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WORLD OUTLOOK
journal of international affairs

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What does it take *to secede?*

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WORLD OUTLOOK

“Today we use the term ‘the world’ with what amounts to brash familiarity. Too often in speaking of such things as the world food problem, the world health problem, world trade, world peace, and world government, we disregard the fact that ‘the world’ is a totality which in the domain of human problems constitutes the ultimate in degree of magnitude and degree of complexity. That is a fact, yes; but another fact is that almost every large problem today is, in truth, a world problem. Those two facts taken together provide thoughtful men with what might realistically be entitled ‘an introduction to humility’ in curing the world’s ills.”

— President Emeritus John Sloan Dickey
1947 Convocation Address

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EDITORS' NOTE

Over the course of the past year, the world has seen a number of events that have redefined the relationships societies have with the states that control them. In the Middle East and North Africa, Arabs have shaken off the dust of decades of repressive rule with calls for freedom and democracy, throwing out ossified dictatorships and working toward liberal, representative governments. Echoing the Arab Spring, Occupy demonstrators in the developed world flooded streets to protest what they saw as tacit government support of increasing economic inequality. The European debt crisis has forced both states and their populations to consider exactly what role they wish to play within a future European Union, sparking numerous violent demonstrations. And in Africa, the southern half of Sudan officially seceded following decades of civil war between the Arab North and the Christian south, creating the first new African state in nearly twenty years.

To respond to these systems-changing movements, World Outlook is dedicating this issue to the interactions between societies and the people who run them. We start in Western China, where a long separatist movement caused by Chinese repression of the local Uyghur population has frequently boiled over and threatened the stability of the region. The author argues that although these activities do not yet merit a separate Uyghur state, the tension between local people and the distant Beijing government means these activities should be expected to continue. However, repression and assimilationist policies, designed to curb nationalist sentiment, will make them unlikely to succeed.

A similar conflict between a local, marginalized population and its government appears in Western Sahara, where Sahrawi rebels attempt to secede from Morocco and create a new state. Although the norms of decolonization and Moroccan human rights abuses would seem to indicate a strong case for secession, foreign governments have so far been unwilling to lend their support to the rebels due to Morocco's regional strength. Furthermore, the independence movement is geographically and ideologically fragmented, meaning that no legitimate state should be expected any time soon.

Across the Muslim world, millions of people flock to Mecca each year to take part in the most hallowed tradition in Islam: the Hajj. Our next paper, written on a Dartmouth Foreign Study Program in Fez, Morocco, discusses the Moroccan state's difficulty in having to adapt its infrastructure to such a tradition. It also examines the tension between this ancient religious pillar and the demands of a modernizing world, using original ethnographic research to gain an insightful, firsthand look at ordinary Moroccans' feelings about the tradition.

The images of Ethiopia's 1984 famine have been engraved into our collective memory. The pictures and videos of starving children and displaced families relayed around the globe served as the basis for the modern advocacy model, as a reaction against the existing development institutions that were seen to have failed. However, as our next paper details, these organizations that were never intended to last beyond the famine, such as Live Aid, have instead spawned a whole institutional framework of celebrity activism meant to serve as a catch-all response to crises in the Global South, particularly in Africa. Their continuing existence, the author argues, only serves to distort the realities of life in poor countries, entrenching a culture of dependency and ultimately undermining the cause of development.

Our fifth paper analyzes the tension between international human rights treaties and the norms of the Filipino military. Following the 1986 overthrow of the Marcos regime, newly elected president Corazon Aquino promised an end to the human rights violations of the previous government. Yet they continued, in noncompliance with international treaties, largely because the culture of the military remained independent from the goals of the state. Fortunately, the Philippines' human rights record has improved over time, as international pressure increased, domestic norms changed, and the executive gained power over the military. Nonetheless, the episode illustrates the tension that can exist between a government and those it is trying to control.

Finally, we offer a paper on the possible role of capital markets in preserving biodiversity. Since 1970, the dominant culture has come to recognize biodiversity as desirable and valuable, in stark contrast to earlier in the century. However, state actors have been unable to efficiently guarantee the preservation of biodiversity or to come to consensus on environmental goals. Capital markets, by explicitly investing in biodiversity, could pick up the slack governments have left, with the help of some regulation. But the question still remains of whether a private approach to this problem is necessarily the best approach.

With this issue, we move away from the format of a traditional academic journal. In the hopes of improving our accessibility and promoting dynamism, we are including an "op-ed" section for the first time in our journal's history. Here you will find an interview with renowned conflict prevention expert and Council on Foreign Relations fellow Micah Zenko, as well as four opinion columns by our own staffers with topics ranging from the populist Latin Left to the legal implications of the Anwar al-Awlaki assassination.

As always, World Outlook remains committed to publishing the finest work on international affairs that undergraduates have to offer. The selection before you represents the best. We hope you enjoy the issue as much as we enjoyed producing it.

Sincerely,
The Editors

EAST TURKESTAN AND THE UYGHUR SELF-DETERMINATION MOVEMENT

Daniel Schley '12

In this article, I examine the current secessionist movement in Xinjiang Province in China. I argue that Christopher Wellman's hybrid model approach to state recognition, modified to reflect the normative reality of world affairs, provides the best way to judge validity of secessionist movements. After arguing that current international law does not conform to the hybrid model, I investigate the status quo right to East Turkestan secession and find that it lacks foundation. I then examine East Turkestan secession through the lens of the hybrid model, defining both the merits and shortcomings of its secession, and offer recommendations for the realization of Uyghur independence. I then look at the reality of the situation and argue that the Uyghurs are entitled to continue separatist activities. After comparison to other relevant separatist movements, I conclude by arguing that it is doubtful that Uyghur secessionist attempts will succeed due to Chinese repression and assimilationist policies.


Over one billion people live in The People's Republic of China, 91% of whom are ethnic Han. However, the country includes over fifty state-recognized minorities.¹ The Xinjiang Uyghur Autonomous Region (XUAR), located in the northwest corner of the country, is home to twenty million people and thirteen minority ethnic groups. In Xinjiang, the most populous minority is the Uyghurs, a Turkic Muslim people. They trace their ancestry in the region back thousands of years, speak their own language (Uyghur), and historically have lived near the region's oases. Numbering eight million, the Uyghurs were incorporated, along with Xinjiang, into the People's Republic of China in 1949, and since then have been dissatisfied with Chinese rule, which they claim has violated their human rights. Since the early 1990s, many Uyghur have demanded more regional autonomy for the XUAR, and some have even called for outright secession from China and the recreation of an East Turkestan state in Xinjiang.

International Norms, Legality and the Recognition of States

The questions of self-determination

and international state recognition are central concerns in contemporary international relations. I will argue that the model that Christopher H. Wellman develops in his paper, "A Defense of Secession and Political Self-Determination," provides a paradigm that the international community should use, along with established international law, to decide whether or not a secessionist movement has a moral imperative. I will further argue that because the international system of recognition does not follow Wellman's "hybrid model," it fails to effectively evaluate when states should be properly recognized, a failure not found in the hybrid model. Because of this failure to establish precedents and norms for a secessionist movement, the international community could potentially not only harm a secessionist movement's chances at success but also assist in the creation of a failed state.

Wellman argues for a hybrid model of political justification for secession. He first examines traditional models, which are based on the right of political self-determination due to previous injustices, and finds these mechanisms inherently flawed: "People...have a primary right only not to



be treated unjustly, a secondary right only to compensation for a violation of the primary right and finally a tertiary right to reorganize politically if their rights are violated."² Therefore, Wellman claims that while certain groups can in part point to previous injustices as a reason for secession, previous injustices alone do not provide an adequate justification for secession based in self-determination. Wellman examines both the consent model, which bases right to self-determination on the consent of the people, and the teleological model, which bases right to self-determination on governmental efficiency. He partially dismisses both; the former "for its implication that secession is permissible for virtually every individual or group existing in states," thereby creating a Hobbesian state of war, and the latter "for its conclusion that forcible annexation can be permissible" because it could lead to greater efficiency.³ Wellman then combines certain aspects of the consent and teleological models to specify the conditions under which a state may choose self-determination: "Any group may secede as long as it and its remainder state are large, wealthy, cohesive, and geographically contiguous enough to form a government that effectively performs the functions necessary to create a secure political environment."⁴ It is important to note that in this model, Wellman stipulates that the "rump state," the original state, must still be able to function without the fear of political instability after the secession.⁵

While Wellman's hybrid model argues against previous injustices as a sole reason for political self-deter-

mination, this “just cause” reasoning can certainly still play a fundamental role in the hybrid model. Indeed, in Wellman’s hybrid model, “if the state is either unable or unwilling to secure peace and protect rights, then it does not have a valid claim to its territory against another party that is able and willing to perform this function.”⁶ State actions that hurt national or indigenous minorities, actions such as discrimination, forced assimilation, or genocide, cause the state to lose consent for political self-determination in that region. Also, since the hybrid model allows the minority culture to “opt out” at any time, it allays any future concerns over the right to cultural preservation. It is also reasonable to expect teleological justification through the hybrid model because of injustices: peoples who have been discriminated against will attempt to create alternative constitutions and governments (either domestically or internationally) in order to justify further their secession.

The major failing of the Wellman model, however, is that it does not fully account for governments that deny valid secessionist movements the right to secede or for violent responses to such governments by secessionists. It does not address whether or not secessionist movements that rely on violence become less legitimate, or what should happen if the seceding entity is wrongly denied its right to secession by its former state.

Certainly, under liberal regimes the use of violence by secessionists can delegitimize a secessionist cause since secessionists have greater means of political expression through existing non-violent means (i.e. participation in government). When faced with authoritarian or other regimes that restrict democratic political rights, secessionist movements may use violence more legitimately. Even in secessionist movements against authoritarian regimes (or regimes that otherwise act illiberally with regard to valid secessionist movements),

non-violent secessions are the most moral form of secessionist action due to their reliance on peaceful means. However, some forms of violence may be legitimate against an illiberal regime. For example, guerrilla warfare that exclusively targets the state military may constitute a legitimate form of violence. Not only could such military action be in concordance with the Geneva Conventions, but guerrilla warfare could also support the right to secession under the hybrid model. Use of guerrilla warfare by a secessionist proto-military may help to establish the teleological legitimacy of the secessionist state, since governmental functions usually include defense, i.e., a military.

However, secessionists who deliberately target civilians engage in terrorism and undermine a claim of moral superiority. If a secessionist group claims that the state has violated their human rights, under the hybrid model, violating the human rights of others weakens their moral right to govern the land. Moreover, the Geneva Conventions state that in non-international armed conflicts, “All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their personal honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.”⁷ Terrorist violence clearly violates this international law. While terrorist violence can weaken a secessionist group’s legitimacy, it should not be the sole factor delegitimizing a secessionist group.

When a state wrongly denies a secessionist movement its right to secession, certain aspects of the secessionist movement fall outside of the parameters of the hybrid model proposed by Wellman. By failing to recognize the legitimacy of a secessionist movement, the state should sacrifice any claim to military or eco-

nomie agreements with the secessionist state, as well as the right for the “rump state” to be left politically stable. This rationale has a basis in the hybrid model. As stated previously, if a state fails to protect democratic rights, it does not have a valid claim to the territory. If it has no right to the territory, then it certainly should not have the rights to a negotiated military or economic agreement with the secessionists.

This being said, the right of the secessionist movement should still rely on the “internal” requirements that Wellman proposes under the hybrid model. However, by denying the true legitimacy of the secessionist movement, the “rump state” loses the guarantees due to it under the hybrid model. In secessionist conflicts in which the state does not fulfill its duty to recognize a legitimate secession, secessionists reserve the right to unilateral secession.

The international community can also work to create a framework for secessionist movements that is more conducive to the hybrid model. They can, for example, provide the proverbial carrots and sticks to governments and secessionist movements to persuade them to follow the hybrid model’s democratic requirements. States that wrongly forbid secession could be disciplined with sanctions or embargos from the international community. The international community could also promise favorable trade agreements to states that agree to allow secession. An impartial international organization could also be established to act as a mediator in negotiations between the two parties. Stronger support from the international community would not only allow the conditions for the hybrid model to flourish, but also concomitantly reduce secessionist-government violence.

Current international law does not conform to the hybrid model. The Montevideo Convention, for example, lists four parameters for statehood: a

permanent population, a defined territory, a government, and a capacity to enter into relations with the other states. While the last two parameters are contingent on the teleological aspect of the hybrid model, the ambiguity of the first two, permanent population and a defined territory, allows for the possibility of unlimited secession, which is forbidden under the hybrid model. The *Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations* states, “Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference...” Certain interpretations of this statement, which deny democratic rights, could directly interfere with legitimate secessionist movements under the hybrid model.

The actions of the international community also do not necessarily conform to the hybrid model. While it is true that some states are not recognized because they fail on the basis of unlimited secession (such as the Republic of Sealand), many states that emerged from decolonization fulfilled the requirements of the hybrid model. However, when the great powers choose to recognize new states, they consider their own possible political gains, such as external security, internal security, and improved coordination. The great powers’ effort to coordinate actions can lead to premature recognition, which has disastrous results for secessionist movements that have not yet reached the requirements for self-determination under the hybrid model: “external support to a...campaign...can undermine efforts to mobilize local public support because of the free-rider problem, wherein campaign activists rely too heavily on foreign support rather than local support and thereby lose their power base.”⁸ Premature recognition can hurt a secessionist movement’s ability to successfully secede. The international community’s failure

to use the hybrid model has possibly even contributed to the creation of failed states.⁹ A more conservative approach to secession, such as the one proposed through the hybrid model, could prevent such situations.

