accused of involvement in the extensive human rights abuses that occurred. The period between 1993 and 2003 comprises the failure of the democratisation process, the First Congolese War, the Second Congolese War, and the political transition period between President Laurent-Désiré Kabila's death in 2001 and the succession of his son, Joseph Kabila, 10 days later.¹

A large section of the UN mapping report is devoted to outlining the human rights abuses against children, including being victims of widespread attacks on civilian populations, victims of ethnic violence, victims of sexual violence, as well as suffering from high infant mortality and vulnerability to anti-personnel mines. The report describes horrific incidences of violence, including: the massacres of children in "a large number of schools, hospitals, orphanages and the premises of several humanitarian organisations;"² the murder of ethnically targeted children "with blows from hatchets or with their head smashed against a wall or tree trunk,"³ and sexual relations with children, which superstition says can "cure certain diseases (HIV/AIDS) or make the perpetrator invulnerable."⁴ Of additional concern in the DRC is that, in 2003, "Oxfam estimated that, in some regions, one-quarter of all children were dying before their fifth birthday... [which]

¹ For further information, see: Nest et al. *The Democratic Republic of the Congo: Economic Dimensions of War and Peace*. Boulder, Colorado: Lynne Rienner Publishers, Inc., 2006; Scherrer, Christian P. *War in the Congo*. Moers: Institute for Research on Ethnicity and Conflict resolution (IRECOR), 2001

² United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," [New York, NY], 2010: 338, http://www.ohchr.org/Documents/Countries/ZR/DRC_MAPPING_REPORT_FINAL_EN.pdf

³ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 339

⁴ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 341

make[s] the DRC one of the three most dangerous countries in the world in which to be born.”⁵ The fact that children, those most dependent on others for their survival, are unable to develop in a safe and secure environment, should be an enormous concern for officials both in the DRC and any state that agrees with and adheres to the principles in the Universal Declaration of Rights and Freedoms.

Additionally, there was widespread use of children in armed groups and forces during the time of the conflict, despite the DRC’s ratification of international treaties that specifically prohibit child recruitment. Children in armed groups were “subjected to indescribable violence, including murder, rape, and torture, cruel, inhuman and degrading treatment, forced displacements and the destruction of their villages, and were deprived of all their rights.”⁶ Children are specifically recruited because “of their availability and malleability in a drawn-out conflict.”⁷ Colonel Ntambo Mutchail of the AFDL/APR stated clearly why children are used so extensively in conflict:

They are the best. At this age there is total obedience. They are not distracted. They haven’t yet experienced a private life. They are devoted to one thing: to the Alliance. They have nothing else in their hands. They are not worried by morals. They are devoted to the Alliance.⁸

Children are thus exploited through military recruitment due to their vulnerability and susceptibility to the rebels’ indoctrination.

INTERNATIONAL TREATIES AND CONVENTIONS VERSUS DOMESTIC LEGAL PROVISIONS

International treaties and conventions are regularly signed and ratified by states, and

represent the initiation of change in the state towards the values contained therein. Treaties represent a form of empowerment to both the states and the individuals within the states who have ratified them, as they “help local actors set priorities, define meaning, make rights demands, and bargain from a position of greater strength than would have been the case in the absence of their government’s treaty commitment.”⁹ Thus, it is important to discuss the international treaties and conventions signed and ratified by the DRC that hold relevance to the aforementioned human rights abuses against children.

The United Nations Declaration of the Rights of the Child was signed and ratified by the DRC in 1990. The declaration states that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.”¹⁰ The rights and freedoms of a child are declared in fifty-four articles, and include such principles as: the right to life; the right to be raised by parents; the right to play and rest; the right to basic social security; and the right to legal help and fair treatment in the justice system. All of these have been violated during the DRC conflict through the orphaning and murder of civilian children, the lack of human security, the inability to access social security due to threats of rebel invasion and violence, and the lack of accountability for those who were convicted of crimes within the DRC.

Similar to the UN Convention on the Rights of the Child is the African Charter on the Rights and Welfare of the Child¹¹. In 48 articles, the Charter sets out the rights of the African child, with the recognition that “the child occupies a unique and privileged position in the African society and that

⁵ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 342

⁶ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 357

⁷ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 346

⁸ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 346

⁹ Beth A Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (New York: Cambridge University Press, 2009), 126.

¹⁰ United Nations, General Assembly, *Declaration of the Rights of the Child*, [Geneva, Switzerland], 1959: 2, <http://www.cirp.org/library/ethics/UN-declaration/>

¹¹ Adopted by the Organization of African Unity in 1990, entered into force Nov. 29, 1999

for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding.”¹² The Charter additionally notes that because of “the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child’s physical and mental immaturity he/she needs special safeguards and care.”¹³ The DRC ratified this treaty in 2001, thereby reiterating their recognition of the rights of a child within their state. Despite ratifying this treaty, the DRC has had immense difficulties in ensuring that such safeguards are realized within the domestic judicial system, and instead, a culture of impunity has led to such violence as described in the UN Mapping Report.

It is likewise important to note the treaties signed and ratified by the DRC that prohibit the use of child soldiers in times of conflict. The Optional Protocol to the Convention on the Rights of the Child¹⁴ on the involvement of children in armed conflict furthers the previous convention by ensuring that “states parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.”¹⁵ Additionally, the Rome Statute of the International Criminal Court, under article eight, explicitly prohibits the “conscripting or enlisting [of] children under the age of 15 years into the national armed forces or

using them to participate actively in hostilities.”¹⁶ Child soldiers are thus forbidden under the international treaties and conventions of which the DRC is a part, and both the state and the international community are thus obliged to take immediate action to ensure that measures are taken to prevent recruitment of children in the future.

In assessing the legal structures of the DRC, it is important to note that the DRC has codified international treaties and conventions within the domestic legal structure of the state. Under the Congolese Constitution, the human rights of DRC citizens, including “civil and political; social, economic and cultural; and peoples’ rights,”¹⁷ are protected. The DRC’s Constitution of 2006 states:

“Les Cours et Tribunaux, civils et militaires, appliquent les traités internationaux dûment ratifiés, les lois, les actes réglementaires pour autant qu’ils soient conformes aux lois ainsi que la coutume pour autant que celle-ci ne soit pas contraire à l’ordre public ou aux bonnes mœurs.”¹⁸

Additionally, the Constitution states: “les traités et accords internationaux conclus ont, dès leur publication, une autorité supérieure à celle des lois, sous réserve pour chaque traité ou accord, de

¹² OAU, *African Charter on the Rights and Welfare of the Child*, [Addis Ababa, Ethiopia], 1999: 1. http://www.africa-union.org/official_documents/Treaties_Conventions_Protocols/a.%20C.%20ON%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf

¹³ OAU, *African Charter on the Rights and Welfare of the Child*, 1.

¹⁴ Adopted by United Nations General Assembly in 25 May 2000, entry into force 12 Feb 2002

¹⁵ United Nations, Office of the United Nations High Commissioner for Human Rights, *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, [Geneva, Switzerland], 2002: 1, <http://www2.ohchr.org/english/law/crc-conflict.htm>

¹⁶ United Nations, *Rome Statute of the ICC*, [New York, NY], 1999, <http://untreaty.un.org/cod/icc/statute/rome-fra.htm>

¹⁷ Dunia Zongwe, Francois Butedi and Clement Phebe, “The Legal System and Research of the Democratic Republic of Congo (DRC): An Overview,” GlobaLex, http://www.nyulawglobal.org/Globalex/Democratic_Republic_Congo.htm.

¹⁸ “The courts and tribunals, both civil and military, shall apply duly ratified international treaties, laws and regulatory acts, provided they are in accordance with the laws and with custom.” The Democratic Republic of the Congo, *Constitution de la République Démocratique du Congo*, [Kinshasa, DRC], 2006, http://democratie.francophonie.org/IMG/pdf/Constitution_de_la_RDC.pdf

son application par l'autre partie."¹⁹ Both of these declarations assert that the DRC courts hold the power to implement the rights guaranteed under international law upon those crimes committed within the nation of the DRC itself. Such a legal framework provides the initial structure needed to prevent future human rights violations against children.

However, the aforementioned legal imperatives were only written down and implemented in 2006, leaving the period before this time subject to different legal precedents. For example, until 2009 the recruitment and use of children in times of conflict "was not established as a crime in the DRC's criminal code."²⁰ Although in June 2000, a decree "ordered the demobilisation and family or socio-economic reintegration of children associated with the armed forces or groups, girls and boys, under the age of 18,"²¹ this decree does not prevent these children from being re-recruited for military parties involved. The re-recruitment of child soldiers is furthermore a common occurrence in zones of civil and interstate conflict, as in the case of the DRC between 2000 and 2003, where the demobilisation and reintegration of child soldiers was supposed to occur. Additionally, there is no guarantee that those children who are reintegrated into society are actually safer, due to the immense violence, ethnic conflict, and attacks on refugee camps that were occurring over this period.²²

¹⁹ "Duly concluded international treaties and agreements shall have, following publication, higher authority than laws, provided each treaty or agreement is applied by the other." The Democratic Republic of the Congo, *Constitution de la République Démocratique du Congo*.

²⁰ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 345

²¹ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 345

²² See Singer, P. W. *Children at War*. New York: Pantheon Books, 2005; Wessells, Michael. *Child Soldiers: From Violence to Protection*. Cambridge, Massachusetts: Harvard University Press, 2006; Thomas, Virginia. 2008. "Overcoming Lost Childhoods: Lessons Learned from the Rehabilitation and Reintegration of former Child Soldiers in Colombia." *Y Care International*.

THE STATE OF DOMESTIC JUDICIAL STRUCTURES IN THE DEMOCRATIC REPUBLIC OF THE CONGO

An adequate legal framework currently exists within the DRC to allow for criminal prosecutions of human rights abuses under international law. However, the problem in the DRC is "less a problem of inadequate provisions in criminal law than a failure to apply them."²³ There are a number of examples where people were convicted but never penalized for their involvement in the abuses between 1993 and 2003. For example, Jean-Pierre Biyoyo, of the Congolese Army, was promoted to Lieutenant-Colonel "after receiving a death sentence from a military court in March 2006 for desertion and fleeing abroad in times of war, organizing an insurrection movement, and the arbitrary arrest and illegal detention of children."²⁴ This example clearly demonstrates a divide between the sentencing and implementation of that sentence within the DRC's judicial sector. However, the impunity problem apparent in the justice system is due to a number of factors, all of which need to be addressed before the courts can effectively investigate, prosecute and try criminals under the existing framework.

The lack of resources and capacity of the DRC is one factor that is perpetuating the impunity within the DRC state. Between 2004 and 2006, the government spent a mere 0.6 per cent per year on justice, "while most countries spend between [two per cent] and [six per cent] of their national budgets on justice."²⁵ The underfunding of the judicial system leads to a number of consequences, including lower wages for judicial employees, inadequate infrastructure and buildings, insecurity in the transportation and protection of witness, insufficient training for those currently in the legal profession, and the poor functioning of the prison system. Of

²³ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 422.

²⁴ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 345-46

²⁵ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 424

additional concern is the state of vulnerability in which insufficient funding leaves judicial agents, who are then more willing to accept bribes when deciding court cases.

Of particular note is that the DRC judicial system is plagued by a completely insufficient number of judges and magistrates for the population in question, likely due to budgetary constraints and the difficulties of pursuing higher education during the ten years of conflict. The UNDP and Ministry of Justice estimated that in 2007, “there were 2030 magistrates, or one per 30 000 of the population, and only 230 jurisdictions and offices.”²⁶ This is compared to the global average of one magistrate or judge per 15 000 inhabitants.²⁷ The lack of courts and magistrates has resulted in magistrates being backlogged with all the cases referred to them, as well as being unable to reach the quorum required in order to sit. Evidently, this has resulted in a national scramble to find and secure people employed in the legal profession. In 2007, the Ministry of Justice “estimated that there was a shortfall of nearly 2500 magistrates nationwide, and that 1000 needed to be recruited urgently.”²⁸ However, as mentioned earlier, it is difficult to find those who have attained high enough forms of education to achieve a legal degree. Additionally, many areas of the province remain extremely dangerous for inhabitants, and as such, it is difficult to find people who would want to relocate to these regions. As a result, rural inhabitants are left without accessible legal aid, and are often ruled under local figures “who tend to abuse their administrative, economic and customary powers when ruling on lawsuits put before the courts.”²⁹ Thus, the lack of judicial

personnel is an enormous problem within the DRC, and must be solved before domestic justice can be established.

The interference of political and military figures in the judicial process is another significant concern that aids the cycle of impunity in the DRC. Throughout the history of the DRC, there have been incidents where “military and civilian judges and prosecutors were threatened and attacked by armed group members and sometimes even members of the armed force to intimidate them, disrupt criminal proceedings and ensure impunity.”³⁰ As such, many cases favour the more powerful citizens within the state, and the rule of law is not applied universally. This violates the basic right to a “fair and public hearing by an independent and impartial tribunal”³¹ guaranteed in article 10 of the Universal Declaration of Human Rights. Despite attempts to correct these historical malpractices through the new constitution, which guarantees separation of powers into three jurisdictional orders, the Congolese judicial system remains corrupted by political and military malfeasance.

Another important flaw in the DRC’s judicial system is that the military courts hold exclusive jurisdiction over prosecuting criminals under international law. This poses a significant conflict-of-interest, as the majority of human rights violations in the previous conflicts were committed by those holding high positions in military command. This resultant lack of independence of the courts and tribunals is again slowing down the judicial process and resulting in unfair and closed trials. Indeed, by unfavourably prosecuting military personnel who are accused of

²⁶ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 426

²⁷ Mark Shaw, Ian van Diik, and Wolfgang Rhomberg, “Determining Trends in Global Crime and Justice: An Overview of Results from the United Nations Surveys of Crime trends and Operation of Criminal Justice Systems,” *Forum on Crime and Society* 3, no.1 (2003): 21.

²⁸ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 426

²⁹ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 427

³⁰ United Nations, Human Rights Council, *Combined report of seven thematic special procedures on Technical Assistance to the Government of the DRC and urgent examination of the situation in the east of the country*, [Kinshasa, DRC], 2009: 17, <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.59.pdf>

³¹ United Nations. Universal Declaration of Human Rights. [Paris, France], 1948 : 10. <http://www.un.org/en/documents/udhr/index.shtml>

severe human rights violations within a military court; these courts “deny the victims and their relatives the right to an effective remedy and the right to know the truth.”³² Indeed, the jurisdiction of military courts over international law goes against article 37 of the UN Convention on the Rights of the Child, which states that “every child deprived of his or her liberty shall have... the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”³³ Additionally, under the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, it states clearly that “the only purpose of Military Courts shall be to determine offences

“the only purpose of Military Courts shall be to determine offences of a purely military nature committed by military personnel” and that “military courts should not in any circumstances whatsoever have jurisdiction over civilians.”

of a purely military nature committed by military personnel” and that “military courts should not in any circumstances whatsoever have jurisdiction over civilians.”³⁴ Thus, it is vital that the role of military courts be revised, so

that crimes under international law are tried in ordinary courts and guarantee that conflicts-of-interest do not affect the outcome of the trial.

³² Frederico Andreu-Guzmán, *Military jurisdiction and international law: Military courts and gross human rights violations* (vol. 1), [Châtelaine, Geneva]: International Commission of Jurists, 2004: 12, http://www.ecoi.net/file_upload/87_1184764886_trib-mil-eng-part-i.pdf

³³ United Nations, General Assembly, *Convention on the Rights of the Child*, [New York, NY], 1989, <http://www2.ohchr.org/english/law/crc.htm>

³⁴ African Commission on Human and Peoples' Rights (ACHPR), *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, [Banjul, The Gambia], 1994, http://www.afrimap.org/english/images/treaty/ACHPR_Principles&Guidelines_FairTrial.pdf

Accordingly, it is clear that due to the lack of resources and capacity, lack of judicial personnel, and the role of the military over matters of international law that the DRC's legacy of impunity will continue if the crimes outlined in the UN Mapping Report are tried under domestic law. The DRC will require a number of years of corrective measures, revision of laws, and retraining of legal aid before its current judicial structure will be able to effectively prosecute criminals under international law and combat the current state of impunity. Until this is achieved, international involvement is needed to further set a precedent within the state to ensure that justice and the rule of law are established.

THE NECESSITY OF THE ICC IN DRC'S TRANSITIONAL JUSTICE

The authority of international law within states is a complex issue, and raises serious questions regarding concepts such as state sovereignty and universality. On one side, scholars argue that treaties “violate the right of a state to the exclusive adjudication of matters that affect only its own citizens and that take place within its borders.”³⁵ The rule of state sovereignty, affirmed in the UN Charter, is thus violated through the intrusion of outside actors in domestic affairs. However, on the other side of the debate are those who argue “there is no state so powerful that it may not sometime need the help of others outside itself, either for purposes of trade, or even to ward off the forces of many sovereign nations united against it.”³⁶ Thus, while “the real politics of change is likely to occur at the domestic level,”³⁷ it may be necessary for outside actors to assist states when its judicial capacity is weakened. Of vital importance in the debate, as it relates to the DRC, is the recognition that “children in the DRC have suffered far too much and, if this situation is allowed to continue, there is a risk that a

³⁵ Larry May, *Crimes Against Humanity: A Normative Account*, (Cambridge: Cambridge UP, 2005), 11.

³⁶ May, *Crimes Against Humanity: A Normative Account*, 10.

³⁷ Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics*, 126.

new generation will be created that has known nothing but violence, and violence as a means of conflict resolution, thus compromising the country's chance of achieving lasting peace."³⁸ If for no other reason, it is imperative that punitive measures be taken so that a sense of justice is set in the minds of the future generation, and so that they are aware that future atrocities will not go unpunished.

At the present time, due to the continued state of impunity and violence in the DRC, it may be necessary to address post-conflict stress through transitional justice, which comprises "the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation."³⁹ The International Criminal Court has already been pursued as one option in prosecuting offenders under international law. The President of the DRC stated in 2004 that "because of the exceptional situation in my country, the competent authorities are unfortunately not capable of investigating the [crimes under international law] or of carrying out the required prosecutions without the contribution of the International Criminal Court."⁴⁰ Several cases have already been brought forward to the Court, including the Lubanga trial, which opened in January 2009, and the issuing of an arrest warrant for Bosco Ntaganda in 2006. However, Ntaganda is still at large and the government has stated that "it has no intention of arresting Bosco Ntaganda, at least for the moment."⁴¹ This leads to an important flaw in the ICC, which is its reliance on states to cooperate in the arrest of war criminals. However, the

alternative of forcibly arresting international criminals appears equally unappealing due to its infringement of state sovereignty and the fact that this would require the ICC to have a police force or military. Therefore, despite the ICC's drawbacks, its presence has established a legal precedent within the state that "any individual, irrespective of their rank or level of political responsibility, can be held accountable for the most serious crimes,"⁴² a precedent which can give some hope to the victims of the human rights violations for the future of its judicial system.

As one form of transitional justice, the ICC could open the trials against the accused within the DRC itself to ensure that crimes are punished from a perspective of national justice as opposed to foreign justice. In 2004, after the DRC handed over Thomas Lubanga to the ICC, discussions began regarding the possibility of opening the Lubanga trial within the borders of the DRC. However, "the government quashed the idea, citing security concerns, but observers believe that many within the government were keen that the trial be as far away from Congo as possible and seen as foreign justice."⁴³ While the government's intent is questionable, there is, indeed, evidence that security concerns exist. In the 2006 Nsongo Mboyo case, for example, after seven officers were sentenced to life in prison, "all those found guilty escaped from jail and remain at large."⁴⁴ In confronting these obstacles, it may be more beneficial for the ICC to be used only for the most brutal and systematic violence that will gather broad state support for its investigations and trial procedures. Additionally, the ICC should take a stance to increase its presence within the nation itself, directing initiatives towards "exchanges of information, training sessions and possibly joint

³⁸ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 358.

³⁹ United Nations, Human Rights Commission, Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, [New York, NY], 2006: 4, <http://www.unhcr.org/4506bc494.html>

⁴⁰ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 451.

⁴¹ United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 469.

⁴² United Nations, Human Rights Commission, "Democratic Republic of the Congo, 1993-2003," 470

⁴³ Laura Davis, "Justice-Sensitive Security System Reform in the Democratic Republic of the Congo," [Brussels, Belgium]: Initiative for Peacebuilding, 2009: 21, http://www.initiativeforpeacebuilding.eu/pdf/Justice_Sensitive_Security_System_reform_in_the_DRC.pdf

⁴⁴ Davis, "Justice-Sensitive Security System Reform in the Democratic Republic of the Congo," 21.

investigations with Congolese judicial staff.”⁴⁵ By helping to stimulate greater capacity into the judicial sector, the ICC can have an impact which will extend beyond the present time and into the future stability of the DRC.

TRANSITIONAL JUSTICE AND THE REBUILDING OF A NATION

After extensive conflict in the DRC, it is vital that the international community not only address the present impunity, but also ensure that the future of the state judicial systems be rebuilt and improved. Transitional justice goes beyond the involvement of the ICC to setting up mechanisms that help prepare the state itself by establishing justice mechanisms in the future. Two widely considered options include international criminal tribunals and hybrid courts.

The Sun City Agreement of 2002, agreed upon by government bodies, rebel forces, and civil society groups, was ostensibly the first step in outlining an appropriate framework for transitional justice in the DRC at the end of the Second Congolese War. Five recommendations were put forth from the agreement, including: the establishment of an international criminal court for the DRC to judge crimes committed since 1960; the creation of a national Truth and Reconciliation Commission; the creation of a national human rights observatory; the abolition of the military courts’ jurisdiction to judge civilians and the recognition of the right of appeal before those jurisdictions; and the assertion of the separation of powers and the effective independence of the judiciary.⁴⁶ These mechanisms all address a number of the problems in the current judicial system in the DRC, bring attention to the abuses of the past wars, set up mechanisms that would address present inadequacies within the judicial system, and expand the capacity and training of DRC judicial personnel to combat impunity. In the search for long-term mechanisms in

upholding justice within the DRC, an international criminal court is an attractive option to investigate, prosecute, and sentence those involved in crimes against humanity. In assessing the viability of an international criminal tribunal for the DRC, one could use, as a case study, the International Criminal Tribunal for Rwanda (ICTR). The ICTR was set up in the Tanzanian town of Arusha, composed entirely of international lawyers, judges, and magistrates from around the world, and is mandated “to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for such violations committed in the territory of neighbouring States.”⁴⁷ It has aided in determining individual criminal responsibility as opposed to collective guilt, upheld the role of international law, applied impartial justice, built a record of past crimes, and helped combat impunity by holding accountability those who have been responsible for the human rights abuses of the past.⁴⁸ A similar court could have equally positive effects on the DRC.

When comparing the ICTR with the International Criminal Tribunal for the Former Yugoslavia (ICTY), it is important to note that the ICTR experienced greater success due to clearly defined restrictions on the lifespan of the tribunal, the containment of the Rwandan conflict by the time of the commencement of the ICTR, and large state support in obtaining custody of senior level offenders. All of these were necessary to the success of the tribunal; the ICTY experienced enormous difficulties because the aforementioned conditions had not been established. Both tribunals, however, experienced backlogging due to the huge number of cases and the length of the trials. The implementation of a similar court in the DRC is, assuredly, a viable option in combating impunity in the short-term, although

⁴⁵ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 471

⁴⁶ United Nations, Human Rights Commission, “Democratic Republic of the Congo, 1993-2003,” 454

⁴⁷ United Nations, Security Council, 3453rd meeting, *The Security Council, Resolution 955*, 8 Nov 1994, <http://www.un.org/ictt/english/Resolutions/955e.htm>

⁴⁸ Antonio Cassese, “On the Current Trends towards Criminal Prosecution and Punishment of Breaches of International Humanitarian Law,” *European Journal of International Law* 9, no. 1 (1998) : 9.

it is vital to have state cooperation in the arrest of political and military leaders and clearly defined goals and time schedules set for the tribunal.

Conversely, another option that could be pursued is that of a hybrid court. Hybrid courts are defined by the UN as those courts "of mixed composition and jurisdiction, encompassing both national and international aspects, usually operating within the jurisdiction where the crimes occurred."⁴⁹ In the DRC, these courts would prosecute offenders near the centre of the country and employ a large majority of the judges and judicial personnel directly from the DRC. This would allow for a shorter transportation distance for plaintiffs, allow for legal precedents to be set for national justice within state borders, and assist in economic development through the hiring of state employees and the building of judicial infrastructure. Furthermore, hybrid courts would address a number of concerns within the region, including the lack of capacity and resources within the DRC, a fear of bias and lack of independence in the legal system, contributing to the right to justice and effective remedy, combating the culture of impunity, and contributing to reconciliation.⁵⁰

The Special Court for Sierra Leone, set up by the government of Sierra Leone and the United Nations, is one example of this form of hybrid court. In this case, there have been several concerns, such as the wide use of international, rather than domestic, personnel, as well as a narrow base of actors who were consulted in the courts' establishment, which the DRC can critique, revise, and improve upon to fit their needs in post-conflict restoration. With appropriate revisions and accountability mechanisms in place, "hybrid courts can have a positive impact on the domestic justice system of post-conflict States so

as to ensure a lasting legacy for the rule of law and respect for human rights."⁵¹ While hybrid courts, like international criminal tribunals, are temporary and must therefore confine, rather than expand, themselves to a set time frame, it is an effective transitional mechanism to consider in the post-conflict region of the DRC, especially in building up the capacity of DRC's legal personnel, widening access to the courts to the DRC citizens, and creating the infrastructure for further legal courts after the hybrid court has served its purpose.

CONCLUSION

In conclusion, the international human rights abuses against children that occurred in the DRC have serious implications on its international treaties, and these abuses must be dealt with by a strong and competent judicial body to halt the cycle of impunity. Due to the weak state of the DRC's judicial sector, one should instead consider bringing in international aid, either exclusively or conjointly, in investigating, prosecuting, and sentencing those responsible for human rights violations. The exclusive jurisdiction of the ICC and international criminal tribunals are two options in carrying out post-conflict trials, both of which would combat impunity outside of state boundaries and involve almost exclusively judicial personnel from abroad. Hybrid courts offer the advantage of having a widely accessible court within state boundaries and utilizing the labour of the country in court trials, building the capacity of judicial personnel and raising a sense of national, rather than foreign, justice. This is likely the strongest option available to combat impunity and to raise a culture of justice in the DRC. Whichever option is pursued, the most important factor is that children are guaranteed justice and a future free of the violence and impunity they have experienced over the past decades.

⁴⁹ United Nations, Office of the United Nations High Commissioner for Human Rights, "Rule-of-Law Tools For Post-Conflict States: Maximizing the legacy of hybrid courts," [New York, NY], 2008:1. <http://www.unrol.org/files/HybridCourts.pdf>

⁵⁰ United Nations, Office of the United Nations High Commissioner for Human Rights, "Rule-of-Law Tools For Post-Conflict States: Maximizing the legacy of hybrid courts," 12.

⁵¹ United Nations, Office of the United Nations High Commissioner for Human Rights, "Rule-of-Law Tools For Post-Conflict States: Maximizing the legacy of hybrid courts," 6.

LGBT rights = Human rights?

An Examination of LGBT Rights and Human Rights Law in the Case of Uganda

Kevin Geiger

INTRODUCTION

Over the course of the last three decades, the tolerance of the lesbian, gay, bisexual, transgender (LGBT) rights movement has become a subject of considerable dialogue and debate in the Western world. However, the fact remains that in Africa, LGBT rights are not getting better—they are getting worse. African countries have mixed views on the right to freedom from discrimination of sexual orientation. In 2010, over 38 countries in Africa have legislated and legalized criminalization of homosexuality, some even promoting the death penalty for such offenses.¹ As LGBT rights have come under attack throughout Africa, recent international attention has led to a renewed discussion on whether or not LGBT rights should be considered human rights. The purpose of this paper is to argue that Uganda's stance on LGBT rights is in violation of human rights law, and that this violation persists despite having officially signed and ratified many international treaties promising to uphold human rights standards. In order to come to a conclusion, the paper seeks to investigate the issue from the perspectives of various African governments, political leaders, Non Governmental Organizations (NGOs), religious organizations, and individuals in Uganda, all of whom have spoken on this highly contentious debate.

The argument of the situation of LGBT rights in the case of the country of Uganda is outlined in the following four sections. First, it will draw upon the historical and present views of LGBT rights in Africa. Second, it will look at the view of homosexuality in Uganda up to 2009. Third, it will examine the context and objectives of the 2009 "Anti-Homosexuality" Bill submitted to

Uganda's parliament. Fourth, it will outline the various reactions from actors related to the Bill including the President of Uganda, religious groups, the media, the United Nations, and various NGOs. Fifth, it will argue that Uganda is in violation of human rights law, despite having signed and ratified many international treaties and making pledges to uphold human rights standards. Lastly, the paper will conclude with a call for the reform of all of Uganda's stances towards LGBT rights, especially of the torture, discrimination, abuse, and inequalities that the Penal Code and government place upon LGBT individuals within Uganda.

LGBT RIGHTS IN AFRICA

There have been some historic wins for LGBT rights in Africa but multiple disconcerting losses in the second half of the 20th century. For example, in South Africa the LGBT movement is considered a success, where gay marriage is now legal. The movement has failed, however, to institutionalise and protect LGBT rights in many other countries.² In Africa, homosexuality is still a topic which carries many negative connotations; it is perceived as a 'western thing' or not important, denoting the extremities of existing social conservatism.³ The African LGBT community is increasingly under threat and has been for quite some time. Cultural scholar Marc Epprecht stated that by the mid-1990s, equal rights had become a:

"watershed for gays, lesbians, and transgendered people in the southern Africa. On the one hand, South Africa's 1996 constitution included the right to freedom from discrimination on the basis of sex, gender, and sexual orientation. On the other hand, the presidents of Zimbabwe, Namibia and other African nations, vehemently denounce homosexuality and equality gay rights with western imperialism."⁴

² Ongachi, "Africa: Gay rights."

³ Samantha Spooner, "Africa: No Pro-Gay Theology, This is Africa," *All Africa*, June 3rd, 2010, <http://allafrica.com/prinatble/201006031133.html>.

⁴ Marc Epprecht, "What an abomination, a rottenness of culture: Reflections upon the gay rights movement in sub-Saharan Africa," *Canadian Journal of Development Studies* 22 (2001 Special Issue): 189.