Framework for Secession for East Turkestan

Strictly considering the status quo sovereign of Xinjiang (i.e. the People’s Republic of China), it is certainly quite clear that any secession or secessionist activity, let alone declaration of independence, would be considered illegal. Indeed, according to Article 4 of the Chinese Constitution, “All the national autonomous areas are inalienable parts of the People’s Republic of China.”¹⁰ The PRC further elaborates on this “inalienability” in a 2005 Chinese anti-secessionist law, in which the Chinese government reaffirms indivisibility of the state. Although this law was specifically directed at Taiwanese secessionist movements, it generally states that “China’s sovereignty and territorial integrity brook no division” and that “the state shall employ non-peaceful means and other necessary measures to protect China’s sovereignty and territorial integrity” when facing secession.¹¹ This unambiguously means that under Chinese law, the Uyghurs have no right to East Turkestan. However, the East Turkestan government-in-exile disputes the Chinese claim to indivisible sovereignty over Xinjiang. The exile government’s constitution is explicit in its renunciation of Chinese sovereignty, claiming itself as the “sole organ that has the authority over the people of East Turkistan in terms of representing East Turkestan Republic until East Turkestan will be liberated from the rule by imperialist Communist China.”¹² In Part 1, Article 2 of their constitution, they also claim that, “The state East Turkestan which belongs to these Turkic people may not be divided under any circumstances...”¹³ The East Turkestan government-in-exile’s constitution therefore

legitimizes secession from China as a means of giving the Turkic minorities of Xinjiang their right to political self-determination.

International law is ambiguous on the issue. China’s constitution may violate Article 1, Paragraph 2 of the U.N. Charter, which states that UN member states “develop friendly relations among nations based on respect for the principle of equal rights and self-determination of people.”¹⁴ Furthermore, it may also violate the International Covenant on Economic, Social and Cultural Rights, which states, “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”¹⁵ Indeed, the PRC’s intolerance of dissent against the state is a clear violation of international law. These apparent violations become more damning if one defines the Uyghurs as an indigenous or colonized people, as the Uyghurs define themselves.¹⁶ Article 5 of the United Nations Declaration on the Rights of Indigenous Peoples promises indigenous peoples “the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.”¹⁷ The U.N. Declaration on the granting of independence to colonial countries and peoples (General Assembly Resolution 1514) further promises colonized peoples the right to self-determination and states that “[t]he subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, [and] is contrary to the Charter of the United Nations.”¹⁸ International law, however, can also be interpreted in a way that legitimizes the legal right of the PRC to disallow Uyghur secession. In the *Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations*, it states that “the principle of self-determination of peoples is a principle of international law, which is inherent in the Charter of the United Nations and is the basis of international peace, cooperation and friendly relations among nations in conformity with the Charter of the United Nations.”¹⁹ The principle of self-determination of peoples is a principle of international law, which is inherent in the Charter of the United Nations and is the basis of international peace, cooperation and friendly relations among nations in conformity with the Charter of the United Nations.

dance with the Charter of the United Nations, it is stated that, “Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference...”¹⁹ The People’s Republic of China has chosen an authoritarian, communist political system and a cultural system that assimilates Uyghur culture into Han culture. A seceding state of East Turkestan would therefore have no right to deprive the People’s Republic of China of this “inalienable right.” Furthermore, the declaration states that, “Nothing...shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States,” further granting China legitimacy against any East Turkestan secessionist movement. Indeed, while the U.N. Charter may state the importance of equal rights and self determination, it also states that “nothing contained in the charter shall authorize the United Nations to intervene in matters that are essentially within the domestic jurisdiction of a state,” further damaging the argument for Uyghur self-determination.²⁰

Considering the status quo, East Turkestan’s claim to statehood is tenuous according to the requirements for statehood laid out in the Montevideo Convention, which requires that a state possess a permanent population, a defined territory, a government, and a capacity to enter into relations with the other states. The East Turkestan government-in-exile, which does have a constitution, claims sovereignty over a specific geographic region, East Turkestan, and its people (a permanent population and a defined territory). The government-in-exile further claims in its constitution a right to fulfill “international judicial agreements and the realization of all the universal legal cases wherein the East Turkestan Republic shall take part.”²¹ However, the government-in-exile does not have true jurisdiction over Xinjiang, nor does it wield effec-

tive authority, since it does not functionally serve its people in East Turkestan.

The Legal Status of Xinjiang

Many aspects of Uyghur separatism align with Wellman’s hybrid model. The Uyghurs qualify empirically as a group large enough to be politically viable. In addition, East Turkestan also has a legitimate right to secede through the teleological requirements of the hybrid model - the East Turkestan government-in-exile provides a fully functional democratic government. Moreover, there is historical precedent for a Republic of East Turkestan; one has existed twice in the past. This demonstrates that the Uyghur people can provide a viable government that both effectively governs and protects the democratic rights of its people.

The hybrid model, however, may not completely guarantee East Turkestan the right to secession. This is because the Chinese government does not tolerate any dissent of its sovereignty. People who publically dissent against Chinese rule in Xinjiang and advocate for secession can be subject to arrests, torture, summary trial, and/or executions under the government’s “Strike Hard” campaign.²² Therefore, it is impossible to know whether the Uyghurs want to secede (i.e. willingness to consent to a new government) or if they simply want more political autonomy under the current regime. Uyghur advocacy groups in the diaspora reflect this division. The World Uyghur Congress, for example, advocates, “... democracy, human rights and freedom for the Uyghur people and use peaceful, nonviolent, and democratic means to determine their political future” and “endeavors to set out a course for the peaceful settlement of the East Turkestan Question through dialogue and negotiation.”²³ The East Turkestan government-in-exile, however, advocates for complete secession from China and the creation of

an independent, democratic, Muslim state. Other Uyghur ideologies exist as well: the East Turkestan Islamic Movement advocates for an independent and Islamic fundamentalist state in East Turkestan. The ideologies differ so much that the groups cannot even decide on a flag choice or the name of the republic-to-be.²⁴ Since Uyghur national movements are plagued by splits and disunity, it is difficult to come to a conclusion as to whether the Uyghur people would consent to a secessionist movement, and if so, which one.

It is clear, however, that under the hybrid model rubric, the People’s Republic of China must make legal adjustments to allow the Uyghurs to decide democratically on their status within the country. If the people of East Turkestan consented to secession, then China would be obligated to allow it. In such a framework, the Uyghurs may need to make certain military or natural resource based concessions to the Chinese to allow for the secession. A Uyghur secession would also not prove to be politically destabilizing in such a scenario; there is no doubt that the “rump state” of China will remain “large, wealthy, and geographically contiguous” as the hybrid model requires.²⁵

If the people of East Turkestan chose democratically to remain in the People’s Republic of China, then the Uyghurs have the right to claim both “that to which they are currently being denied,” (i.e. human rights) and “compensation for what has been unjustly denied to them in the past.”²⁶ Since the Chinese are unwilling to deal with the Uyghur liberation movements democratically, under the model I propose, if the Uyghurs as a people desire the right of secession, they are entitled to continue their activities, even if unilateral action against China is required. The international community should also intervene, providing the Chinese government with incentives and disincentives to negotiate with the Uyghurs. Moreover, con-

sidering the Chinese response to the secessionist movement, the Chinese government is not entitled to any negotiated military or natural resource based compensation from the seceding East Turkestan. The ETIM (East Turkestan Islamic Movement) and other East Turkestan separatists who rely on terrorism should cease violence for two reasons. As mentioned earlier, terrorism is a violation of Protocol II of the Geneva Conventions. Second, terrorism has hurt Uyghurs domestically and abroad. Domestically, Chinese officials label all Uyghur dissent “terroristic” and thus have legitimized harsh crackdowns against peaceful anti-government demonstrations in Xinjiang because of the “threat” of terrorism. Internationally, terrorism has weakened support for Uyghur secessionism. The United States, a country the Uyghurs desperately look to for recognition, agrees with Chinese claims that East Turkestan terrorists are linked to Al-Qaeda and has placed the ETIM on terrorist watch list. While guerrilla tactics against The People’s Liberation Army are acceptable, the Uyghurs should become completely non-violent. Doing so would not only give Uyghur separatists a greater moral standing and thus greater support internationally, but would also unite the Uyghurs and the Tibetans in their desire to secede from the People’s Republic of China.

Relevant Comparisons: Tibet, Iraqi Kurdistan, Quebec, and Somaliland

The Tibetan case for autonomy mirrors that of the more northern Uyghurs. The Tibetans face a large influx of ethnic Han Chinese into their region, as well as other methods of forced assimilation and crackdowns on dissent like in Xinjiang. Their case for secession under the hybrid model also very closely resembles that of the Uyghurs: the Tibetans are numerous enough to rule themselves and they have a government-in-exile. Their problem is that they, very much like the Uyghurs,

are not sure how to approach the issue and may not have the consent required by the hybrid model. While the Dalai Lama has said that he will support Tibet as a true autonomous region of China, there are many Tibetans who are unwilling to compromise with the Chinese government and will not settle for anything less than statehood.²⁷

Unlike the Uyghurs, the Tibetans have pursued a strategy of non-violence. While this method has not yet produced the desired goal of self-determination, it has given the Tibetans a strong moral ground and international support. International recognition of the Tibetan cause, especially in comparison to the relative obscurity of Uyghur secessionism, is certainly in part due to their differing uses (or lack thereof) of violence. Moreover, the Tibetan movement gained strong political backing from the United States government in the late 1980s and in the early 1990s with an amendment to the Foreign Relations Authorization Act, which stated that the United States should make the treatment of Tibetans an important part of relations with China.²⁸ Indeed, the Tibetans might have succeeded in their goal of greater self-determination had the Dalai Lama accepted an invitation to rekindle talks with the Chinese government in 1989.²⁹ On account of the legitimacy of the Tibetan movement for self-determination, as well its relative success, the Tibetans should continue their non-violent movement for greater self-determination. Violence would only bring the Tibetans what it has brought the Uyghurs: international condemnation and obscurity.

The secessionist movement of Iraqi Kurdistan also shares many elements with that of the Uyghurs, including a history of oppression. Unlike the Uyghurs, the Kurds have experienced mass violence, particularly in the Al-Anfal Campaign.³⁰ The Kurds are certainly a large enough nation to rule themselves and anecdotally at least, an overwhelming amount of Kurds de-

sire independence.³¹ Considering the Kurds’ high degree of self-autonomy in the new Iraqi government, they clearly have the teleological right to self-determination. The right to Kurdish self-determination under the hybrid model, however, is contingent on certain negotiations with Iraq over natural resources. The political stability of the “rump state” of Iraq should also be considered. If Iraq would lose political stability without the Kurds, which is certainly a possibility, then the Kurds do not deserve to secede. Certainly, if the hybrid model applies this requirement of political stability to all contiguous states, secession for the Kurds would not be allowed. Since there are a large number of Kurds in other neighboring nations, most notably Turkey, a successful secessionist movement in Iraq could cause instability in these states. A Uyghur secession from China, even if it were coupled with the secessions of other states (such as Taiwan or Tibet) would still leave China “large, wealthy, cohesive, and geographically contiguous enough to form a government that effectively performs the functions necessary to create a secure political environment.”³² This is not true for Kurdistan.

Currently, Quebec Separatists, unlike most other secessionist movements, are able to rely normatively on the hybrid model, since they are part of a democracy that recognizes the right to secession legally under the Clarity Act. Using the hybrid model as a guide, however, it is easy to see how the Quebecois fail to meet the required parameters for self-determination. While like the Uyghurs, the Quebecois hypothetically have both a large enough populace and the teleological ability to govern, the Quebecois have failed to secure the consent of its people to secession, most notably through a 1995 Quebec Referendum. In the referendum, voters decided against sovereignty for Quebec. Until the Quebecois gain the consent of their people for secession, they simply have no right to self-de-

termination under the hybrid model.

A final point of comparison for the Uyghurs is Somaliland. The Somalilanders, like the Uyghurs, pose difficult questions concerning the legitimacy of their rule under the hybrid model. Since it is clear that the Somalilanders are numerous enough to form a state, have consented to their own rule, and have created a functioning government with its own constitution, they fulfill the internal requirements of the hybrid model. The actions of the Somalilanders, however, were unilateral. The Somalilanders could not guarantee, with their secession from Somalia, that the remainder state would be “large, wealthy, cohesive, and geographically contiguous enough to form a government that effectively performs the functions necessary to create a secure political environment.”³³ However, while this technicality may be true, Somalia itself was a failed state that did not provide Somalilanders with a functioning government and protect its citizens’ rights, as assumed in the hybrid model. For this reason, legitimacy for the Somaliland cause must lie somewhat outside the hybrid model. Since Somalia itself failed to protect the rights of Somalilanders and to function as a state, and since Somaliland fulfills the “internal requirements” for self-determination proposed by Wellman, Somalilanders should therefore have the right to self-determination.

Prediction: The Genocide of a Nation?

It is clear that the People’s Republic of China has no interest in any sort of democratic compromise on Xinjiang. China has taken effective actions to ensure that Uyghur nationalism is not feasible and that secession is unlikely, by both assimilating the entirety of Xinjiang and its Uyghur population into Han culture and by eliminating any autonomy of the region. The Chinese policy of forced assimilation is

a major factor in most Uyghur grievances against the state; for example, the Chinese government has limited use of the Uyghur language. The government banned Uyghur (language) from almost all classes in Xinjiang universities in 2002, and the government has been accused of burning important books in Uyghur.³⁴ The Chinese government has concurrently made it a priority to raise the level of Mandarin Chinese among the non-Han in Xinjiang; younger generations are more likely to know the language than older ones.³⁵ The Uyghurs are also not allowed to freely practice their religion in Xinjiang. In fact, the religion is viewed as a vice by the government; minors under the age of 18 are not allowed to attend religious services. Imams, who must be on the state payroll, are required to attend state-sponsored classes on Islam, which many claim are designed to indoctrinate Imams with official Chinese Communist Party policy. Imams are also under strict state surveillance. Muslim public sector employees and students are not allowed to wear traditional Muslim clothing, and the latter can be expelled from university for observing Muslim religious traditions (Reed and Raschke, 21-24). Another more problematic issue, especially considering the likelihood of secession, is the Chinese government’s attempt to encourage ethnic Han Chinese to immigrate to Xinjiang. In 1950, 80-90% of Xinjiang’s population was Uyghur and only 5-10% was Han.³⁶ Today, the Uyghurs represent only a plurality (46%) over the Han (40%), and these numbers do not include those in the military or the transient population, which are almost entirely Han. This means that the Uyghur plurality is likely even smaller than these numbers reflect, if it exists at all. Uyghurs legitimately worry that they will soon become a minority in their own homeland. While the last major resettlement campaign took place in 1964, Han professionals are still encouraged to immigrate through tax breaks and other incentives.³⁷ The

Chinese Communist Party claims that these migrations are not meant to change the demographics of the region, but the reality is that once the Han have the majority in Xinjiang, secession will be almost impossible for the Uyghurs.