¹ Gilbert Ongachi, "Africa: Gay rights-the Ninth MDG?" *AllAfrica.com*, September 21st, 2010, <http://allafrica.com/stories/201009220858.html>.

Today, 38 of 54 countries in Africa still criminalize homosexuality.⁵ While South Africa has become the first African nation to legalise same-sex marriage, the International Lesbian, Gay, Bisexual, Trans, and Intersex Association state on their website that the countries Mauritania, Nigeria, Sudan, and Somalia all have legislation which punishes homosexuality by penalty of death.⁶ In contrast, more than 85 countries around the world criminalize consensual homosexual conduct between adult men, and often between adult women.⁷ More than half of these laws stem from the implementation of British colonial law's Section 377.⁸ Section 377 is recognized as the first "sodomy law", and was integrated into the British penal code and adopted by the following African countries during colonization:

Botswana, Gambia, Ghana, Lesotho, Malawi, Nigeria, Seychelles, Sierra Leone, Somalia, Swaziland, Tanzania, Uganda, Zambia, and Zimbabwe.⁹ African leaders have openly attacked the LGBT community, even going as far as to refer to homosexuals as "worse than dogs or pigs" as Zimbabwe president Robert Mugabe once did.¹⁰ These "sodomy laws" have been put into effect in various countries throughout Africa. Burundi, Uganda's close southern neighbor, has also taken steps towards banning homosexuality. In 2009, the president of Burundi signed into law a revision of the Penal Code which, for the first time in history, includes a prohibition of same-

sex relations by changing Article 567 to punish such relations with up to two years imprisonment upon conviction.¹¹ In addition, in October 2006, a United Nations agency urged the government of Cameroon to repeal its laws that criminalize homosexuality following the detention of 11 men

on the basis of their presumed sexual orientation.¹² However, it is the case of the country of Uganda that stands out, having made commendable strides towards the proliferation of human rights, yet also having taken steps in the opposite direction when it comes to LGBT rights.

THE CASE OF UGANDA

The case of LGBT rights in Uganda has been put into the limelight given that the immediate climate of politics in the country has

reached greater international attention. In Uganda, a climate of social and state-sponsored discrimination has developed to deny same-sex practising people from the practice of basic human rights and an equal footing with their heterosexual counterparts.¹³ For years, the government of Uganda has used criminalization of homosexual conduct to threaten and harass its citizens.¹⁴ In fact, in 2007, some citizens marched in the hundreds to threaten and endorse punishment for LGBT people, calling them "criminal" and "against the laws of nature."

¹⁵ Amnesty International has repeatedly reported on cases of torture and cruelty as well as inhumane

"For years, the government of Uganda has used criminalization of homosexual conduct to threaten and harass its citizens. In fact, in 2007, some citizens marched in the hundreds to threaten and endorse punishment for LGBT people, calling them 'criminal' and 'against the laws of nature.'"

⁵ International Gay & Lesbian Human Rights Commission, "Call by African Civil Society: Reject the Anti-Homosexuality Bill," Accessed October 16th, 2010. <http://www.iglhrc.org/cgi-bin/iowa/articles/takeaction/resourcecenter>.

⁶ International Gay & Lesbian Human Rights Commission, "Call by African."

⁷ Human Rights Watch, "This Alien Legacy: The origins of 'Sodomy' Laws in British Colonialism," Human Rights Watch, Accessed October 17th, 2010. www.hrw.org/en/publications.

⁸ Human Rights Watch, "This Alien Legacy."

⁹ Human Rights Watch, "This Alien Legacy."

¹⁰ Ongachi, "Africa: Gay rights."

¹¹ Human Rights Watch, "Forbidden: Institutionalizing Discrimination Against Gays and Lesbians in Burundi," Human Rights Watch, October 17th, 2010, <http://www.hrw.org>.

¹² International Gay & Lesbian Human Rights Commission, "Call by African."

¹³ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights of Lesbian, Gay, Bisexual and transgender people in the Republic of Uganda under the African Charter of Human and Peoples' rights: Gambia," International Gay & Lesbian Human Rights Commission. Accessed October 17th, 2010, <http://www.iglhrc.org>.

¹⁴ Human Rights Watch, "This Alien Legacy."

¹⁵ Human Rights Watch, "This Alien Legacy"

and degrading treatment perpetrated against members of the LGBT community in Uganda.¹⁶

As it now stands, Uganda's Penal Code includes the criminalization of homosexual acts. Article 140 criminalizes "carnal knowledge against the order of nature" and imposes a maximum penalty of life imprisonment.¹⁷ Article 141 punishes "attempts at carnal knowledge with a maximum sentence of 7 years imprisonment and article 143 outlaws acts of "gross indecency", imposing up to 5 years imprisonment by way of penalty.¹⁸ Despite the clear-cut ruling of the Human Rights Committee condemning sodomy laws, Articles 140, 141, and 143 remain intact and enforced in Uganda, with many LGBT citizens being arrested.¹⁹ Police and government officials are reported for having harassed and restricted the right to freedom of expression by repressing supporters of LGBT rights. Police arrested three LGBT activists on June 4 at the 2008 HIV/AIDS committee meeting in the capital after they peacefully protested the lack of an official government response to HIV/AIDS within LGBT communities.²⁰ Overall, it is reasonable to assert that the situation for LGBT rights in Uganda was already very poor until 2009, when the government of Uganda introduced a Bill that would take an even harsher stance against the human rights of LGBT citizens.

ANTI-HOMOSEXUALITY BILL

In 2009, the rights of LGBT citizens experienced a dramatic downward turn in Uganda. The introduction of the "Anti-Homosexuality Bill" took place on October 14th, 2009 in Uganda's parliament by the Hon David Bahati, a member of Parliament from the Ndorwa county of West

Kabale.²¹ Also known as the "killing of the gays" bill, the draft proposed stricter penalties for homosexual acts—already illegal in Uganda—and the death penalty for anyone who is shown to have engaged in acts of "aggravated homosexuality."²² Acts of Aggravated homosexuality would fall under circumstances such as same-sex relations with children under 18, disabled people, or anyone who is HIV-positive while having gay sex.²³ The object of the Bill, stated in section 1.1 is outlined as follows:

"to establish a comprehensive consolidated legislation to protect the traditional family by prohibiting (i) any form of sexual relations between persons of the same sex; and (ii) the promotion or recognition of such sexual relations in public institutions and other places through or with the support of any Government entity in Uganda or any nongovernmental organization inside or outside the country."²⁴

The Bill also proposes a seven-year jail sentence for the "promotion of homosexuality."²⁵ The Bill is pending on the floor, and has not yet to come up for vote in parliament, however, discussion of the bill has created increasingly heated dialogue, with both national and international actors becoming involved.

REACTIONS

In order to fully understand the complexity of this issue, it is important to examine various reactions from a number of different actors related to the

¹⁶ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4.

¹⁷ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4

¹⁸ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4

¹⁹ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 4

²⁰ Human Rights Watch, "World Report 2010: Events of 2009," Human Rights Watch. Accessed October 17th, 2010, www.hrw.org/en/publications.

²¹ Human Rights Watch, "Uganda: 'Anti-Homosexuality' Bill Threatens Liberties and Human Rights Defenders," Human Rights Watch. Accessed February 28, 2011 Human Rights Watch. <http://www.hrw.org/en/news/2009/10/15/uganda-anti-homosexuality-bill-threatens-liberties-and-human-rights-defenders>.

²² Mail & Guardian, "Rights groups blast Ugandan gay death penalty Bill" *Mail & Guardian*. October 16th, 2009. <http://mg.co.za/printformat/single/2010-01-16-rights-groups-blast-uganda-gay-death-penalty-bill>.

²³ Mail & Guardian, "Rights groups blast"

²⁴ Jim Burroway, "Slouching Towards Kampala: Uganda's Deadly Embrace of Hate" *Box Turtle Bulletin*. December 15th, 2009. <http://www.boxturtlebulletin.com/slouching-toward-kampala>.

²⁵ Mail & Guardian, "Rights groups blast."

Bill. Reactions have been critical to the stream of debate that has erupted from the Bill and for understanding the actors in play on the debate of LGBT rights in Uganda. The reactions from the President, religious groups, the media, the United Nations, and NGOs together illustrate the varying perspectives on LGBT rights, suggesting that there is little common ground, on the opinion of LGBT rights in Uganda.

President Museveni

President Museveni has long been an outspoken critic of homosexuality from a survey his past actions, as in 1999 when he ordered the Criminal Investigations Department to “look for homosexuals, lock them up and charge them,”²⁶ it is easy to recognize that the President is not in favor of LGBT rights. In addition, President Museveni has put forth that “Ugandans are opposed to homosexuality because it is not part of African culture,”²⁷ and that resistance against homosexuality in Africa is historical, stating that “When they hear us fighting homosexuality, they think we do so because of religion. No. Even before religion came, we were against it and many other vices.”²⁸ These statements are troubling in that they come from a political leader, especially given his stance of firmly believing that homosexuality is in fact not natural to Africa believing Africa to be heterosexual, and because he is projecting a message of hate on the national political level in Uganda which in turn is being projected throughout the continent.

However, while President Museveni first supported the Bill, he has now distanced himself from it. In talking with his ruling party regarding the handling of the Bill he has stated that it “must take into account our foreign policy interests.”²⁹

²⁶ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights,” 5.

²⁷ Ephraim Kasozi and Patience Ahimbiswe, “Opposed to Homosexuality- Museveni.” *Allafrica.com*. June 4th, 2010. <http://allafrica.com/stories>.

²⁸ Francis Kagolo, “Uganda: Museveni Warns of Dangers to Sodomy.” *Allafrica.com*. June 3rd, 2010. <http://allafrica.com/prinatable/201006040260.html>.

²⁹ Mail & Guardian, “UN Urges Uganda to scrap anti-gay legislation.” *Mail & Guardian*. January 16th, 2010. <http://mg.co.za/printformat/single/2010-01-16-un-urges-uganda-to-scrap-antigay-legislation>.

Therefore, it is reasonable to suggest that later discussions with Prime Minister Gordon Brown at the Commonwealth conference had changed his willingness to openly condemn the rights of LGBT citizens.³⁰ The Obama administration has also condemned the bill, suggesting that it would move against the tide of history.³¹ While leaders of other countries might have been successful in urging President Museveni to reconsider his open stance on the Bill, other political actors inside Uganda have not quieted their support for the Bill. The Ugandan Ethics and Integrity Minister James Nsaba Buturo has said that “the state of moral health in our nation is challenging and we are concerned about the mushrooming of lesbianism and homosexuality.”³² Ugandan politicians seem split on this issue and many have pledged continuing support for the Bill and seek to see it passed by parliament and legislated.

Religious Groups

There has been increased campaigning against and for LGBT rights in Uganda led by churches and anti-gay groups. Moreover, these religious groups have taken an extremely vocal role on the Bill. The Bishop of Harare Church in the province of Central Africa, Dr. Chad Gandiya, has condemned “the rapidly increasing” homosexuality in the world stating that “We are living in a world which is upside down...We need people to stand up for the truth and reject homosexuality.”³³ Another influential religious leader, Pastor Martin Ssempe, organized a rally to unite “Uganda people” in support of a draft bill, agreeing that homosexual acts should be punishable by life in prison, and death in some circumstances.³⁴ The American evangelist Scott Lively has also been linked to encouraging the creation of the Bill, having visited the nation numerous times advocating against homosexuality, as reported by

³⁰ Mail & Guardian, “UN Urges Uganda.”

³¹ Kerry Eleveld, “White House Condemns Antigay Uganda Bill.” *The Advocate*. December 12, 2009. <http://www.advocate.com>

³² Human Rights Watch, “World Report 2010

³³ Francis Kagolo, “Uganda: Museveni Warns.”

³⁴ Samantha Spooner. “Africa: No Pro-Gay,” 2.

Time magazine.³⁵

However, not all religious groups are behind the Bill. A coalition of 120 religious leaders has called on the government of Uganda to protect the human rights of LGBT citizens.³⁶ These faith leaders have submitted a letter, with signees including Nobel Peace Prize Laureate Desmond Tutu, Rev. Rebecca Voelkel, Rev. Dr. Jane Spahr, Rev. Troy Plummer, and Rev. Dr. Brent Hawkes, stating that:

“The African Charter on Human and Peoples’ Rights affirms the equality of all people and the International Covenant on Civil and Political Rights protects the right to equality, freedom of expression, freedom of conscience, freedom of assembly, and freedom of association. We are only asking that you hold up on the solid principles your government espouses.”³⁷

Furthermore, this group of religious and judicial officials point out that Uganda has the potential to become a model of compassion for, and understanding of LGBT citizens to the world.³⁸ Christopher Senteza, a committed Christian and gay activist, states from his experiences with outreach in the Ugandan community, that Ugandan society is split on the issue of homosexuality, between those in cities and towns and those in rural areas.³⁹ This strong social division highlights the heightened level of intolerance and acceptance within the society that has only been exasperated by the reactions from actors, such as religious groups within the community. These religious actors are playing a vital role on the ground in support and against LGBT rights.

³⁵ Huffington Post, “Ugandan Judge Orders Newspaper To Cease Gay Outings.” *The Huffington Post*. November 2nd 2010. <http://www.huffingtonpost.com>.

³⁶ International Gay & Lesbian Human Rights Commission, “Call by African Civil.”

³⁷ International Gay & Lesbian Human Rights Commission, “Call by African Civil.”

³⁸ International Gay & Lesbian Human Rights Commission, “Call by African Civil.”

³⁹ Smyth Harper, “My Life as a gay Ugandan Christian.” *BBC News*. October 27th, 2003. <http://news/bbc.co.uk/mpapps/pagetools/print/news/new.bbc.co.uk/>.

Media

The Ugandan media has played an extremely destructive role in the promotion of hate against LGBT citizens. Steps were taken against LGBT rights prior to the Bill, having publicly pointed out individuals they accused of being gay or lesbian.⁴⁰ In 2007, a Ugandan newspaper the *Red Pepper*, ranked 11th by popularity based in the city of Kampala, published a list of first names, workplaces, and other identifying information of 45 alleged gay men.⁴¹ The paper wished to “show the nation ...how fast the terrible vice known as sodomy is eating up our society.”⁴² In April 2009, the same tabloid featured another headline called

“In 2007, a Ugandan newspaper the *Red Pepper* [...] published a list of first names, workplaces, and other identifying information of 45 alleged gay men. The paper wished to ‘show the nation ...how fast the terrible vice known as sodomy is eating up our society.’”

the “killer dossier’ titled ‘Top homos in Uganda named.’”⁴³ In regards to the “Anti-Homosexual Bill” another Ugandan newspaper ran in 2010 a front-page story giving pictures, names, and addresses of Uganda’s “top homos,” beneath a

headline that read “Hang Them.”⁴⁴ Since the story ran on October 9th, in a newspaper called *Rolling Stone*—no relation to the American magazine of the same name— at least four gay Ugandans have been attacked, and many others have gone into hiding.⁴⁵ In addition, Western media outlets took a controversial role in the debate over the Bill, with

⁴⁰ Human Rights Watch, “Uganda: ‘Anti-Homosexuality’ Bill.”

⁴¹ Huffington Post, “Ugandan Judge Orders.”

⁴² Human Rights Watch, “World Report 2010.”

⁴³ Huffington Post, “Ugandan Judge Orders.”

⁴⁴ Jay-ar Mendoza, “Ugandan Newspaper Outs Gay, Suggests Lynching” *Allvoices*. Accessed October 19th, 2010. <http://www.allvoices.com/contributed-news/7073264-ugandan-newspaper-outs-gays-suggests-lynching>.

⁴⁵ Mendoza, “Ugandan Newspaper Outs.”

a poll taken by BBC asking its viewers "Should homosexuals face execution in Uganda?"⁴⁶ Lynne Featherstone, a liberal democratic member of British parliament, wrote to the BBC general director saying, "I would be the first person to stand up for open debate and free speech...[but] suggesting that the state-sponsored murder of gay people is OK as a legitimate topic for debate is deeply offensive."⁴⁷ The role of media has played a role in bringing the debate of LGBT rights in Uganda to the international agenda, but NGOs have been the most outspoken on the issue.

Non-governmental organizations

On the day that the draft of the Bill was introduced into Uganda parliament, over 17 local and international human rights groups immediately condemned it, with the following organizations denouncing the Bill: Amnesty International, ARC International, Article 19, Center for Women's Global Leadership, COC Netherlands, Eagle Canada, Human Rights Watch, International Gay And Lesbian Human Rights Commission (IGLHRC), LAMBDA Mozambique, Uganda Feminist Forum (UFF), and the World AIDS Campaign⁴⁸. Furthermore, over 63 African based civil society organizations have denounced the Bill including: African Men for Sexual Health and Rights (Cameroon), AIDS Law Project (South Africa), Centre for Human Rights and Rehabilitation (Malawi), Freedom and Roam (Uganda), Pambazuka News (Kenya), (Call for African Civil Society)⁴⁹. Victor Mukasa, of IGLHRC, argued strongly against the Bill stating that "[t]his inflammatory bill will be taken as further confirmation that it is OK to attack or even kill people perceived to be lesbian."⁵⁰ NGOs have played and continue to play a vital role in promoting LGBT rights as human rights, and evidence suggests that they are not alone in this claim, with the given statements by officials from

the United Nations on this matter.

United Nations

Actions taken by the United Nations are pivotal to the discussion as to whether or not LGBT rights should be seen as human rights, because many of the international treaties stem from definitions made by the UN bodies. Navi Pillay, the UN's High Commissioner for Human Rights, has called on Uganda to drop the proposed Bill, condemning the Bill as discriminatory and called for homosexuality to be decriminalized in the country.⁵¹ Pillay stated "[t]o criminalize people on the basis of color or gender is now unthinkable in most countries. The same should apply to an individual's sexual orientation."⁵² Officials from the UN such as Pillay have noted that legislation which criminalizes homosexuality violates international laws that seek to protect individuals' rights to privacy and protect individuals from discrimination.⁵³ The UN declared that sodomy laws are inconsistent with countries' obligations to protect the right of non-discrimination under the International Covenant on Civil and Political Rights.⁵⁴ According to the UN Human Rights Committee, sexual orientation is a status protected under the ICCPR from discrimination, finding that the reference to sex in articles 2.1 and 26 is to be taken as including sexual orientation. Article 17 of the ICCPR states that:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honour and reputation.⁵⁵

Therefore, the UN has made the case that sexual orientation fall under the jurisdiction of freedom from discrimination under international humanitarian law. In addition, a stronger case for

⁴⁶ Rhonda Mangus, "BBC Defends, Ditches Controversial Uganda Gay Execution Poll." *Now Public*. December 17, 2009. <http://www.nowpublic.com/world/bbc-defends-ditches-controversial-uganda-gay-execution-poll>.

⁴⁷ Mendoza, "Ugandan Newspaper Outs."

⁴⁸ Human Rights Watch, "Uganda: 'Anti-Homosexuality' Bill."

⁴⁹ Human Rights Watch, "World Report 2010"

⁵⁰ Human Rights Watch, "Uganda: 'Anti-Homosexuality' Bill."

⁵¹ Mail & Guardian, "UN Urges Uganda."

⁵² Mail & Guardian, "UN Urges Uganda."

⁵³ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 3.

⁵⁴ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 3.

⁵⁵ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights," 3.

LGBT rights exists with the backing of the UN in its stance that LGBT rights must be considered as equivalent to human rights.

LGBT RIGHTS = HUMAN RIGHTS

By violating LGBT rights, Uganda is currently in violation of various international obligations that its own government has signed and ratified. The *Report On The Rights of Lesbian, Gay, Bisexual and Transgender People in the Republic of Uganda Under the African Charter of Human Rights and Peoples Rights* was prepared to inform of such violations for the 40th session of African Commission of Human Peoples and People Right's Rights on November 26th, 2006. The report outlined the various international human rights conventions that Uganda has inscribed and ratified to, making its stance on human rights obligations public. The report pointed out that in addition to signing and ratifying the African Charter,⁵⁶ Uganda is a State party to the International Covenant on Economic, Social, and Cultural Rights (ICRESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention of the Elimination of All Forms of Discrimination against Women⁵⁷ (CEDAW) and the Convention on the Rights of the Child⁵⁸ (CRC).⁵⁹ All these treaties focus on improving the human rights obligations of its member countries. Uganda has promised to meet international standards of respect for human rights, such as declaring in its May 2006 report to the African Commission that "the foreign policy of Uganda shall be based on the principles of respect for international law and treaty obligations and opposition to all forms of domination, racism and other forms of oppression and exploitation."⁶⁰ This statement suggests that while Uganda is willing to make the needed steps towards respecting human rights, Uganda's actual actions of infringing on sexual minorities groups suggest that it is failing to uphold and respect international law.

⁵⁶ Signed on 18 August 1986, ratified on 10 May 1986.

⁵⁷ Signed on 30 July 1980, ratified on 22 July 1985

⁵⁸ Signed and ratified on 17 August 1990.

⁵⁹ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights."

⁶⁰ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights."

Furthermore, the fact that many international actors and agencies have condemned Uganda's actions makes it reasonable to suggest that LGBT rights are being considered as human rights by the international community. It has been stated that the most important universal human right is the right to not be discriminated against, yet sexual minorities in 38 countries of Africa suffer from these discriminatory everyday practices every day.⁶¹ According to the UN Human Rights Committee, states should be encouraged to offer their citizens legal protection against discrimination."⁶² State leaders and legislators should not discriminate or condone any type of discrimination. To do so is against international standards of law. Therefore, it is within reason that this paper suggests, that from this discriminating Bill, there is a stronger argument for LGBT rights to be considered equal to human rights. All that is needed now is the implementation of this idea by countries such as Uganda.

CONCLUSION

Until the emergence of binding international instruments, LGBT Africans will continue to be persecuted, killed, beaten, arrested, and alienated because they choose to love.⁶³ While reports suggest that the death penalty and life imprisonment penalties are being dropped to attract support of religious leaders who are opposed to the penalties,⁶⁴ the end of the persecution of LGBT rights is not in sight and is currently getting worse in many countries. Marc Eppercht suggested in 2001 that "gay rights movement in southern Africa, while small and friable as it is, stands at the forefront of struggles."⁶⁵ The LGBT rights movement continues to struggle throughout multiple countries in Africa, but, while LGBT rights are getting worse, there is considerably stronger support of LGBT rights equalling human rights than ever before. Gilbert Ongachi, a reporter, has stated that "the only assistance homosexual people in Africa regularly

⁶¹ Human Rights Watch, "World Report 2010."

⁶² International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, "Report on the rights."

⁶³ Ongachi, "Africa: Gay rights."

⁶⁴ Eleveld, "White House Condemns."

⁶⁵ Eppercht, "What an abomination."

receive comes via international media and diplomacy around major incidents,”⁶⁶ and this paper agrees that further action is needed then after the fact responses. While world leaders met in 2010 in New York to discuss accelerating progress toward achieving the Millennium Development Goals (MDGs), Ongachi has called into question why the LGBT community has been deliberately left out of these goals. He stated “what happens to all those gays and lesbians who don’t make international headlines but suffer discrimination on a daily basis...who are increasingly under threat.”⁶⁷ In this sense, Ongachi’s suggestion that LGBT rights should be the Ninth MDG in Africa is legitimate; in fact this paper implores the United Nations to adopt LGBT equality as the Ninth MDG. The International Gay and Lesbian Human Rights Commission and Sexual Minorities of Uganda have called for the needed reform of Uganda’s stance towards LGBT rights in the following five areas:

- (1) Reform of impunity for torture and cruel, inhuman and degrading treatment.
- (2) Reform of the police system to ensure accountability for abuse of police powers.
- (3) Reform of Uganda’s Penal Code to remove the discriminatory Articles 140, 141 and 143.
- (4) Reform of Uganda’s HIV/AIDS “Abstinence-until-marriage” policy.
- (5) Reform of the same-sex marriage prohibition recently added to the Ugandan Constitution.⁶⁸

These are the required standards that every country should strive to adopt if they wish to stand true to committing LGBT rights equal to human rights. While it might be getting worse for LGBT rights at the moment in Uganda, hopefully Africa can learn to accept LGBT rights as human rights.

An Evaluation of Waltz’s Structural Realism and the Suggestion of a Harmonized Theory

Cassandra Muldoon

International relations theory aims to understand, explain, and at times predict international events and their outcomes. Neorealist theory, from which Kenneth Waltz’s structural realism is derived, is no different. It aims to “define the structure of international political systems” through a revision of Morgenthau’s Realist theory and the establishment of an “autonomy of international politics.”¹ Morgenthau’s Realism, however, is faced with many limitations that are accentuated when contrasted with liberalism and constructivism. Hence, although an upstanding political theory, Waltz’s structural realism is exclusively effective in dealing with past events. However, in combination with the aforementioned theories, structural realism may contribute to the creation of a harmonized political theory. In this paper, Waltz’s structural realism will be outlined in order to set the parameters for its examination. Then, both liberal theory and constructivism will be presented as challenges to structural realism and to each other. Finally, this paper will suggest a revised structural theory that reforms its weaker points and moves towards the establishment of a harmonized theory.

Structural realism is predicated on the assumption that the “structure of the international political system is defined first by its organizing principle, which is anarchy.”² As such, units are “ordered” by the same fundamental forces making them “functionally alike”, for as they compete with one another, they will begin to “imitate each other and become socialized to their systems.”³

¹ Kenneth N. Waltz, *The Origins of War in Neorealist Theory* (Orlando: Harcourt Brace College Publishers, 1999), 49.

² “Kenneth Waltz,” 2003 episode of *Conversations with History* (University of California, Berkley, 1982-2011; youtube.ca) 23:16 – 23:30.

³ Robert Keohane, *Realism, Neorealism and the Study of World Politics* (New York: Colombia University Press, 1986), 14.

⁶⁶ Ongachi, “Africa: Gay rights.”

⁶⁷ Ongachi, “Africa: Gay rights.”

⁶⁸ International Gay & Lesbian Human Rights Commission and Sexual Minorities of Uganda, “Report on the rights.”

Given these parameters, there appears to be homogeneity among states, which allows broad statements to be made regarding unit interplay and the formation of an international system. Structural realists claim that states ultimately seek their preferences, which are only achievable with security. As a result, it becomes “deeply competitive [struggle], a zero-sum affair,”⁴ as security becomes state priority, and all states have the same goal of achieving security.

In a “self-help” system, this is achieved through the “distribution of capability among [the] units” existing in the system.⁵ In such a system, “the more capable [states shape] the realm, [and pose] the problems the [other units] have to deal with.”⁶ It is for this reason that “weaker states [will] balance against, rather than bandwagon with, more powerful rivals.”⁷ Hence the inclusion of the Prisoner Dilemma in structural realism, observed in Waltz’s evaluation of the emergent powers during World War One, in which “the approximate equality of partners in both the Alliance and the Triple Entente made them closely interdependent.”⁸ This interdependence was propagated by the fear of being “alone in the middle of Europe”⁹ should a state defect from their alliance.

Waltz explains that “excessive weakness may invite an attack that greater strength would have dissuaded an adversary from launching,” though “excessive strength may prompt other states to increase their [strength].”¹⁰ It is therefore necessary to acquire a moderate level of power – one that is neither meek nor mighty. This phenomenon is referred to as the “balance of

power.”¹¹ Power is further delineated based on whether it is absolute or relative; the international system then becomes a system in which states compete for relative power. The level to which a unit seeks power in the realm of structural realism is a point of contention: where offensive realists believe that states seek the maximum amount of power in order to become a regional hegemony, defensive realists believe that states “merely [seek] to survive” and that through “balancing alliances,” security can be guaranteed.¹² Waltz is of the latter belief – through having just enough power, states can acquire enough security to pursue preferences. Consequently, “peace is fragile” and in order to prolong peace “some or all of the principle actors” need be involved in the “destabilizing developments.”¹³

The system can be organized optimally in one of three ways according to structural realists. Firstly, the system can be unipolar, in which there is one great power. Waltz warns against such a system as there is a lack of power moderation, and unless the unipolar state has balanced internal politics, constrained government activity abroad and balanced military spending, it can lead to the disposal of, or abuse of, power. Secondly, the system can be a multipolar system, in which there are more than two powerful states. Waltz explains that multipolar worlds would also be unfavorable as “dangers are diffused, responsibilities [are] unclear, and definitions of vital interests are easily obscured.”¹⁴ What is left, then, is a bipolar system in which there are two principle units. Waltz asserts that a “superpower relationship” is the best system in which to operate on the basis that “a world in which there were two balancing powers limiting the actions of the other [is] likely to be a far more stable world than one in which there were several competing states.”¹⁵ This is perfectly exemplified by the US-USSR split that was, according to Cox, “the best

⁴ Michael Barnett, *Social Constructivism* (Oxford: Oxford University Press, 2008), 165.

⁵ “Kenneth Waltz,” 2003 episode of *Conversations with History*, 24:16 – 24:30.

⁶ “Kenneth Waltz,” 2003 episode of *Conversations with History*, 24:37 – 24:39.

⁷ Stephen M. Walt, *International Relations: One World, Many Theories*, 31.

⁸ Kenneth N. Waltz, *The Origins of War in Neorealist Theory*, 53.

⁹ Ibid.

¹⁰ Kenneth N. Waltz, *The Origins of War in Neorealist Theory*, 50.

¹¹ Robert Keohane, *Realism, Neorealism and the Study of World Politics*, 2.

¹² Stephen M. Walt, *International Relations: One World, Many Theories*, 31.

¹³ Kenneth N. Waltz, *The Origins of War in Neorealist Theory*, 53.

¹⁴ Ibid., 54.