The Chinese government has taken other steps to ensure that the Uyghurs will never successfully secede. In “Why Civil Resistance Works”, Stephan and Chenoweth argue, “... campaigns that fail to produce loyalty shifts within the security or civilian bureaucracy are unlikely to achieve success.”³⁸ The Chinese have taken actions to make sure that these loyalty shifts do not happen. The Xinjiang Production and Construction Corps (XPCC or Xinjiang shengchan jianshe bingtuan), with a mission to “cultivate and guard the frontier areas,” is a paramilitary organization with its own militia.³⁹ It runs farms “dotted throughout Xinjiang” and as of 1997, there were 2.4 million members.⁴⁰ The organization is overwhelmingly ethnic Han. For a secessionist movement to be successful in Xinjiang, it would require at least the tacit support of this quasi-military organization, which is incredibly unlikely considering its nearly homogenous Han Chinese composition. Han officials are also consistently chosen over Uyghurs for top positions at all levels of Xinjiang’s party bureaucracy, creating an ethnic makeup which would also make a loyalty shift difficult.⁴¹

The Chinese government has made further moves to ensure minimal international support for the Uyghur cause, specifically and successfully targeting Central Asian states to limit their support of Uyghur nationalism. The Shanghai Cooperation Organization coordinates border security between its members (which include China and Central Asian countries) and obliges members “to cooperate on the prevention and control of activity that member state governments deem “‘terrorist,’ ‘separatist,’ or ‘extremist’ in nature.”⁴² This orga-

nization has “successfully prevented the development of links between Uyghur separatists and their cousins in Central Asia.”⁴³ China’s success through the Shanghai Cooperation Organization was demonstrated when Kazakhstan and Kyrgyzstan, which are both member-states of the organization, prevented Uyghur activists from attending a conference on Uyghur ethnicity in the United States in May 2011.⁴⁴ Moreover, China’s economic and political might is simply too strong for the international community to organize to provide enough of an incentive (or disincentive) for changing their methods of dealing with the Uyghurs.

Finally, since the Uyghurs have not been able to present a unified voice to the national community, they present a weaker argument for statehood. The East Turkestan government-in-exile states in its constitution that “[a]ll intentional or unintentional acts which provoke disunity among these indigenous people of East Turkistan are prohibited. This is because these types of acts are considered to be a contribution to the ‘Divide and Rule’ policy the enemy — the Chinese — has applied against the people of East Turkistan.”⁴⁵ Since the East Turkestan government-in-exile has been unable to unify its voice with other Uyghur advocacy groups (most notably the World Uyghur Congress), China’s ability to continue to “divide and rule the Xinjiang Uyghur Autonomous Region” is enhanced.

For these reasons, the status quo seems likely to persist. Unless a dramatic shift in these circumstances occurs - such as the fall of the People’s Republic of China or a move to open democracy in the near future - it is unlikely that the Republic of East Turkestan will ever become a reality. Even if a secessionist Uyghur movement succeeded, what would happen to the ethnic Han in Xinjiang, especially if secession occurs after the Uyghurs become a minority in Xinjiang? Ethnic warfare between the Uyghurs and

Han immigrants cannot be discounted as a possibility in such a scenario. Considering current Chinese Communist Party policy, it is of greater concern that the status quo will ultimately result in the complete loss of a people and a distinct nation. ■

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STALEMATE IN THE WESTERN SAHARA: Efficacy, Intractability, and Prospects for Resolution

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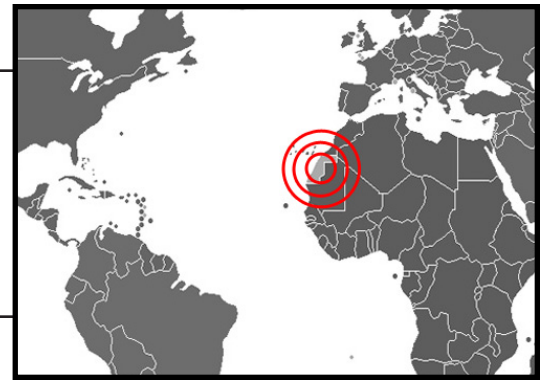
The ongoing secessionist conflict in the Western Sahara between native Sahrawi rebels and the Moroccan government provides a useful framework for evaluating territorial disputes. Due primarily to Morocco's regional strength and Cold War rivalries in North Africa, foreign governments have been reluctant to recognize Sahrawi claims and continually offered tacit support to Morocco. Sahrawi leaders point to decolonization norms and Moroccan human rights abuses as evidence supporting the establishment of an independent Western Saharan republic. However, the Sahrawi independence movement is geographically fragmented and currently lacks the capacity to establish an effective government in the territory. In this paper, I give a broad historical outline of the Western Sahara conflict, formulate an efficacy-based framework for evaluating the legitimacy of self-determination movements worldwide, and apply this framework to selected secessionist conflicts.

After over a decade of armed conflict ending in 1991, the territorial dispute over Western Sahara between the Moroccan government and the Sahrawi Polisario Front has entered a period of seemingly intractable stalemate. It has been characterized by irreconcilable demands, a futile negotiation process, and international apathy. According to international law, the Sahrawis are a colonized people who wield a clear and well-defined right to self-determine their political status. Alleged Moroccan human rights abuses, which include the disappearance and torture of many high-profile Sahrawi activists, lend additional credence to Sahrawi self-determination demands. However, the Sahrawi people remain hopelessly unprepared and unqualified to establish effective self-government and build a viable sovereign state. A substantial percentage of the ethnic Sahrawi population was driven out of Western Sahara during the years of armed conflict and currently resides in refugee camps across the Algerian border. The influx of Moroccan settlers into Western Sahara, which began during the Green March of 1975 and has resumed in earnest in recent years, has diluted the indigenous

Sahrawi population to the extent that Moroccan settlers now constitute a majority. Despite the apparent legal and normative justifications for Sahrawi self-determination, any solution that allows for the formation of an independent Western Saharan state is logistically infeasible and runs the risk of re-igniting armed conflict over the territory. Given the current state of affairs in Western Sahara, the most favorable and viable method of resolution would give the Sahrawis genuine autonomy under Moroccan rule, facilitate refugee resettlement, and allow for a comprehensive international investigation of alleged Moroccan human rights violations.

Legal and Normative Dimensions of the Western Sahara Dispute

As victims of ongoing decolonization, the Sahrawi people possess a definitive right to self-determination under international law. The United Nations affirmed the right of colonized peoples to political self-determination in the Declaration of the Granting of Independence of Colonial Countries and Peoples of 1960.¹ Additionally, the UN Declaration on Principles of International Law concerning Friendly Relations and Cooperation



among States imposes on every state "the duty to refrain from any forcible action which deprives [colonized] peoples.... of their right to self-determination and freedom and independence".² Since the end of armed conflict in 1991, the UN has consistently defined Western Sahara as a non-self-governing territory and maintained the right of the Sahrawi people to self-determine their political status.³ The Western Sahara, originally a Spanish colony, was jointly ceded by Spain to Morocco and Mauritania in 1976 in direct violation of both international law and an advisory opinion issued by the International Court of Justice.⁴ Morocco has maintained de facto control over most of the territory since the 1980s, and Morocco's constitution recognizes the king as "the guarantor of... the territorial integrity of the Kingdom within all its rightful boundaries".⁵ The failure of international law to ensure Sahrawi self-determination is due largely to Morocco's staunch opposition to any referendum that would allow for independence, as well as close Moroccan ties to the United States and other powerful Western nations. During the Cold War, the U.S. and its European allies pursued an aggressive policy of military aid to Morocco because they feared that a Polisario victory would signal "the potential emergence of a pro-Soviet state" in sub-Saharan Africa.⁶ Cold War fears related to the spread of Communism have given way to new security concerns related to emerging terrorist networks in North Africa. The U.S. continues to support Morocco in its refusal to consider Western Saharan independence due to its "close friendship with Morocco, coupled

with the need to keep Morocco in the antiterrorist coalition".⁷

The unwillingness of Western nations to jeopardize friendly relationships with Morocco over the Western Sahara question has created an awkward contradiction: many countries, including the U.S., have officially endorsed Sahrawi self-determination yet continue to support Moroccan control of the region.⁸ Despite international law's endorsement of post-colonial self-determination, the fragility of the international legal system and the influence of strong external actors have prevented the Sahrawi people from exercising this right and freely deciding their political status.

A just-cause argument for secession based on Moroccan human rights abuses constitutes an important pillar of the ongoing Sahrawi nonviolent Intifada campaign. At the heart of Sahrawi just-cause contention is the widespread disappearance of Sahrawi activists after detention by Moroccan authorities. Pro-Sahrawi groups and international human rights organizations monitoring the territory claim that "500 cases of disappearance are outstanding, a hundred of them [are] documented and witnessed".⁹ Allegations of torture and mistreatment of Sahrawi prisoners are common, and "released Sahrawis... remain subject to intimidation and rearrest" by the Moroccan police.¹⁰ The Moroccan government has also repeatedly used violent tactics to disperse pro-independence demonstrations. In response to widespread protests in 2005, "Moroccan authorities arrested over a hundred demonstrators, reportedly tortured several activists and later tried the Intifadah's leadership for inciting violence".¹¹ In an especially alarming instance of government sponsored brutality, "Moroccan police beat a Sahrawi youth to death in the streets of Al-'Ayun at the end of October [2005]".¹² The Intifada campaign, which seeks to use nonviolent protests and demonstrations to voice disapproval of the Moroccan regime and draw international attention to alleged Moroccan human rights abuses, is

an effort by the Sahrawi people to "successfully frame their struggle in such a way as to elicit sympathetic international support and active solidarity".¹³ Alleged Moroccan human rights abuses and Sahrawi claims "that Morocco and its settlers are eradicating [Sahrawi] culture" lend additional credence and urgency to the Sahrawi cause.¹⁴ However, human rights activism has yet to produce substantial international interest or intervention in Western Sahara.

An Efficacy-Based Framework for Self-Determination

In order to ensure that secessionist conflicts do not produce weak and unviable states, it is important to reject any international laws or norms that provide an absolute right of self-determination to a certain category or group of people. A framework for self-determination based on consent of the governed only "purchases [a] tidy resolution between the liberal conceptions of the person and the state at the high cost of implausibility".¹⁵ Under this model, any group that does not consent, either explicitly or tacitly, to its current government has the right to a certain level of self-determination that may include secession. The use of consent as the sole determination for secession suffers from the absence of preconditions; groups that are too small or internally divided to effectively govern themselves may be allowed to form a new state. The consent-based approach, by virtue of its endorsement of liberal democratic principles presupposing "the individual to occupy a moral dominion regarding her affairs," eliminates the possibility of minimum group thresholds related to size or political organization.¹⁶ Additionally, the consent model reflects "a temptation to create a multitude of homogenous ministates... [that] might well increase the sum total of warfare rather than reduce it".¹⁷ The dangers of the consent model extend to any absolute self-determination right conferred upon a group or category of people without prerequisites. In 1960, the UN Declaration on the Granting of

Independence to Colonial Countries and Peoples stipulated that, in all colonies and other non-self-governing territories, steps should be taken "to transfer all powers to the peoples of those territories, without any conditions or reservations... in order to enable them to enjoy complete independence and freedom".¹⁸ The UN Declaration largely ignores the fact that "many indigenous groups are dispersed into small communities... and so have limited governing capacity".¹⁹ An unlimited right to post-colonial secession, which forms the backbone of the Sahrawi claim to self-determination, sets a dangerous precedent by allowing the creation of potentially unviable states likely to generate instability and conflict.

One important caveat to the abolition of an absolute right to secession is the occurrence of genocide or violent ethnic conflict, which may necessitate partition or secession under extraordinary circumstances. Research has shown that ethnically-motivated violence "could probably be reduced if policymakers facing severe ethnic conflicts were more willing to consider the option of separating hostile populations".²⁰ Basic concern for human rights demands a last-resort remedial right to secession when a minority group is violently repressed or attacked by its government. In cases of persistent ethnic violence, specifically among groups with historical animosity, partition or secession may become necessary even if this produces weak states and leads to regional instability. The international community has a duty to intervene in especially heinous cases of ethnically-motivated violence and intrastate terrorism. This duty supersedes efficacy considerations and may require population transfers and partition. While no group or category of people should be given an absolute right to secession, every person has an inherent right to protection from tyranny of the majority and government-sponsored violence. Although ethnic violence can often be solved with autonomy and strong minority rights' guarantees, some multiethnic states may be beyond salvation and unable to

effectively guarantee the basic human rights of their citizens. When ethnic violence reaches the level of genocide or state-sponsored terrorism, the international community should intervene to separate the warring factions as quickly and completely as possible. In the event that the nation-states resulting from the partition of rival ethnic factions cannot adequately fulfill the duties of statehood, international organizations should be involved on the ground to ensure security, assist with institution-building, oversee political processes, and foster economic development. However, apart from a remedial right to secession in connection to extreme instances of ethnic violence (applied on a case-by-case basis), no international right to self-determination should exist.

In the absence of an absolute right to secession or self-determination, international assessments of group efficacy and self-governing ability should be used to determine the viability of secessionist movements not victimized by extreme ethnic violence. Generally speaking, “any group may secede as long as it and its remainder state are large, wealthy, cohesive, and geographically contiguous enough to form a government that effectively performs the functions necessary to create a secure political environment”.²¹ In addition to being economically and politically viable as a state, secessionist groups should be able to reasonably guarantee respect for minority rights and the rule of law within their claimed territory. After secessionist movements are evaluated by an unbiased international committee based on the preceding qualifications, each group “may or may not have the right [to secede] depending upon both the nature of the secessionist group and the status of the potential remainder state”.²² In the event that a group is considered unfit to fulfill the requisite duties of statehood, the same standards could be used to determine a recommended level of autonomy. Secessionist groups that are large, territorially concentrated, and well-organized politically but do not meet the standards for

secession will be capable of handling greater levels of self-governance than smaller groups. Establishing an international committee to assess individual secessionist groups on the basis of efficacy will ensure that only deserving and capable groups are afforded the option of statehood.

In an ideal world, any group with a proven capacity to effectively self-govern that inspires international confidence in its ability to create a viable state without causing irreparable harm to its former rulers would be allowed to secede. However, secession may be unrealistic and logistically impossible in certain cases even when the secessionist group satisfies efficacy standards. Due to the international norm of territorial sovereignty, a state is naturally resistant to any proposal that would diminish political authority within its boundaries. Existing states, especially those with authoritarian regimes, are unlikely to submit to secessionist demands regardless of the strength and cohesion of the secessionist movement or the intensity of international pressure. In these cases, negotiation with the existing state government over the status of the disputed territory should take precedence over the perceived legitimacy of secessionist demands. Positive assessments of group efficacy should not serve as an international mandate to secede under any circumstance. Instead, these international evaluations can be used as a bargaining chip by the secessionist group to negotiate for greater autonomy when secession is an unrealistic option. International institutions should account for efficacy determinations and use these assessments to put pressure on countries that have historically repressed large, well-organized secessionist movements. Realistically, secessionist groups deemed to be sufficiently large and well-organized to secede will most likely have to settle for a level of self-rule below statehood. However, international support for these groups can help to guarantee a basic respect for human rights and ensure genuine self-rule. A framework for self-determination

that focuses on case-by-case group efficacy and seeks to formulate solutions that can be carried out reasonably and efficiently within the current political environment is the best way to ensure stability and peace in the international system.

Applying the Efficacy Model: Case Studies

Application of the efficacy-based model for self-determination is especially simple and straightforward when secessionist groups have clearly demonstrated the capacity for proficient self-governance amidst the chaos of a failed state apparatus. The Somaliland case provides the best example of a group that clearly satisfies efficacy standards and should be afforded the right to statehood. Somaliland has governed itself far more effectively and democratically than the central government in Mogadishu. Somaliland currently performs all the functions of a fully-recognized state government, and its “local political arrangements provide better security than was previously provided by formal state structures”.²³ Additionally, the Somaliland government has managed to consolidate control over its claimed territory while maintaining a basic respect for human rights and democratic principles. By integrating traditional tribal arrangements and dispute resolution methods into the political apparatus, Somaliland has created “a more representative, more participatory and less violent form of politics than Somalis have experienced for the past quarter of a century, and therefore a potentially more robust and sustainable state”.²⁴ International efforts to restore order in southern Somalia have failed to create a stable political environment; although the situation in the south remains hopelessly anarchic, Somaliland’s departure would not directly damage the remainder state. Somaliland has existed as a distinct political entity since its declaration of independence in 1991. Legal recognition of Somaliland’s secession would represent an official “opportunity for people to break with the corrupt and unrepresentative

form of government that Somalis had experienced in the past and to build system of legitimate and accountable governance".²⁵

Remedial secession as a solution to ethnically-motivated violence provides a blueprint to follow in cases of ethnic cleansing and genocide. When secession disputes involve extreme ethnic violence, international intervention may be necessary to separate the warring factions and guarantee that newly created states achieve sufficient levels of self-governance. In order to ensure that ethnic violence does not lead to ethnic cleansing or genocide, "the international community should stop trying to prevent the movement of refugees away from threats of ethnic massacres and should instead support and safeguard their resettlement".²⁶ The responsibility of the international community to mediate in cases of ethnic violence may extend to the oversight of secession and state-building processes.

The Kosovo secession dispute illustrates the application of remedial just-cause secession under international supervision. Ethnic violence in Kosovo between Albanians and Serbs caused alarm throughout the developed world due to instances of genocide, specifically the Srebrenica massacre, that took place years earlier during the war in neighboring Bosnia; "if such a crime had happened before, there was no guarantee that it might not happen again".²⁷ Fear that the Serbian leadership would use tactics of ethnic cleansing against Kosovar Albanians prompted NATO bombings against Serb military installations.²⁸ Following the end of hostilities in Kosovo, the territory was placed under United Nations supervision and began the process of reconstruction and recovery. A European Union mission was later deployed to "monitor, mentor, and advise on all areas related to the rule of law in Kosovo," and the EU continues to be involved in the state-building process following Kosovo's 2008 declaration of independence.²⁹ The resolution of the Kosovo conflict clearly demonstrates the ideal international role in using

secession to stem the flood of ethnic violence. Foreign countries should intervene early in support of international organizations, separate warring factions when violent conflict escalates, and remain engaged on the ground to ensure that newly self-governing territories receive the necessary supervision and assistance on their path to statehood.

The efficacy-based approach to self-determination is complicated in certain cases by the presence of well-organized and popular secessionist movements that use questionable tactics and do not enjoy substantial international support. International apathy has been the primary cause of status quo maintenance in the Western Sahara and Somaliland cases. However, other secessionist movements face active international resistance due to violent tactics and support for religious fundamentalism; the international community is unlikely to support the creation of undemocratic states regardless of the political efficacy and popularity of a secessionist group. The use of suicide terrorism by the Liberation Tigers of Tamil Eelam (LTTE) in the Sri Lankan civil war prevented international support for an independent Tamil state despite the fact that the LTTE controlled a large area, provided effective government services, and enjoyed support among the Tamil population.³⁰ In the Philippines, the Moro Islamic Liberation Front (MILF) has suffered from Western opposition to its territorial claims because of the violent nature of the group, alleged ties to terrorist organizations, and its stated intention to establish a fundamentalist Islamic state on the island of Mindanao.³¹ These two cases indicate the problems that may arise when efficacy considerations become subordinate to international political pressure. The majority of the great powers are currently strong supporters of democratic proliferation, and the secessionist groups to which they afford international recognition will tend to exhibit democratic similar characteristics "due to the favorable dispositions of powerful states".³² International opposition may prevent

the recognition of large, efficacious secessionist groups that do not exhibit a commitment to representative government.

Widespread international support for secession is necessary in order to ensure that newly created states are not subject to international intimidation or invasion by their previous rulers. The self-determination process should account for international opinion and offer the option of secession only to those groups that have demonstrated both self-governing ability and respect for democratic principles. However, if a group enjoys substantial domestic support despite questionable tactics or religious philosophies, autonomy with a strong assurance of respect for minority rights may be the best solution.

The efficacy framework also suffers from the possibility of precedent-setting in large multiethnic states with many potential secessionist movements. However, by focusing on political organization and self-governing ability in addition to popular support, an efficacy-based approach reduces the incentive for both states and secessionist groups to initiate or provoke violence. The current framework for self-determination suffers from an emphasis on victimization and violence. As the international community has only shown willingness to intervene in support of secession when conflicts involve ethnically-motivated violence, "the leaders of nationalist insurgencies [have] an incentive to reach for this level of violence".³³ Governments dealing with multiple territorially-concentrated minority groups similarly have a vested interest in taking a hard-line approach and cracking down on secessionist activity so as to avoid setting a precedent that could encourage other groups within the country.³⁴ Under the current system, both secessionist groups and state governments stand to benefit more from violent conflict than nonviolent political expression of demands. Shifting the focus of secession from victimization to efficacy would reduce the incentive to initiate the cycles of violence

that characterize many current secessionist conflicts. Efficacy-based evaluations that take into account the democratic legitimacy of secessionist groups would give these groups a reason to pursue strong political organization and cultivate genuine popular support within their claimed territory rather than turning to violent measures or seeking to provoke state violence. In multiethnic states with many secessionist movements, the fear of precedent-setting could be important in persuading the central government to agree to some level of autonomy commensurate with the efficacy and size of the secessionist group. However, secessionist groups must be open to compromise under the efficacy model. Large, powerful states such as China and Russia will not be willing to grant independence, but they may agree to grant genuine self-rule if secessionist groups develop domestic political clout and cultivate substantial popular support rather than relying on violent methods.

Applying the efficacy-based framework to the Western Sahara dispute reveals the organizational and demographic shortcomings of the Sahrawi independence movement and suggests that an independent Western Sahara is likely to be weak and unstable. The Sahrawi people fall short of the requisite efficacy standard for secession due to a noncontiguous population, the influx of Moroccan settlers, and the absence of an effective political apparatus necessary for self-government. Armed conflict drove many Sahrawi refugees out of the territory, and census lists suggest that between 50,000 and 70,000 Sahrawis currently reside in Algerian refugee camps.³⁵ The influx of Moroccan settlers into the Western Sahara has dramatically altered the territory's demographic composition, and "for many years the largest population in Western Sahara has been Moroccan settlers, who have controlled most of the local economy and political bodies".³⁶ Finally, the persistent intractability of the Western Sahara dispute and the futility of the negotiation process have created divisions

within the Sahrawi leadership. The protracted stalemate has caused many Sahrawis to lose faith in the nonviolent approach advocated by the Polisario Front. Indeed, "nationalist activists are motivated by the fact that Polisario has become ineffective".³⁷ The Sahrawi people, no longer territorially concentrated and without a fully functioning political organization capable of effective governance, fail to satisfy efficacy standards necessary for secession.

The best solution to the Western Sahara dispute entails genuine Sahrawi autonomy under Moroccan rule, facilitated refugee resettlement, and an international investigation into alleged Moroccan human rights abuses. Partition and condominium are not viable options in Western Sahara due to irreconcilable demands for the entire territory. The Polisario Front has steadfastly refused to consider any proposal that does not include an independence referendum, while the Moroccan government is satisfied with the status quo and will reject any solution that allows a degree of self-rule greater than autonomy. Morocco controls over 80 percent of the territory, and the current Polisario-controlled area of Western Sahara is a sparsely populated desert wasteland with little strategic value.³⁸ Similar to the MILF in the Philippines, the Sahrawi independence movement suffers from a lack of physical control over its claimed territory and an influx of settlers facilitated by the central government.³⁹ However, the Sahrawi people deserve a greater degree of autonomy than is warranted in the Mindanao conflict. Unlike the MILF, which has alleged ties to terrorist organizations, the Polisario Front has abandoned violent tactics and pursued self-determination through official channels and UN-supervised negotiations. Working within the current political and demographic constraints, the best solution to the Western Sahara dispute would include the establishment of an autonomous Western Saharan region under Moroccan rule with a quota system designed to guarantee substantial Sahrawi representation

in regional government. Additionally, Morocco should agree to facilitate the resettlement of Sahrawi refugees from Algeria and submit to an international investigation of alleged human rights violations committed in the territory.

Predictions and Prospects: An Intractable Status Quo?

The current situation on the ground in Western Sahara, a deep-seated stalemate between Morocco and the Polisario Front despite years of UN-sponsored peace negotiations, shows no sign of impending resolution. The Polisario Front has maintained a strong commitment to exercising Sahrawi self-determination through a referendum that allows for independence. Morocco, on the other hand, has allowed a certain degree of Sahrawi autonomy while steadfastly refusing to consider any compromise that includes the possibility of future independence for Western Sahara. Chief UN negotiator James Baker resigned in 2004 after his peace plan was rejected by the Moroccan government, and his successor has "summed up the attitudes of Morocco and the Polisario as quasi-irreconcilable".⁴⁰ The Western Sahara conflict is representative of the increasing intractability over time that characterizes many international territorial disputes; "parties to these disputes seem increasingly reluctant to compromise, or even negotiate, over disputed territory as these disputes mature".⁴¹ The Moroccan-held Western Sahara has become a relatively cohesive and functional region, and Morocco has made every effort to achieve "the systematic destruction of evidence tying the territory to the opponent's heritage".⁴² Initial optimism for a peaceful referendum following the end of armed hostilities in 1991 has deteriorated with the emergence of incompatible demands and the hardening of public opinion over the issue on both sides. Morocco's satisfaction with the current status quo gives the Moroccan government a powerful negotiating position, and the increasingly permanent nature of

Sahrawi refugee camps in Algeria has made Sahrawi refugees “more reticent to accept any peace plan that does not offer them full independence”.⁴³ The entrenchment of irreconcilable demands suggests that the current stalemate is likely to persist for the foreseeable future.