¹⁵ Michael Cox, *From the cold War to the War on Terror*, (Oxford: Oxford University Press, 2008), 72.

way of organizing society.”¹⁶ The conflict was limited by the scope of each unit’s respective understanding of the consequences of their actions, and was founded by the idea that there was an unspoken understanding between the parties: “[an] overriding need to prevent nuclear war that neither could win without destroying the world.”¹⁷

Insofar as the state is the principle actor, and anarchy is the structure’s ordering principle, liberalists concur with structural realists. However, in most other ways it is largely dichotomous to, and broadly challenges structural realism. Where realism focuses on the propensity for conflict among states, it fails to provide alternatives or solutions to the bleak reality it conveys. Liberalism identifies alternatives to “mitigate these conflictive tendencies.”¹⁸ Through increased economic interdependence, the spread of democracy “based on the claim that democratic states [are] inherently more peaceful”, and the increased popularity of international institutions (and cooperation) the world system could achieve peace. This is predicated on the notion that states would be open to “[overcoming] selfish state behavior...by encouraging states to forgo immediate gains for the greater benefits of enduring cooperation.”¹⁹ Given the successful example of the European Union, liberalists find the aforementioned possibilities realizable. Suggesting that cooperation could exist among state actors fundamentally conflicts with structural realists’ vision of self-help, though the involvement of non-governmental organizations, it can be explained. The actions of organizations such as the International Energy Agency, the International Monetary Fund, and the General Agreement on Tariffs and Trade suggest that cooperation and forgoing short-term benefits for long term gain is widespread among state initiative. Cooperation is heightened through the understanding of relative and absolute gains – where relative gains implies that a state has achieved more than another state, and absolute

gain implies achieving the most among all competing states. Structural realist theory asserts that states will not cooperate unless they are the relative gainers. Liberal theory “[implies] that cooperation [is] more pervasive” than the relative gain activity of realists.²⁰

Cooperation is furthered by the idea of globalization. Structural realists claim that “globalization could not change the essence of how politics [was] conducted between states or the fact that international relations [was] bound to remain a primarily political activity.”²¹ On the other hand, given their acceptance of NGOs and their focus on domestication of international politics and inclusive economics, liberalists acknowledge the effects of globalization on politics. Realist theory limits the scope of politics to foreign politics, given their understanding of state activity as being homogeneous. Liberalists, however, acknowledge that it is hard to predict actor’s behaviour because of the inherently competitive nature of the system. For this reason, domestic politics are important to liberalists in understanding international politics.

Finally comes the idea of power; structural realist theory believes that the state’s main instrument in accomplishing goals is “economic and especially military power.”²² This is in opposition to liberalist theory, which names the harmonization of “institutions, economic exchange, [and] promotion of democracy” and ideas as the main source of power.²³

Constructivist and liberal theory agree that ideas are of prime importance. However, where ideas are only part of liberal theory’s definition of power, they encompass a large portion of constructivist theory. Constructivism claims that both liberalism and structural realism exist in the realm of rational choice – a “social theory that offers a framework for understanding how actors operate with fixed preferences which they

¹⁶ Michael Cox, *From the cold War to the War on Terror*, 72.

¹⁷ Ibid.

¹⁸ Stephen M. Walt, *International Relations: One World, Many Theories*, 30.

¹⁹ Ibid. 32.

²⁰ Stephen M. Walt, *International Relations: One World, Many Theories*, 32.

²¹ Michael Cox, *From the cold War to the War on Terror*, 75.

²² Stephen M. Walt, *International Relations: One World, Many Theories*, 38.

²³ Ibid.

attempt to maximize under a set of constraints.”²⁴ In comparison, constructivist theory is more concerned with the relationship between “agents and structures.”²⁵ In this context, structural realists focus more on the structure – that is, the parameters of the system whose roots lie in anarchy. Constructivism allows that the agent involved in the structure can act within it, or alter it. As such, semi-autonomous “individuals” are main actors which, albeit empowering, is inconsistent with realist theory’s state-actors, for it negates the central role of the state and, thus refuting the validity of power balance between states.²⁶

Constructivism does not, however, seek to predict the future, as “it cannot predict the content of ideas.”²⁷ The theory asserts that common understanding of material objects “[does] not exist in nature but [comes about] through acts of creation” by society.²⁸ As such, understanding is transient as different social construction suggests “suggests difference across context rather than a single objective reality.”²⁹ Thus, constructivists reject timeless laws and contingent generalizations, on which the entire premise of structural realism is built. It is upon these different social constructions that a reality is formed, a reality that shapes “legitimate action,” a minimalist social organizing principle, and diverging greatly from Waltz’s anarchy argument.³⁰ Wendt addresses realist’s anarchy by claiming that “anarchy is what states make of it” – giving agency to different beliefs and practices in the context of organization and world politics.³¹

Anarchy as a defining principle is agreed upon by both structural realists and liberals, though refuted by constructivists on the basis that reality is but a social construct; thus, the meaning of anarchy is dictated by “elites” and

other thinkers.³² In the harmonized theory being constructed based on criticism of these theories, anarchy is considered to be a term that best described the world during times of war and strife, where structural realism finds its roots. Social constructs have associated the term with disorder and, at times, war; this is not the state of the world. States organize through both foreign and domestic policy; even in conflict there is order, as order is the ends being pursued. In this way, the organizing principle of society then is a *tabula rasa* by those who choose it to be so – hence, it is in states choices that society finds its organizing principles. This also addresses inconsistent thoughts on the homogeneity of states, where liberals agree they argue that states are all unique, and structural realists believe they are homogeneous; it is through accepting the principle of change as a constant that state behavior is affected. In effect, it is the culmination of social, financial and foreign forces, and the meaning added to them by states that dictate the behavior of a state. It is dichotomously and simultaneously the rational choice and social construct that shapes state interaction.

The end goal of interaction is also a contentious point, though one very important to address in the construction of a harmonized theory. Structural realists believe that it is preferences or state interests by means of security, and hence power, that is pursued by states. Waltz asserts within this spectrum that one of the states’ preferences is security. Liberalism, however, states the domestication of international politics as the end goal of states. Waltz is correct in his assertion, though partially so. It is global safety that is sought – although primary interests are internal, the wish for successful and complete external cooperation is also paramount in understanding states’ goals. Though it may be idealistic, it is through the security of other states that a state is most secure. Where realism suggests that it is through possessing moderate power that security is achieved, a comprehensive theory would assert that it is in fact through ensuring that other states are secure that internal security is achieved, as foreign threat is reduced. This agrees, then, with realism’s and Waltz’s idea of self-help actions. Actions are meant to benefit self first, though with

²⁴ Michael Barnett, *Social Constructivism*, 162.

²⁵ Ibid.

²⁶ Stephen M. Walt, *International Relations: One World, Many Theories*, 38.

²⁷ Stephen M. Walt, *International Relations: One World, Many Theories*, 38.

²⁸ K. M. Fierke, *Constructivism* (Oxford: Oxford University Press, 2007), 168.

²⁹ Ibid.

³⁰ Michael Barnett, *Social Constructivism*, 163.

³¹ Michael Barnett, *Social Constructivism*, 164.

³² Stephen M. Walt, *International Relations: One World, Many Theories*, 38.

the proposed harmonized theory, it is in helping one's self that foreign states are also being helped. In this way, as liberalists suggest occurred in the European Union, at times individual interests are forgone for the good of the "superpower."³³

With aims of cooperation and a common goal between states – which is ultimately to achieve the greatest amount of security for ones neighbors and thus benefit one's self – relative gains no longer exist. Where structural realists valued relative gains, and used them to dictate state participation, given reviewed incentive, relative gains become absolute gains for all, as when other states gain the home state also gains.

Lastly, Waltz claims that bipolar state organization is normative. Liberalists claim that "unipolarity" in conjunction with "international institutions" is the ideal form of state organization.³⁴ Both systems of unipolarity and bipolarity imply that there is division in intention and goals, though given the harmonized idea of security as a common end, there should ideally be no division. It is for this reason that either multipolarity between many economically and culturally similar states exists as the organizing principle, or that there be one inclusive state representing all the countries in the world.

It is thus believed that though it is an outstanding political theory, Waltz's structural realism is exclusive, limiting itself to the understanding of historic Western-based politics and thought. Therefore, it is through a harmonization of the three theories – Waltz's structural realism, liberalism and constructivism, that a comprehensive and inclusive theory is established. As there are many theoretical dichotomies that arise when comparing structural realism to both liberalism and constructivism, it is difficult to assign one theory as being most persuasive. Each specializes in addressing a facet of state relation. For this reason, an amalgamation of elements of the three aforementioned theories is recommended to arrive at a workable model.

³³ Michael Cox, *From the cold War to the War on Terror*, 75.

³⁴ Kenneth N. Waltz, *The Origins of War in Neorealist Theory*, 54.

The Impact of Clientelism on Sudan and the Implications for a Sustainable Peace

Geoffrey Campbell

Sudan's history, riddled with internal and external conflicts, has provided the basis for hundreds of books to be written regarding the issues of war and peace in Sudan. Over the last fifty years, the world has witnessed numerous attempts by Sudanese leaders to be outspoken about peace while at the same time waging war.¹ In order to understand the complex nature of conflict in Sudan, it is imperative to have an understanding of the role that identity has played in Sudan's history. The account provided here does not portend to be comprehensive in either the breadth or depth of Sudan's long and complicated history, but will examine the crucial elements in many recent conflicts in Sudan's tumultuous history. Specifically, this paper will argue that clientelism has made a crucial impact on Sudan's tumultuous history by promoting conflict and therefore, resolving clientelist policies is crucial to building a sustainable peace in Sudan.

Sudan's political situation is complex which reflects its long history tormented by the legacy of colonialism. In order to provide context, this paper will now briefly outline Sudan's history from colonial times to the signing of the Comprehensive Peace Agreement in 2005.

In 1881, Muhammad Ahmad, a religious leader declared that he was the mahdi, the divinely inspired deliverer of the Islamic faith.² He took advantage of the widespread resentment that the "exploitation and maladministration" under colonial rule by leading declaring jihad, or holy war against the British, which unified western and central Sudan, further culminated in a nationalist

¹ Iyob, Ruth and Gilbert M Khadiagala, *Sudan: The Elusive Quest for Peace*, (Boulder, CO: Lynne Rienner Publishers, Inc., 2006), 13.

² John H. Clarke, "Mohammed Ahmed, (The Mahdi) Messiah of the Sudan," *The Journal of Negro Education* 30.2 (1961): 157.

revolt which overthrew the capital of Khartoum³ and freed the country from sixty years of colonial oppression.⁴

Sudan was not long thereafter retaken by an Anglo-Egyptian force and was ruled in theory jointly by Egypt and Britain. However, in reality, Britain exercised effective control of the country during this period.

In 1953, the United Kingdom and Egypt agreed to Sudanese self-governance, which led to its independence in 1956 under a provisional constitution. The constitution did not mention two crucial issues that still impact the country to this day: "the secular or Islamic character of the state and its federal or unitary structure."⁵ In 1958, there was a coup d'état led by General Ibrahim Abboud who pursued a policy of Arabization and Islamicization for the North and South of Sudan. This increased opposition to his rule by the primarily non-Muslim South and he was eventually overthrown in 1964. The Southern leaders divided into two factions, one in favour of a federation between North and South and another in favour of 'self-determination', which in fact means succession as "it was assumed the south would vote for independence if given the choice."⁶

For sixteen years, from independence until a coup d'état in 1969, governments in Sudan failed to agree on a permanent constitution or to cope with the problems of "factionalism, economic stagnation, and ethnic dissidence."⁷ This period of Sudanese history has had a strong impact on Sudan's current conditions. The main feature of Sudanese politics in this period has often been generalized as a time of 'Arab' Muslim assertion of Islam in society and a domination of the South by refusing it self-determination.

However, in May 1969, Colonel Gaafar Muhammad Nimeri led a group of communist

and socialist military officers to seize power. He replaced Abboud's policy of Islamicization with socialism and outlined a policy of autonomy for the South. After a failed coup attempt by communists in his government he ordered a "massive purge" of communists, which alienated the Soviet Union and led it to withdraw its support.⁸ Despite official policies ceding authority to the South, most southerners had believed since Independence that the more powerful North would subsume the South. This led to minor mutinies and disorganised rebellions eventually united to fight for succession of the South. The two sides eventually came to negotiations under Nimeri with perhaps the most important action during his rule: the Addis Ababa peace agreement between the central government and southern rebels in 1972, which gave the South limited autonomy.

The agreement was not supported by secularist or Islamic Northern parties (which he saw as more important than Southern support) so Nimeri changed course and announced a policy of national reconciliation. In 1979, when Chevron discovered oil in the South, Northern parties pressured Nimeri to appropriate the wealth derived from oil and thereby contravene the peace accord which gave financial independence to the South. Only four years later, in 1983, Nimeri cancelled the peace treaty by abolishing the Southern region, replacing English with Arabic as the official language of the South, and ordered the transfer of southern soldiers to northern command. As Nimeri reverted to Islamicization, he announced that punishments drawn from Shari'a (Islamic) law would be carried out. This was a very controversial step, even among Muslims in the country.⁹

Also in 1983, John Garang, then an army officer was sent to put down the rebellion of troops that refused to relocate to the North but instead also defected and helped found the Sudan People's Liberation Movement and Army (SPLM/A). This set off a civil war that would last twenty-two years.¹⁰ Shortly thereafter, in 1985 a popular

³ Department of State, "Background Note: Sudan," Department of State: Bureau of Public Affairs, Nov. 9, 2010, <http://www.state.gov/r/pa/ei/bgn/5424.htm>.

⁴ Clarke, "Mohammed Ahmed, (The Mahdi) Messiah of the Sudan," 157.

⁵ Department of State, "Background Note: Sudan."

⁶ Ibid.

⁷ Ibid.

⁸ Department of State, "Background Note: Sudan."

⁹ Ibid.

¹⁰ Gray Phombeah, "Obituary: John Garang," BBC News, 3 August 2005, <http://news.bbc.co.uk/2/hi/af-rica/2134220.stm>.

uprising caused by repressive tactics of the regime, economic collapse and the war in the South overthrew the Nimeri government. The government held new elections and there were steps towards a new peace with the South, but radical Muslims refused to allow the South to be exempt from Shari'a law.¹¹

In 1989, General Umar al-Bashir along with Islamic army officers overthrew the government and instituted a policy of even further Islamicization. He supported Islamic terrorist groups in Algeria while Khartoum was established as a base for radical Islamist terrorist groups within the country, providing safe haven and logistical support to Osama Bin Laden. The 1990s were a period of increasing alienation by those on the periphery of Sudan because the Bashir government was seen as unresponsive to the concerns of Muslims and non-Muslims alike. This alienation from the power centre in Khartoum led to growing sympathy towards and support of the rebel cause led by the SPLM.¹² John Garang, then leader of the SPLM spoke in a radio address to the people of Sudan in May, 1985:

"The SPLA/SPLM belongs to all those who work in the factories and earn so little...to those who wash carts...to those forgotten citizens who crowd under very difficult conditions...and in the slums of our cities...to those in the North who have been callously displaced from your ancestral homes...to you the Nuba and Baggaras of the Centre, to you the Fur, Zaghawa and Masalit of the West, to you all, the SPLA is yours....It is often forgotten that the Sudan is not just North and South, The Sudan is also West, East and Centre, no matter what definitions you wish to attach to these labels....All patriots must appreciate the reality that we are a new breed of Sudanese who will not accept being fossilized into sub-citizens in the "Regions."¹³

It is this new vision for the country, one in which

all people can be heard by their government, which mobilised people in support of the SPLM. Iyob and Khadiagala stress the importance of this new relationship between political leaders and rebels. They argue that these "long-term strategic [alliances]... can bring about Sudan's transformation from a morn caliphate to a multinational state capable of governing the inhabitants of the west, south, north, and center as full fledged citizens of the nations".¹⁴ In response to popular support for the SPLM/A, Khartoum was to both wage war against the rebels and at the same time attempt to breed resentment between the rebels by "highlighting tribal divisions".¹⁵ This led to rebel factions uniting behind Colonel John Gurang SPLM which was able to operate with the help of Ethiopia, Eritrea and Uganda, partially due to Bashier's support of radical Islamist groups.¹⁶

The 1990s brought regional efforts to end the fighting. From an initial peace agreement through the Intergovernmental Authority for Development (IGAD) which had "mixed" results but led to a Declaration of Principles (DOP) with an aim to identify the essential elements necessary to a just and comprehensive peace settlement, namely the "relationship between religion and the state, power sharing, wealth sharing, and the right of self-determination for the South".¹⁷ The Sudanese Government, after major military defeats to the SPLA, signed the DOP in 1997. In that year the government signed agreements with other rebel factions which moved them to Khartoum in order to work for the central government or for them to engage militarily against the SPLA. In 2002, GOS and SPLM/A reached an agreement on the role of the state and religion and the south's right to self-determination. This talk led to further declarations, which culminated in the signing of the Comprehensive Peace Agreement (CPA) in January, 2005. John Garang was appointed first vice-president of Sudan but died in a helicopter

¹¹ Department of State, "Background Note: Sudan."

¹² Ibid.

¹³ Ruth Iyob and Gilbert M Khadiagala. *Sudan: The Elusive Quest for Peace*, (Boulder, CO: Lynne Rienner Publishers, Inc., 2006), 56.

¹⁴ Ruth Iyob and Gilbert M Khadiagala. *Sudan: The Elusive Quest for Peace*, (Boulder, CO: Lynne Rienner Publishers, Inc., 2006), 56.

¹⁵ Department of State, "Background Note: Sudan."

¹⁶ Ibid.

¹⁷ Department of State, "Background Note: Sudan."

crash after only three weeks in office.¹⁸

The combined weight of international isolation and domestic economic pressures led to the International Governmental Authority on Development Initiative in 1993.¹⁹ Various rounds of talks proceeded but eventually collapsed in 1994. Bashir declared that he could resolve the conflict "through the barrel of a gun... without the SPLA".²⁰ This led countries within the region namely Eritrea, Ethiopia, and Uganda to oppose Bashir. These countries then "became conduits of military political, and diplomatic support to the SPLA."²¹

In response to Sudan's continued destabilising effects in the region, the United States then pursued the "Frontline Strategy" in 1995 of "expanding economic and diplomatic sanctions against Sudan and strengthening the military capacity of regional states to meet the escalation of the civil war."²² The United States' goals were to "deter Sudanese support for terrorism and extremism, end the north-south civil conflict... and end the humanitarian crisis."²³ This was done by providing economic and military support to the rebels via Eritrea, Ethiopia, and Uganda. This aid "became critical to the SPLA's execution of the guerrilla war."²⁴ By 1996, the military effectiveness of the Frontline strategy was evident. "Posing the greatest challenge to the government since 1994, the offensive led to the capture of a string of towns and garrisons."²⁵ A year later, the SPLA's "impressive military gains tilted the balance of power on the battlefield, leading to [John] Garang's claims about the end of the war."²⁶ However, when further negotiations made little progress, the United States announced new sanctions against Khartoum which in turn

had little effect in ending the civil war.²⁷ Instead, it was the military position of each side that determined the tone of the negotiations. As Meghan L. O'Sullivan writes in her book about the effect of sanctions, "Neither Khartoum nor the SPLM had approached the talks with a deep commitment to resolving the conflict. The seriousness with which each side regarded the negotiations largely depended on its position on the battlefield."²⁸ IGAD underwent fits of progress and stagnation until the September 11th, 2001. Terrorist attacks "altered Sudanese-US relations in a more propitious direction" because Khartoum wanted to "break out of pariah status as a former supporter of Al-Qaida."²⁹ Sudan had years earlier, at US insistence, asked Bin Laden's al-Qaeda to leave Sudan.³⁰ It now "publicly supported the international coalition actions against the Al-Qaeda network and the Taliban in Afghanistan." Such opposition increased anti-terrorism actions in other countries and Sudan remains on the state sponsors of terrorism list.³¹

At the same time there existed "convergence of interests" among members of IGAD. There was international pressure for renewed peace talks. The United States mediated a six-month moderated cease-fire and joined with other nations in setting a new agenda in 2002 that led to the Machakos Protocol. The Protocol was historic because it "represented a mutual renunciation of previously 'non-negotiable' items such as the Islamization of Southern Sudan on the government side and the secularization of the entire country on the SPLA

¹⁸ Phombeah, "Obituary: John Garang."

¹⁹ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 103-104.

²⁰ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 107.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

²⁵ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 109.

²⁶ Ibid.

²⁷ Meghan L. O'Sullivan, *Shrewd Sanctions: Statecraft and State Sponsors of Terrorism*, (R.R. Donnelley, 2003), 265.

²⁸ O'Sullivan, *Shrewd Sanctions: Statecraft and State Sponsors of Terrorism*, 264-265.

²⁹ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 121.

³⁰ Veronica Nmoma, "The Shift in United States-Sudan Relations: A Troubled Relationship and the Need for Mutual Cooperation," *Journal of Conflict Studies* (2006): 53-54.

³¹ Embassy of the United States Khartoum Sudan, "US-Sudan Relations," Embassy of the United States Khartoum Sudan, http://sudan.usembassy.gov/ussudan_relations.html.

side.”³² Furthermore, renewed fighting in 2002 led to increased urgency in creating cease fire arrangements.

In an effort to sustain negotiations, the United States passed the Sudan Peace Act in 2002, which would lead to further US sanctions on Sudan if the president could not confirm that both parties were “negotiating in good faith.” It simultaneously held out the possibility of normalised relations. Both parties agreed to a cessation of hostilities and negotiations continued. In order to speed the negotiations along the United States convened a UN Security Council session in Kenya to “press the parties to conclude a comprehensive peace accord”.³³ This was achieved on January 9th, 2005 with the signing of the Comprehensive Peace Agreement (CPA) in Nairobi.

The CPA was an “internationally recognised permanent cease-fire and subsequent verification of redeployment of government and SPLA forces.”³⁴ It included a protocol on power sharing measures between North and South which would mean the creation of “government of national unity inspired by democracy, respect for human rights, justice, devolution of power to the states the government of southern Sudan, and good governance.”³⁵ The Agreement also included a wealth sharing protocol that detailed arrangements for the sharing of oil revenues between North and South.³⁶ Perhaps most importantly for Sudan moving forward was the creation of the Government of Southern Sudan’s inclusion of a timetable for a popular referendum on sovereignty for Southern Sudan and whether the oil rich region of Abyei would become part of the North or South. The Agreement, may be one that, as Bashir claimed, “ends the war and makes a new contract for the Sudanese to share their

wealth and defend their country”.³⁷

Sudan’s complex political history reflects its long history of colonialism. Sudan was a collection of independent kingdoms until 1820-1821, when Egypt conquered and unified northern Sudan. However, the vast areas of the South were never effectively controlled by the Egyptians and remained an area inhabited by “fragmented tribes.”³⁸ Due to maladministration by the Egyptians, there was a nationalist revolt overtook the capital. However, not long after, the state was reinvaded by an Anglo-Egyptian force, and the territory when then controlled primarily by the British. The British maintained control both through the use of “brutal military repression” and, perhaps more importantly for the future of the country, through strategies of “divide, ‘re-identify’, co-opt and rule”.³⁹ As Daniel N. Posner summed up in his book, *Institutions and Ethnic Politics in Africa*, nearly all African countries have multi-dimensional ethnic differences which are understood by voters to “convey information about how politicians distribute patronage.”⁴⁰ He continues by stating that “[a]lmost all have local cleavages defined by tribal affiliation or clan membership and national-scale divisions based on religion, language, or region.”⁴¹

The large ethnic differences, coupled along with the legacy of clientelism from the time of decolonisation, contributes to how Africans view the state. In short, “Africa is a region whose poverty and weak government institutions lead citizens to view the state as a resource to be consumed by the ethnic kin of those who control its offices.”⁴² This belief cannot be detached from the history of colonialism and the way in which Africans were forced to rapidly absorb

³² Iyob and M Khadiagala. *Sudan: The Elusive Quest for Peace*, 122

³³ Ibid.

³⁴ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 124

³⁵ Iyob and Khadiagala. *Sudan: The Elusive Quest for Peace*, 123

³⁶ Ibid.

³⁷ Iyob and Khadiagala. *Sudan: The Elusive Quest for Peace*, 125

³⁸ Department of State, “Background Note: Sudan.”

³⁹ Alison J Ayers, “Sudan’s civil war: the global-historical constitution of political violence,” *Review of African Political Economy* (2010): 157.

⁴⁰ Daniel N. Posner, *Institutions and Ethnic Politics in Africa*, (Cambridge: Cambridge University Press, 2005): 256.

⁴¹ Posner, *Institutions and Ethnic Politics in Africa*, 256

⁴² Ibid.

power form colonial powers. Allen continues to describe the introduction of clientelist politics as "a device for dealing effectively with the imposed decolonisation strategies of Britain, France and Belgium, lead over the next decade and half to the phenomenon known at the time as 'political decay': the rapid growth of politicised communalism, political conflict and violence, abuse of political and human rights, and corruption."⁴³

One of the prime examples of the deterioration that can be brought on by the excesses of clientelism is evidenced by the decades of civil war that Sudan has experienced. By exploiting some and privileging other groups, the British "exacerbated tensions between the different regions" and widened the gap between both modernity and tradition among Sudan's elites and underclass. As former Sudanese Foreign Minister Mansour Khalid writes, this "set the ground for post-colonial class formation and the rise of the northern bourgeoisie that has since dominated Sudanese politics."⁴⁴ British rule aggravated the already radicalised hierarchies by "privileging and co-opting a narrow northern elite which self-consciously identified as 'Arab.'"⁴⁵ The Jellabas', northern Arabised Muslims, social standing was thus confirmed and further empowered as colonists sought to use them to 'influence the whole population.'⁴⁶ These elites, "through British patronage and the manner in which independence was negotiated" helped to ensure, "for the greatest part of Sudan's history, a total monopoly on political power, garnering all the wealth derived from the exercise of such power amongst themselves."⁴⁷

Although Khalid's explanations for further events may be distorted because of his affiliation with

"Sudan's conflicts have been oversimplified to resemble a fight between caricatures of 'Arab/Non-African/nonblack' and 'African/non-Arab/black' protagonists engaged in a zero-sum, game of hegemonic competition."

guerrilla groups, African Scholar Nadir A. L. Mohammed, in the *Review of African Political Economy*, wrote that Khaled's explanation of the "roots of the problem" (the divide and rule policy of the British) was excellent.⁴⁸ Those in power stayed in power because they could reproduce their advantages, however, to lose power "was to risk never having the means to regain it. This simple and readily appreciated fact was to have a profound effect on political behaviour and the political systems that emerged in or from the 1950s."⁴⁹

In Sudan, this led the underprivileged classes of people to unite under the SPLA militant group in hopes of overthrowing the government and increasing their own standards of living. As Berman writes, "Patron-client networks remain the fundamental state-society linkage in circumstances of social crisis and uncertainty and have extended to the very centre of the state. This accounts for the personalistic, materialistic and opportunistic character of African politics."⁵⁰ This cycle of violence will continue until the government of Sudan ensures that all groups of people are considered in the transfer of goods to citizens and not just the privileged few.

With this understanding of some of the major issues that have helped shape modern Sudan, one can analyse the main causes of conflicts that have ravaged the country. As demonstrated, a major factor behind conflict in Sudan has been the role of conflicting ethnic and religious identities. Although it is far beyond the reach of this essay to analyse the many varied ethnic

⁴³ Posner, *Institutions and Ethnic Politics in Africa*, 305

⁴⁴ Ayers, "Sudan's civil war: the global-historical constitution of political violence," 157.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid, 157-158.

⁴⁸ Nadir A. L. Mohammed, "Briefing: The Government They Deserve," *Review of African Political Economy* (1993):130.

⁴⁹ Michael L. Ross, "The Political Economy of the Resource Curse," *World Politics* 51.2 (1999): 304.

⁵⁰ Bruce J. Berman, "Ethnicity, Patronage and the African State: The Politics of Uncivil Nationalism," *African Affairs* 97.388 (1998): 305.

and religious groups that make up Sudan, it is important to note that early conflicts have an effect on present negotiations. As Sudan was a collection of indigenous communities, each with its own power structure, it has been difficult to “fit in the institutional garb of modern statehood.”⁵¹ Sudan’s conflicts have been oversimplified to resemble a fight between caricatures of “Arab/Non-African/nonblack” and ‘African/non-Arab/black’ protagonists engaged in a zero-sum, game of hegemonic competition.”⁵² This ignores the fact that there are many different cultural and ethnic groups in Sudan who have felt disenfranchised by the power centre. This together leads many to argue that “that the raging conflicts are all manifestations of the continuing quest of Sudan’s multiethnic inhabitants for a more equitable membership in a Sudanese polity that recognizes the worth of each and all within it—in short, citizenship”.⁵³

As Iyob and Khadiagala write, it is important to have an “awareness of the rise and ebb of violence from the grassroots, where communities empowered and armed by the Khartoum government seek to secure water, land, and pasturage to ensure the survival of their particular communities at the expense of others.” This inequality has led some to hope for a new Sudan based on the principle of citizenship for those ‘disenfranchised Sudanese alienated by Khartoum’s hegemonic elites’.⁵⁴ While it would be an act of oversimplification to attempt to summarise the varied ethnic groups and their economic disparities here, there are key characteristics in conflicts that have driven Sudanese politics in recent history. These include primarily relate to three overlapping dimensions that unite many Sudanese in struggle against Khartoum: “a traditional conflict over scarce resources, the polarization of Sudanic communities—inextricably linked through ties of history, kinship, and culture; and the demands of political inclusion and economic integration by

marginalized regions.”⁵⁵ These factors are among the key influences in Sudanese politics.

These demands for political inclusion, a share over limited resources, and economic integration are major parts of the Comprehensive Peace Agreement (CPA). The ability to comment on what the future of Sudan holds as the post CPA-era in Sudan is something entirely new in its 54 year history since independence. The US has played a strong role in the peace negotiations and will continue to be an interested party in Sudan’s future. Unfortunately, the vast majority of the academic literature on the possible future of Sudan was written before the CPA and is therefore too outdated for a discussion about the specifics of contemporary Sudanese politics. However, general recommendations regarding US policy towards Sudan still hold true. In 2003, O’Sullivan wrote that “[t]he United States can best ensure ongoing Sudanese assistance if it makes clear to Sudan that continued cooperation will lead to better U.S (sic) relations in general, and Sudan’s eventual removal from the U.S. terrorism list more specifically.”⁵⁶ The US Secretary of State Clinton spoke about the crucial importance of respecting the vote results of the referendum on Southern succession:

“And regardless of the outcome, the will of the people must be respected by all parties in Sudan and around the world. Because we have already seen the alternative. The alternative, the unacceptable alternative, is Sudan’s past, more than four decades of recurring conflict, two million people dead, millions more displaced, simmering tensions that stall development and perpetuate poverty, then erupt again to darken the lives of another generation of Sudanese children.”⁵⁷

⁵⁵ Ibid, 160.

⁵⁶ O’Sullivan, *Shrewd Sanctions: Statecraft and State Sponsors of Terrorism*, 276.