Amid the intractability of the Western Sahara dispute, the Sahrawi people have become increasingly disconcerted with the Polisario Front’s inability to make progress in negotiations and the independence movement has shown signs of an impending transition to violent methods. Since the breakdown of peace talks following Morocco’s rejection of the Baker plan in 2004, the Polisario Front has had “a harder time justifying a non-violent approach to its constituents, especially the refugees”.⁴⁴ Many Sahrawi nationalists view the nonviolent independence struggle as a futile effort, and internal conflict threatens to create divisions within the Sahrawi activist community. Several loosely organized Sahrawi independence groups have recently emerged outside the jurisdiction of the Polisario Front.⁴⁵ While almost all activists accept the Polisario Front as the primary external representative of Sahrawi interests, the rising tide of Sahrawi nationalism has remodeled “internal resistance as an autonomous movement distinct from the Polisario Front”.⁴⁶ The current situation in Western Sahara exhibits important parallels to the Tibet secession dispute. After decades of nonviolent resistance to Chinese rule under the Dalai Lama’s leadership, the lack of progress and continued influx of Han Chinese immigrants into Tibet has compelled a younger generation of Tibetans “to consider more militant solutions to their problem” and threatened to transform the dispute into an armed conflict.⁴⁷ The changing tone of the Sahrawi independence movement has similarly increased tension in the territory. As of 2009, “Polisario’s leaders were taking the military option more and more seriously”.⁴⁸

Seemingly intractable territorial disputes can undergo sudden transformations when “perceptions of the dispute shift in response to

changes in the dispute environment”.⁴⁹ In the case of Western Sahara, rising tensions could reach a breaking point and lead to the resumption of hostilities if the disputed territory itself becomes more valuable to both sides. Offshore oil exploration in Sahrawi-claimed waters has been a significant source of contention in recent years, and the discovery of substantial oil reserves could provide the catalyst for a return to armed conflict. Morocco, which already benefits substantially from the Sahrawi phosphate and fishing industries, signed offshore oil exploration contracts for Sahrawi-claimed areas in 2001.⁵⁰ However, the UN subsequently ruled “that it would be illegal for the Moroccan government... to extract Western Sahara’s resources without adequate approval from the population”.⁵¹ The Polisario Front responded to the UN decision by signing separate contracts for exploration in the same areas, and “it is feared that the oil agreements will complicate the long running peace process yet further”.⁵²

Although exploration has thus far revealed only minimal oil deposits in the region, “ever-increasing oil and gas prices continue[d] to provide incentive for even the most miniscule finds”.⁵³ Morocco’s extraction of phosphates and fish from Western Sahara has occurred without significant international protest or consideration for Western Sahara’s ambiguous legal status, but the discovery of large offshore oil deposits would certainly serve to focus international attention on the Western Sahara territorial dispute. The possibility of substantial oil revenue would tremendously increase the perceived value of the disputed territory for both Morocco and the Polisario Front. In the event that Morocco is permitted to exploit oil resources from Western Sahara without international sanctions, there is a strong possibility that militant elements of the Sahrawi independence movement could initiate a return to armed conflict.

The only conceivable scenario that could lead to a peaceful, timely resolution of the Western Sahara dispute is a change in the Sahrawi leadership. Morocco’s de facto

control of the territory coupled with widespread international apathy to Sahrawi self-determination claims has created a solid status quo favoring Morocco. The Moroccan government occupies a position of power at the negotiating table and has no reason to offer concessions to the Polisario Front. The intractability and length of the dispute have clearly benefitted Morocco and constrained the Sahrawi independence movement. The entrenchment of Sahrawi demands for independence has made it politically impossible for the Polisario Front to yield to Moroccan demands; even if Polisario leaders wanted to compromise and accept autonomy under Moroccan rule, they would lose the support of most Sahrawis and risk a violent popular uprising. In certain situations, “the resolution of intractable territorial disputes comes about when influential leaders succeed in reconfiguring perceptions of the disputed territory among their constituencies”.⁵⁴ A strong leader capable of convincing the Sahrawi people to abandon their hope for independence and accept genuine autonomy under Moroccan rule could resurrect the negotiation process and initiate a peaceful resolution of the Western Sahara dispute. Moroccan agreement to facilitate the return of Sahrawi refugees to their indigenous homeland and acknowledge human right abuses will be crucial to the success of any peace agreement. The increasingly militant tone of the Sahrawi independence movement suggests that the emergence of a more diplomatic leader is unlikely in the near future. However, intractable territorial disputes are most often resolved after unpredictable developments that produce “a drastic and unexpected conclusion to a cumulative process of entrenchment and institutionalization.”⁵⁵ ■

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AN OBLIGATION AND A PRIVILEGE: Examining the Prevalence and Prestige of the Hajj in Modern Moroccan Society

Amelia Raether '13

The Hajj is undeniably a fundamental part of Islam for Muslims around the world. While this communal experience follows a distinct pattern virtually unchanged since the time of the Prophet Muhammed, the motives for and results of undertaking the pilgrimage are unique to each believer. Based on ethnographic research conducted in Fez, Morocco, I concluded that while all Moroccan Muslims agree that the Hajj is first and foremost an obligation, only some are further motivated by a desire for a life-changing spiritual awakening. Furthermore, the Hajj as a concept has morphed from being strictly spiritual to playing a large role in Moroccan social society. Nonetheless, despite the concerns of some Muslims about the possible befouling of the Holy City, the pilgrimage represents a milestone in one's spiritual life—a duty to religion and a life-changing experience.

As the fifth pillar of Islam, the Hajj undeniably plays a defining role in the spiritual lives of Moroccan Muslims. Through examining daily interactions and speaking with natives about their experiences surrounding the Hajj, I sought to examine the main motivations for the pilgrimage and its impact on Moroccan society as a whole. From my ethnographical research based in Fez, Morocco, I found that while Moroccans vary somewhat in their opinions and personal experiences, all agree that the Hajj is an obligation at the very core of Islam. Beyond that, many view the Hajj as a privilege—an unequalled life experience that evokes rebirth and spiritual reawakening. For some, Mecca is dazzling paradise that revitalizes a believer and causes a continual desire to return. For others, it is an overbuilt commercial city that distracts from the true purpose of the pilgrimage—being as close to God and the Prophet as possible. Yet in the opinions of many Moroccans, the Hajj is not just one spiritual experience for the individual. Instead, it has transformed into a symbol of status, often creating a disparity in society between those who have and have not completed the pilgrimage. For

Moroccans, the Hajj is first and foremost an obligation, and despite varying motivations and expectations, pilgrims consistently return with revitalized spirituality, a higher standard of morality, and a new level of respect from Moroccan public society.

The concept of the pilgrimage came long before the birth of Islam, beginning with Abraham in approximately 2000 BCE. As told in the Hadith, God ordered Abraham to leave his wife, Hagar, and their son, Ishmael, alone in the desert. Desperately seeking water, Hagar ran back and forth between two hills seven times until her infant son stamped on the ground and a well miraculously appeared. Now called the Well of Zamzam, this well is still running and today pilgrims sip from its water within the mosque.¹ In early times, many tribes of differing beliefs ranging from Arabs and Christians to Pagans practiced the pilgrimage, and the Prophet Muhammad journeyed to Mecca even before his revelations began. This time was known as *jahiliyyah*, the “Days of Ignorance,” as Mecca was polluted with bad deeds and the Kaaba² was home to hundreds of idols. In 631 CE when the Prophet travelled from Medina to Mecca with some of his followers, he



cleansed the Kaaba by destroying the idols.³ Having re-established the Kaaba as the House of God, the Prophet proclaimed the Hajj as the Fifth Pillar of Islam, and pilgrims have traveled to Mecca to complete this task ever since.

The Hajj is made up of various stages, all of which must be completed for the Hajj to be valid. This begins with *Ihram*, which literally means ‘to make *haram*’ (forbidden); during the *Ihram*, the pilgrim prepares for the journey through a ritual cleansing, change in attire, and declaration of intention to complete the Hajj. Now in Mecca, pilgrims must complete *Tawaf*: circumambulating the Kaaba seven times while glorifying God in an attempt to mimic the angels that circle the House of God in the heavens. They also must perform *Sa’i* by running between the hills of Safa and Marwah,⁴ in remembrance of Hagar’s desperate search for water. Next, pilgrims walk to the plain of Arafat for *Yawm al-Wakuf* (The Day of Standing Together) and prepare for the Day of Judgment by asking for forgiveness and reclaiming their faith on Mount Arafat. The following day, pilgrims proceed to *Muzdalifah* to collect pebbles and participate in a meditative night vigil. These pebbles are used the next day in Mina for the ritual of *Rami*, as pilgrims cast seven stones at three different pillars representing Satan to symbolize Abraham’s resistance to temptation.⁵ It is here in Mina where the state of *Ihram* is broken⁶ and pilgrims offer an animal sacrifice beginning a feast to celebrate the end of the Hajj. Finally, the pilgrims return to Mecca, where they make a farewell

Tawaf, circumambulating the Kaaba seven more times to complete the pilgrimage.⁷

As expected, the logistics of the pilgrimage have changed quite dramatically from the time of the Prophet's original Hajj. Gone are the days when pilgrims would travel for weeks on a perilous journey through harsh conditions by camel or caravan to reach Mecca. Modern technology has changed what used to be a dangerous, expensive, and once-in-a-lifetime voyage into a state-organized excursion with all of the comforts and amenities of a luxurious vacation. As the Hajj becomes increasingly accessible, more and more pilgrims are drawn to Mecca each year, causing the Saudi Arabian authorities to restrict the number of participants by issuing one Hajj visa for every 1,000 Muslims in a particular country. There are now 30,000 visas allocated for Moroccans, though usually more than 100,000 Moroccans apply for these spots each year.⁸ In 2005, the Moroccan government established a lottery system in order to justly distribute these visas. There is generally one price set annually at around 40,000 Dirhams, or \$5,000, which includes airfare, visas, and lodging. Though some Moroccans might argue that a government has no place in restricting the right of Muslims to participate in the Hajj, an experience at the very core of their religion, the growing demand to complete the pilgrimage becomes more problematic on a global scale: this year, more than 3 million Muslims from around the world participated in the Hajj.⁹

Physical aspects of the pilgrimage have also been altered, notably the reconstruction of the Mina stoning pillars, the indoor enclosure of the Sa'i, and the establishment of a massive modern city around the center of Mecca. Surprisingly, this modernization does not seem to have taken away the spiritual significance for most Moroccans I spoke with. Lalla Nadia,¹⁰ who recently returned from

the pilgrimage, said, "I think the spirituality is still there, because in spirit you're performing what the Prophet did. Even if one is using modern technology, you still have a feel for it because you are in the very place where these things did happen." Furthermore, she said that she was disappointed that the Saudi Arabian government had not updated Mecca even more.

"I think they should make the city more beautiful, because I really wasn't impressed. There's little infrastructure, no cafés, no restaurants, and it's not very clean. Everyone in my group thought they did a good job with the mosques, but the other parts could be made better."¹¹ Generally, Moroccans shared her view that modernization of Mecca didn't change the spiritual aspects of the Hajj, and instead made the experience more extraordinary. One man, however, expressed contempt for the city itself, claiming he wished the Hajj was located in a different country.¹² Nonetheless, as writer Greg Noakes argues, "the pilgrimage retains its timeless essence as a confirmation of faith, the fulfillment of a religious duty, and a spiritual journey unlike any other for a fifth of humankind."¹³ Despite significant differences between the original Hajj and today's modernized version, the spiritual meaning appears to be ever present for Moroccan pilgrims.

My main question was what compelled these 30,000 Moroccans to undertake such a journey. Throughout all of my interviews, I consistently was given the same answer to this question: because, as Muslims, they *must*. Every Moroccan I spoke with, young or old, Hajj or not, always pointed me towards the Fifth Pillar of Islam: the Hajj. Hajj¹⁴ Yassin, a 58 year-old Fassi man who has completed the Hajj twice, explained that "even as a child, you learn in school that the Five Pillars of Islam are the most important, [and] the Hajj is the last one. I wanted to go [on the Hajj] because I'm a Muslim, and I must. In the religion of Islam, to

be a good Muslim, you must complete all pillars, and that means the Hajj."¹⁵ Many also attributed their intention to complete the Hajj to teachings in the Quran and words of the Prophet, like Si Samir. "For me, this is Islam, you must do it for Islam if you can," he explained. "The Quran says you must do the Hajj if you can, if you have money, are healthy, you must do it."¹⁶ Looking in the Quran itself, there are multiple verses that mention God's order to complete the pilgrimage, though none explicitly outline exactly what the pilgrimage should entail.

Verse 3:97 of the Quran states, "The people owe it [to] God that they shall observe Hajj to this shrine,¹⁷ when they can afford it."¹⁸ Likewise, Verse 22:27.8 also declares that the pilgrimage is obligatory for Muslims, but doesn't offer an explanation as to the purpose of such a pilgrimage. [22:27.8] "And proclaim that the people shall observe Hajj pilgrimage. They will come to you walking or riding on various exhausted (means of transportation). They will come from the farthest locations."¹⁹

I concluded that Moroccans complete the Hajj primarily because it is a fundamental part of Islam; performing the Hajj demonstrates unwavering devotion to the Prophet Muhammad, God, and Islam itself. Furthermore, I found a split between Muslims whose rationale remains at this level of obedience, and Muslims who participate in the pilgrimage seeking other things as well. One common theme I witnessed sprang from the view of the Hajj as an experience of absolution, which is noted in the Quran as well. Verse 2:199 providing a solid objective for the journey by proclaiming that all Muslims "...shall file together..." and "...ask God for forgiveness."²⁰ I noted that Moroccans I spoke with were enthusiastic in their assertions that completion of the Hajj absolves previous wrongdoings as a pilgrim emerges from the experience with a clear conscience. "What God says about Hajj is that when you

go there, it is like you are reborn for the first time again. Sometimes we lie, sometimes we do bad things, but when you come back from the Hajj, it is like a blank page," said one middle aged Fassi man, Si Mustafa.²¹ A widely cited Hadith reinforces this belief, stating that "if someone meets the dawn one day in Ihram, reciting the *Talbiya*, [and continues to do so] until the sun goes down, it goes down with his sins and he becomes again as he was when his mother gave birth to him."²²

Obligation and spiritual rebirth are not the only motivating factors in completing the Hajj: the physical aspects of Mecca attract many Moroccans as well. One woman, Hajja Mariam, described Mecca as a magical paradise:

"It was like a dream—everything was brilliant, everything like diamonds. All people are wearing white like angels, everyone is chanting "Allah, Allah, Allah," and the Prophet Muhammad is there too. It's like you're in a dream and all of the best things in life are there, you feel like you're in paradise."²³

Her daughter, like many young Moroccans, hears stories of the Hajj and sees the physical aspects of the pilgrimage on television, and uses these views as motivation to complete the Hajj herself one day. When I asked her why she wanted to go on the Hajj, she responded, "because there, anyone who goes feels something special, like magic. I want to see that. I want to be near Muhammad the Prophet, to see the place where he is, to see the beauty, to feel the magic."²⁴ When I asked an older man to describe the Hajj, he proudly displayed his cell phone background: a photo of himself in front of the Kaaba and *Al-Masjid Al-Haram* (The Haram Mosque), before directing me to a large photo on the wall, this time depicting him in front of the glowing mosque at night.²⁵

There seems to be no denial of the beauty found in Mecca in the opinions of those who have gone on

the pilgrimage. I found, however, a contingency of people whose sole concern was the spiritual aspects of the pilgrimage, and who preferred to ignore its physicality. As is written in the Hadith, "Sound Hajj has no reward except Paradise,"²⁶ suggesting that a Muslim's only true motivation to complete the Hajj should be the prospect of paradise. These Moroccans did not consider completion of the Hajj a pertinent priority in their current lives, and cited only the requirement as their reasoning for going on the pilgrimage in the first place. "If I want to accomplish my five pillars, then I must complete it. I'm not excited to go on the Hajj, if I go, it [will be] just for the purpose of completing the obligation," said Si Mustafa.²⁷ His view seemed to focus on the end result of completion rather than on the experiences during the Hajj itself.

Interestingly, all of the individuals that I spoke with who shared Si Mustafa's viewpoint had not yet gone on the pilgrimage. Lalla Nadia, who completed her first Hajj last year, laughed when I told her this. "They will change. The Hajj was so different from my expectations. I never really wanted to go on it, I kept saying 'Oh, maybe in the future,' and when I went, it was mostly because I had to," she explained. "But something happened. It is like you are in a wave; you are carried into another world by these millions of Muslims doing the same acts. I was amazed at myself and how much I was carried away with what happened to me."²⁸ "Although she left for the pilgrimage with a requirement as sole motivation, she returned in awe of the experience and of how, unknowingly, she had changed internally.

For every interviewee who had completed the pilgrimage, the final outcome of the Hajj always involved some spiritual reawakening, regardless of whether or not they began the pilgrimage with the intention of achieving that. Lalla Nadia said that perhaps one of the miracles of the

Hajj is its ability of having such a profound affect on Muslims, regardless their expectations. She argued that she came from a "generation of transition" in Morocco, as they grew up during the French Protectorate and learned to look down upon all things considered Islamic. In her early life, religion was not a main focus—prayer and religious studies were stressed neither in school nor in the home. She hypothesized that perhaps because her generation did not grow up with a focus on religiosity and spirituality, the pilgrimage is now playing a large role in bringing Moroccans back to Islam.²⁹

Despite this shared outcome of spiritual rejuvenation, there still exists another divide between those who strive to return to Mecca and those who are satisfied with just one pilgrimage. Some look to Hadith as told by Abdullah Ibn Mas'ood who wrote that "the Messenger of Allah (p.b.u.h.) said: 'Keep on doing Hajj and Umrah, for they eliminate poverty and sin just as the bellows eliminate impurities from iron and gold and silver."³⁰ I spoke with many Moroccans who had completed the Hajj and gone on the Umrah³¹ multiple times. They justified these returns in various ways, ranging from inexplicable love and magnetic attraction to a need for reassurance that their pilgrimage was done correctly. "Maybe the first time, I make a lot of mistakes and I don't know that. But after, I know, and I can do it better than the first time," said Hajja Mariam, who has gone on the Hajj twice. "We don't know if the first Hajj is acceptable or not, we're not experts," she said.³² On the other hand, some Moroccans didn't see the point in multiple journeys, as the Quran only specifies one. For example, in Si Mustafa's opinion, "Just once is okay. It is a waste of time and a waste of money to go multiple times."³³ Others, like Lalla Nadia, went further to say that repeating the Hajj is a selfish act: "I think that the point is to finish your five pillars, so you need to only

go once. If you have more money, give it to the poor—don't go on the Hajj again. After the first time, it's more for selfish reasons than for religious ones."³⁴ Ultimately, like so many other things related to the Hajj, this is all based on personal belief.

Another main goal was to discover the specific ways the Hajj affects the lives of Moroccans by looking at both internal and external changes individuals experienced in addition to societal changes. The most common story I was told involved a Moroccan who changed externally through clothing and lifestyle choices. Many women described how before the Hajj, they wore revealing clothing, didn't cover their heads, attended parties, and didn't pray on time—one woman even described how she used to ride around Fez on her motorcycle wearing the most Western clothes she could find. After the Hajj though, they not only felt an obligation to, but also genuinely wanted to change their behavior. "I can't look to God like that. On the inside, I feel that it's time to change," said Hajja Mariam.³⁵ Likewise, Hajja Jamila said that when she returned from her pilgrimage, she felt an internal change that compelled her to wear the veil, thinking it was "perhaps the right thing to do." She did not wish to be "torn between two worlds" — her life before the Hajj, where she never veiled, and her new life after it, where she consciously strives to become a better person.³⁶ Men told a similar story — they did not pray as much as they should, said disrespectful things, or participated in drinking or smoking, but immediately upon return felt a desire to purge themselves of these wrongdoings and begin the next stage of their lives with new standards. This urge to change one's actions for the better can also be attributed to the Hajj as an absolution of past trespasses—logically, after being granted a clean slate, a Hajj or Hajja might work harder to ensure that his or her moral conscience remains clean.

Many Moroccans I spoke with also stressed an internal change that accompanied external experiences and actions. Lalla Nadia noted that after completing the Hajj, she:

"...strive[s] to be a better person than before, both publically and internally. I think the spiritual side of my life has taken over the material side a bit. Now, I put religion first. I think whether you want it or not, the way you have lived for those two weeks [during Hajj] shapes your life after. It changes your priorities."³⁷

Another woman, Hajja Mariam, described how when she came home from the pilgrimage, she felt that she must "do something good, the best thing in all [her] life." Shortly after returning to Morocco, she met a poor single mother who was estranged from her family and had abandoned her malnourished infant. Hajja Mariam interpreted this as sign of the good deed she was to perform, and her family adopted this young son, who has now grown up with their biological children. She continues striving to spend her life helping others, particularly the elderly, and has recently adopted another daughter.³⁸ From my observations, it seems that the Hajj undeniably has an internal effect on Moroccans, and while sometimes this manifests itself in outward changes of appearance, the inner goodness of one's heart is what matters most to.

It is important to note that the Hajj experience is no longer just a personal one—instead, completion of the Hajj changes the pilgrim's role in public society, most noticeably through the title of 'Hajj' or 'Hajja'. The usage of this title ranges widely from those who demand to be called by it and consider it their main name to those who prefer to never be associated with the title at all. A majority of Moroccans who have completed the Hajj, however, include the title in formal introductions but are not adamant about its use. Ranya, a 20-year old Moroccan student, recount-

ed how her parents unintentionally picked up the title: "When they came back, we were all very happy for them and wanted to celebrate, so the first day we called them 'Hajj', and then the second day, and then every day—it just became a nickname."³⁹ For many Moroccans, the title of 'Hajj' or 'Hajja' becomes commonplace because friends and family use it as a sign of respect, not because the pilgrim demands its use.

Naturally, a higher level of respect and honor often accompanies this title. "Everyone sees me as a different woman, they see how the Hajj can change this woman," said Hajja Mariam. "They treat me with more respect, always asking for my opinion, if I need anything, always with more respect. I like the respect a lot."⁴⁰ But not everyone is fond of the title, considering it a misuse of the intention of the pilgrimage. "I don't use the title Hajja," says Lalla Nadia, "because to me it's showing off. You don't go on Hajj for other people, you go for yourself."⁴¹ Hajja Jamila agrees, stating what while she does use the title, it's for reasons of her own religion, not to demand respect from others. "If I'm treated with respect it should be because of my heart. Some people use the title but don't deserve the respect it brings," she said.⁴² Whether or not warranted, this title is not only associated with a higher level of respect and honor, but is a clear sign of wealth and status even if it does not reflect genuine piety.

Beyond the personal and public changes that are specific to the Moroccan context, the pilgrimage serves to connect Moroccans to all Muslims of the world. While particular practices of Islam may vary geographically, the Five Pillars are one aspect of "cosmopolitan Islam" that is unvarying across physical or temporal boundaries. All of these pillars, with the exception of the Hajj, are practiced individually, so although all Muslims across the

Earth are joining in the same practice, they may be unaware of it. The Hajj, therefore, is the sole pillar that physically brings Muslims together from all around the world to perform the same actions, and whether or not the intention is such, this pilgrimage creates cross-cultural connections amongst the larger Islamic community. Hajja Jamila pointed to the circling of the Kaaba as the first time she noticed just how fellow Muslims surrounding her were – yet no matter their ethnicity, language, or age, they were all saying the same prayers and performing the same rituals together.⁴³ “To see millions of people from so many different countries all striving to fulfill that last pillar with such thirst and enthusiasm is such a moving experience,” recalled Lalla Nadia.⁴⁴ Of the Moroccans I spoke with about their experiences with the pilgrimage, all agreed that the Hajj had brought them closer to Muslims from around the globe, only adding to the journey.

As a nation that takes pride in its Muslim faith and places significant value on piety, the Hajj marks an important step in the lives of many Moroccans. Through ethnographic research consisting of cultural observations and interviews conducted with a variety of Moroccans, I explored perceptions of the Hajj and its role in modern society in Morocco. I discovered that first and foremost, the Hajj is an obligation at the center of Islam for all Muslims. Yet although some Moroccans considered the pilgrimage a privileged, surreal experience, others were solely concerned with the obligation. Regardless of the motivation, however, all returned from the pilgrimage with a renewed conscience and reawakened spirituality. While the experience often altered the way Moroccans treated the pilgrims upon their return, most focused instead on the intense personal experience that, in their opinion, helped to build a closer relationship among all Muslims of the world. In

accordance with the views of Moroccan Muslims, the Hajj is undeniably an important part of their spiritual lives—a duty to one’s religion and a life changing experience in itself. ■

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majoring in Government and minoring in Middle Eastern Studies. Her interest in the Middle East was sparked by Arabic language study, followed by an intensive study abroad course in Fez, Morocco. She has worked at the Department of Justice’s Office of International Affairs, and plans to go on to a government career in international issues.

Interviewees

Hajja Fatiha

Hajja Fatiha is a 35-year old woman living in Fez, Morocco who has completed the Hajj once. Interviewed on May 21, 2011.

Hajja Jamila

Hajja Jamila is a 52-year old woman living in Fez, Morocco. She completed the Hajj first in 1993, and again in 2005. She has also completed the Umrah 5 times. Interviewed on May 20, 2011.

Hajja Latifa

Hajja Latifa is an 82-year old woman living in Fez who completed the Hajj for the first time this year with her son. She wished to wait as long as possible, and finally decided to go this year before she is unable to walk. Interviewed on April 29, 2011.

Hajja Mariam

Hajja Mariam is a 47-year old woman from Fez, Morocco, and completed the Hajj once in 2000 with her husband. She is the director of a private fashion and design school in Fez. Interviewed on April 26, 2011.

Si Mustafa

Sidi Mustafa is a teacher of English and Arabic living in Fez, Morocco. He has not yet gone on the Hajj, but he noted that his wife has recently been trying to convince him to go. Interviewed on May 2, 2011.

Lalla Nadia

Lalla Nadia is a Moroccan woman originally from Meknes who worked in Fez teaching English before moving to the United States. She has lived in the U.S. for 11 years now, but travels to Morocco often to visit family. Interviewed on May 25, 2011.

Lalla Ranya

Lalla Ranya is a 20-year old university student living in Fez, Morocco. A majority of her extended family members have gone on the pilgrimage. Interviewed on April 20, 2011.

Si Samir

Sidi Samir is a 42-year old man living in Agadir, Morocco. He has not yet gone on the Hajj, but his parents have. Interviewed on May 16, 2011.

Hajj Yassin

Hajj Yassin is a 58-year old man living in Fez, Morocco. He has completed the

Hajj twice, and has completed the Umrah 11 times, usually during Ramadan. He hopes to perform another Umrah during this year's Ramadan. Interviewed on May 20, 2011.

Hajj Youness

Hajj Youness is a 37-year old man from Fez, Morocco who has completed the Hajj once but wishes to go again in the future. Interviewed on May 21, 2011.

ENDNOTES

¹ "Zamzam Studies and Research Center," Saudi Geological Survey, accessed May 20, 2011, <http://web.archive.org/web/20050205152331/http://www.sgs.org.sa/index.cfm?sec=311&page=>.

² The Kaaba is a square structure at the center of Mecca that is said to be the House of God and as such, is the holiest edifice on Earth.

³ Seyyed Hossein Nasr, "Muhammad," History.com, accessed May 28, 2011, <http://www.history.com/topics/muhammad>.

⁴ Mariam Al Hakeem, "First Phase of Mosque Expansion in Makkah Nears Completion," *Gulfnews.com*, June 27, 2008, <http://gulfnews.com/news/gulf/saudi-arabia/first-phase-of-mosque-expansion-in-makkahnears-completion-1.113791>. Today, these hills have been leveled and the entire Sa'i journey occurs indoors, and the hills are only symbolically represented as the ends of a long corridor.

⁵ Muhammad H. Al-Haboubi, "A New Layout Design for the Jamarat Area (Stoning the Devil)," *The Arabian Journal for Science and Engineering*, Volume 28, Number 2B (October 2003). Due to the large number of injuries and even casualties that occurred during the Stoning yearly, Hajj officials removed the old pillars in 2004 and replaced them with tall walls, complete with basins at the bottom to collect the pebbles. They have also constructed bridges from which pilgrims may cast their stones.

⁶ This is usually symbolized by cutting of the hair.

⁷ "Hadjj," *Encyclopaedia of Islam, Second Edition* (online; Brill, 2011), http://brillonline.nl/subscriber/entry?entry=islam_COM-0249.

⁸ Sarah Touahri, "Morocco's Hajj Lottery System Enters Third Year," *North Africa Times*, January 6, 2008. This article, written in 2008, states that according to the Minister for Islamic Affairs, Ahmed Toufiq, more than 115,000 Moroccans applied for these 30,000 spots in 2006.

⁹ "Hajj Attracts Some 3 Million Pilgrims," United Press International, Inc., accessed May 20, 2011, http://www.upi.com/Top_News/World-News/2010/11/16/Hajj-attracts-some-3-million-pilgrims/UPI-21981289926713/.