⁵⁷ Hilary Clinton, “Clinton’s Remarks at U.N. Security Council Meeting on Sudan,” 16 November 2010, *America.gov*. <http://www.america.gov/st/texttransenglish/2010/November/20101116140445su0.9675061.html?CP.rss=true>.

⁵¹ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 36.

⁵² Ibid, 27.

⁵³ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 27.

⁵⁴ Ibid, 55.

This follows the argument by Iyob and Khadiagala about long-term peace in Sudan. "Peace, if it is to be sustained, must not only provide for the large and well-known communities but also nurture the aspirations for social justice and equity of those Sudanese whose histories have been rendered illegible and illegitimate by elite groups seeking to consolidate their hegemony over Africa's giant nation. The numerous and sustained inter-communal encounters and exchanges of the past resulted in the fusion of cultures, ethnicities, and identities which need to be considered in creating twenty-first century Sudan."⁵⁸ In practical terms this means a devolution of power from the centre to the periphery.

In *The Root Causes of Sudan's Civil Wars*, Douglas Johnson writes that this may finally be a possibility. "Every internationally-sponsored peace forum has ended at the same place: determination as the principle on which the war is to be resolved. The dilution of this principle has come through alternative initiatives outside formal mediation."⁵⁹ This has been made possible due to countries not pressuring Khartoum to allow for a real devolution of power from the centre. Writing before the CPA was agreed upon, Johnson asserted that they were "denied a final vote on their own future, and a decision on the form of government under which [they] were to live as one people was deferred to a never-realized future".⁶⁰ However, this yet to be realised future of self-determination may in fact finally be fulfilled under the referendum on self determination of the South required by the CPA.

The Berghof Foundation for Peace Support came to the same conclusion on their "Sudanese Conflict Analysis and Systemic Conflict Transition" paper. It wrote that, in addition to the logistical steps that need to be taken, there also needs to be a process of inclusiveness and a shift from marginalization to a "genuine devolution of power" from Khartoum to the South. Among

these steps, ensuring that there is real power sharing agreements and that Southern Sudanese "share politically and administratively in all the affairs of the country" is crucial.⁶¹ It also declares that devolution of power needs "to be done as a political development priority. People at the grass roots want to see themselves effectively taking decisions that affect their lives and conditions. At that level, there is a need to set up a structure that will help in ensuring that power is indeed devolved to the grass roots to avoid any sort of marginalization."⁶²

To emphasise the cost of war and to pressure governments to pursue peace, *Frontier Economics* partnered with civil society organisations to provide an economic impact of a return to war. They estimated that it would cost in excess of \$100 billion dollars to Sudan and the world community over ten years.⁶³ They wrote that the only truly peaceful scenario would be one in which "Both sides accept the referendum result (succession) and outstanding issues of contention are resolved quickly."⁶⁴ There is an evident concurrence in these three studies on the necessity of a decentralization of power based on the will of the Sudanese people.

Only in time will Sudan's path become known, whether it is one in which clientelism is finally (albeit gradually) eliminated from life in Sudan, or one where yet again there will be degradation between the North and South. This latter option threatens a return to conflict or a continuation of low-level violence in which there is no reconciliation while the former may herald a new era of peace and independence.

⁵⁸ Iyob and Khadiagala, *Sudan: The Elusive Quest for Peace*, 26.

⁵⁹ Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars*, (Bloomington: Indiana University Press, 2003), 180.

⁶⁰ Johnson, *The Root Causes of Sudan's Civil Wars*, 180

⁶¹ "Sudan: Conflict Analysis and Options for Systemic Conflict Transformation," *Berghoff Foundation for Peace Support*, Jan. 2006, http://www.berghofpeacesupport.org/publications/SUD_Sudan_Options_for_Systemic_Conflict_Transformation.pdf.

⁶² "Sudan: Conflict Analysis and Options for Systemic Conflict Transformation," 78.

⁶³ "The Cost of Future Conflict in Sudan." *Frontier Economics*, http://www.frontiereconomics.com/_library/pdfs/frontier%20report%20the%20cost%20of%20future%20conflict%20in%20sudan.pdf.

⁶⁴ "The Cost of Future Conflict in Sudan." *Frontier Economics*, 6.

Investigating the Global Land Grab and Its Effects On African Countries

Alexandra Dalton

The twenty-first century saw the development of an international phenomenon known as “land grabbing.” More formally referred to as “large-scale land acquisition,”¹ the practice involves the lease of vast, widespread amounts of land by foreign investors in order to produce crops for export.² The phenomenon only gained public attention in early 2008, when Spain-based NGO GRAIN released their groundbreaking, investigative report “Seized! The 2008 Land Grab for Food and Financial Security.” What began as foreign governments from densely populated countries investing in land to ensure food security, has now evolved into an international form of agribusiness where even private actors are partaking, resulting in the commoditization of land. In addition to the financial crisis in 2008, the world food price crisis of 2008 has left many countries rethinking their food security policies.³ Currently, the most prominent investors are found in the Persian Gulf, Asia, and the Middle East, who suffer from scarce water and soil resources and have high population growth.⁴

Although land grabbing is occurring throughout South East Asia, The Middle East, and South America, there has been particular emphasis on the demand for African land. To date more than 70 per cent of land transactions have occurred

on African soil.⁵ As a result, this paper aims to explore the presence and effects of the global land grab in African countries. It begins by further describing the land grab phenomenon and its presence in Africa and will follow with an investigation of foreign investors and their motivations. The second section of the paper analyzes potential benefits and setbacks from Africa’s perspective, with case study examples from Kenya, Madagascar, Liberia, Tanzania, and Mozambique. Through examining the lack of transparency between donor governments and rural African people, issues surrounding food security, smallholder displacement, limited job creation, and negative implications of monoculture farming, it is argued that despite potential benefits, land grabbing is a phenomenon that poses a serious threat to rural livelihoods in African countries. The final section offers future recommendations for land grabbing policies to better accommodate African countries. Two facts should be noted about this paper. Firstly, because “land grabbing” is a fairly recent phenomenon a number of primary sources have been used, including NGO reports, newspaper articles, and World Bank reports. Secondly, although closely related, this report deals strictly large-scale land acquisition, and does not discuss Foreign Direct Investment (FDI).

The land grabbing trend we are currently witnessing is unlike anything we have seen before. Worldwide, before 2008 less than 4 million hectares were transferred, while at the end of 2009 an immense 45 million hectares of land had been transferred.⁶ By mid 2009, a total of 464 individual land transfer projects had been reported, taking place in 81 countries.⁷ However, two thirds of projects (32 million) were taking place in Sub-Saharan Africa.⁸ Land deals involve the host government’s permission to rent land for a given amount of time to produce crops. However, given the majority of land deals in

¹ Center for Human Rights and Global Justice, *Foreign Land Deals and Human Rights: Case Studies on Agricultural and Biofuel Investment* (New York: NYU School of Law, 2010), v, <http://www.chrgj.org/projects/docs/land-report.pdf>.

² Center for Human Rights and Global Justice, *Foreign Land Deals and Human Rights*, 3. Shepard Daniel with Anuradha Mittal, “The Great Land Grab,” *The Oakland Institute* (2009): 1, http://www.oaklandinstitute.org/pdfs/LandGrab_final_web.pdf.

³ Center for Human Rights and Global Justice, *Foreign Land Deals and Human Rights*, 2.

⁴ Ibid.

⁵ The World Bank, *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* (2010), vi, http://www.donorplatform.org/component?option=com_docman/task/doc_view/gid,1505.

⁶ The World Bank, *Rising Global Interest in Farmland*, vi.

⁷ The World Bank, *Rising Global Interest in Farmland*, 35.

⁸ Ibid.

Africa are 99 year leases, can these really be seen as “transfers”?⁹

Land grabbing is clearly becoming a hot trend, and the majority of land being transferred is in Africa. There are many speculated reasons for this phenomenon. Firstly, research done by Fischer and Shah on agricultural landscapes cited in a World Bank report, determined land in numerous Sub-Saharan African countries such as Democratic Republic of Congo, Mozambique, Sudan, Tanzania, and Zambia had significantly higher potential for agricultural development, based on sparse population, and natural rainfall compared to other regions of the world.¹⁰ These countries are considered to have a “high yield gap”, meaning the difference between how land is currently being used and what potential it has for agricultural production is great.¹¹ Another reason why Africa land is seen as a primary target for investment is due to the relatively cheap price of land, compared to the rest of the world.¹² In addition, it has been argued that weaker forms of government policy make it easier for investors to access greater amounts of land.¹³

On the demand side of land grabbing, there are a number of actors involved. Primary investors can be divided into two categories: foreign governments and private investors. Over the past few years, a growing number of countries have been involved with land acquisition in Africa. Four states in particular: Qatar, United Arab Emirates, Saudi Arabia, and China all stand out as major players thus far in acquiring vast amounts of African land.¹⁴ Japan and South Korea have also shown interest in acquiring land, and may prove to be prominent investors in the future.¹⁵ An important distinction to note is that although

the majority land grabbing is occurring in the Global South, including Africa, it cannot be seen simply as a North-South phenomenon. Although a number of rich private investors are investing in land, key country investors in the African land grab are also part of the Global South.

There are a number of reasons why foreign countries are investing in African land. Issues surrounding food security are a primary concern. Food security is broadly defined as the “access of all people at all times to enough food for an active and healthy life.”¹⁶ Many factors contribute to modern day food security. In dominant investor countries previously mentioned, two main factors are driving the land grab: high population growth and scarce agricultural resources.¹⁷ High population growth is occurring primarily in Asia, where investor countries China, Japan, and South Korea are affected.¹⁸ Scarce agricultural resources, such as soil and water, also play an important role in modern day food security. With respect to the global land grab, the Gulf States in particular are seeking land in Africa to for this very reason. Although these countries are heavy oil exporters, they lack suitable agricultural land, and are forced to import the majority of their food.¹⁹ As a result, these countries are continually at the mercy of the world market. Collectively, the six Gulf States’ food import bill rose from \$8 billion to an immense \$20 billion between 2002 and 2007.²⁰ Combined with the global financial crisis in 2008 and the world food price crisis in 2007-2008, the Gulf state governments are looking for new alternatives to fill their food security needs, and investment in African land has proven to

⁹ “Global Land Grab,” *Fairplanet website*, August 10, 2010, <http://www.fairplanet.net/2010/08/global-land-grab/>

¹⁰ The World Bank, *Rising Global Interest in Farmland*, 64.

¹¹ *Ibid.*

¹² Doug Saunders, “China’s ‘African Land Grab,’” *The Globe and Mail*, April 4, 2010, <http://farmlandgrab.org/12075>.

¹³ The World Bank, *Rising Global Interest in Farmland*, xv.

¹⁴ Daniel with Mittal, “The Great Land Grab,” 2-3.

¹⁵ *Ibid.*

¹⁶ The World Bank, *Poverty and Hunger: Issues and Options for Food Security in Developing Countries*, (1986), v, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/1999/09/17/000178830_98101901455676/Rendered/PDF/multi_page.pdf

¹⁷ Daniel with Mittal, “The Great Land Grab,” 2.

¹⁸ United Nations Department of Economic and Social Affairs, *World Population to 2300*, (New York: 2004), 4, <http://www.un.org/esa/population/publications/longrange2/WorldPop2300final.pdf>.

¹⁹ UN DESA, *World Population to 2300*.

²⁰ GRAIN Briefing, *Seized! The 2008 Land Grab for Food and Financial Security*, (2008), 4. http://www.grain.org/briefings_files/landgrab-2008-en.pdf

be a viable option.²¹ With only an estimated one percent of its land suitable for farming, Qatar has already purchased 40,000 hectares in Kenya and additional land in Sudan for oil, wheat, and corn production.²² By investing in land, Gulf States will become less dependent on the world market, and will have more control over unpredictable food prices.

Another main reason driving foreign countries to invest in African land is the increasing demand for agrofuels.²³ Agrofuels, also referred to as biofuels, are energy sources currently being developed as an alternative to traditional energy means. Agrofuels are derived from ethanol, produced from large sugarcane and starch crops.²⁴ OECD member countries in particular have shown a lot of interest surrounding the development of agrofuels.²⁵

The private sector is playing an important role in the African land grab, particularly in the development of agrofuel crops. One study investigated land deals from 2004-2009 in Ethiopia, Ghana, Madagascar, and Mali and found that approximately 94 percent (1,840,420 hectares) of land transferred was leased to private businesses.²⁶ Although it is known that private investors are a large contributor to the

land grab, the majority of deals lack transparency and remain unreported. A number of Wall Street banks and wealthy individuals have also begun to invest in African land, although specific details about which businesses and where they are buying land remain unknown.²⁷ The participation of private actors in the purchase of land shows an interesting trend in world markets: land is clearly becoming a desired asset. Whereas in the past land was not seen as prime investment, with the increasing demand for agrofuels and the food crisis, the value of crops is on the rise and actors are keen to invest.²⁸ More research is needed to determine the specific role private investors are playing in the global land grab.

Through an examination of the main motivations behind both state and private investors in the land grab, it becomes apparent there are definite advantages to purchasing Africa's agricultural land. However, what about the impact of the land grab on donor countries and their people? The next sections investigate potential gains for African countries. It is argued that despite these perceived benefits, the leasing of agricultural land presents a serious threat to African countries with respect to food security and rural livelihoods.

A World Bank report released in September 2010 titled *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* shed light on a numbers of issues concerning the global land grab. The report did warn of risks to donor countries associated with the phenomenon, however also suggested numerous benefits that could be gained to donor countries. The report claims foreign land investment, if done responsibly, could introduce advanced technologies, capital markets, and infrastructure necessary to close gaps in land productivity.²⁹ It also suggests that the development of large primary sectors in poor countries could serve to

²¹ FIAN International, *Land Grabbing in Kenya and Mozambique: a Report of Two Research Missions – and a Human Rights Analysis of Land Grabbing*, (2010), 10. <http://www.fian.org/resources/documents/others/land-grabbing-in-kenya-and-mozambique/pdf>

²² Daniel with Mittal, "The Great Land Grab," 2.; "Kenya to lease out 40,000 hectares for farming to Qatar," *African Agriculture*. December 31, 2008, <http://www.africanagricultureblog.com/2008/12/kenya-to-lease-out-40000-hectares-for.html>

²³ Center for Human Rights and Global Justice, *Foreign Land Deals and Human Rights: Case Studies on Agricultural and Biofuel Investment*, 3.

²⁴ Global Forest Coalition, "Agrofuels," Global Forest Coalition, <http://www.globalforestcoalition.org/paginas/view/66>

²⁵ FIAN International, *Land Grabbing in Kenya and Mozambique*, 10.

²⁶ Lorenzo Cotula et al., "Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa," FAO, IIED and IFAD (2009): 48, http://www.ifad.org/pub/land/land_grab.pdf

²⁷ Center for Human Rights and Global Justice, *Foreign Land Deals and Human Rights: Case Studies on Agricultural and Biofuel Investment*, 3.

²⁸ Center for Human Rights and Global Justice, *Foreign Land Deals and Human Rights*, 4.

²⁹ The World Bank, *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* (2010), 103.

tackle rural poverty by offering jobs to locals.³⁰ It has also been claimed it could help food security, by increasing the productivity of crops and yielding more food.³¹ However, upon close examination, it becomes apparent that due to a lack of transparency between donor governments and rural African people, issues surrounding food security, smallholder displacement, limited job creation, and the negative effects of industrial monoculture farming, the land grab movement presents an immense threat to rural livelihoods in African countries.

Firstly, there exists a severe disconnect between donor governments and African people who live on land being transferred. This discrepancy can

“There exists a severe disconnect between donor governments and African people who live on land being transferred. This discrepancy can primarily be traced to issues surrounding land ownership.”

primarily be traced to issues surrounding land ownership. In a number of African states, including Zambia, Liberia, and Tanzania, there exists either poor land registration

laws or a lack of legal documents. Often these are not filled out properly or at all as land is passed down generation to generation within families and communities.³² This causes severe miscommunication when donor governments are looking to sell land and has caused much unrest in rural areas. Such was the case in Liberia, when a senior company representative was reportedly killed after the government transferred land that a rural community considered their own.³³ There also exists a lack of transparency with respect to community resources such as rivers and

pastures.³⁴ Evidently, because the majority of land transfers are prone to secrecy among donor governments and investors, there exists a lack of public knowledge about specific deal information, which presents a clear distress to affected rural populations.

In his book *Poverty and Famines* Amartya Sen wrote “Starvation is the characteristic of some people not *having* enough food to eat. It is not the characteristic of there *being* not enough food to eat.”³⁵ This quotation makes a clear distinction between food production and an individual’s access to food, and speaks heavily to Africa’s situation with respect to the current land grab. As a continent Africa suffers from immense hunger problems, particularly in Sub-Saharan countries. In 2010, across the continent more than 200 million people were affected by chronic malnutrition.³⁶ However, as noted by Sen, the increase in food production via introduction of foreign investment and capital will not necessarily increase the amount of food reaching large numbers of food insecure Africans. In fact, a study that investigated foreign land acquisition in five African countries (Madagascar, Ghana, Sudan, Mali, and Ethiopia) found that between 2004 and 2009 the majority of food and fuel being produced was for export, although it varied by country.³⁷ This presents much concern, as foreigners gather up African land, they are depriving host countries who clearly need it most to tackle food insecurity.

A look into the case study of Kenya perfectly illustrates this dilemma. Kenya suffers from immense nationwide hunger and poverty issues. In 2007, 56 per cent of the population was living in absolute poverty, and this number is expected to rise.³⁸ Approximately one third (32 per cent) of

³⁰ The World Bank, *Rising Global Interest in Farmland*, 1.

³¹ “Africa: Land Grab or Development?,” *allafrica.com*, October 28, 2010, <http://allafrica.com/stories/201010290914.html?page=2>

³² The World Bank, *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* (2010), 70–71.

³³ *Ibid.*, 48.

³⁴ *Ibid.*, 71.

³⁵ Amartya Sen, *Poverty and Famines* (New York: Oxford University Press, 1981), 1.

³⁶ Food and Agriculture Organization of the United Nations, “World Food Day 2010: Addressing hunger reduction in Africa,” http://www.fao.org/africa/raf-news/detail-news/en/item/46625/icode/?no_cache=1

³⁷ Lorenzo Cotula et al., “Land Grab or Development Opportunity?” 51.

³⁸ Kenya Human Rights Commission, *Committee on Economic, Social and Cultural Rights Pre-Sessional Working Group 2007*, (2007), 3. <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/khrkenya39.pdf>

the population is undernourished.³⁹ Kenya also suffers from high population growth, estimated at 2.5 per cent per year.⁴⁰ An estimated 85 per cent of the population live in rural areas and depend on land for subsistence farming and for business.⁴¹ However, as described by the World Bank, the majority of Kenya's agricultural land presents a high "yield gap" in potential productivity, where the introduction of advanced technologies and capital could produce abundant crops, presenting a real interest to foreign investors, however a real threat to local food security.⁴² Kenya has already suffered immensely as a donor country in the global land grab. In December 2008, 40,000 hectares of land were signed over to the Qatar government for large, monoculture vegetable and fruit production in exchange for US \$2.5 billion loan to build a second deep water port in Kenya.⁴³ Much controversy has arisen around this deal due to lack of transparency with the public, as no official statements have been made. Although the exact location of the planned land transfer is unknown, it is highly speculated to be along the Tana River Delta, one of the most fertile areas in the country and home to some 200,000 indigenous people.⁴⁴ A number of protests have been organized by locals trying to claim their land that has been passed down for generations, however without proper documentation, the government has claimed ownership and control of 200,000 hectares along the Delta.⁴⁵ The Tana

River Delta case presents an immediate threat to food security for local indigenous families and farmers who rely so heavily on the land for food and business in the present, but will also be detrimental in the future in light of high population growth if further land deals persist.

Optimists of the land grab also view foreign land acquisition in Africa as a means for job creation.⁴⁶ However, upon close examination it becomes apparent that despite the prospect of local job creation by foreign farms, the livelihood of vulnerable groups such as smallholder farmers are in fact severely threatened.⁴⁷ In Sub-Saharan Africa, almost all rural inhabitants are dependent on agricultural land for subsistence farming.⁴⁸ Although land grabbing is a recent phenomenon and many aspects about it remain unclear, repeated accounts of industrial farms displacing local smallholders exist. In 2009 throughout Tanzania more than 3,000 rice farmers were displaced by the government to make room for foreign agrofuel plantations.⁴⁹ Another reported case where numerous small farmers were displaced occurred in Madagascar in 2009, when a South Korean company, Daewoo Logistics, was approved to lease a proposed one million hectares of land.⁵⁰ Fortunately the deal did not pull through.⁵¹ One main reason for these displacements is the lack of transparency in the transfer process, where because numerous smallholders lack legal registration of their land,

³⁹ Food and Agricultural Organization of the United Nations, "Kenya," <http://www2.ohchr.org/english/bodies/ce-scr/docs/info-ngos/khrckkenya39.pdf>

⁴⁰ Permanent Mission of the Republic of Kenya to the United Nations, *The Contribution of the ICPD POA to the Internationally Agreed Goals, Including MDGs*, (2009), 2. http://www.un.org/esa/population/cpd/cpd2009/Country_Statements/Kenya.pdf

⁴¹ FIAN International, *Land Grabbing in Kenya and Mozambique*, 17.

⁴² The World Bank, *Rising Global Interest in Farm-land: Can it Yield Sustainable and Equitable Benefits?* (2010), 65.

⁴³ Nick Wadhams, "Kenyan activists fight land deal with Qatar," *The National*, June 6, 2009, <http://farmland-grab.org/4694>

⁴⁴ FIAN International, *Land Grabbing in Kenya and Mozambique*, 18-19.

⁴⁵ Wadhams, "Kenyan activists fight land deal with Qatar."

⁴⁶ The World Bank, *Rising Global Interest in Farm-land: Can it Yield Sustainable and Equitable Benefits?* (2010), 46.

⁴⁷ Daniel with Mittal, "The Great Land Grab," 14.

⁴⁸ J. Otte, A. Costales, M. Upton, "Smallholder Livestock Keepers in the Era of Globalization," *University of Reading*, (2005): http://www.fao.org/ag/againfo/programmes/en/pplpi/docarc/rep-0506_globalisationlivestock.pdf

⁴⁹ Mike Mande, "Rice Farmers May Be Evicted By New Biofuel Companies," *All Africa.com*, September 28, 2009, <http://allafrica.com/stories/200909270003.html>

⁵⁰ "Malagasy farmers oppose land deals with foreigners," *Alibaba.com*, April 16, 2009, <http://news.alibaba.com/article/detail/agriculture/100086562-1-malagasy-farmers-oppose-land-deals.html>

⁵¹ "Daewoo Logistics goes bankrupt," *Fairplay Shipping News*, July 6, 2009, <http://farmlandgrab.org/6032>

donor governments claim it as their own.⁵² The displacement of smallholders who depend on their land for food is without question a threat to food security to rural populations in Africa.

One of the main reasons donor governments in Africa are so attracted by foreign land acquisition is the promise of job creation by large industrial farms. However, upon close examination it becomes apparent that employment opportunities are in fact limited. Firstly, the introduction of capital and technologies to land largely displaces the need for vast amounts of workers.⁵³ In the sugarcane industry responsible for agrofuels, a single harvesting machine can replace up to one hundred workers.⁵⁴ Also, monoculture crops often do not require large amounts of consistent full time labour, so the majority of jobs are limited to part time employment in planting and harvesting seasons.⁵⁵ This is illustrated by a case in Mozambique where one agrofuel project planned to hire 2,650 workers, but ended up only hiring 35-40 full time employees and some 30 seasonal.⁵⁶

A final critique of the African land grab involves the production of agrofuels, and their tendency toward large monocultures, often referred to as "cash crops". One study researched a five year land grabbing span (2004-2009) in five major donor countries (Madagascar, Ghana, Sudan, Mali, and Ethiopia) and found 1,106,300 hectares (over 44 per cent) of land being transferred is used for agrofuel crops.⁵⁷ Agrofuel crops are particularly abundant in Madagascar, Mozambique, and Tanzania.⁵⁸ After receiving approval by the

Madagascar government for the 50 year lease of over 452,500 hectares in Southwest Madagascar in 2009, UK based company GEM Biofuels began cultivating land for jatropha crops for biodiesel production.⁵⁹ In 2009, a Swedish energy firm was provided an immense 400,000 hectares of land in Tanzania at Wami River in the Coast region to turn into a sugarcane plantation for agrofuels.⁶⁰ Also, in 2008 UK energy company CAMS Group acquired over 45,000 hectares of land in Tanzania for agrofuel crops.⁶¹

The issue here is that the advent of agrofuel industries often triggers the expansion of sugarcane or jatropha monoculture crops, resulting in the deforestation and exploitation of vast amounts of African land.⁶² This will eventually result in a loss of biodiversity and soil nutrient depletion, similar to that of a farmer who does not rotate their crops, however at a much greater scale.⁶³ With multinational corporations purchasing hundreds of thousands of hectares of African land for industrial cash crops, with leases lasting anywhere from 50 to 99 years, one can only imagine the degrading long term effects this will have on soil productivity.⁶⁴ However, long term implications of monoculture crops are probably not the top item on their agenda. Foreign corporations are investing in Africa with one thing in mind: money. Although they are developing "greener" technologies with the advent of biofuels, they are doing so to satisfy demand from the world market. When leases are terminated African countries will have to pay the price, stuck with overexploited land, while multinational corporations can move on and seek new terrain.

Based on this research it becomes evident that the current global land grab is not acting in Africa's favour, and donor countries would be better off

⁵² The World Bank, *Rising Global Interest in Farmland*, 70-71.

⁵³ Friends of the Earth International, "Africa: Up for Grabs The Scale and Impact of Land Grabbing for Agrofuels, *Friend of the Earth Europe and Friends of the Earth Africa* (2010): 20, <http://www.foei.org/en/resources/publications/pdfs/2010/africa-up-for-grabs/view>

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ The World Bank, *Rising Global Interest in Farmland*, 49.

⁵⁷ Cotula et al., "Land Grab or Development Opportunity?," 51.

⁵⁸ Cotula et al., "Land Grab or Development Opportunity?," 50.

⁵⁹ Ibid, 38.

⁶⁰ Mande, "Rice Farmers May Be Evicted By New Biofuel Companies."

⁶¹ Cotula et al., "Land Grab or Development Opportunity?," 38.

⁶² Global Forest Coalition, "Agrofuels."

⁶³ Ibid.

⁶⁴ "Global Land Grab," *Fairplanet website*.

without it happening. However, if this is to be a trend of the future, a set of four recommendations are proposed in order to better accommodate African countries and their people. Firstly, a regulatory framework or set of international laws must be created and practiced, that serve to regulate deals between donor countries and investors. These laws must substantially limit the amount of land that can be transferred and the duration of loans. Secondly, proper land registration laws must be implemented in all African countries, to better protect rural inhabitants and smallholders from their land being claimed by donor governments and sold. Thirdly, before projects are approved they must guarantee and follow through with sufficient, long term job creation programs for local residents. Lastly, a higher percentage of food produced within donor countries must stay within them in order to tackle food insecurity, rather than being exported.

In a world full of climate change, population growth, war, and food insecurity it is impossible to know what role the global land grab will play in the future. However through examining the lack of transparency in land deals, issues surrounding food security, the displacement of smallholders, limited job creation, and the long term effects of monocultures, it becomes apparent that despite potential benefits, the land grab presents an immense threat to rural livelihoods in African countries. It has been suggested the global land grab exhibits a form of neo-colonialism whereby rich countries are exploiting poor countries.⁶⁵ With respect to Africa, the global land grab has even been described as the "Second Scramble for Africa."⁶⁶ That is part of a whole other debate, however though this paper one thing has become clear: without significant changes in the way land deals are currently being implemented, they will undoubtedly have a negative effect on the future of African countries and their people.

Decaying Sovereignty

Gregory L. Sharp

"Of all the rights that can belong to a nation, sovereignty is doubtless the most precious."

-Emerich de Vattel

The central cornerstones of world politics, sovereign states, have dominated the political arena ever since the treaty of Westphalia in 1648. However, in this global era, sovereign nations and their constructed national identities are under attack. The pillars of state sovereignty – non-intervention, policy autonomy, internal authority, and border control – are being eroded by the relentless forces of globalization. As Kenichi Ohmae argues, "the modern nation state itself – that artefact of the eighteenth and nineteenth centuries – has begun to crumble."¹ As the process of economic, cultural, and political integration accelerates worldwide the fundamental structure of the world system is changing.

NON-INTERVENTION

An integral part of a sovereign nation is the recognition that a state is independent and free from any outside intervention. However, the reality of modern politics has evolved into a situation where this is no longer the case. All nations, spanning the spectrum from rich to poor, are susceptible to foreign intervention. These interventions manifest themselves in many different ways – ranging from austerity packages to military actions – depending on the context.

Recently, Iceland and Ireland were forced to undergo economic reforms after fears about their unstable economies spread across Europe. The austerity programs, accepted under pressure from the International Monetary Fund (IMF) and the

⁶⁵ Mounia BEN AÏSSA, "Land for grabs: Win-win or neo-colonialism?," *Food Crisis and the Global Land Grab website*, December 25, 2009, <http://farmlandgrab.org/10001>

⁶⁶ Julio Godoy, "The Second Scramble For Africa Starts," *IPS news*, April 20, 2009, <http://ipsnews.net/news.asp?idnews=46557>

¹ Kenichi Ohmae, "The End of the Nation State," in *The Globalization Reader*, ed. Frank F. Lechner and John Boli (Malden: Blackwell Publishing, 2003), 224.

European Union (EU), have resulted in drastic cuts to social spending. In essence, the sovereign right of a state to decide upon national matters of economic policy has been taken away. Ireland and Iceland are unique situations as they willingly yielded some of their sovereignty by joining the European Community.² Conversely, many other nations outside of the EU (for example, Indonesia during the 1997 financial crisis) have undergone these austerity programs without having willingly ceded some of their sovereignty.³

The reforms placed upon developing nations by the IMF, as a means to ensure they pay off their debt, are both counterproductive and destructive. These reforms, or austerity measures, can broadly be defined as cutting deficits, lowering spending, and slashing services. Although this may make sense economically, these reforms generally come at a time when the services being cut are needed the most. Countries such as Mexico and Thailand were ravaged by this violation of their sovereignty during times of economic crisis. The measures implemented by the IMF caused wages to fall by up to 40%, in addition to provoking widespread unemployment and societal unrest.⁴ Unfortunately, for them, these measures were deemed a necessary precaution to guard the stability of the international market.

Moreover, these interventions can also manifest themselves in the form of military action. Throughout the Cold War countless nations had their sovereignty denied as the superpowers struggled to dominate the political arena.⁵ These interventions manifested themselves in the form of support for rebel movements, proxy wars, and foreign occupations. A modern example could be the American invasion of Iraq in 2003. The US went through the process of appealing to the

United Nations hoping to legitimize their invasion of a sovereign state, however, many claim this was merely a façade. When not granted Security Council approval, the US decided to continue with the invasion anyway. In this sense, sovereignty disappeared long ago.

POLICY AUTONOMY

Another important pillar of sovereignty is the ability to autonomously implement domestic and foreign policies. Once again, the forces of globalization have slowly chiselled away at the strength of state sovereignty until nothing is left but a shadow of what was once there. In some cases, for instance the aforementioned economic crises in Ireland and Iceland, the ability to choose is simply taken away. In yet others, the pressure from transnational corporations (TNCs) and special interest groups is so strong that it is tantamount to having no choice.

Around the world, international trade agreements are becoming increasingly popular (for example, the North American Free Trade Agreement, the Southern Common Market, etc.). Although these trade agreements have limited jurisdiction they can nevertheless impede a sovereign state's ability to dictate domestic policies. Such was the case with the Canada-US softwood lumber dispute. Due to the fact that lumber is primarily owned by provincial governments in Canada, the price charged to harvest is set administratively instead of in the competitive market. The US viewed this as an unfair government subsidy on the part of the Canadians.⁶ In such cases, the World Trade Organization (WTO) is called in to arbitrate. In these situations the ability of a sovereign nation to control its domestic policies is ceded to an inter-governmental organization.

A more extreme case is seen in the EU where nation-states are stripped of many of the rights integral to a sovereign nation. These nations have essentially lost their economic autonomy. For example, now that their currencies are

² Richard Bellamy and Dario Castiglione, "Building the Union: The Nature of Sovereignty in the Political Architecture of Europe," *Law and Philosophy* 16, no. 4 (Jul., 1997): 422, <http://www.jstor.org/stable/350498>.

³ Harm J. de Blij et al., *The World Today: Concepts and Regions in Geography* (New Jersey: Hoboken, 2009), 262.

⁴ de Blij et al., *The World Today: Concepts and Regions in Geography*, 322.

⁵ Ibid, 92.

⁶ Gary C. Hufbauer and Ben Goodrich, "Lessons from NAFTA," in *Free Trade Agreements*, ed. J.J. Shott (Washington, DC: Institute for International Economics 2006), 39.

intrinsically linked to the economic well being of other nations, problems spread quickly beyond national borders. This "sovereignty bargain" is deemed an acceptable exchange of autonomy for material benefits.⁷ Although they are giving up a degree of control, these nations are willing to take the risk given the potential rewards.

In addition to this loss of control at the hands of supranational agencies, governments are also having their sovereignty clawed from them by market forces. Lobby groups and TNCs – the champions of globalization – are now dictating and influencing policies in a broad spectrum of countries. The reality is "where states were the masters of markets, now it is the markets which, on many crucial issues, are the masters over the governing of states."⁸ These corporations are so large, and with such a global reach, that they are beyond the control of any one nation. Furthermore, "the declining authority of states is reflected in a growing diffusion of authority to other institutions, associations, and to local and regional bodies."⁹ As states falter, other international actors are stepping up and filling the power vacuum.

NON-CONVENTIONAL ACTORS

As new actors test their agency in world politics they are starting to experiment with rights traditionally reserved for states. In modern politics "sovereign states no longer have a monopoly on the use of violence to achieve political ends."¹⁰ Through armed rebellion, terrorism, the erosion of nationalism, and the perceived vulnerability of a country, various aspects of globalization are preventing states from maintaining their domestic authority. Terrorist groups, insurgencies, and rebellions are all reactions to, and consequences

of, globalization. Furthermore, the social contract between state and subject is only effective when citizens place faith in the state; crucial to this process is the construction of a cohesive national identity.

Affecting predominantly developing countries, separatist and insurgency movements are an exceptional challenge to the internal authority of states. If the citizens of a state are beyond the control of the government, or if they are actively rebelling, how can the state itself be seen as a valid entity? Countries mired in combating insurgents – such as the Maoists in Nepal or the civil war in Somalia – struggle to provide for their citizens while trying to reassert their authority. As governments become increasingly ineffective, citizens lose faith in their ability to provide them with basic services. This disenchantment with the sovereign government is compounded when non-governmental organizations step in and fulfil the roles of state. This is the case in Sudan, where aid agencies provide a significant portion of the health and educational services. While these NGO provided services help in the short-term, the long term impacts can lead to the decay of local markets and an increase in unemployment.¹¹

This situation manifests itself differently in stronger nation-states. While insurgency is not uncommon those seeking more autonomy resort to terrorist actions. Modern examples have been seen in Canada (Front du libération du Québec), Ireland (Irish Republican Army), and Spain (Basque National Liberation Movement). Despite the fact that none of these movements have achieved success so far, the chaos and strife they cause underscores the fragile nature of sovereign states. When a country is so divided, it is extremely difficult to construct a united national identity. However, without this strong identity, it is difficult to consolidate state power and control.

In addition to the above noted internal dangers, threats to a nation's sovereignty can also come

⁷ Christopher Rudolph, "Sovereignty and Territorial Borders in a Global Age," *International Studies Review* 7, no. 1 (Mar., 2005): 3, <http://www.jstor.org/stable/3699618>.

⁸ Susan Strange, "The Declining Authority of States," in *The Globalization Reader*, ed. Frank F. Lechner and John Boli (Malden: Blackwell Publishing, 2003), 140.

⁹ Strange, "The Declining Authority of States," 142.

¹⁰ Richard M. Hare, "On Terrorism," *Value Inquiry* 7, no. 13 (1997): 242.

¹¹ Tim Brodhead, "If Africa Is the Question, is NGO the Answer?," *International Journal* 41, no. 4, Africa: Crisis and Beyond (Autumn, 1986): 875, <http://www.jstor.org/stable/40202413>.

from abroad. Globalization has spawned a whole new array of threats that defy traditional defences. It reached the point where, "to some extent terrorism is a substitute for conventional war."¹² When some of the most powerful nations in the world suffer terrorist attacks from international radical groups, citizens begin to question the ability of their government to protect them. This was recently the case in the US (9/11 attacks), the UK (7/7 attacks), and Spain (Madrid train bombings). Although this may prompt a "rally-round-the-flag" effect it also unsettles citizens to see their potential vulnerability.¹³ These acts of terror can lead to situations where the public panics, as was the case in the Moscow subway bombings in 2010.¹⁴ In these circumstances it becomes exceedingly difficult for governments to regain internal control and deal with the situation.

BORDER CONTROL

Finally, one of the most evident signs of slipping state sovereignty is the lack of control nations have over their borders. It appears that national borders, originally cracked open under the auspices of trade, are now decreasing in importance.¹⁵ Capital flows around the world in a matter of seconds, beyond the control of any government. Moreover, people are migrating in increasing numbers – both legally and otherwise – simultaneously illuminating the lack of control states have over physical borders and complicating the construction of national identities. For example, even given the comprehensive border controls in Malaysia and Singapore there are still thousands of Indonesian workers illegally moving around each day. Although these governments recognize that this is a problem, all their efforts

to halt the flows of Indonesian workers have thus far have been unsuccessful.¹⁶

Another case of sovereignty being ceded in exchange for perceived benefits is Eastern Europe's eagerness to join the EU. Here "sovereignty is willing[ly] ceded by states to gain economically from increased trade and capital mobility," even given the cost of losing control of their borders.¹⁷ States are being forced to make these "sovereignty bargains" in order to stay competitive in today's global market.¹⁸ For example, Britain's initial trepidation at joining the EU was quickly replaced with fear when its growth drastically fell behind that of the rest of Europe. In 1973 Britain became an EU member amidst these growing worries.¹⁹

Additionally, sovereignty is frequently undermined by TNCs seeking the best conditions. In the developing world, the considerable amount of uneducated labour available compels governments to concede control of policy to TNCs because if the situation does not work out favourably for the corporation it can easily relocate. These TNCs are highly mobile and are no longer constrained by the policies of nation-states. As Ohmae commented, "reflexive twinges of sovereignty make the desired economic success impossible, because the global economy punishes twinging countries by diverting investment and information elsewhere."²⁰ Any country that tries to assert control over TNCs operating within its borders does so with the risk of alienating the investment needed to stimulate economic growth.

Another serious challenge to the legitimacy of borders is the increase in trade occurring outside, or around, official channels. Generally considered one of the last frontiers, international waters remain largely unmonitored, allowing for clandestine exchanges of goods beyond the reach

¹² Hare, "On Terrorism," 241.

¹³ Matthew A. Baum, "The Constituent Foundations of the Rally-Round-the-Flag Phenomenon," *International Studies Quarterly* 46, no. 2, (Jun., 2002): 263, <http://www.jstor.org/stable/3096071>.

¹⁴ "Moscow Metro Hit by Suicide Bombings," BBC March 29, 2010, <http://www.bbc.co.uk/>

¹⁵ Janet Ceglowski, "Has Globalization Created a Borderless World?," in *Globalization and the Challenges of a New Century: a Reader*, ed. Patrick O'Meara, Howard D. Mehlinger, and Matthew Krain (Bloomington: Indiana University Press, 2000), 101.

¹⁶ Johan A. Lindquist, *The Anxieties of Mobility: Migration and Tourism in the Indonesian Borderlands*. (Honolulu: University of Hawaii Press, 2009).

¹⁷ Rudolph, "Sovereignty and Territorial Borders in a Global Age," 5.

¹⁸ Ibid, 4.

¹⁹ de Blij et al., *The World Today: Concepts and Regions in Geography*, 50.

²⁰ Ohmae, "The End of the Nation State," 225.

of nation-states.²¹ Even through legal channels, an “estimated 90 per cent or more of all shipped goods are underdeclared or undeclared.”²² States simply do not know what is entering and exiting through their borders. Globalization has made it next to impossible to control what flows through a nation’s borders as the sheer scale of trade outstrips capacity at ports around the world.

Economic transactions are not the sole factors that wear down national borders. The increasing ethnic diversity of nations – especially in the core – is complicating people’s identities and erasing traditional borders. As more and more migrants move around the world they are changing the

cultural makeup of nations. In turn “these diaspora groups often directly affect the decision making of states” through lobbies, activism, and remittances.²³ By making these voyages, migrants are creating communities that span the globe with no regard to national borders.²⁴ These

“Even through legal channels, an ‘estimated 90 per cent or more of all shipped goods are underdeclared or undeclared.’ States simply do not know what is entering and exiting through their borders.”

migrants leave for a myriad of reasons; however, they all inevitably impact their new locations as well as those they have left behind. Additionally, this injection of new cultural identities impedes the creation of a single homogeneous national identity that is essential for effective government control.

Furthermore, a global elite of urban cosmopolitans are increasingly refusing to be confined by the boundaries of any one country. Instead of being

the subject of a sole nation, they are becoming global citizens – born in Cairo, educated in Oxford, and working in Tokyo. This is visible in Europe where the younger generations are increasingly associating themselves as European in addition to their national identity.²⁵

Essentially, states have lost the ability to effectively control the flows of anything in or out of their borders.²⁶ This aspect of sovereignty is forever lost. In this era of interconnectedness, there is no taming the flows of media, ideas, commodities, or people between the varied nodes that compose the global network of nations.²⁷ Essentially, “these processes of globalization are eroding the fundamental basis of international society – state sovereignty – and that its decline represents a revolutionary transformation in the Westphalian structure of the international system.”²⁸ With the gradual decline of states, which political actors will position themselves as the new dominant players remains to be seen.

CONCLUSION

The modern manifestations of globalization have undeniably revolutionized the workings of the international political arena. The sovereign nation-state, the building block of world politics, is decaying. Actively participating in this process, and assuming the roles vacated by states, are the non-state actors empowered by globalization. Governments can no longer claim that they maintain absolute control over the state – their reign is vanishing.²⁹ Perhaps, as this process evolves, a new world with new power-sharing arrangements can be developed between these new international actors.

²¹ Carolyn Nordstrom, *Global Outlaws: Crime, Money, and Power in the Contemporary World* (Berkeley: University of California Press, 2007), 103.

²² Nordstrom, *Global Outlaws: Crime, Money, and Power in the Contemporary World*, 173.

²³ Rudolph, “Sovereignty and Territorial Borders in a Global Age,” 12.

²⁴ Nordstrom, *Global Outlaws: Crime, Money, and Power in the Contemporary World*, 181.

²⁵ European Commission, “European Citizenship” European Commission, http://ec.europa.eu/publications/booklets/eu_documentation/05/txt_en_2.pdf

²⁶ Nordstrom, *Global Outlaws: Crime, Money, and Power in the Contemporary World*, 190.

²⁷ Arjun Appadurai, “Disjuncture and Difference in the Global Cultural Economy,” in *The Globalization Reader*, ed. Frank F. Lechner and John Boli (Malden: Blackwell Publishing, 2003), 401.

²⁸ Rudolph, “Sovereignty and Territorial Borders in a Global Age,” 14.

²⁹ John Keane, *Global Civil Society?* (Cambridge: Cambridge University Press, 2003), 75.

The Global Financial - Production Interplay

Sustainability in Light of the 2007 International Economic Crisis

Peter Dargie and Christina Free

The Global Financial System (GFS), in partnership with the Global Production System (GPS), form the bedrock of the international economy. The aforementioned interrelation has seen a dramatic shift in power as a result of accelerated growth in GFS. This paper will examine the changing dynamic of the modern GFS-GPS relationship. Furthermore, the sustainability of the GFS-GPS interplay in a globalized economy will be explored utilizing the 2007-2010 Global Financial Crisis as a medium for investigation. It will be argued that the risks of financial crises are largely outweighed by the benefits of a free-market system. In addition, several key economic events of the 21st century and their impact on the intercontinental financial market will be analyzed. To provide a basis for our circumspective investigation of the balance between financial and production systems, we begin by discussing the origins of financial markets.

The modern markets are rooted in the early trade of commodities. Specifically, "trade in markets may be said to have started when people previously self-sufficient in some rudimentary fashion began to specialize in the various tasks and exchange them with others. This exchange made everyone participating better off.¹" This primitive economy was structured solely around the physical production of goods and services; it was the beginnings of the Global Production System (GPS). The next economic epoch began with the inception of a state-issued currency as a medium of exchange and unit of account.

¹ Chuckman, John, *The Decline of the American Empire and the Rise of China as a Global Power* (Fort Erie: Magpie, 2007).

Transactions, which had traditionally been executed as the trade of hard goods or immediate service, could now be financed by previous sales. Thus, currency had allowed for the accumulation of wealth, as it was a durable store of perfectly liquid value. In this way, the genesis of the financial system occurred with the implementation of legal tender. A result of this developing financial structure was the ability of the individual to make a choice between saving and consumption. At the aggregate level, the choices of a populace between saving and expenditure would have national and international socio-economic ramifications. In his book *The Decline of the American Empire and the Rise of China as a Global Power*, economist John Chuckman, develops this concept:

"The importance of saving is that it funds investment in economic capital. Even a relatively small difference in saving rates between two countries can be quite telling over just a few decades. Those who have saved more will have financed a better or greater capital stock which in turn yields a new level of choice between saving and consumption in the future."²

Over the past decade, US household savings rates have plummeted. In 1990, the average personal saving rate of US households was around seven per cent, but in 2007 it dropped to less than a single per cent.³ Coupled with rising housing prices, American household mortgage debt drastically increased and was a major instigator of the 2007 economic recession.⁴

These concepts of transaction financing and value storage are now core pillars of contemporary financial theory. Following the adoption of common currency, the roots of a comprehensive financial system may be found in the twelfth or thirteenth century. As legal currency was adopted globally and international trade within the GPS grew, a need for forex (foreign exchange) and capital markets arose. The result was a sustained

² Chuckman, John, *The Decline of the American Empire and the Rise of China as a Global Power* (Fort Erie: Magpie, 2007).

³ George Soros, *The New Paradigm for Financial Markets: the Credit Crisis of 2008 and What It Means* (New York: PublicAffairs, 2008).

⁴ Ibid.

period of rapid growth in the financial industry. It was during this period that the first identifiable commodity exchanges and banks were formed. The commodity exchange was a key innovation which interconnected a developing financial system with established production industries. Farmers could now sell the rights to their crops months in advance of harvest thus protecting themselves from a drop in the future price while buyers could protect themselves from the potential of rising costs.⁵ As contracts and transactions over the exchange became more complex, individuals specializing in executing transactions for personal gain developed an entirely new industry around fiscal investment. In this way, a Global Financial System (GFS) developed not only as an abstraction of the GPS, but as an inseparable aspect of a globalizing economy. Consequently, it is economically, politically, and managerially important to understand the interplay between the global production and financial structures. By 2006, this long-term interrelation between GFS and GPS had grown "the economic output of the entire world [to] around \$47 trillion. The total market capitalization of the world's stock exchanges was \$51 trillion."

In the twentieth century, the GFS grew at an unprecedented rate. This paper postulates that there were three driving forces behind this rapid growth: industrialization, post materialism, and globalization. As industrialization took hold, production efficiency rose, boosting the output of products. The result of rising supplies and inventories was a corresponding increase in consumer-purchasing power. Further, as the agricultural industry became more efficient, a greater number of people sought jobs in new businesses and developing sectors. A growing middle class followed, and a post-materialist paradigm began to percolate. This new culture desired more than mere subsistence and turned to the free-market for entrepreneurial financing and investment savings. Correspondingly, capital markets began to flourish in the early twentieth century providing opportunities for financing or investment in the form of debt or equity. In these markets the efficient allocation of money, in relatively liquid securities, provided a catalyst for the financial system to grow exponentially.

Production industries embraced the financial system as an avenue for financing, conventional banking, loans, and venture capital. As the contemporary corporate world developed, the financial system inevitably became a vital and omnipotent facet of all business operations. This interconnection between the two evolving structures continued until the financial system encompassed the corporate world. It now provides a central hub through which capital flows between production sectors. This modern GFS is a complex and expansive network of institutions and regulators acting on a transnational basis. Investment banks, hedge funds, and other asset managers represent the private side of the structure.⁶ On the public side are regulators such as national governments, the International Monetary Fund (IMF), and the World Bank.⁷

With the advent of the internet and rapid communication technologies, the various financial systems of countries can be said to have truly amalgamated into one monolithic global financial structure. This system provides financial fuel for the global production system. This system has taken long-term assets and turned them into highly liquid investment options for the enterprising mind. However, as the world economy has globalized, the risks endemic to the system have become more critical. The various financial crises and economic bubbles set forth in this paper stand as testaments to the severity of a failing in the global financial structure. Such financial crises have very real impacts on the global production structure and by extension countries and the individual. As such, a financial crisis has the potential to be far more severe than an economic recession in most other industries. A brief analysis of financial crises which occurred in the past century will aid in pinpointing these risks.

The outset of the new millennia began a half-decade of steep increases in commodity spot and real-estate prices, as well as a peak in global inflationary rates. Retroactively, this rapid appreciation of asset prices in the early 2000s, in conjunction with a low interest rate policy in the wake of the 2000 dot-com meltdown, can be seen

⁵ Niall Ferguson, *The Ascent of Money: A Financial History of the World* (New York: Penguin Press, 2008).

⁶ Geoff Martin, *Introduction to Political Science Reading Kit* (Sackville: Mount Allison University, 2008).

⁷ Ibid

as a key precursor to the 2007 recession. In his 2008 speech to the Financial Risk Roundtable of the Wyman Institute, Federal Reserve Governor, Frederic Mishkin, conveyed his belief that an asset price bubble⁸ was the foreshock of the recession. "Over the centuries, economies have periodically been subject to asset price bubbles—pronounced increases in asset prices that depart from fundamental values and eventually crash resoundingly."⁹ When the American housing bubble burst in 2007, mortgage defaults and home foreclosure rates spiked. The vast majority of these defaults and foreclosures originated from portfolios of sub-prime lending. Bankers hoping to earn a higher return on investment had leveraged the purchase of large portfolios of sub-prime mortgages.¹⁰ This was to be the first in a series of severe blows to the financial system; the result was widening credit spreads and mounting loan losses.¹¹ The 2007-2010 recession was facilitated by identifiable systemic risk in the GFS. As the financial system deteriorated almost all other sectors in all parts of the globe were affected. When liquidity dried up in the market and consumer demand fell suppliers of both capital and finished goods saw a slump in profit margins. Diminished profit margins lead to increased unemployment, and thus the global economy has spiraled deeper into recession. To fully understand the 2007 recession it is important to recognize that the recession is an amalgamation of the issues faced in a great number of previous market crises.

To begin, the 1997 Asian Financial Crisis bears a great similarity to the current financial upheaval which originated in the United States. In 1997 Thailand decided to let the baht float against the United States dollar. However, Thailand had recently experienced a domestic asset price bubble, and was burdened with massive foreign

debt in the form of economic investment. As the baht devalued and interest rates jumped, it became impossible for Thailand to cover its foreign debts and pay interest on loan investments.¹² In many ways, the Thai economy faced similar challenges as the United States. The American public debt currently stands at nearly 14 trillion dollars. This debt is owned principally by Japan, China and Germany.¹³ The combination of this massive debt, depressed asset prices, and a struggling currency has had massive implications for the global production structure. In its position as the world's largest economy, the fall of both supply and demand from the United States was highly damaging to the global economy. Global markets continued to falter throughout 2008, and the Financial Crisis developed to embody many characteristics of the International Debt Crisis of the 1980s, the 2000s Dot-Com Bubble and even the Great Depression of the 1930s.

In 1978-1979, the dramatic fall of oil prices combined with interest rates reaching 18 percent per year led to a global economic recession from 1980-1981.¹⁴ The result was an inability of debtor states to pay creditors the interest on their debts. In August of 1982, Mexico could no longer pay its foreign debt. Shortly after, similar announcements were made by several other Latin American countries including Brazil and Argentina.¹⁵ These currencies were "sunk" by rapid for-ex option contracts, shorts, and swap transactions; executed by traders capitalizing on a strong U.S. Dollar and unsupported South American currencies. Debt Restructuring Negotiations organized by the IMF, World Bank, Commercial banks, and governments provided new loans to debtor countries and stretched out external debt payments, providing some stability to the crisis. The situation is strikingly similar to the debt crisis faced by Dubai in 2010. The events in Dubai amplified doubts about the ability of

⁸ A price bubble occurs when the price of an asset rises far above its fundamental value.

⁹ Frederic Mishkin, "How Should We Respond to Asset Price Bubbles?" (Speech at the Financial Risk Roundtable of the Wyman Institute Speech, University of Pennsylvania, Wharton Business School, May 15, 2008).

¹⁰ A sub-prime mortgage is a mortgage made out to an individual with poor credit.

¹¹ Soros, *The New Paradigm for Financial Markets*.

¹² Kar-yiu Wong, and Richard Y. K. Ho, "The Asian Crisis, 1997," *Review of International Economics* 10.1 (2002): 1.

¹³ Martin, *Introduction to Political Science Reading Kit*.

¹⁴ Ibid

¹⁵ Barry J. Eichengreen and Peter H. Lindert, *The International Debt Crisis in Historical Perspective*, (Cambridge, MA: MIT UP, 1989).

some European states such as Greece, Portugal, Ireland and Spain to pay the interest on their sovereign debt obligations. A corresponding lack of investor confidence in sovereign debt markets triggered massive selling on global exchanges.

The incredibly rapid sell-off of 2007-2008 is highly reminiscent of the infamous Dot-Com Bubble. In 2000 the P/E (Price to Earnings) ratio¹⁶ of the S&P 500 reached a record multiple of 45, causing many value-oriented investors to exit the market, sinking stock prices and cooling the economy.¹⁷ In 2007 the P/E of the S&P 500 again topped 30, signaling to value oriented investors that the market may have again become overbought, and vast deposits of shares were sold off. The resultant similarity between the Dot-com bubble and the 2007-2010 recession is the nature by which not only asset prices but general equity prices may also bubble, and invariably burst. When equity prices dive, investors become risk adverse and allocate less money for investment. When this happens, liquidity dries up and no longer facilitates strong economic function. In 2008 the P/E of the same index bottomed out near ten.¹⁸ At this time the market-capitalization of the global production structure was eviscerated to pre 1990s levels. This rapid sell-off from an overbought market, in conjunction with fundamental economic weakness drove the world economy into the worst recession since the 1930s.

The similarities between the current recession and great-depression of the 1930s are striking. Notable American economist, Irving Fisher, famously outlined nine principle causes of the Great Depression. They included the distressed liquidation of debt, contraction in the supply of money, a fall in asset prices, a fall in profits, investor pessimism, monetary hoarding and a resultant liquidity crisis.¹⁹ The above are all

phenomena which occurred during the Global Financial Crisis. These large-scale financial upheavals are necessarily the result of interplay between numerous economic failings. These tremors in the financial system have individually accounted for numerous previous financial recessions. Thus, this paper endeavors to generate an understanding of why financial history is inclined to repeat cycles of wild bull markets and subsequent crashes. In order to approach this problem, an intuition for the relationship of the bull-bear sequence to the sustainability of the relationship between the GPS and the GFS must be developed.

The current market wide depression is the result of a failing in the global financial system. With financial markets as the bedrock of the global production structure, a failing in the GFS has tangible ramifications for all industries. Financial crises which intermittently engulf large parts of the world create legitimate fears about the sustainability of such a market-driven global economy. However, financial services are the foundation of every economic activity. Whether a manufactured product or provided service is being offered, the operation of production must be financed at every stage. Thus, it is obvious that the GFS and GPS are inextricably tied. Further, an increasingly globalized system means that weaknesses in one country's financial system can spread quickly to others, influencing all aspects of the GPS and world economy.

The question is not whether the financial markets have a negative impact, but rather if the increasingly globalized, deregulated state of them can be economically sustainable. Despite the attempts of nations to control their domestic monetary affairs, they remain exposed to the risks of global market forces. The GFS has clearly dominated the GPS, but the volatility intrinsic to the GFS creates associated economic externalities as seen through our discussion of past economic crises. British international political economist, Susan Strange, even coined the term "casino capitalism" to describe the GFS as a metaphor for this volatility.²⁰

Having noted this instability and volatility, it remains in part the thesis of this paper to

¹⁶ Price to Earnings Ratio is the market capitalization of the business divided by its earnings. These usually tend to gravitate to sub-20 levels.

¹⁷ Eli Ofek, and Matthew Richardson, "DotCom Mania: The Rise and Fall of Internet Stock Prices," *The Journal of Finance* 58.3 (2003): 1113-138

¹⁸ Soros, *The New Paradigm for Financial Markets*, 2008.

¹⁹ Irving Fisher, *The Debt-deflation Theory of Great Depressions* (Menasha, Wis, 1933).

²⁰ Peter Dicken, *Global Shift: Mapping the Changing Contours of the World Economy* (New York: Guilford, 2007).

assert that the risk of such failings is greatly outweighed by the benefit of a free, liquid, and largely deregulated financial system. Assistant director of the IMF's research department, Stijn Claessens, asserts that "[the] increased freedom of financial movement has benefited all involved by facilitating trade, enhancing the diversification of assets, and expanding the resources available for development."²¹ The rise of the capitalist world and long-term success of the developing countries such as Thailand, Vietnam, South Korea and Brazil, is a clear indicator of the necessity of an overarching GFS. Such a system provides the opportunity for self-motivated innovators, in free economies, to access financing in order to increase output. The annualized compounding rate of return of the S&P 500 over the past 100 years is above 10 percent.²² This ten per cent return on investment (ROI) includes all recessions, bubbles, and market crashes. Furthermore, this historical trend is self-perpetuated, as competition for financing has built a stronger economy. In this way, the free-market of the GFS has allowed for the relatively efficient allocation of capital around the world. The result is a structure of global production that is financed and owned by a worldwide community. Countries which have chosen to resist becoming members of global financial community have shown lack-luster returns in comparison to those generated under the system.

Russia is a key example of a country which has struggled due to a financially unsustainable and isolated economy. The Soviet government historically "stood in the way" of the growth of new firms through "taxation, regulation, and/or corruption."²³ Although Russia has made few attempts towards creating more globally integrated, free market economy since the

collapse of the Soviet Union in 1991, it has been a difficult process to reverse the damage of the past. Even China, a communist country in name, has taken steps towards an economy open to the Global Financial Structure. The results of China's decision have benefited not only its own populace, but also members of the international community. In 2011, China took over Japan as the world's second largest economy.²⁴ According to the IMF, although China's GDP is still only 40 per cent of the United States', Americans are simply living on "borrowed prosperity, while the Chinese [have] built up an immense reserve of savings."²⁵

It is clear that the rise of the global financial structure to prominence over the global production system has at times been a mercurial path. However, the corresponding returns have been great. As the global financial-production structure becomes increasingly homogenized, financial markets provide volatile but efficient fuel for the global economy. The major challenge that the GFS and its key players now face is the question of 'how to best maximize the benefits of financial liberalization while minimizing the potential risks.'²⁶ In order to capitalize on the prosperity which results from a strong and sustainable GFS, the system must be allowed to function naturally and cyclically without rash bureaucratic intervention. Concomitantly, it is necessary that events such as the 2007-2010 recession, Asian Financial Crisis, Dot-Com Bubble, International Debt Crisis and the Great Depression serve as admonitory reminders of the global implications of the tightening bond between financial and production markets.

²¹ Stijn Claessens, *The Search for Stability in an Integrated GFS* (Washington, DC (1818 H St., Washington 20433): International Economics Dept., World Bank, 2006).

²² "Standard and Poors 500 Index," last modified February 2011, <http://www.standardandpoors.com/indices/sp-500/en/us/?indexId=spusa-500-usdof--p-us-l>.

²³ Oliver Blanchard, and Andrei Shleifer, "Federalism With and Without Political Centralization: China Versus Russia," *IMF Staff Papers* 48. Special Issue (2001): 171-79.

²⁴ David Gonigam, "China And Russia: 2 Giant BRICs In The Economic Growth Wall," *Business Insider*. February 14, 2011, accessed February 21, 2011. <http://www.businessinsider.com/china-and-russia-2-giant-brics-in-the-economic-growth-wall-2011-2>.