¹⁰ All names have been changed to respect the anonymity of interviewees.

¹¹ Lalla Nadia, Oral Communication, May 25, 2011. Lalla Nadia is a Moroccan woman currently living in the United States who completed the Hajj in 2010. Pilgrims who have returned from the Hajj sometimes use the title 'Hajj' or 'Hajja' to denote their completion of the pilgrimage, but Lalla Nadia preferred to not use it.

¹² Si Mustafa, Oral Communication, May 2, 2011. Si Mustafa is a middle-aged English and Arabic language teacher in Fez, Morocco, and has not yet completed the Hajj.

¹³ Greg Noakes, "The Hajj—Centering the Muslim World," *The Washington Report of Middle Eastern Affairs* XIV.8 (1996): 55. Greg Noakes is an American Muslim writing for the Washington Report on Middle East Affairs.

¹⁴ "Hajj" or Hajja" is a title commonly given to those who have completed the Hajj as a sign of respect.

¹⁵ Hajj Yassin, Oral Communication, May 20, 2011. Hajj Yassin is a 58 year-old man living in Fez.

¹⁶ Si Samir, Oral Communication, May 16, 2011. Si Samir is a 42 year-old man living in Agadir, Morocco.

¹⁷ "This shrine" is a reference to the Kaaba.

¹⁸ Quran (3:96-97) *The most important shrine established for the people is the one in Mecca; a blessed beacon for all the people. In it are clear signs: the station of Abraham. Anyone*

who enters it shall be granted safe passage. The people owe it to GOD that they shall observe Hajj to this shrine, when they can afford it.

¹⁹ Quran (22:27.8)

²⁰ Quran (2:199) *You shall file together, with the rest of the people who file, and ask GOD for forgiveness. GOD is Forgiver, Most Merciful.*

²¹ Si Mustafa, Oral Communication, May 2, 2011.

²² Marion Katz, "The Hajj and the Study of Islamic Ritual," *Studia Islamica* 98 (2004): 95-129.

²³ Hajja Mariam, Oral Communication, April 26, 2011. Hajja Mariam is a 47 year-old woman who is the director of a fashion school in Fez and has completed the Hajj once.

²⁴ Lalla Ranya, Oral Communication, April 20, 2011. Ranya is a 20-year old student in Fez, and both of her parents have completed the Hajj.

²⁵ Hajj Yassin, Oral Communication, May 20, 2011. This was an observation from an interview with Hajj Yassin.

²⁶ Marion Katz, "The Hajj and the Study of Islamic Ritual," *Studia Islamica* 98 (2004): 103. "wa'l-hajj almabrur laysa lahu jaza illa al-janna"

²⁷ Si Mustafa, Oral Communication, May 2, 2011.

²⁸ Oral communication with Lalla Nadia.

²⁹ Lalla Nadia, Oral Communication, May 25, 2011.

³⁰ Islamic Finder. "Hajj in Quran." Accessed May 28, 2011. <http://www.islamicfinder.org/articles/article.php?id=282>. (Tirmidhi: 810, Nasa'i: 2631)

³¹ The Umrah is a shortened version of the pilgrimage that can be completed at any time during the year, but is not a replacement for the required Hajj.

³² Hajja Mariam, Oral Communication, April 26, 2011.

³³ Si Mustafa, Oral Communication, May 2, 2011.

³⁴ Lalla Nadia, Oral Communication, May 25, 2011.

³⁵ Hajja Mariam, Oral Communication, April 26, 2011.

³⁶ Hajja Jamila, Oral Communication, May 20, 2011. Hajja Jamila is a 52-year old woman living in Fez who has completed the Hajj twice.

³⁷ Lalla Nadia, Oral Communication, May 25, 2011.

³⁸ Hajja Mariam, Oral Communication, April 26, 2011.

³⁹ Lalla Ranya, Oral Communication, April 20, 2011.

⁴⁰ Hajja Mariam, Oral Communication, April 26, 2011.

⁴¹ Lalla Nadia, Oral Communication, May 25, 2011.

⁴² Hajja Jamila, Oral Communication, May 20, 2011.

⁴³ Hajja Jamila, Oral Communication, May 20, 2011.

⁴⁴ Lalla Nadia, Oral Communication, May 25, 2011.



THE FAMINE OF 1984: The Cause Celebre of a Generation

Sarah Frostenson '11

"To this day it is unfathomable to me why, on that particular date, that particular film created a world wide sensation. The scenes televised nightly by World Vision in the US were just as horrible, 'Seeds of Despair'¹ was just as shocking...perhaps we will never understand the reason. We only know that the result was unprecedented in world history. The magnitude of our tragedy was suddenly matched by an outpouring of sympathy from every corner of the world...was the world simply ready for another drama, another thrilling real-life tragedy?"²

—Dawit Giorgis, Head Commissioner of the RRC, on the airing of the BBC's Michael Buerk report on October 23, 1984

Deemed the greatest humanitarian crisis of the late twentieth century, the 1984 famine witnessed an unprecedented outpouring of aid and assistance from the international community. In just two months after Michael Buerk and Mohammed Amin's report on the 1984 famine in Ethiopia aired on the BBC on October 23, 1984, the American public donated more than \$40 million, which exceeded any outpouring of U.S. aid in more than a decade.³ But it was not just governments taking action to provide famine relief for Ethiopia. Indignation at the slow response of the West to alleviate suffering in Ethiopia and elsewhere in Africa wrought a new model of humanitarian relief.

Formed out of frustration and anger at the inability of international aid organizations and governments to provide adequate humanitarian relief, new relief efforts emerged, independent of governments and more established relief institutions, optimistic that they could circumvent bureaucracy and deliver aid to those

During the 1984 Ethiopian Famine, images of suffering and starvation were projected around the world to millions. This increased global consciousness led to the creation of modern celebrity advocacy-driven aid, partially as a reaction against the antipoverty institutions that were seen to have failed. However, the spirit that fueled the rise of organizations such as Live Aid has calcified over the past quarter century, institutionalizing these efforts in a way antithetical to their original intent.

who needed it most. Celebrities were at the forefront of this revolution on humanitarian aid, popularizing the belief that humanitarian aid could fix the problems of Africa. As 1984 famine reporter Peter Gill wrote nearly twenty-five years later, "They launched an age of celebrity in the aid-giving world where rock stars have done as much, probably more, than politicians, charity workers, and development experts to sustain the West's commitment to the poor."⁴ The only problem with this celebrity-driven vision of humanitarian aid was it reduced—and even trivialized—the complexity of the problems of famine and development in Ethiopia and the rest of Africa.

Focused more on the raising of funds rather than where the funds end up, celebrity-driven aid has garnered criticism over the years for both its shortsightedness and its lack of experience in knowing how humanitarian aid works on the ground and in the long-term. Bianca Jagger, a celebrity political activist (and former wife of Rolling Stones lead singer, Mick Jagger) has said, "Although one cannot deny that Bono and Geldof have succeeded in bring attention to Africa, one feels betrayed by their moral ambiguity and soundbite propaganda, which has obscured and watered down the real issues that are at stake in this debate."⁵ Geldof himself has acknowledged that, "It's a problem. Development is boring. I find it boring. How do you make a compression pump interesting? I can't go on television

and talk about deficits and surpluses and irrigation. People would turn it off."⁶ Inexperienced, celebrities like Geldof were unprepared for the road that lay ahead of them. Even for rock stars there was no "quick fix" to solving hunger.

The media played a pivotal role in informing and shaping the international community's response to the 1984 famine. The proliferation of images and increased media coverage of the famine made it impossible to ignore starvation any longer in Ethiopia. Michael Buerk and Mohammed Amin's BBC report broke the news of the famine to the world, sparking an unprecedented outpouring of humanitarian aid from the international community. However, since the watershed moment of 1984, when famine was captured on film and broadcast to a global audience, the media's portrayal of famine has not changed. Famine is still depicted as an environmental disaster, and the face of a starving African child has come to symbolize famine in the West.

Therefore, I analyze the effects celebrity-driven aid and media depictions of famine have had in shaping international perceptions of Ethiopia both in the context of the 1984 famine and now, more than twenty-five years later, delineating the lingering repercussions of the ways in which famine was depicted in Ethiopia in 1984. To do this, I first argue that celebrity-driven organizations like Band Aid and Live Aid, though intended to be short-lived, have, in

fact, become institutions perpetuated over time that, in the end, have proven to be just as ineffectual, if not more so, than their more established counterparts. Next, I examine the organizational track record of the celebrity-driven aid organization, USA for Africa, as a case study for its role in propagating the ad-hoc administration of aid at an international level. I conclude by discussing the role images and the media have had in not only perpetuating misconceptions and simplified images of famine, but in constructing a hierarchical relationship of inequality between Africa and the West.

The 1984 famine marked a watershed moment in the realm of international aid, revolutionizing approaches to humanitarian aid. Celebrity-driven aid and the media forced the hand of aid organizations in Ethiopia in 1984, sensationalizing the belief that pop humanitarian aid could respond to crises and circumvent the bureaucracy of relief by delivering aid to those who needed it most. In the end, it has proven a promise the world could not keep.

The Origins of Live Aid and Its Legacy: Can We Make Poverty History?

When Bob Geldof first embarked on what would later become the Live Aid enterprise, he was sitting at home in his living room, watching Michael Buerk and Mohammed Amin's footage of the Ethiopian famine. As Geldof sat, stricken by the images on the television screen, he vowed to do something to help. What started as an impromptu collaboration amongst Bob Geldof and some of Britain's most popular talents to record a song whose proceeds would go towards famine relief in Ethiopia became Band Aid, whose hit single "Do They Know It's Christmas?" sold over one million copies in its first week, fifty million copies total, and raised over \$14 million in famine relief.⁷ When asked what made "Do They Know It's Christmas?" so successful, Bob Geldof shrugged his shoulders and said in his characteristically nonchalant manner: "You could feel good about buying it and best of all nobody made any money out of it except the people who

were dying."⁸

In retrospect, what distinguished the success of Band Aid, and the later Live Aid concerts, from previous celebrity endeavors like "The Concert for Bangladesh"⁹ was their size and scope. Band Aid and Live Aid had the ability to connect people globally. Taking advantage of newly developed satellite technology, Geldof broadcast the Live Aid concerts live, airing concert footage for fifteen straight hours. Ninety-three percent of all TV sets in the world were tuned into Live Aid on July 13, 1985, making it the largest concert ever held, reaching an estimated global audience of two billion.¹⁰ Donations from the concert and Live Aid album were also record breaking, in the range of \$100 million, with Geldof soliciting funds by making impassioned appeals to crowds at Wembley Stadium in London: "People always thought that hunger would never end until today. Today begins a new chapter in history. For the first time ever over one and a half billion people are coming together to end hunger in Africa and throughout the world."¹¹

When news of the Ethiopian famine broke to the international community in October of 1984, there were few international NGOs in Ethiopia poised to administer aid and assist in alleviating the Ethiopian famine. Therefore, Geldof saw his role as both moral and entrepreneurial, "not just raising awareness; [but] helping to solve the problem with hands-on activities such as the deployment of Live Aid cargo ships to expedite the relief operation."¹² Geldof, however, never envisioned Live Aid continuing after 1986. "It was never to become," he said, "what I have always most detested—an institution."¹³ But Live Aid did, in fact, become just that—an institution, one that has inspired a countless number of other institutions and musical acts to follow in its wake. From the immediate in 1985 with Fashion Aid, Visual Aid, Schools Aid, Sports Aid, Band Aid France, and USA for Africa and "We are the World," which were all part of 1984 famine relief, to the present with "Waving Flag" and Young Artists for Haiti in response to the earthquake in Haiti in

2009.

More than twenty-five years later, the legacy of Live Aid still lives on. In 2005, Band Aid and Live Aid hosted their twentieth anniversary parties, raising ten million pounds for famine relief with their concert fundraisers, Make Poverty History and Live 8. However, poverty today is still not history. It exists in full force and in many areas of the world, alongside the famine and chronic food insecurity about which the world promised "Never again" following the 1984 Ethiopian famine.

Live Aid and Band Aid became the trademark institutions associated with celebrity driven aid, and have kept their place more than twenty-five years later thanks to how they challenged governments' and NGOs' monopoly on aid in 1984. Marketing themselves as a means to provide humanitarian relief immediately and without bureaucracy, Live Aid and Band Aid held a strong appeal for donors disillusioned by the politics of aid. Unlike the governments and NGOs involved in the relief efforts in Ethiopia, Live Aid and Band Aid were not dictated by Cold War politics; they had no hidden agenda; they were only interested in people helping people, which was largely what made them so appealing. But were they really any more *effective*?

In March of 1986, *The Philadelphia Inquirer* described the process Live Aid and Band Aid used to determine which projects to fund with the \$92 million raised by Live Aid-Band Aid concerts:

Last fall, relief organizations had complained that the foundations were disorganized and chaotic. But in response to that criticism, the Live Aid Foundation asked the distinguished Center for Immigration Policy & Refugee Assistance at Georgetown University to screen applicants for funds.

The center recruited 18 of Washington's foremost relief experts, who volunteered to screen 200 grant applications from relief organizations based in North America that were seeking a total of \$255 million. The Washington group included experts on Africa and disaster aid from the State Department, the Treasury Department and the World Bank, as well as private

experts in health, agricultural and rural development...Of the 200 proposals, the Georgetown experts said they approved 60 projects.¹⁴

Forty percent of the concert proceeds were allocated to existing relief organizations to provide for immediate disaster relief and the remaining sixty percent went to fund long-term development projects. Funding decisions were based on the proposals submitted and which ones displayed the most need according to the development experts. Some projects that received funding in 1986 include a beekeeping project in Sudan through the Near East Foundation and the building of a replacement bridge in Lere, Chad, where the previous bridge had collapsed.¹⁵ However, no systematic approach existed when it came to deciding how Live Aid and Band Aid funds should be spent, which left ample room for criticism from the press.