²⁵ Ibid.

²⁶ Christopher Kent and Jeremy Lawson, *The Structure and Resilience of the Financial System*, (Australia National Reserve, Australia: Pegasus Print Group, 2007).

Transforming Cultural Conventions: An Examination of Grassroots Approaches in the Fight Against Female Genital Mutilation

Erin McSorley

The practice of female genital mutilation (FGM) is widespread on the African continent and has been increasingly condemned by the international community as a gross violation of human rights. Prominent international actors, such as the World Health Organization (WHO) and the United Nations (UN), have implemented programs and provided support in the fight against FGM. The African Union (AU) adopted the Maputo Protocol in 2003, outlining the rights of women and prohibiting the practice of FGM in Africa. In addition, educational community programs and alternative rites of passage in Senegal and Kenya have shown promise as a means of dramatically decreasing the prevalence of FGM in these countries. Although progress has been made in reducing the incidence of FGM in Africa, this practice remains widespread across the continent. A grassroots approach focusing on education is necessary in order to alter the social and cultural conventions associated with FGM, and to effectively produce behavioural change.

The first section of this paper will provide a brief overview of FGM, defining the practice, exploring the prevalence in Africa, outlining the dangerous side effects and health risks, and discussing the factors perpetuating the continuation of the practice. The next section will provide a critical analysis of efforts that have been made to reduce the incidence of FGM, including WHO programs, UN support, and national legislation. The final section will discuss the adoption of grassroots approaches, using Senegal and Kenya as case study examples. This section will argue that social conventions surrounding FGM must be changed in order for national legislation to be effective.

Female genital mutilation refers to "all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons."¹ The WHO has classified FGM into four different categories, depending generally on the amount and type of tissue that is removed and the overall severity of the act. The first category refers to the clitoridectomy, which involves partial or total removal of the clitoris. In addition to removal of the clitoris, Type II also involves removal of the labia minora and possible excision of the labia majora. The third category is infibulation, which is the most severe and dangerous form of FGM that is practiced. Infibulation involves the removal of the clitoris, labias minora and majora, with the vaginal orifice being stitched closed, leaving only a small opening for the passage of urine and menstrual fluid. Finally, Type IV serves as a broad category, encompassing all other non-medical procedures to the female genitalia.

It is impossible to study FGM without taking into account its prevalence in Africa. The WHO estimates that between 100 and 140 million females worldwide have been subjected to one of the first three types of FGM.² In Africa specifically, 91.5 million females above the age of nine are living with the consequences of FGM, with an estimated three million girls at risk of undergoing the procedure each year.³ These statistics, while not as staggering as those associated with other global health issues, demonstrate that the practice of FGM is affecting millions of females physically, emotionally, and psychologically on a global scale. In addition, it is important to note that the first three types of FGM have been documented in 28 African countries. While prevalence rates vary between countries, the practice of FGM can be seen as a widespread issue on the African continent.

In the fight against FGM, "allegations of health

¹ The World Health Organization, "Female Genital Mutilation," The World Health Organization, http://www.who.int/topics/female_genital_mutilation/en/.

² The World Health Organization, "Female Genital Mutilation."

³ The World Health Organization, "Female Genital Mutilation."

hazards form the cornerstone of opposition to the practice.”⁴ The WHO has been a vocal international actor, opposing FGM on the grounds that it provides no health benefits, but rather brings harm to the girls and women who undergo the procedure. A multitude of health complications and consequences arise from the procedures associated with FGM. Short-term complications can include hemorrhage, shock, tetanus, sepsis, severe pain and death, while long-term consequences involve infertility, recurring bladder and urinary tract infections, obstetric complications, and the need for additional future surgeries.⁵ This need for additional surgeries is associated with infibulation, as the vaginal orifice must be opened and re-stitched in order to allow for sexual intercourse and childbirth. Repeated surgeries increase the risk for both short and long-term complications.⁶ It is also important to note that anesthetics are rarely if ever used and sanitation is limited, with knives, razor blades, glass, and even teeth or fingernails used to perform the procedure.⁷

The realities of the health risks associated with FGM become even more serious when the average age for the procedure is taken into account. The procedure is generally performed between infancy and the age of 15, meaning that the genitalia and sexual libido of young girls, with limited awareness of their bodies and sexuality, are altered without their consent. Knowing these realities, it is clear that FGM can be classified as a serious health issue that is affecting millions of females in Africa and in other parts of the world. As the WHO has stated, the procedure provides no health benefits and is performed for non-medical reasons. Thus, FGM is subjecting females to

an unnecessary procedure that not only inflicts severe pain, but also puts them at risk for health consequences that are of serious concern.

FGM is a complex issue, surrounded by numerous social and cultural conventions. It is critical to have a sufficient understanding of the cultural and social factors that are perpetuating the practice of FGM in Africa before making rash generalizations or judgments. While each of these factors plays a distinct role, it is important to understand that they are interconnected in their influence on the practice of FGM.

There is a common misconception that FGM is inextricably linked to religion, particularly Islam. However, it must be noted that there is no requirement for cutting of the female genitalia outlined in the Qur'an.⁸ Moreover, the majority of Muslim populations around the world do not practice FGM.⁹ When viewing the practice of FGM from an outside perspective, we must be careful to avoid simplified and ignorant generalizations. It is important to understand that FGM “is a cultural practice, rather than a religious one, and as such, it is performed by members of many different religious groups.”¹⁰ While religious beliefs may play a role in the practice of FGM, it is an incorrect oversimplification to identify religion as the sole causal factor.

The social convention of conformity exerts a powerful influence on the practice of FGM. FGM is often deemed necessary in order to adequately prepare a woman for adulthood and marriage, as it helps to ensure premarital virginity and marital fidelity through the severe enclosure associated with infibulation, or through reduction of the female libido associated with removal of the clitoris.¹¹ In this sense, FGM assigns status to the girl and to her family, thus increasing her marriageability. This serves as a powerful incentive for parents and young girls to conform, as “not conforming would bring greater harm, since it would lead to shame and social

⁴ Bettina Shell-Duncan and Ylva Hernlund, “Female ‘Circumcision’ in Africa: Dimensions of the Practice and Debates,” in *Female ‘Circumcision’ in Africa: Culture, Controversy, and Change*, ed. Bettina Shell-Duncan and Ylva Hernlund (Colorado: Lynne Rienner Publishers Inc., 2000), 15.

⁵ The World Health Organization, “Female Genital Mutilation.”

⁶ Ibid.

⁷ Andrea Parrot and Nina Cummings, *Forsaken Females: The Global Brutalization of Women* (Lanham: Rowman & Littlefield, 2006), 74.

⁸ UNICEF Innocenti Research Centre, “Changing a Harmful Social Convention: Female Genital Mutilation/Cutting,” *Innocenti Digest* (2005): 12.

⁹ UNICEF, “Changing a Harmful,” 12.

¹⁰ Parrot and Cummings, *Forsaken Females*, 70.

¹¹ The World Health Organization, “Female Genital Mutilation.”

exclusion.”¹² In addition, it is important to note that increased marriageability is also linked to economic incentives. As Parrot and Cummings argue, in patriarchal societies where females are not permitted gainful employment or ownership of property, marriage serves as the only means through which women are able to provide for themselves and their children.¹³ In addition, women who never marry are often shunned in society.¹⁴ As FGM often serves as a prerequisite for marriage, it can be argued that parents face substantial pressure to have their daughters circumcised in order to ensure that they will be accepted as members of the community and will be provided for financially. Therefore, the belief that FGM is necessary in order to ensure a girl's marriageability is a significant factor that is serving to perpetuate the continuation of the practice.

Cultural ideals and beliefs surrounding femininity also exert an influence on the practice of FGM. A gendered belief exists whereby girls are to be considered clean and beautiful, and in this sense, FGM may be related to notions of bodily cleanliness and physical beauty.¹⁵ FGM may be seen as a means to remove the “male” or “unclean” parts of the female genitalia¹⁶, thus increasing their physical aesthetic value. For example, as Parrot and Cummings argue, removal of the clitoris is viewed in some cultures as the process of removing the masculine part of the female body.¹⁷ The pressure for women to conform and live up to the cultural standards of beauty is apparent. Thus, from a cultural perspective, women may view the practice of FGM as an opportunity to enhance their physical beauty and to embrace their femininity. The pressure to live up to such cultural ideals is certainly seen as a factor contributing to the practice of FGM.

A relatively recent development in the practice of FGM has been the increasing incidence of the performance of the procedure by certified health officials. This has been referred to as the

medicalisation of FGM, and has been rejected and condemned by the WHO on the grounds that it involves the infliction of unnecessary physical injury by medical personnel.¹⁸ The medicalisation of FGM does not change the fact that the procedure violates human rights and may actually serve to legitimize the practice.¹⁹ In this sense, medicalisation can be seen as a contributing factor to the continuation of FGM. The performance of the procedure by medical authorities must therefore be condemned and ultimately stopped in order to ensure that the practice is not legitimized and supported by the health sector.

In recent years, the practice of FGM in Africa has been identified and targeted by prominent international actors as a prevalent issue that must be addressed and resolved. In particular, the WHO and the UN have worked to increase international awareness, implement programs, and provide support in the fight to abolish FGM. The African Union (AU) has also played a central role, drafting legislation that outlines the rights of women and prohibits the practice of FGM in Africa, and encouraging African countries to ratify and enforce this legislation. This section will outline the efforts made by these actors and critically analyze their effectiveness in producing behavioural change and abolishing FGM.

The UN has focused its efforts on increasing international awareness of the prevalence of FGM and the violation of rights and serious consequences that are associated with the practice. FGM is an issue that the UN has been committed to resolving since “the 1993 UN Declaration on the Elimination of Violence Against Women explicitly included FGM within its definition of the phrase ‘violence against women.’”²⁰ One initiative that has been undertaken is the UN-sponsored declaration of the International Day Against Female Genital Mutilation, which takes place each year on February 6th. The UN openly states its dedication to the fight to end FGM and

¹² UNICEF, “Changing a Harmful,” 11.

¹³ Parrot and Cummings, *Forsaken Females*, 77.

¹⁴ Ibid.

¹⁵ UNICEF, “Changing a Harmful,” 12.

¹⁶ The World Health Organization, “Female Genital Mutilation.”

¹⁷ Parrot and Cummings, *Forsaken Females*, 80.

¹⁸ Emanuela Finke, “Genital Mutilation as an Expression of Power Structures: Ending FGM through Education, Empowerment of Women, and Removal of Taboos,” *African Journal of Reproductive Health* 10.2 (2006): 17.

¹⁹ Finke, “Genital Mutilation as an Expression,” 17.

²⁰ Anika Rahman and Nahid Toubia, *Female Genital Mutilation: A Guide to Laws and Policies Worldwide* (New York: Zed Books, 2000), 11.

publicizes what it sees as the violation of a multitude of rights that are associated with the practice. For example, Thoraya Ahmed Obaid, Executive Director of the United Nations Population Fund (UNFPA), "pledged to increase support for efforts to prevent female genital mutilation and advance gender equality and human rights, including the right to sexual and reproductive health."²¹ This demonstrates the activist role that the UN has taken on, encouraging international support for the abolition of FGM based on moral grounds and the principles of human rights.

The UN is generally viewed as a well-respected international actor, and as such, has the ability to have an influential effect on the international community. Thus, the UN has succeeded in its mission to promote international awareness of the issue of FGM. By publicly condemning the practice, the UN has attracted vast amounts of media attention, greatly increasing international awareness of, and opposition to, FGM. Opposition to an issue by an established international actor such as the UN serves to increase the legitimacy of the issue in the eyes of the international community. This is due to the fact that the UN is viewed as an authority on pressing international issues and is trusted to take an educated and well-informed approach to identifying and resolving these issues. In addition to increasing international awareness, it is possible that UN activism has influenced African authorities in their approach to the issue of FGM. Disapproval by the UN often leads to widespread disapproval at the international level and therefore, it can be argued that African governments will feel pressure to oppose FGM and implement programs, initiatives, and legislation in order to avoid being made a negative example of. This demonstrates that the UN has played an influential role in the struggle to end FGM.

However, it is important to note that while activism is important, it represents a somewhat passive approach, while more aggressive efforts are needed to ensure behavioural change. While UN activism may influence governments, it is unlikely that it will have any effect on the rural communities where FGM is predominately practiced. International condemnation and

social sanctions have no effect on the actual perpetrators of FGM. Thus, it is important to recognize the limitations of UN activism in terms of its influence at the community level and its ability to effectively produce commitment to sustainable change.

The WHO is another international actor that is openly dedicated to fighting FGM. In 1997, the WHO, UNICEF, and the UNFPA issued a joint statement against the practice of FGM and since that time, have worked to increase the recognition of the human rights and legal aspects of the issue.²² The WHO has focused its efforts to eliminate FGM on advocacy, research, and the provision of guidance for health systems. They generate new knowledge to work towards an appropriate method for sustainable elimination and they educate health professionals so that they are able to adequately treat and counsel women who are dealing with the consequences of FGM. The alliance between the WHO and the UN on the issue of FGM has served to bring both organizations into a more active role on the issue. For example, the WHO, UNICEF, and UNFPA have provided technical, administrative, and financial support to a wide range of organizations in many spheres of activity²³, and these organizations in turn have implemented programs and initiatives to address the issue of FGM.

The initiatives taken by the WHO in the fight against FGM have had a valuable impact as they have increased the knowledge base surrounding FGM and have provided significant assistance to a variety of organizations dedicated to the issue. However, the efforts of the UN and the WHO largely represent a top-down process in the attempt to implement change. Thus, while these initiatives are certainly valuable in generating knowledge, promoting awareness, and providing financial support, they are limited in their ability to directly impact those performing and those being subjected to the practice of FGM.

In addition to the work of international humanitarian actors, African authorities have

²¹ Wairagala Wakabi, "Africa Battles to Make Female Genital Mutilation History," *The Lancet* 369 (2007): 1069.

²² The World Health Organization, "Female Genital Mutilation."

²³ Rahman and Toubia, *A Guide to Laws and Policies*, 12.

attempted, generally through the implementation of legislation, to decrease the prevalence of FGM. In particular, in recent years, the AU has demonstrated its willingness to outline the rights of women and denounce those practices that infringe upon these rights. On July 11th, 2003, the 53 member states of the AU added The Protocol on the Rights on Women in Africa to the African Charter on Human and Peoples' Rights. Known as the Maputo Protocol, it serves to protect the rights of women and, more specifically, it outlines a formal ban on FGM and guarantees women the right to sexual self-determination.²⁴

The Maputo Protocol represents significant progress as it formally outlines the rights of women in Africa and establishes a legal ban on the practice of FGM. However, while the Protocol was established by the AU, only a portion of African states have actually ratified the protocol and among those that have, it is difficult to determine the extent to which the protocol is being enforced. It is important to recognize that government authority often fails to reach rural villages²⁵, meaning that once again, the issue remains the fact that rural communities practicing FGM are isolated and relatively unaffected by top-down processes of change. In addition, Finke also argues that "the formal legal systems of many countries by no means provide a reliable and consistent framework for daily human activities and behaviour."²⁶ In many of the countries in which FGM is practiced, a stable and legitimate legal system in which justice can be upheld simply does not exist, thus presenting an institutional challenge in the struggle against FGM. Rahman and Toubia argue that the law enforcement institutions in these countries are often weak, lacking in resources, and are generally ineffective in dealing with an issue of the magnitude of FGM.²⁷ While, at first glance, the Maputo Protocol appears to be a significantly effective step towards ending FGM, it is imperative to understand the limitations that are associated with the effectiveness of government and legal

institutions in the countries in which FGM is practiced.

Although WHO and UN initiatives and the AU implementation of the Maputo Protocol represent progress in the fight against FGM, they are not sufficient to effectively abolish the practice. Adopting a culturally sensitive approach to the elimination of FGM is imperative, and change must begin at the community level and work its way up. In particular, Kenya and Senegal should be hailed as leaders in the fight to end FGM in Africa, as they have successfully implemented community-based programs and initiatives. This section will argue that a grassroots approach will be the most effective method in ending FGM, as it will work to alter the social and cultural conventions associated with FGM, effectively producing sustainable change.

As Ellen Gruenbaum argues, "those who are committed to abolition will be most effective if the change efforts are sophisticated, culturally informed, and socially contextualized."²⁸ As discussed, the causes of FGM are, in reality, extremely varied and complex. As Gruenbaum argues, the media, as well as many developed countries, seek a simplistic explanation and conclude that male dominance and the prevention of female sexual fulfillment are the sole causes of FGM.²⁹ Adopting a social and cultural understanding and contextual approach is critical in ensuring success in the fight against FGM. With a deep understanding of the cultural traditions and social conventions that are perpetuating the practice, progress can be made in providing education and working to transform maladaptive thought patterns at the community level, where other actors have had limited success. Initiatives in Kenya and Senegal have successfully demonstrated the effectiveness of this approach.

FGM widely affects women in Kenya, with 38 per cent of females ages 15 to 49 having undergone FGM of one of the first three types in tribes

²⁴ Finke, "Genital Mutilation as an Expression," 14.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Rahman and Toubia, *A Guide to Laws and Policies*, 61.

²⁸ Ellen Gruenbaum, "Socio-Cultural Dynamics of Female Genital Cutting: Research Findings, Gaps, and Directions," *Culture, Health, and Sexuality* 7, no. 5 (2005): 429.

²⁹ Gruenbaum, "Socio-Cultural Dynamics," 430.

widespread across the country.³⁰ Since 1989, FGM has been banned in Kenya and the government has worked to implement legislation reiterating the rights of women and children, with little success in significantly reducing the incidence of FGM.³¹ By the mid 1990s, it became apparent that although these actions were important, a more intensive hands-on approach was necessary in order to produce substantial change.

In August, 1996, an alternative rite of passage, known as "Circumcision Through Words", was implemented in Kenya by Maendeleo ya Wanawake (MYWO), a women's organization in Kenya, and the Program for Appropriate Technology in Health in developing nations (PATH). "Circumcision Through Words" involves a week of seclusion during which females partake in a number of workshops that use songs, theatrics, and poetry to provide education on sexual and reproductive health, gender roles, and alternatives to FGM. What is most important to note is that this alternative rite of passage involves all of the culturally important aspects of FGM, without the actual procedure.³² For example, the element of seclusion, education surrounding the role of a wife and mother, and the presentation of cultural gender norms are still present, as is the ceremony surrounding the presentation of the "new woman" to the community.³³ This demonstrates the valued cultural understanding and approach that is critical to the success of this initiative. Also key to the success of this rite of passage is the fact that it not only involves the participation of the young girls, but also their families, friends, and other community members who all contribute to customizing the design of the program.³⁴ In this sense, one of the strengths of the "Circumcision Through Words" ritual is its inclusivity, enabling it to provide education and empowerment to the entire community, thus increasing the potential for commitment to change from all actors. This alternative rite of passage has been

implemented in rural communities across Kenya and has demonstrated great success in producing sustainable behavioural change at the community level, and a corresponding substantial decrease in the prevalence of FGM.³⁵ This demonstrates that alternative rites of passage and similar culturally sensitive programs may well be the most effective strategy in the fight against FGM.

An examination of community-based programs in Senegal provides another example of a successful grassroots approach to ending the practice of FGM. In 1991, an 18 month-long community-based program called Tostan was implemented, focusing on providing women with education regarding sexual health and reproduction and the serious side effects associated with FGM. One of the unique and most successful aspects of the Tostan program is the fact that it is carried out in the mother tongue of the people of Senegal, rather than in French or English.³⁶ Again, this represents a culturally sensitive approach and demonstrates Tostan's commitment to ensuring that women feel empowered and in control of the direction of discussion and the overall program. Tostan began in a single village and quickly diffused across the country through the initiatives of the women in the rural villages, representing a true grassroots movement. By 1998, 13 communities joined together to form the "Diabougou Declaration", banning the practice of FGM among the more than 8000 members of these communities.³⁷ Since that time, numerous additional communities have followed suit and government legislation prohibiting and outlining punishments for FGM has been passed. While FGM has not been completely abolished in Senegal, it is important to note that it has been drastically reduced and that through the efforts of programs such as Tostan, "the change that results will be transformative and lasting."³⁸

What is significant to note about the "Circumcision Through Words" ritual and the Tostan program is the fact that in addition to providing education

³⁰ Parrot and Cummings, *Forsaken Females*, 87.

³¹ Ibid.

³² Ibid, 88.

³³ Ibid.

³⁴ Cesar Chelala, "An Alternative Way to Stop Female Genital Mutilation," *The Lancet* 352, no. 9112 (1998): 126.

³⁵ Parrot and Cummings, *Forsaken Females*, 89.

³⁶ Ibid, 86.

³⁷ Ibid.

³⁸ Gruenbaum, "Socio-Cultural Dynamics," 431.

and empowerment to women, they also provide a focus on educating male members of the community on the effects of FGM. For example, the alternative rite of passage in Kenya provides men with education regarding the negative effects of FGM, and after, they commit to eliminating FGM as a prerequisite for marriage.³⁹ The inclusion and engagement of male members of society in these programs is a key component of their success. FGM is closely linked to the status of women and their "marriageability" and thus, it is imperative that "FGM lose its position as a criterion of marriage in men's eyes."⁴⁰ This will serve to effectively alter a powerful social and cultural convention that necessitates the practice of FGM, representing substantial progress for change.

The implementation of a legal framework for the prohibition of FGM can only be successful once the cultural conventions influencing the continuation of the practice have been effectively changed. Indeed, unless legal prohibitions are "accompanied by sustained educational efforts at the grassroots and community level, the chances of the elimination of FGM are probably slim."⁴¹ Cultural and grassroots approaches have been the most successful methods in terms of achieving commitment to behavioural change at the community level, demonstrated by the case studies focusing on the "Circumcision Through Words" and Tostan programs. While international advocacy efforts and national legislation play an important role in the fight against FGM, these initiatives have been limited in their ability to impact the rural communities where FGM is most commonly practiced. While it is clear that there has been significant progress in the fight against FGM, the practice remains a widespread issue in Africa. Further implementation of educational community-based programs, complemented by continued international initiatives and government legislation, will offer the most effective strategy in the continued struggle to eliminate the practice of FGM.

³⁹ Chelala, "An Alternative Way," 126.

⁴⁰ Finke, "Genital Mutilation as an Expression," 17.

⁴¹ Chelala, "An Alternative Way," 126.

Camping with the Enemy: the United States, Pakistan and the War in Afghanistan

Adam G. Rousselle

INTRODUCTION

The United States and its NATO allies have committed themselves to a stable and secure Afghanistan. Pakistan's role in this endeavour is crucial; however, the country has not only proven itself an unreliable partner, but also dangerous liability with an uncontrollable military apparatus which many suspect maintains ties to the Afghan insurgency. These factors have understandably caused a dramatic cooling of relations between the United States and Pakistan as of late. However, Pakistan's cooperation in the Afghan mission not only remains essential but, as this article will demonstrate, is now more important to success in Afghanistan than ever.

At this point, the situation in which the United States and its allies find itself with regard to Pakistan is reminiscent of a comment made by President Lyndon Johnson in 1971. Johnson had been considering dismissing J. Edgar Hoover from his position as First Director of the Federal Bureau of Investigation because he had long been acting on his own accord and overstepping the authority of the president and congress. While this was indeed problematic, Johnson also understood the cost to his administration which would accompany Hoover's alienation. His quote on this matter is as relevant to the subject of this article as it was to his own predicament:

"It's probably better to have him inside the tent pissing out, than outside the tent pissing in"

This metaphor for an unpleasant camping trip succinctly summarizes the central argument of this article: Pakistan's questionable behaviour can be accepted and utilized in a compromising strategy, or ignored and antagonized to the detriment of the NATO mission and regional

security as a whole.

This article will propose that Pakistan will play a role in Afghanistan's future long after NATO forces have withdrawn, regardless of whether or not this is desired by the international community. At this crucial time, the way in which Pakistan directs its efforts in regard to Afghanistan may still be influenced, though not fully controlled. If the United States and NATO are to achieve success in Afghanistan, they must have Pakistan's cooperation, however unpleasant its vision for the country's future may be. Most importantly, this article will argue in favour of a long-term strategy of security cooperation between the United States and Pakistan which transcends the periodic relevance Pakistan has had to U.S. foreign policy objectives at various points in history.

For this reason, we must first examine the roots of this conflict and chronologically examine how relations developed between the United States and Pakistan to their present state in the context of regional security. It is through this examination that a pattern of behaviour in the United States' foreign policy toward Pakistan will become apparent.

HISTORICAL ROOTS

During the Cold War, Pakistan's geographical position between India, China and the Soviet Union made it a natural partner of the United States. Pakistan was desperately lacking in allies due to its poisonous relationship with India, the legacy of colonialism from Europe, and its aversion to the communist powers of the Soviet Union and China. The United States was a global power which lacked partners in the region and thus became the best possible solution for Pakistan's much needed external support.

Throughout its history as a state, Pakistan's primary interest has been security. It has always been militarily and economically weaker than its primary rival India. Meanwhile the security interests of the United States have always been mainly focused north of the country: first to the Soviet Union, then to Afghanistan.

While Pakistan desperately needed assistance from

the United States, Washington's global strategy left it in a precarious position. For example: by 1965 U.S. economic aid to Pakistan amounted to roughly 3 billion dollars, while economic aid to India exceeded 6 billion dollars. U.S. military assistance to Pakistan that year was 1.5 billion dollars and though India only received 84.5 million dollars in American military supplies, the superior economic aid to India gave it the ability to purchase military hardware to a much greater extent than Pakistan's own resources would allow¹. The issue of Washington's dual interest in these bitter rivals is a continued dilemma which has no clear foreseeable solution.

Pakistan's security issues led the country to make its military a primary focus early in its history. Though its relationship with the United States had undoubtedly strengthened the country's economic and military strength in its early years, the allocation of resources to the military and the subsequent empowering thereof has had a stifling effect on Pakistan's political and economic spheres. While India has seen extensive economic growth, particularly over the past two decades, Pakistan's economy remains relatively weak. This problem in no small part contributed to by the strain of massive military spending and high levels of corruption both in the military and among Pakistan's landed elites, whose interests often coincide with those of the military.

Further straining for Pakistan is the fractured nature of its elites and society as a whole. Though the country was unified by religious nationalism in 1947, it is divided by its many ethnicities and languages over a vast territory. A multitude of elite factions compete for control, whose visions for the country range from democracy, to military rule, to Islamism and multiple hybrid variants thereof. While security remains a priority for Pakistan's decision makers, the way in which this is pursued varies greatly.

The root of the United States' problems in Afghanistan can be traced to December 27th, 1979 when the Soviet Union sent its first wave of

¹ A.S. Khan, "Pakistan's Foreign Policy in the Changing International Scenario," *The Muslim World* Vol. 96 (2006): 236-237.

combat troops across the its southern border to Afghanistan to aid the beleaguered communist government of Hafizullah Amin. Pakistan's effectively open border with Afghanistan and India's closeness to the Soviet Union made its military dictator, Zia ul-Haq fear for the survival of his country.² Pakistan's strategic location, particularly in relation to the Arabian Sea was a cause of concern for many in the West who had long feared Soviet military build up.

A common problem every modern state had encountered when attempting to gain control of the Pashtun-dominated territories of contemporary Afghanistan and Pakistan is the sheer difficulty of the task itself. The first Anglo-Afghan war of 1839-1842 resulted in the horrific massacre of all but a handful of the occupying troops, and the Second Anglo-Afghan war of 1878-1880 produced only a nominal victory for the British who withdrew after heavy losses, installing a regime which was barely capable of controlling the country itself. Historically, the constant inter-tribal conflict among the Pashtun people has ceased only when united by their common aversion to an overarching government attempting to impose laws and collect taxes.³

Historically, a modern military, with its superior technology and troop discipline has always found the initial invasion of Afghanistan easy, with cities falling quickly under their control and an agreeable government ready to be installed. This was indeed the case with the Soviet Union, who quickly took the major cities of Mazar-i-Sharif, Kabul and Kandahar and established military and air force bases to solidify their control. They found President Amin disagreeable and replaced him with his rival Babrak Karmal. Amin was murdered in a bloody siege of Tajbeg Palace in Kabul on December 27th, 1979 – the same day as the invasion to 'assist' his government.⁴ Though

Amin fell with relative ease, problems would arise when trying to control the country's rural vast majority which had proven impossible to every previous government of Afghanistan.

The Soviet response to the dilemma of Afghanistan's countryside was to launch what was effectively a war against the civilian population in an attempt to route insurgent fighters. Centuries-old irrigation systems were destroyed, driving millions from their traditional farmlands. Landmines disguised as toys and candies were used to lure and cripple children so their parents would have to tend to them and thus not participate in the insurgency. Massacres from Hind helicopter gunships targeting villages whose only form of resistance were anachronistic rifles incapable of penetrating the gunships' armour plating became commonplace.⁵ These are just some of the atrocities committed by the Soviet Army during the war. Millions of refugees fled to neighbouring Iran and Afghanistan only to face violence and starvation in overcrowded refugee camps. For many, the justification for supporting the Afghan insurgency carried as much weight on moral grounds as it did as a strategy of containment against the Soviet Union.

Pakistan's role in the insurgency would be crucial. The Pashtun of the northernmost reaches of the British Raj, which would be inherited by Pakistan, were given special status and largely left to their own affairs in what is now Pakistan's Federally Administered Tribal Regions (FATA) within the Northwest Frontier Province. The border separating Pashtun living in modern-day Afghanistan and Pakistan was created by Sir Mortimer Durand in 1894 by drawing an arbitrary line which often cut through villages and pasturelands in an effort to divide the people on either side. However, the lack of control over the territory known as "Pashtunistan" by either state has led to what is effectively an open border to this day. Pakistan's Pashtun minority of nearly 36 million is almost three times as large as Afghanistan's roughly 13 million Pashtun plurality, making Pakistan's northern regions a

² Geraint Hughes, "The Soviet Afghan War, 1978-1989: An Overview," *Defence Studies* 8 (3) (2008): 234.

³ Stephen Tanner, *Afghanistan: A Military History from Alexander the Great to the War Against the Taliban*. (Philadelphia: Da Capo Press): 155-219.

⁴ "Timeline: The Soviet War in Afghanistan," BBC World News, February 27, 2009.

⁵ Tanner, *Afghanistan: A Military History*, 255.

natural safe haven for those fleeing Afghanistan.⁶ These factors, coupled with Islamabad's opposition to the war, made Pakistan the ideal starting point from which lend foreign support to a covert war.

Though initially reluctant, the United States would eventually launch the largest covert war in its history against the Soviet Union in Afghanistan. This required the re-kindling of cool relations with Pakistan, which had become strained in the 1970s. Aid to Pakistan increased dramatically and the country's emerging nuclear weapons programme went largely overlooked. Furthermore, all money and arms directed to the Afghan insurgency would be given directly to the Pakistani government whose elite Inter-Services Intelligence (ISI) would oversee its allocation. The ISI is Pakistan's premier intelligence agency which has the unique power to conduct intelligence activities both domestically and abroad.⁷ This manoeuvrability has given the ISI an enormous amount of power and the ability to act with considerable independence.

The United States logistically understood the way to effectively undermine a foreign force occupying Afghanistan. A 1985 CIA report regarding Afghanistan stated that "...as long as insurgents have access to strong external support and open borders, the Soviets would find it difficult to control much of the (Afghan) countryside."⁸ With this basic knowledge, the United States understood that it was indirectly engaged in a battle which it could almost certainly claim victory. This reality however, would prove highly problematic in recent years.

Pakistan brimmed with weapons and ammunition as countries such as France, the United Kingdom and China 'donated' their surplus arms. The Pakistani government would eventually complain that these countries were simply "dumping" arms,

many of which not in working order, in an effort to dispose of them.⁹ The result was a society more militarized than ever before.

The amount of money allocated to the war effort by the CIA was equally matched by Saudi Arabia and private donors in the Arab Persian Gulf States under the auspices of aiding a *Mujahedeen* or *Holy War* against atheistic communist influences. The regime under General Zia ul-Haq had been pursuing the Islamization of Pakistani society since coming to power in 1978, instituting many sharia-based reforms. Saudi donors began establishing religious schools dedicated to the extreme Sunni sect of Wahhabism throughout Pakistan, particularly in the impoverished Pashtun-dominated Northwest Frontier Province. In 1971 there were roughly 900 religious schools in all of Pakistan, by the end of the Soviet-Afghan War that number had risen to roughly 45,000 officially registered schools and many more unregistered operations.¹⁰ This would have a profound long-term effect on Pakistani society whose consequences can be seen throughout the country today.

In addition to money, American partners such as Saudi Arabia, other Arab states and private individuals encouraged ideologically charged young men to go to Pakistan to assist their Muslim brothers in the Afghan Mujahedeen. These young men, many from upper-middle class backgrounds found difficulty adapting to guerrilla warfare in an impoverished area where most people did not speak their language. In turn, local forces often complained of the young Arabs' poor fighting skills, showboating and overall lack of commitment: many of the so-called "Afghan Arabs" simply stayed on the Pakistani side of the border.¹¹ Though their presence had little overall effect on the war effort, and was often a hindrance to it, the experience of participants such as Ayman

⁶ CIA World Factbook, "Country Profile: Afghanistan."; CIA World Factbook, "Country Profile: Pakistan"

⁷ Shaun Gregory, "The ISI and the War on Terrorism," *Studies in Conflict and Terrorism* 30 (2007):1016.

⁸ E.C. Leventis, "The Waziristan Accord," *Middle East Review of International Affairs* 11(4) (2007): 24

⁹ Lawrence Freedman, *A Choice of Enemies: America Confronts the Middle East*, (New York: Public Affairs, 2008): 114.

¹⁰ A.Z. Hilali, "The Challenges to Pakistan's Domestic Security," *Journal of Third World Studies*, 19 (1) (2002): 87.

¹¹ Freedman, *A Choice of Enemies*, 342.

al-Zawahiri and Osama Bin Laden would have a profound effect on global events to come.

Despite the numerous future ramifications involved with assisting the Afghan Mujahedeen, its overall success cannot be disputed. The Soviet Union withdrew its combat forces on February 15th, 1989, ending nearly a decade of persistent inhuman atrocities committed both by and against the occupying forces.¹² However, the problems of an arms influx, religious ideological charging and a power vacuum in Afghanistan would only be exacerbated by the usual cycle of American relations with Pakistan.

Just as in the 1970s, Pakistan's relevance to American foreign policy appeared to have disintegrated by the end of the Soviet-Afghan War. In 1990 military and economic assistance to Pakistan were suspended as punishment for Pakistan's previously overlooked nuclear program.¹³ This drastic end to Pakistan's 1980s windfall of assistance also came at a time when the United States was pursuing much closer ties to India, whose growing economy became increasingly difficult to ignore. With the loss of legitimate channels for obtaining new American military hardware and a struggling economy, Pakistan was once again left in a position of extreme vulnerability and to pursue alternate means of attaining security.

In Afghanistan, the Soviet withdrawal left the communist government of Muhammad Najibullah to fend for itself, albeit with extensive material assistance from Moscow. The seven major Sunni parties of the Afghan Mujahedeen were brought together to form the Afghan Interim Government (AIG) to overthrow Najibullah and unify the country. The first clashes between the AIG and Najibullah's forces led to the humiliating defeat of the AIG, whose tenuous alliance disintegrated, plunging the country into a brutal civil war. Najibullah's government would not fall until

1992, outlasting the very government in Moscow which had facilitated its rise.¹⁴ Afghanistan was left in a state of unparalleled violent chaos.

For Pakistan, having a functioning, friendly state in Afghanistan has always been in its interest for the reasons of having a much needed regional ally, pacifying its own Pashtun population, and possibly for "strategic depth" wherein the Pakistani army would have territory in which it could retreat in the event of a war with India. Islamabad initially allied with Gulbuddin Hekmatyar, a Pashtun Islamist with ties to Egypt's Muslim Brotherhood, as their favoured warlord during the Afghan Civil War. Hekmatyar struggled for control of Afghanistan against the Tajik warlord Ahmed Shah Massoud, the Uzbek Aburrashid Dostum, and multiple others.¹⁵ The inability of any of these warlords to gain control of the country led to dismay in Islamabad as millions of dollars worth of arms and supplies were being handed over to no avail.

The scale of damage wrought by the Soviet army in Afghanistan's countryside had now been applied to its cities which became battlegrounds for opposing warlords. While violence and anarchy had long existed in Afghanistan, the extent of destruction and the power of the modern weapons used had caused devastation and mass frustration throughout the country.

In the summer of 1994 in southern Afghanistan near Kandahar, a local strongman raped several girls in his area. A religious leader named Mullah Mohammed Omar ordered his students to execute this man and intimidate his followers. From this starting point, the movement grew rapidly in proportion to society's desire for law and order. Omar's followers grew in rank, filling requests for assistance throughout the region.¹⁶ The group called itself the "Taliban", derived from the Farsi/ Pashtu word "talib" meaning "student". The brutality with which it executed its extreme interpretation of Islam was accepted by a society desperate for anything resembling security.

¹² BBC World News, "Timeline: The Soviet War in Afghanistan," BBC World News, <http://news.bbc.co.uk/2/hi/7883532.stm>.

¹³ Khan, "Pakistan's Foreign Policy in the Changing International Scenario," 242.

¹⁴ Tanner, *Afghanistan: A Military History*, 269.

¹⁵ Gregory, "The ISI and the War on Terrorism," 1018.

¹⁶ Tanner, *Afghanistan: A Military History*, 279.

Pakistan understood the potential of the Taliban movement. In 1994 Pakistan's Interior Minister Naseerullah Babar, with the assent of Prime Minister Benazir Bhutto began funnelling arms and ammunition to the Taliban through the ISI. The Taliban's Wahhabist-influenced ideology was also favoured by Saudi Arabia, who is also believed to have offered extensive financial support. The ISI promoted Mullah Omar as the sole leader of the Taliban, believing him to be the most likely to remain under their influence. With external support, the Taliban was able to take Kabul in 1996, brutally torturing and executing the ousted communist leader Mohammad Najibullah and claiming control over most of the country. Pakistan, along with Saudi Arabia and the United Arab Emirates were the only countries in the world to recognize the Taliban's sovereignty over Afghanistan that year.¹⁷ As the Taliban consolidated their power and made their presence known, countries in the region and around the world cringed at their draconian brutality, particularly toward women and girls.

It was during this time that we find one of the best examples of the fractured nature of Pakistan's governing structure. Democratically elected politicians like Benazir Bhutto and Nawaz Sharif were accountable to the military and ISI, which viewed themselves as the "custodians of national security." By the early 1990s, Islamist sympathies were widespread in the senior ranks of Pakistan's military and ISI as it was believed to be an effective method of spreading Pakistan's influence in the region. Though Bhutto was particularly uncomfortable with groups like the Taliban and pushed for a broad-based coalition in Afghanistan, she was largely powerless to stop her country's outpouring of support to them.¹⁸ The power held by senior leaders in Pakistan's military cannot be understated and their cooperation is essential to any kind of successful partnership with Islamabad.

In Afghanistan, the former Mujahedeen warlords

that had inflicted so much damage on the country in the early 1990s were pushed to the north of the country. They collaborated to form what became known as the Northern Alliance and their ranks consisted of every major ethnic group in the country except Pashtun, the largest ethnic group. The one major exception was a man named Hamid Karzai, who had fled the south of the country and joined the Northern Alliance after his father was assassinated, apparently by Taliban operatives.¹⁹ Karzai's ancestry, education and calm demeanour made him an excellent spokesman and leader for the Northern Alliance; however his shortcomings, both personal and circumstantial, would eventually become problematic.

The United States' response to events in the region was to further withdraw in a semi-antagonistic fashion. Further economic sanctions were imposed on Pakistan following its first successful nuclear test in 1998. General Pervez Musharraf's 1999 rise to power through a military coup caused further alarm in Washington and demonstrated the ineffectiveness of Pakistan's civilian governing institutions. As Pakistan's Army Chief of Staff, Musharraf was instrumental in maintaining Pakistan's hard line against India through the Kargil conflict as well as continuing to support of the Taliban in Afghanistan. The United States responded by completely severing economic relations with Pakistan due to a law calling for such action to be taken against countries whose governments came to power by displacing a government which was democratically elected. Policymakers in the United States had even considered labelling Pakistan a terrorist state at this time due to its territory being made available to militant Islamic groups acting in Kashmir, Afghanistan and elsewhere.²⁰ However, with ties largely severed nearly a decade prior, the United States could do little to stop Pakistan's alarming behaviour short of potentially dangerous and costly military threats. As Pakistan desperately and destructively attempted to improve its security situation, the United States could do little more than observe the oncoming dangers

¹⁷ Gregory, "The ISI and the War on Terrorism," 1019.

¹⁸ Freedman, *A Choice of Enemies*, 348-354.

¹⁹ Tanner, *Afghanistan: A Military History*, 307.

²⁰ Khan, "Pakistan's Foreign Policy in the Changing International Scenario," 242.

posed by this behaviour.

In 1996 Mullah Omar accepted guests into his country, an action which would eventually cost thousands of lives and come at the detriment of his regime. After having been expelled by the Sudanese in response to pressure from the United States and Saudi Arabia, Osama Bin Laden and his closest al-Qaeda supporters arrived in Afghanistan in 1996. Bin Laden's assistance to the Taliban was appreciated, but his external activities were cause for alarm. Al-Qaeda's orchestration attacks on American targets in East Africa in 1998 led to cruise missile attacks on his camps in Afghanistan by the United States. Another attack on the USS Cole in 2000 was not even met with retaliation, which many claim led to Bin Laden's frustration.²¹ Al-Qaeda's next attack on September 11th, 2001 reverberated throughout the world and provoked the wrath for which Bin Laden apparently had hoped.

It is from this context that we can see pattern of United States – Pakistan relations. When Pakistan was left to its own devices due to its perceived irrelevance to American foreign policy objectives, the vulnerable position with which it found itself compelled it toward behaviour which was ultimately came at the detriment of global security. By empowering the Taliban, Pakistan provided a safe haven for a malevolent force intent on attacking the United States. Though Pakistan had long been developing a nuclear programme, the fact that achieved its first successful detonation during this period of vulnerability was perhaps no accident. The 1990s produced a region with a dangerously radical state harbouring even more dangerous radicals as well as the nuclear armament of the bitter rival of another nuclear-armed state.

From this perspective, it can be agreed by most that situation like that of the 1990's in South Asia should be avoided. Is the region heading in this direction again? In order to answer this question, we must examine the efforts of NATO and Pakistan with regard to the current war in

Afghanistan.

CURRENT CONTEXT

An American invasion of Afghanistan soon became an inevitability following the attacks of September 11th, 2001. Many high-level officials in the United States held Pakistan partially responsible for the attack for facilitating the rise of those who harboured the perpetrators. Some believe that it was, in fact the ISI who facilitated Bin Laden's initial meetings with the Taliban.²² However, to effectively invade and occupy Afghanistan, the United States would logistically need Pakistan. This need was twofold as it required Pakistani ascent as a supply route as well as the cooperation of its own military in eradicating Taliban support in its northern reaches.

Whether it was Bush official Richard Armitage's alleged threat to bomb Pakistan 'into the stone-age' or Musharraf's understanding of the benefit American support would bring to his country, Pakistan offered its full assistance to the United States. Sanctions imposed on Pakistan were lifted, civilian and military aid was lavished and criticism of Musharraf's governance was no longer voiced.²³ With Pakistan's new relevance to American foreign policy, the cycle of relations between the two countries would be proven once more.

In order to hunt al-Qaeda, the United States deemed it necessary to first overthrow the Taliban. However, the initial American military commitment to Afghanistan was astonishingly sparse: President Bush quipped "what's the use of using \$2 million missiles to hit a \$10 tent." Reluctant to engage ground troops, the United States relied heavily on the Northern Alliance to route the Taliban while it offered air support. The Taliban were toppled with relative ease, much of which can be attributed to the willingness of the Pashtun in the south to overthrow them. This demonstrates that their rule was only accepted for the security which was provided. It may also

²¹ Freedman, *A Choice of Enemies*, 344-346.

²² Gregory, "The ISI and the War on Terrorism," 1019.

²³ Freedman, *A Choice of Enemies*, 388.

be partially attributed to Taliban having stripped many of these people of their primary source of income from heroin production a year prior.²⁴ Nevertheless, Taliban came to an end and the opportunity to form a new government to provide desperately needed security presented itself.

The government formed in Kabul was nearly entirely comprised of war lords and drug barons of the Northern Alliance, reputed to be brutal and corrupt. Further troubling was the fact that most of the Northern Alliance was comprised of the country's Tajik, Uzbek, Turkmen and Hazara minorities, with a notable lack of representation the country's dominant Pashtun population²⁵. The notable exception, of course was the ethnic Pashtun President Hamid Karzai, whose leadership has proven problematic for a number of notable reasons, including corruption and a lack of accountability.

The Taliban had largely slipped away when overrun by the Northern Alliance. Al-Qaeda re-enforced its position in the Tora Bora region and, following the ineffectiveness of the poorly equipped Northern Alliance fighters, the United States attacked their position in December of 2001. Though many al-Qaeda operatives were killed in the ensuing battle, Bin Laden, Zawahiri and other top al-Qaeda members were not to be found²⁶. While the top leadership of the Taliban and al-Qaeda had largely escaped, mostly to Pakistan's FATA region, the United States became increasingly occupied with other foreign policy concerns, such as the pursuit of non-existent weapons of mass destruction in Iraq. The security the people of Afghanistan had desired was left in the hands of the new government and an insufficient number of NATO coalition troops. An opportunity was lost; the peace which ensued would not be long lasting.

Pakistan's commitment to the United States would prove to be problematic for President Musharraf. The first problem was severing ties

with groups with which it had substantial ties like the Taliban. Musharraf worked to sever ties between his top officials and the ISI with the Taliban,²⁷ however, the events to come suggest that these efforts were ultimately unsuccessful. The American occupation of Afghanistan would require the pacification of Pakistan's unruly Federally Administered Tribal Region (FATA), which had long served as a base of external support to Afghanistan. In July of 2002, the Pakistani government dispatched approximately 80,000 troops to the border areas of FATA for the first time since 1947 in search of Taliban and Al Qaeda members.²⁸ This operation would not produce the results desperately required for the successful occupation of Afghanistan.

Almost immediately after Islamabad's military operation, a violent resistance eventually began in response to what was perceived as an incursion by a foreign army. The way in which the Pakistani military conducted its operations has been described as the "indiscriminate use of force and human rights violations."²⁹ As a conventional military force, the Pakistani military remains virtually incapable of embracing a strategy of counterinsurgency which would enable it to "hold areas and win the support of locals." As a result, the operations caused considerable local devastation and displacement of populations, particularly in the Banjur and Swat regions.³⁰ This attempt at pacification would serve to exacerbate a coming dilemma.

Initially, the Pakistani military operations were met with success in the eyes of policymakers in Washington. Throughout 2002 the paramilitary Frontier Corps raided weapons caches in the South Waziristan agency of FATA, the regular army assaulted al-Qaeda troops entering in South Waziristan during *Operation Kazha Punga*, regular army troops entered areas in the Khyber and Kurram Agencies of FATA to pursue al-Qaeda operatives fleeing Afghanistan, and the military,

²⁴ Tanner, *Afghanistan: A Military History*, 307-309.

²⁵ Ibid, 309.

²⁶ Ibid, 392-393.

²⁷ Freedman, *A Choice of Enemies*, 290.

²⁸ Leventis, "The Waziristan Accord," 24.

²⁹ Ibid, 25.

³⁰ Christine Fair, C. and Seth G. Jones. "Pakistan's War Within." *Survival* 51(6) (2009): 162.

police and intelligence services collaborated in operations against insurgents in Baluchistan province.³¹ Additionally, Pakistan's ISI was able to track and locate the Al Qaeda operative and reported mastermind of the 9/11 hijackings Khalid Sheikh Muhammad in Rawalpindi in March of 2003. During these early years Pakistan became instrumental in the capture and extradition of several suspects wanted by the United States.³² Because the occupation of Afghanistan was not initially problematic, Pakistan's cooperation proved initially successful.

Despite successes, the Pakistani government found its operations increasingly difficult. In addition to dealing with the divided loyalties of tribal leaders, thousands of Uzbeks, Tajiks, Chechens and Arabs had flocked to the FATA to assist in the Mujahedeen efforts. What became known as the "Waziristan Conflict" had major security ramifications throughout Pakistan. December of 2003 saw two assassination attempts on President Musharraf, both traced to militants from North and South Waziristan. Terrorist incidents throughout the country have inclined at shocking rates since 2002. It is estimated that between 2004 and 2006, the Pakistani military lost between 1000 and 3000 men as a direct result of the "war in Waziristan". Despite this, the Pakistani military has refused to adopt a counterinsurgency focus has instead opted to maintain the military's conventional focus best suited to combating India as opposed to handling this burgeoning domestic threats.³³ For Pakistan, a solution was required which would best serve its own strategic interests.

The government of Pakistan attempted to gain support among combatants in FATA as early as 2004. The first attempt, known as the "Shakai deal" saw five South Waziristan tribal leaders accused of harbouring Al Qaeda members "surrender" to the Pakistani government and "pledge loyalty" in return for leniency. In return the government

released 155 of the 163 tribesmen captured in March of 2004 and gave the so-called foreign terrorists until the end of April to surrender and receive a pardon. A general amnesty was offered to all combatants except top members of the Taliban and Al Qaeda. The amnesty date was extended twice, but Islamabad failed to locate any foreign operatives in Waziristan: violence increased and cross border movement continued. A similar second deal was offered in February of 2005 with further concessions from Islamabad but it too ended in a failure of stem cross border movement, decrease local violence or locate foreign operatives.³⁴ Most importantly, both deals saw the combatants compensated by Islamabad and permitted to keep their arms, some of which were "offered" to the military in a "ceremonial gesture." Both deals were seen as surrender by Islamabad to the majority of locals in FATA. Between negotiations the Pakistani military continued operations in the FATA region utilising the same strategy of largely indiscriminate use of force with little or no success.³⁵ Policymakers in Pakistan were increasingly finding themselves in a situation with no immediate remedy.

On September 5th, 2006 in the town of Miranshah, North Waziristan tribal leaders and representatives of the Pakistani government came to an agreement known as the first "Waziristan Accord." The treaty has been viewed by some as an "unconditional surrender" on the part of the Pakistani government to the tribes of the area, the Taliban and al-Qaeda in an attempt to keep the conflict from spilling over to other parts of the country,³⁶ though it could be more aptly described as a reaffirmation of the 'status quo' since the area had previously been controlled by Taliban loyalists prior to the operations. The meeting was attended by approximately 500 elders, parliamentarians and government officials and was signed by Dr. Fakhr-i-Alam, a political agent of North Waziristan. Also in attendance were seven members of the Taliban *shura* (advisory

³¹ Fair and Jones, "Pakistan's War Within," 162.

³² Rohan Gunaratna and Anders Nielsen, "Al Qaeda in the Tribal Areas of Pakistan and Beyond," *Studies in Conflict and Terrorism*, 31 (2008): 782.

³³ Leventis, "The Waziristan Accord," 24.

³⁴ Leventis, "The Waziristan Accord," 25-26.

³⁵ Fair and Jones, "Pakistan's War Within," 171.

³⁶ Leventis, "The Waziristan Accord," 25.

council).³⁷ Immediately following the agreement, violence against government troops on the Pakistani side of the Durand Line decreased somewhat, but insurgent violence in Afghanistan increased dramatically – violence which was aimed at American and NATO troops.

Like previous attempts at reaching an agreement, the first Waziristan Accord was not sustainable: violence has continued from both sides and new attempts at agreements have been made with varying success. With the Afghan insurgency crucially linked to supplies and supporters in Pakistan, attempts at the reaffirmation of the status-quo of lawlessness and Taliban control in key areas of FATA is undoubtedly counter to the interests of the United States and its NATO allies in Afghanistan – at least as long as their troops are engaged in combat operations against the Taliban. Because of Pakistan's unwillingness or inability to stem the flow of supplies and people across the border into Afghanistan, the United States sought an alternative to Pakistani cooperation on this matter.

Beginning in 2004, the United States began bombing areas suspected of harbouring enemy combatants in FATA using predator drone aircraft. The first attack in June was carried out against Nek Muhammad Wazir, one of the tribal leaders in the Shakai deal who had vowed to continue his Jihad against the United States by supporting the Taliban and Al Qaeda. Though the Pakistani government initially attempted to take responsibility in an attempt to control the public backlash, the increased frequency of attacks made it undeniable that the United States was responsible. The Pakistani government would subsequently officially protest the incursions on their soil, particularly in relation to the loss of innocent civilians. The transition from the Bush administration to that of Obama in January of 2009 saw no change in this policy and the administration's first bombing took place just three days after the president's inauguration with the frequency of attacks being far greater than

that of his predecessors.³⁸ Though these attacks have undeniably been effective in hitting "high value targets", the effects they have had on the civilian population in Pakistan's FATA has had a strenuous effect on relations between it and the United States.

In 2006 the Taliban re-emerged in southern Afghanistan as a well-trained, well armed fighting force numbering in the thousands. They flocked over the Pakistani border to attack the mainly American, Canadian, British and Dutch troops in the region – by the end of the year coalition casualties had risen fifty per cent from the previous year, spread evenly between the United States and the other NATO allies. Having come out of Pakistan's wretchedly impoverished FATA, the battered Taliban clearly had some source of support from within Pakistan. In the spring the resurgent forces were not only numerous and disciplined, but were also armed with more sophisticated weapons than the mere Soviet-era Ak-47's found in households on both sides of the border. The Pakistani military had managed to maintain control over weapons depots containing sophisticated explosives such as IED's (improvised explosive device/ roadside bombs) and RPG's (rocket-propelled grenades).³⁹ There are few who doubt that ISI operatives were again collaborating with the Taliban.

Recently leaked documents from Wikileaks also indicate that the United States intelligence community believed members of the Pakistani military were behind these actions.⁴⁰ Though Pakistan has thus far denied these reports, evidence favours the contrary. If these accusations are true, they indicate that Pakistan is at best incapable of controlling its military and intelligence units on a massive scale and at worst operating as an enemy of the NATO forces in

³⁷ Leventis, "The Waziristan Accord," 26.

³⁸ B.G. Williams, "The CIA's Covert Predator Drone War in Pakistan, 2004-2010: The History of an Assassination Campaign," *Studies in Conflict and Terrorism*, 33: 874-876.

³⁹ Tanner, *Afghanistan: A Military History*, 335-336.

⁴⁰ BBC World News, "Pakistan denies Wikileaks reports that it 'aided Taliban,'" BBC World News, <http://www.bbc.co.uk/news/world-us-canada-10758188>.

Afghanistan.

In addition to Pakistan's inability to suppress insurgent groups in its own territory, another incentive for supporting the Taliban was the fact that the new government in Kabul had developed close ties to India. Relations between the US-supported, Northern Alliance-based government in Kabul and Islamabad were cool from the beginning due to Pakistan's role in the rise of the Taliban. Meetings between Musharraf and Karzai were always strained with the two even refusing to shake hands at the White House 2006. While personal relations between current Pakistani president Asif Ali Zardari and Karzai are better on a personal level, the two governments remain at odds with Kabul's continued accusations of Pakistani support for the Taliban. Conversely, relations between Kabul and Delhi remain strong.⁴¹ From the point of view of policy makers in Pakistan's military, it would be counter-intuitive to support a government which is close to India. For this reason, it is possible that assistance to the Taliban insurgents is may be coming from very powerful members of Pakistan's military with the strategic interests of the state in mind.

In the summer of 2008 the Indian embassy in Kabul was bombed by Taliban agents prompting accusations of ISI involvement from Afghanistan, India, and the United States. Though Pakistani President Zardari vehemently denied the accusations, many believe the perpetrators operated outside his authority.⁴² Considering the strategic logic behind the bombing, it is conceivable and likely that a very high ranking member of Pakistan's military-political elite ordered the attack.

MOVING FORWARD

At present, the two primary sides fighting for

control of Afghanistan are locked in what William Zartman has termed a "hurting stalemate" where neither is making significant progress, yet suffering heavy casualties. It is at this point that ideals are often put aside in favour of a compromise. At present the United States is supporting talks between members of the Taliban and the Afghan government and many believe is engaged in direct talks with the Taliban. It is also expected that Pakistan will also play a significant role in the discussions.⁴³ Regardless of whether or not Pakistan cooperates closely with the United States and NATO, it will almost certainly play a crucial role in the future of Afghanistan.

The United States and the Afghan governments have entered into talks with the Taliban. However, as an underground force, the Taliban is a loosely associated, fragmented group with a diverse membership. One group believed to have entered into negotiations is the Quetta Shura, named for the Pakistani city in which they were founded. Another group, the Haqqani network of North Waziristan has longstanding ties to the ISI and is regarded as more malicious and susceptible to Pakistani control and is thus believed to not be of interest to the negotiators. It is believed that the Obama administration is attempting to gain some Taliban support in the provinces to create the conditions for troop reduction and a handover of power to Kabul.⁴⁴ However, the fact the Taliban's reported second in command Mullah Baradar remains in Pakistani custody after being arrested while apparently travelling to Afghanistan for negotiations with President Karzai remains problematic.⁴⁵ What is most problematic is that it is unlikely that those in the Pakistan's military and intelligence units which are supporting their own Taliban factions will allow their interests to be circumvented and will thus likely continue the insurgency. For this reason, Pakistan and its supported factions must also be integrated into the negotiation process.

⁴¹ MSNBC News, "Bush urges Karzai, Musharraf to co-operate," MSNBC News, http://www.msnbc.msn.com/id/15025606/ns/world_news-south_and_central_asia/.

⁴² The Sunday Times, "Rogue Pakistan Spies aid Taliban in Afghanistan," The Sunday Times (London), <http://www.timesonline.co.uk/tol/news/world/article4449330.ece>.

⁴³ Steve Coll, "Gauging U.S.-Taliban Talks," The Council on Foreign Relations, 2011. <http://www.cfr.org/afghanistan/gauging-us-taliban-talks/p24214>.

⁴⁴ Coll, "Gauging U.S. – Taliban Talks."

⁴⁵ Coll, Steve. "U.S. – Taliban Talks" *Foreign Policy*, 2010.

While the funding of the Afghan insurgency can be attributed to rogue elements in the military and ISI, the civilian government has also worked against the interests of the NATO mission with the closure of the Afghan border passes to supply caravans on September 30th, 2010. The closures were in protest of an American helicopter attack which accidentally killed two members of Pakistan's military and caused supply trucks to be left in the open where 30 were firebombed by the Taliban, killing several NATO personnel. NATO is reliant on forty per cent of its supplies from Pakistan, while the remainder come from Afghanistan's northern neighbours and by air.⁴⁶ Pakistan's response demonstrates that the country's opposition to the Afghan war pervades the civilian political realm just as it does the military.

The September-October border closure also demonstrates that the United States has over-relied on Pakistan as a partner in its war effort. Further troubling is the fact that opportunities with other potential partners were squandered during the Bush era. In 2005 the government of Uzbekistan forced the closure of the American airbase in its country in response to Washington's criticism of its use of force on its citizens during the Andizhan uprising.⁴⁷ Ironically, the United States continued to heavily rely on Pakistan, which had allegedly committed much greater atrocities against its own citizens during the FATA campaign. Perhaps more frustrating is the fact that negotiations with Iran in Bonn, Germany over the reconstruction of Afghanistan were ended by the Bush administration.⁴⁸ Given that every president since Ronald Reagan has sought a rapprochement with Iran and that Iran's actions in Afghanistan have been cause for concern recently demonstrates the blatant short-sightedness of this diplomatic failure. The

over-reliance on Pakistan has been detrimental to the NATO campaign and the squandering of opportunities with other potential partners in the region is mind boggling.

Though the Obama administration has bolstered the Northern Supply route into Afghanistan by regaining closer relations with Uzbekistan and seeking a NATO-Russia rapprochement,⁴⁹ this does not solve the issue of Pakistan's influence in Afghanistan. Though over-reliance on Pakistan has damaged the mission, Pakistan must have an integral role in the negotiation process for Afghan security. Because Pakistan and its military elite will continue to have a significant regional presence long after the NATO forces withdraw, the best solution is one which takes their interests into consideration. A balance must be found in the way the United States pursues relations with its troubled partner.

CONCLUSION

Due to the aforementioned reasons, relations between the United States and Pakistan are tense at present. In November 2010, President Obama visited India where he discussed a civil nuclear deal and visited the Taj Hotel in Mumbai which was the site of the 2008 attack widely blamed on Pakistani militants. Though President Obama has not gone as far as his NATO ally, British Prime Minister David Cameron in calling Pakistan "an exporter of terror," the United States still appears distancing itself from Islamabad.⁵⁰ If it were not for the consequences for failure in Afghanistan and the direct problem this poses to NATO troops in the region, a distancing from Pakistan would be completely justified; however, in this context of the problem at hand it is even more dangerous to leave the Pakistan to its own devices.

⁴⁶ BBC World News, "Militants attack Nato tanker convoy in Pakistan," BBC World News, <http://www.bbc.co.uk/news/world-south-asia-11463490>.

⁴⁷ Mark Kramer, "Russian Policy Toward the Commonwealth of Independent States: Recent Trends and Future Prospects," *Problems of Post-Communism*, Vol. 55 (6) (2008): 5.

⁴⁸ Freedman, *A Choice of Enemies*, 484-485.

⁴⁹ BBC World News, "NATO and Russia promise 'fresh start' at Lisbon Summit," *BBC World News*, November 19, 2010, <http://www.bbc.co.uk/news/world-europe-11799097>.

⁵⁰ David Nakamura, "Obama's India Trip stirs fears in Pakistan about power balance," *The Washington Post*, November 5, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/04/AR2010110407525.html>.

It was at this point where Lyndon Johnson's quotation about camping with enemies becomes relevant. The interests of Pakistan's governing forces, particularly those in the military must be taken into consideration when negotiating the future of Afghanistan. If they are not, Pakistan's actions will continue to have a negative impact on the NATO mission and will likely result in a civil war and/or a government in Afghanistan which will have not been formed with the consideration of the interests of countries which have poured billions of dollars and thousands of lives into its occupation for the past decade. Despite their past actions, Pakistan's interests must be heavily incorporated into a compromise deal. This requires a strong consideration of the true security interests of the Pakistani state, particularly in the eyes of the country's military elite.

Negotiating with the Taliban may not necessarily lead to the kind of brutality their presence brought to Afghanistan in the 1990s. It is important to note that the overthrow of the Taliban was contributed to by ordinary citizens as well as from the Northern Alliance with American air support. While outside actors can have a significant impact on the future of Afghanistan through the aiding of proxies, the country's fate ultimately lies in the hands of its people. After the brutality of civil war, the people of Afghanistan desired the security delivered by the Taliban; however, this does not mean they would tolerate such an imposition today. Any compromise reached must be accepted by the people of Afghanistan. This will ultimately be the greatest challenge to the uneasy partnership of this protracted war.

The pattern in United States-Pakistan relations identified in this article is one which involves close cooperation and assistance from the United States in times of relevance its immediate foreign policy objectives, followed by indifference and semi- antagonistic policies when this relevance is less apparent. If the United States is following historical continuity by distancing itself from Pakistan at present, the consequences will be failure in Afghanistan and a region left to deal with Pakistan's often reckless behaviour in the pursuit

of its security. In order to have an influence on Pakistan in the future, the United States must continue to offer it some form of incentive to cooperate. For this reason, the United States must maintain some kind of partnership with Pakistan.

The future cooperation between the United States and Pakistan must be carefully formulated by Washington in the long-term. It must not be so close that it overlooks Pakistan's negative actions such as it did in the 1980s. However, should also it be so distant that it removes the power to punish negative actions by carefully removing incentives as it was in the 1990s when relied-upon incentives were removed simply due to their lack of perceived relevance. Most importantly, it should be noted that Pakistan has proven itself unreliable in this recent war and while the United States must remain close to Islamabad, they must not come to rely too heavily on the country for major foreign policy objectives without first carefully considering Pakistan's own security interests which may run counter to those of Washington.

This article cannot make precise policy suggestions to eminently more experienced policy makers in Washington and elsewhere. Rather, it humbly indicates the necessity of continued dialogue and cooperation between the United States and Pakistan. In the short-term, this is essential to any kind of a successful conclusion to the current war in Afghanistan; however, history has demonstrated that this cooperation should also be maintained as part of a long-term strategy in such a volatile region. Pakistan's actions and potential actions must each be considered carefully when formulating any kind of strategy for relations in South Asia. In order to have moderating effect on regional volatility, the United States and the world must work closely with Pakistan to both incentivise actions which are positive and punish those which are negative without resorting potentially disastrous uses of military force. Though this may be at times unpleasant, Lyndon Johnson's quotation reminds us that the alternative is much less productive.

Thirsting for Equity

Gender and Water in Latin America

Madeleine Northcote

The tragedy of Latin American women is this: in one of the most water rich areas on the world¹ home to such fabled rivers as the Amazon and Paraná, an estimated 16 per cent of the total population² spends up to a quarter of every day fetching water for basic domestic tasks.³ Mismanagement and privatization of the water sector across the continent has led to prohibitively high prices in water. This combined with rigid social boundaries between what constitutes men's and women's work has ensured that more than any other group, Latin America's women must bear the brunt of the resulting water poverty.⁴

Over the past fifty years there has been a shift in the public perception of water. Initially, water was considered publicly owned and free to all, now it is considered a resource with a monetary value that must be managed for this reason.⁵ However, international agreements have been forged within the United Nations (UN) and recognized

across international agencies identifying access to minimal levels of water and sanitation as a right, not a privilege that must be paid for.⁶ Despite this, the overwhelming worldwide water trend is defined by a privatized sector. Nowhere is this more pronounced than in Latin America, where average water bills are higher than anywhere else in the developing world.⁷ This theoretical disconnect between water as a right and the harsh reality that water has a price has stalled the movement towards universal water and sanitation coverage. This paper will investigate how the language in international agreements has shifted as our understanding of water as a resource has changed. It will then track the course of water as a commodity before finally reviewing the unique challenges that women in water poor areas face. In the concluding sections, the paper touches upon the ultimately ineffective approaches to bringing a 'gendered analysis' into water management that have so far been utilized.

THE INTERNATIONAL PROTOCOL ON WATER AND SANITATION

To properly explore the history of this stalemate between water as a 'right' and water as a 'commodity', we need to go back into the 1940s. In 1946, water was identified in the original Constitution of the World Health Organization as an important aspect of development and a basic need.⁸ Two years later, it surfaced again in the International Covenant on Economic, Social and Cultural Rights (ICESC) (1948) in Article 12, where "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" was recognized.⁹ This was further

¹ Maude Barlow and Tony Clarke, "The Struggle for Latin America's Water," *Global Policy Forum*, July 2004, <http://www.globalpolicy.org/component/content/article/215-global-public-goods/46052-the-struggle-for-latin-americas-water.html>.

² United Nations, *State of the World's Children*, New York: UNICEF, 2001.

³ Sonia Davila-Poblete and Maria Nieves Rico, "Global Water and Gender Policies: Latin American Challenges," In *Opposing Currents: The Politics of Water and Gender in Latin America*, ed. Vivienne Bennet, Sonia Davila-Poblete and Maria Nieves Rico (Pittsburg: University of Pittsburg Press, 2005): 30-51.

⁴ See the collection of essays in *Opposing Currents and Gender, Water and Development* and Maude Barlow's work for further examples; W.J. Cosgrove and F.R. Rijsberman, *World Water Vision: Making Water Everybody's Business* (London: World Water Council, 2000).

⁵ World Bank "Water and Sanitation Topic Brief: The World Bank and Water Supply and Sanitation in Latin America and the Caribbean," *World Bank*, June 2006.

⁶ For further reading see John Briscoe, "Managing Water as an Economic Good: Role for Reforms," *International Commission on Irrigation and Drainage Conference*, Oxford, 1997.

⁷ World Bank, "Water and Sanitation Topic Brief."

⁸ World Health Organization, "Constitution of the World Health Organization," *World Health Organization*, October 2006, http://www.who.int/governance/eb/who_constitution_en.pdf.

⁹ United Nations General Assembly, "Convention on the Rights of a Child," *United Nations High Commissioner for Human Rights*, September 2, 1989, <http://www2.ohchr.org/english/law/crcht.htm>.

roughly echoed the same year in the sentiments of the Universal Declaration of Human Rights (UNDHR) (1948) also implying the vital role that water had to play in making good health possible.

Prior to 1989, the importance of clean water and good sanitation was never directly identified as an important factor of good health, although the aforementioned international agreements suggest that its importance was widely understood. The adoption and ratification of the UN Convention on the Rights of a Child (UNCRC) in that year provided the first recognition in an international agreement of the direct link between adequate water, sanitation and good health. In articles 24 and 27 in particular, we can observe a deliberate call for states to recognize their responsibility in recognizing and addressing the barriers to good health that poor children face, not just in their own countries, but across borders.¹⁰ The UNCRC is one of the first international agreements to bring women into the discussion of water rights, by way of singling out their children.

The Dublin Principles have been the most influential of all agreements made concerning clean water and sanitation. The Principals, signed in 1999 and supported by 100 participating national governments, identified water as an "economic good which is finite and vulnerable, but essential to life."¹¹ They highlighted the paradox however, that water was "still...delivered from one place to another through infrastructure that has economic and social costs".¹² While mirroring the development thinking that began in the neo-liberal era of Reagan and Thatcher, the Principles represent one of the formal shifts in thinking about water as a commodity, rather than

its preexisting status as a necessary resource.¹³

The Millennium Development Goals (MDGs), released as part of the greater United Nations Millennium Declaration, caused water and sanitation to re-emerge on the public agenda as rights. The MDGs are amongst the most well known of United Nations development plans, and are "key to shaping development thinking and practice."¹⁴

Designed not only by "the United Nations General Assembly, and the world's leading development institutions,"¹⁵ the MDGs are remarkable because they set clear, ostensibly achievable, if optimistic, targets to be reached by the year 2015. While none of the much touted "Eight Millennium Development Goals" relate directly to water and sanitation, they were an original part of Section 18, that later became the first goal; End Poverty and Hunger by "[halving] by the year 2015 the proportion of the world's people whose income is less than a dollar a day... and, by the same date, to halve the proportion of people who are unable to...afford safe drinking water."¹⁶

“The MDGs are amongst the most well known of United Nations development plans, and are ‘key to shaping development thinking and practice.’”

¹⁰ Ibid.

¹¹ Ann Cole, and Tina Wallace, "Gender, Water and Development: An Introduction," In *Gender, Water and Development*, ed. Ann Cole and Tina Wallace (Oxford: Berg, 2005): 1-21.

¹² Helen Ingram, David Felman, and John Whiteley, "Water and Equity in a Changing Climate," In *Water, Place and Equity*, ed. John Whiteley, Helen Ingram and Richard Warren Perry (Boston: MIT Press, 2008): 271-318.

¹³ Vivienne Bennett, "Introduction," In *Opposing Currents: The Politics of Water and Gender in Latin America*, ed. Vivienne Bennett, Sonia Davila-Poblete and Maria Nieves Rico (Oxford: Berg, 2005): 1-11.

¹⁴ Cole and Wallace, "Gender, Water and Development: An Introduction," 4-5.

¹⁵ United Nations General Assembly, "International Covenant on Economic, Cultural and Social Rights," *Office of the United Nations High Commissioner for Human Rights*, January 22, 1976, <http://www2.ohchr.org/english/law/cesr.htm>.

¹⁶ United Nations General Assembly, "United Nations Millennium Declaration," *The United Nations*, September 18, 2000, <http://www.un.org/millennium/declaration/ares552e.pdf>.

THE RISE OF NEO-LIBERALISM IN LATIN AMERICA AND ITS IMPACT

This shift in international water legislation did not occur in isolation, but was one piece in the greater context of the rise of neo-liberal economic thought in Latin America and other parts of the developing world. Following the failure

“Currently, 75 million Latin American and Caribbean people lack access to adequate water supplies, while 116 million lack access to adequate sanitation facilities, the majority of these people living in rural areas.”

of the import-substitution-industrialization development model in the post-World War II years, most countries in Latin America looked to the neo-liberal model as a means of combating the severe economic crises and ever growing foreign debt that plagued the Global South during the mid to late 1980s.¹⁷

Within ten years, most Latin American countries had reduced the size of the state by liberalizing markets and off-loading responsibilities such as energy and water onto the private sector.¹⁸ Harsh Structural Adjustment Programs ensured that this mass privatization was in tandem with drastic cuts to public program such as healthcare, education and childcare.¹⁹ While a thorough critique of a market-led approach is not feasible within the constraints of this paper there are clear indications it has been a less than successful

policy.²⁰ In fact, privatization has not only failed to provide coverage, it has made it difficult for the poor to afford water. Indeed, Latin America and the Caribbean have together been identified as having the highest average water bills in the developing world.²¹

Currently, 75 million Latin American and Caribbean people lack access to adequate water supplies, while 116 million lack access to adequate sanitation facilities, the majority of these people living in rural areas.²² While elsewhere in the developing world it is the basic infrastructure that is absent, the situation of the poor in Latin America is unique in that water and sewage infrastructure is (for the most part) already in place and ready to be used.²³ Problems are mainly to do with the poor quality of the service that is delivered. Generally, the service is unreliable, with too few hours of delivery a day. On top of this the water, when it comes (if it comes at all) is untreated or improperly treated water. These are not exceptions, but issues that are considered common and widespread.²⁴ The surprisingly high percentage of spending by the rural poor on bottled water and water delivered by trucks are in part due to the dubious quality of the water for human consumption and the failure of water companies to regularly deliver water through the pre-existing pipes. Due to these spending habits, the rural poor end up paying approximately twelve times more for water for the same amount of water than their urban and

¹⁷ Davila-Poblete and Nieves Rico, “Global Water and Gender Policies: Latin American Challenges,” 46.

¹⁸ Howard Handelman, *The Challenge of Third World Development* (London: Prentice House, 2008): 53.

¹⁹ Handelman, *The Challenge of Third World Development*, 54.

²⁰ Susan George, “A Short History of Neoliberalism,” Presentation at the Conference on Economic Sovereignty in a Globalising World, Bangkok, 1999, <http://www.globalexchange.org/campaigns/econ101/neoliberalism.html>.

²¹ World Bank, “Water and Sanitation Topic Brief: The World Bank and Water Supply and Sanitation in Latin America and the Caribbean.”

²² Ibid

²³ World Health Organization, “Constitution of the World Health Organization.”

²⁴ World Bank and UNICEF, *Meeting the MDG Drinking Water and Sanitation Target: A Mid Term Assessment of Progress*, (New York and Geneva: WHO and UNICEF, 2004).

wealthier counterparts.²⁵ The water problem in Latin America is not a lack of access to water or a dearth of infrastructure, but rather stems from a failure to adequately distribute water through the pre-existing system.

Age, ethnicity, health/able bodiedness, income and most pertinent for us, gender, all influence whether or not one has access to water and sanitation. The present water scarcity crisis, caused by inequitable distribution of resources, erects barriers to a high standard of living that poor women in particular experience while their brothers, fathers, husbands and sons do not. Examining the barriers to an improved lifestyle unique to water poor women reveals the truth that organizations such as the UN and World Bank have known for some time but have failed to act on: until the barriers that present themselves specifically to these women have been eliminated, the appalling living conditions that so much of the world experiences as 'normal' will continue to be so.

Discussing the concerns that water poor women face as distinct from their male *counterparts* is relevant, as it helps us to further understand how poverty as a mechanism works in Latin America. While a discussion such as this is problematic in that it makes claims to a universal experience of poor women across the continent, understanding typical significant burdens that experienced by women in poverty is instructive. By studying the 'worst case scenario' for a woman with little to no social or financial capital, we can compensate for levels of agency on a case by case basis, while still being able to refer a figurative collective in developing global policy.

WOMEN's BURDENS

Women are the primary users of water for domestic purposes, which constitute about a tenth of all water use, and also provide a significant amount of labour in agriculture (primarily weeding and

planting), which constitutes the majority of water use at around 70 per cent.²⁶ Water is also needed for food production and preparation, watering of any domestic animals that the household raises, personal hygiene and the hygiene of dependents, care of the sick, cleaning the house, washing clothing and dishes and waste disposal. For the most part, all of these are jobs that have been strongly gendered and are usually assigned to females.²⁷ When water is not easily accessible, it typically intensifies stressors in a woman's life. Some of the major stressors and burdens are investigated below.

Commuting

When water is not piped directly into the home or nearby, it is the woman or girl's job to collect water from the nearest source. According to a recent study, women spend approximately six hours each on average globally every day carrying and standing in lines in order to collect drinking water.²⁸ Put another way, that same woman allocates 42 hours every week, more than the Western norm for a full-time job, just collecting the water that is necessary to complete her daily chores. In Latin America, the average distance between the typical water poor household and water access point is 15 minutes.²⁹ For these women, water collection is only one task on top of a typically already overloaded list of daily tasks and responsibilities. Water collection cuts into time that women could spend doing more productive tasks, such as other neglected household tasks or, focusing more time on child rearing even more

²⁶ Cole and Wallace, "Gender, Water and Development; An Introduction," 12.

²⁷ David Hemson, "Easing the Burden on Women in South Africa?" In *Poverty and Water: Explorations of the Reciprocal Relationship*, ed. David Hemson, Kassim Kulindwa and Haakon Lein, (London: Zed Books, 2008).

²⁸ Robina Wahaj, *Gender and Water: Securing Water for Improved Rural Livelihoods* (Rome: Inta, 2007): 2.

²⁹ Vivienne Bennett Sonia Davila-Poblete, and Maria Nieves Rico, "Toward a Broader Perspective," In *Opposing Currents: The Politics of Water and Gender in Latin America*, ed. Vivienne Bennett, Sonia Davila-Poblete and Maria Nieves Rico (Pittsburg: University of Pittsburg Press, 2005): 199.

²⁵ World Bank, "Water and Sanitation Topic Brief: The World Bank and Water Supply and Sanitation in Latin America and the Caribbean."

enjoyable tasks, like becoming more involved in community initiatives and taking time for socialization or further education.

Cross-generational Costs

In order to complete essential daily tasks, women often need additional help and use the least expensive and cheapest labour source - their children - to complete those tasks. Due to the incredible pressure that women face to make ends meet, they are often forced to pull a child out of school in order to help run the household. Given the gendered nature of the labour, and the fact that women's tasks generally require less physical strength, "little girls are better replacements for their mothers than little boys are for their fathers"³⁰ meaning that in the end, girls are more likely to be pulled out of school than their brothers or male counterparts. This is reinforced statistically; in 2007, girl children were less likely to be enrolled in school and, upon entering primary school were less likely to complete their schooling. Compounding this, girls are more than 15 per cent more likely to be illiterate worldwide; at 55.1 per cent.³¹ For this reason, it is easy to see that there is a direct link between adequate water supply systems and girl's education. By introducing water supply stations that are conveniently located and run for an appropriate number of hours a day (so that everyone standing in the line is able to get as much water as they need) women will not have to allocate such a significant proportion of each day to merely securing water, and will not need to pull their children, primarily daughters, out of school in order to help with household tasks.

Doing' it' in Public

The amount of acceptable sanitation systems - systems for carrying away human waste - is in an even more appalling state than the global

situation of clean water, with only 58 per cent of the world having access to good sanitation.³² In a simple headline and image an e-card displaying an audience of men looking at a toilet published by The Water Supply and Sanitation Collaborative Council (WSSCC) addresses an incredibly important aspect of how sanitation coverage affects women and men differently. In some cultures, household situations exist where private toilets are not available. One example amongst many is the situation in Vegueta, Peru, where 45 per cent of the population had no formal method of sanitation, primarily defecating outside in the sand dunes or in the crop fields.³³ Worldwide, women cope with this by rising before dawn in order to defecate out in the open, as this presents a slightly reduced chance of experiencing gender-based violence. Reports have been made of women and girls consuming less food and water as a means of avoiding the need to relieve themselves during daylight hours. If a girl has managed to stay in school until she reaches puberty, she may need to drop out once she starts receiving her period - many schools do not have places for girls to relieve themselves in private, presenting yet another barrier to girl children's completion.³⁴

IMPLICATIONS FOR POVERTY REDUCTION

Setting out to reduce and someday eradicate the above mentioned burdens that women in Latin America experience as a result of water shortages has more than one benefit. Eliminating women's unnecessary burdens should be reasons enough in themselves, especially when that means lessening the odds of gender based violence and reducing water-fetching times. However, there are compelling economic reasons for why these burdens should be eliminated. One is the effect

³⁰ Ann Velencheik, "Girl's Education in the Developing World," Public Lecture, Boston: Wellesley College, 2007.

³¹ World Bank, "Gender Stats: Education," The World Bank, 2007, <http://go.worldbank.org/ODWNXIQA30>.

³² World Bank and UNICEF, *Meeting the MDG Drinking Water and Sanitation Target: A Mid Term Assessment of Progress*.

³³ WUSC, *Final Report from International Seminar in Vegueta* (Huacho and Ottawa: Unpublished, 2009).

³⁴ World Bank and UNICEF, *Meeting the MDG Drinking Water and Sanitation Target: A Mid Term Assessment of Progress*, 20.

that such an act would have upon education, as increasing and improving access to water and sanitation would increase school admission and retention rates amongst girls, as previously described.

Another important aspect not yet touched upon is the positive impact that readily accessible clean water and sanitation has upon health. Long and difficult routes for water collection create the understandable incentive for a woman to “get by” through using as little water as possible for daily needs. Although this makes sense within the daily cost-benefit analysis – the sparing use of water translates into hours potentially saved – in the long term and wider, the costs outweigh the benefits. This is evidenced in one study of East African communities, which found “un-piped households suffer from lower hygiene levels as a consequence of not having water piped to the household.”³⁵ The resulting diarrhoea related illnesses, 90 per cent of which can be attributed to unclean water and are experienced by one in ten Latin Americans at any given time³⁶ have a profound effect on education, being responsible for a total of 443 million lost school days worldwide.³⁷ Clean water and sanitation are so important that “[they] are to diarrhoea what immunization is to killer diseases such as measles and polio: a mechanism for reducing risks and averting deaths.”³⁸

³⁵ Hemson, David, “Easing the Burden on Women in South Africa?” 149.

³⁶ Giarracca, Norma, and Norma Del Pozo, “To Make Waves: Water and Privatization in Tucuman, Argentina,” In *Opposing Currents: The Politics of Water and Gender in Latin America*, ed. Vivienne Bennett, Sonia Davila-Poblete and Maria Nieves Rico (Pittsburg: University of Pittsburg Press, 2005): 81.

³⁷ David Hughes, “Foodborne and Water-Related Disease: A National and Global Update,” National Foundation for Infectious Disease, July 2007, <http://www.nfid.org/pdf/pressconfs/duma07/facthughes.pdf>.

³⁸ United Nations Development Program, “Beyond Scarcity: Power, Poverty and the Global Water Crisis,” United Nations Development Program, <http://hdr.undp.org/en/reports/global/hdr2006>.

RECOGNIZING WOMEN AS STAKEHOLDERS

There is a significant emphasis placed upon involving women as stakeholders within local water management schemes amongst scholars, for obvious reasons. To involve women would be intrinsically valuable, as providing the same opportunities to women as to men is something that has been deemed worthwhile, and even enshrined in the Millennium Declaration under Section 20 “The equal rights and opportunities of women and men must be assured.”³⁹ Moreover, involving women in the process of water management would be a prudent move towards involving a major stakeholder group.

Incorporating women as stakeholders into water management projects brings two major advantages to the table. The first one is their positions not only as individuals but also as the chief caregivers of a community’s children. As UNICEF’s overall objective in improving and expanding worldwide water and sanitation is to promote the increased survival and development of children,⁴⁰ Education of mothers helps with this goal, as it ensures that they will be able to utilize improvements in water and sanitation to the advantage of their children by enforcing hand washing and water boiling. Secondly, women as a demographic make economic decisions that lend themselves to poverty alleviation strategies. Women are more likely to place family health before economic success and while men prefer to allocate water resources towards irrigating cash crops or livestock, women tend to prioritize staple, vegetable, and kitchen crops or domestic usages in their water consumption patterns.⁴¹ This fits into the wider findings by economists that when women in all cultures are able to control a larger portion of household income, expenditures on higher quality foods, education and healthcare increase.⁴²

³⁹ United Nations General Assembly, “United Nations Millennium Declaration.”

⁴⁰ UNICEF, “Water and Sanitation: WASH and Women,” http://www.unicef.org/wash/index_women_and_girls.html.

⁴¹ Wahaj, “Gender and Water: Securing Water for Improved Rural Livelihoods.”

⁴² Velenchik, “Girl’s Education in the Developing World.”

However, the current structure of water management, with its bias towards wealthy, land owning individuals needs to not to make allowances for women by including them but rather, requires a restructuring in order to enable the engagement rather than mere inclusion, of women as recognized stakeholders of water and sanitation resources. One response to this problem has been initiating gender mainstreaming initiatives as a part of development projects.

GENDER MAINSTREAMING AND THE ALTERNATIVES

While alleviating some of the burden from the shoulders of women, such projects as improved drinking water and more taps do not close the discussion of gender as it relates to water supply and sanitation. The discourse of water management generally refers to gender mainstreaming, "the adoption of frameworks, training, gender disaggregated data collection, the recruitment of gender specialist advisers and sometimes the establishment of gender units."⁴³ One would be led to believe, reading much of the academic literature, that by bringing in more female project managers and ensuring that women come to Water User Associations (WUAs, and particularly popular in Latin America) all of the challenges relating to water that women face will dissipate.

Instead of initiating gender mainstreaming at the highest levels, what is desperately needed is meaningful change at the grassroots. The substantial lack of involvement of poor women in local Water User Associations (WUAs) is mostly due to the requirements of members to possess land in order to have the right to manage water and the way water rights are not enshrined in national constitutions but rather as a part of

"By bringing in more female project managers and ensuring that women come to Water User Associations (WUAs, and particularly popular in Latin America) all of the challenges relating to water that women face will dissipate."

property rights. The International Fund for Agricultural Development (IFAD) reports that that many women in their projects are ashamed to attend meetings because of their illiteracy and general low self-esteem.⁴⁴

One project that ended up confronting these issues was supported by IFAD and was based in the highlands of Peru. It focused on knowledge

transfer of small scale farming techniques. Since one of their aims was to integrate women into local irrigation, the project included gender sensitization sessions, which met with enormous success. Not only were families encouraged to "rethink the roles of men and women, older people and youth...there has been a reduction in women's workloads due to increased help from men, who now recognize women's roles within the family and the community."⁴⁵

Economically empowering poor women, through micro-financing institutions such as the Grameen Bank, and ensuring more women get adequate education can go a long way to re-balancing the scales of water management. It is not enough to increase women's attendance at WUA meetings. Efforts need to be taken to ensure that poor women are attending, not only wives of wealthy land owners in the area. Once poor women start attending meetings, they need to be encouraged to participate – findings from one project in Peru revealed that on average women spoke for 3.5 minutes, which the men spoke for 28 minutes each,⁴⁶ proving that support needs to exist for women longer than the first few meetings.

Gender mainstreaming as the major response

⁴³ Cole and Wallace, "Gender, Water and Development: An Introduction," 20.

⁴⁴ Wahaj, "Gender and Water: Securing Water for Improved Rural Livelihoods," 23.

⁴⁵ Wahaj, "Gender and Water: Securing Water for Improved Rural Livelihoods," 20.

⁴⁶ Wahaj, "Gender and Water: Securing Water for Improved Rural Livelihoods," 16

to gender inequity proves that the literature on this subject has missed the point entirely.⁴⁷ The water problems that poor women face in Latin America will not be solved by ensuring that gender specialists are consulted in project design, or by ensuring there are more female attendees at international water conferences. What is rarely mentioned when the issue of 'water fetching' arises is the long work days of women in general. While six hours spent fetching water is too much for anyone, many cite a need to focus on eliminating this task in particular, as a way of 'lessening the drudgery of women' rather than questioning why it is always women that are reduced to such positions. The absence of water has emphasized what is already there; that back breaking work for women in general and poor women in particular, is more normalized than it is for their male equivalents. This is best highlighted in family discussions in Santiago, where family discussions of where to allocate funds, ultimately resulting in the purchase of a radio, a conspicuous symbol of wealth, rather than a washing machine that would save hours of female labour.⁴⁸ It is evidenced every time that a girl is pulled out of school instead of her brother in order to help out around the house. It is conversations such as the ones happening in the highlands of Peru, where the nature of gender roles are being closely examined by those who most directly suffer and benefit that will make the difference.

CONCLUSION

The relationship between water and sanitation and women in Latin America is complex. The region's mismanagement of water since the 1980s under neo-liberal policies which caused high prices and faulty distribution, its societal approaches to gender and the sparse amount of social and financial capital that women control have all come together to form the present situation

that poor women on the continent face. Despite this, by the time the MDGs were introduced, the statistics, objectives and methodologies that are associated now with clean water and sanitation provision had already been cemented decades earlier. Reports released in 2009 do not discuss how the present water situation came to be nor how to overcome it, they, instead reiterate why achieving universal coverage is a worthy goal, and present the newest projections of how far off-track the "international community" is in achieving the 2015 goals.

The focus of the discussion needs to shift back to the root causes of poverty. Analysts need to step back, look at the bigger picture and ask inconvenient questions. "Why are so many water poor, in a continent that has so much water?" or "Why would a family rather buy a radio than a washing machine?" Sidestepping issues such as these, and attempting to patch over such issues as extreme poverty with solutions like gender mainstreaming will only play lip service to the goals of gender equity, and not improve the living situations of Latin America's women. Research has to as well - a major barrier to developing more robust programs targeted at poor women is the lack of gender disaggregated data, which make it difficult to do anything but paint the broadest statistical brushstrokes possible of the situation of poor women.

Development programs need to be holistic and respond to needs on the ground rather than mindlessly playing into a larger academic discourse. IFAD's projects in Peru is an excellent example of this, proving that gender analysis with local people can be effective and provide long term change in the lives of poor women. Just as the situation of water and gender is complex, our reactions and analysis to it need to reflect this complexity, drawing together multiple approaches and disciplines in order to create a suitable retort to the often daunting goals of development and gender equity.

⁴⁷ Stephen Lewis, "Women: Half the World, Barely Represented," In *Race Against Time*, by Stephen Lewis (Toronto: House of Anansi Press, 2005): 109-145.

⁴⁸ Katharine French Fuller, "The Impact of the Washing Machine on Daily Living in Post-1950 Santiago, Chile," *The Journal of Women's History* 18 No. 4 (2006): 79-100.