Most recently, the BBC accused Geldof and Band Aid of having their funds raised for famine relief diverted by rebel soldiers for the purchase of weapons. According to former rebel leaders of the TPLF, as much as \$100 million ended up in the hands of the TPLF, with ninety-five percent of it allocated for buying weapons to prolong the rebel movement.¹⁶ And while these claims were vehemently dismissed by Geldof and members of Band Aid, and later publicly redacted when the BBC issued a formal apology to Geldof and Band Aid, the fact remains that knowing where the money and aid actually went is next to impossible, with the chances that some of it was diverted highly probable.

The diversion of aid did not receive more attention in 1984 because it did not suit the purposes of either the international aid agencies or media. Exposing problems in the delivery of aid might have jeopardized the entire humanitarian operation, and as a result, reduced the fundraising potential of NGOs and Pop Aid movements like Band Aid.¹⁷ As Mulatu Tafesse, a former Save the Children fieldworker, told me, "You people see the jetliner loaded with grain and you are content. But you don't even bother

to ask where it lands."¹⁸ Asking the more difficult questions about where the aid ended up might have led to unwanted answers, such as when the Ethiopian government actually withheld food aid from famine victims in rebel territories.

What Celebrity Aid did for Africa: The Case Study of We Are the World

On January 28, 1985, forty-five American musical superstars, including Michael Jackson and Lionel Richie, recorded the song "We Are the World" as the American pop aid response to famine relief in Ethiopia, rivaling Bob Geldof and Band Aid's own song, "Do They Know It's Christmas?" Similar to "Do They Know It's Christmas?" and Band Aid, "We Are the World" resulted in its own aid organization, United Support of Artists for Africa, more commonly known as USA for Africa. Like Band Aid, USA for Africa was designed as a short-term, event-driven organization specifically created to manage the funds raised by USA for Africa, which totaled \$96.8 million, second only to the original Live Aid-Band Aid concerts.¹⁹

Organizations like USA for Africa and Band Aid were unheard of until 1984. The Ethiopian famine of 1984 signaled the beginning of the Pop Aid movement, which revolutionized the world of humanitarian aid by introducing a new age of celebrity-driven aid that was able to fundraise on global scales previously thought impossible. Thus, in 1994, as the activities of USA for Africa and other Pop Aid movements were coming to a close, USA for Africa commissioned a report to evaluate its effectiveness in providing humanitarian relief during the 1984 famine. Written by two seasoned development experts, Dr. Michael Scott and Dr. Mutombo Mpanya, the report aimed to evaluate the performance of USA for Africa and to build institutional memory for future endeavors modeled after USA for Africa.

The primary mission of USA for Africa was "the conception and the implementation of events—broad, people-oriented, media-driven, socially conscious and ultimately humanitarian

events."²⁰ USA for Africa's expertise lay in the media and in the production and marketing of popular entertainment, not in relief and development, and particularly not in matters pertaining to Africa. The mission statement for USA for Africa did not even mention Africa specifically, counterintuitive for an organization that owed its very existence to the continent. Rather, their mission statement contended that USA for Africa aimed:

- 1) to make hunger and homelessness in the United States, famine and poverty in the developing world [Africa] unacceptable to everyone, 2) to take action to reduce the causes and consequences of hunger and deprivation throughout the world, and 3) to demonstrate the power and importance of individual participation and collaborative action in solving the problems of our time.²¹

The aims were vague, the scope broad, meaning USA for Africa could fund any number of projects and still work as a coalition builder amongst other NGOs. The organizational structure of USA for Africa allowed for structural flexibility, and over the course of the five years of its existence, USA for Africa funded more than four hundred projects from two hundred and twenty-four agencies in more than two-dozen sub-Saharan African countries.²² Yet the apparent freedom USA for Africa enjoyed in funding relief efforts and development initiatives masked the larger, underlying problems in USA for Africa's structure: USA for Africa did not have a budgetary plan for immediate relief and long-term development.

Ninety percent of USA for Africa's \$96.8 million was designated for projects in Africa, with the other ten percent allocated to the lesser-known Hands Across America project.²³ However, while there existed three distinct funding categories for projects in Africa, with thirty-five percent designated for immediate relief, thirty-five percent for rehabilitation and twenty percent for long-term development; there were no mechanisms in place to distinguish these funding categories from each other or to oversee their translation into specific programs (see Table 1.1 on the Funding Programs and Dollar

Funding Programs and Dollar Totals

<i>Funding Programs</i>	<i>Dollar Totals</i>
Relief	1985\$ 15,197,309
Recovery & Development I	19866,764,523
Recovery & Development II	19877,622,972
Recovery & Development III	19892,844,865
Medical Task Force	19866,459,143
Block Grant	19872,355,000
African Development Bank	19874,666,200
Women in Development	1988562,511
Development Education	19881,026,830
Refugees	19891,196,014
	Total:\$49,445,367

Table Funding of Programs for four years of USA for Africa's operation. Reflects the different tiers of program funding as outlined by USA for Africa: 35 percent for immediate relief, 35 percent for rehabilitation and 20 percent for long-term development. However, there are no set definitions for what these categories of funding mean, in addition to no documentation for how the funding for these programs was spent. Furthermore, the information provided in Table 1.1 is terribly vague, and sheds little insight into the actual kind of projects that were funded. Source: *We Are the World*, (1994): 18

Totals per year).²⁴ As Scott and Mpanya wrote,

the sheer number of different programs is at first bewildering, reflecting the absence of an operational plan to convert broad humanitarian goals into a set of specific and coherent program activities addressing identified problems. As a result, programs often had an *ad hoc* character, sometimes directly reflecting the interests and strengths of individual Board, staff and advisory persons.²⁵

Similar to the project selection process used by Live Aid-Band Aid²⁶ outlined earlier, USA for Africa's own selection process was also exceedingly arbitrary, or "ad hoc in character," as USA for Africa funded projects on a case-by-case basis, constantly revising the guidelines it used for funding projects.

In the first three years of its operation, USA for Africa distributed ninety-one percent of its \$96.8 million, reserving only nine percent for development efforts in the last two years of its existence (see Table 1.1 for a graphic representation of Disbursements by Year).²⁷ It was only after several years that USA for Africa possessed enough expertise to have a critical understanding of how development worked in Africa. Even then, the retention rate of USA for Africa staff was not particularly high, and USA for Africa's commitment to sustained development in Africa sporadic at best.²⁸

USA for Africa has few internal documents in its possession that present analyses for policy or program activities. There are no recorded minutes explaining country selection for projects or project funding decisions themselves. It made no project or program evaluations. Instead, USA for Africa focused on monitoring reports, which indicated that the money arrived at its final destination, but not to the extent to which the money was used to support the project, or if the project was even successful.²⁹ However, what is most unsettling about Scott and Mpanya's conclusions regarding the "ad hoc character" of USA for Africa's funding programs is that in many ways, the "ad hoc character" of USA for Africa is emblematic of how international aid organizations operate on a much larger scale.

Donors often act with the expectation that the money they donate today will provide food tomorrow to the person they see starving on the television. However, although NGOs were instrumental in distributing relief aid in both government-controlled areas and those held by the rebel Tigrayan People's Liberation Front (TPLF) and the Eritrean People's Liberation Front (EPLF), even well established international NGOs like Oxfam, CARE, and Save the Children had difficulty distributing emergency relief in Ethiopia because of the lack of infrastructure and vehicles available for food transport. These kinds of

unrealistic expectations on the part of donors have led to logistical nightmares for NGOs, and have made expediency, rather than efficiency, more important in the delivery of aid.

According to interviews with Ethiopian officials from the Relief and Rehabilitation Commission (RRC) conducted by Scott and Mpanya, the international response to the emergency itself was a secondary disaster:

The Relief and Rehabilitation Commission had no control. All manner of things were being flown into Ethiopia. Customs was not registering material, not doing its job properly because the situation was out of control. It was a fire brigade operation, a life-saving exercise in which quantity not quality seemed to matter most. After this period of poor organization, non-government agencies were compelled to work under guidelines of the Relief and Rehabilitation Commission.³⁰

Having gone the majority of 1984 with negligible assistance from the international community, the RRC was suddenly overwhelmed as aid entered Ethiopia in mass quantities in the beginning of 1985. As a result, the RRC's agency was greatly reduced as international aid organizations arrived wanting to control the relief-side of the operation. However, it would not be long before international organizations realized the valuable ally they had in the RRC, in terms of navigating both the Ethiopian government and the

Ethiopian countryside.

In an interview I conducted, Tefferi Wossen, the Head of Public Relations and Information for the RRC, said that “Truly speaking, it was a political tool, politicized famine. Almost an international circus. Writers, journalists, politicians, everybody came here. Almost a must to come to Addis Ababa to see a famine.”³¹ However, as Head of Public Relations of the RRC, it was Tefferi’s job to handle this “international circus.” Tefferi would meet journalists at the airport upon their arrival in Addis Ababa, brief them on the current status of the famine, arrange for their travel permits and entry visas, and even sometimes accompany them to the relief centers.³²

Having visited Korem, one of the most affected relief centers, multiple times as part of his job, Tefferi reflected on his experiences, saying, “In the beginning I was nauseated by the idea. But I learned to live with it on a daily basis. You just have to get

through these things.”³³ However, for the journalists, writers and politicians who accompanied Tefferi, visiting the centers was an example of what Alex de Waal terms “disaster tourism,” or concern with extreme poverty without being able to address it meaningfully or substantively.³⁴

In many ways, providing emergency relief to Ethiopia and other areas of Africa affected by famine in 1984 became a competition amongst aid organizations for limited donor funds, and the stakes were high. For instance, Oxfam’s income more than doubled to about \$92 million in the wake of 1984-5.³⁵ Thus, while established aid agencies criticized event-driven organizations, like USA for Africa, for their excessive focus on emergency disaster and relief response, they often resorted to the same ad-hoc emergency disaster and relief response mechanisms themselves. Almost all aid organizations have strategically placed themselves in the bizarre position of

welcoming disasters, even if they may not be able to respond adequately, as humanitarian disasters ensure the continued survival of NGOs.³⁶

Since 1984 and the inception of Pop Aid organizations like USA for Africa, the dynamics of NGOs have changed from established organizations with organizational and infrastructural capacity to event-based organizations with limited organizational capacity, but increased fundraising capacity. The total number of non-African NGOs has increased as well, with Ethiopia alone seeing a ninety-four percent increase in the number of new international NGOs. By 1995, Ethiopia had 240 NGOs registered with the government, less than half of which were indigenous.³⁷

Pop aid organizations like USA for Africa and other NGOs have done little, however, to advance long-term development plans in Ethiopia, or to encourage the establishment of indigenous NGOs. Instead, these agencies have had a tendency to extend their programs beyond their natural capacity to assess and to monitor, which has resulted in a proliferation of ad hoc development schemes. The constant need to fundraise has upstaged the importance of focused development goals and diluted any real understanding of the issues of development.

Disbursements by Year As Percent of Total Grants 1985-1989

Source: USA for Africa

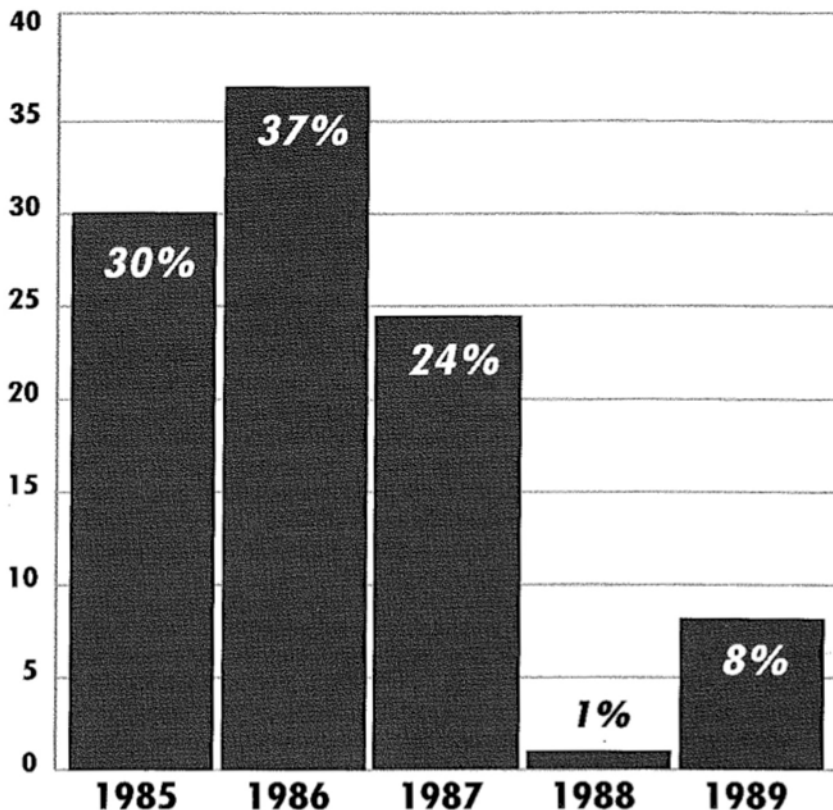


Figure Disbursements by Year. USA for Africa distributed 91 percent of its funds in the first three years of its existence, reserving only nine percent for long-term development efforts in its last two years. Only 1% was dispersed in 1988 because USA for Africa was restructuring its organization in preparation for phasing out as organization by 1990. USA for Africa did not entirely phase out until 1994. Source: We Are The World, (1994): 54.

Moving Forward: Imaging Famine. Can it be done?

The media coverage of the 1984 famine was largely responsible for the overwhelming international response generated by popular aid movements like Live Aid and Band Aid and USA for Africa. The eight minutes of searing footage captured by BBC reporter Michael Buerk and cameraman Mohamed Amin in the Ethiopian government relief camp of Korem became inescapable in the conscience of the international community. As Peter Gill wrote in *Famine and Foreigners*, nearly twenty-five years after his own experience as a reporter covering the 1984 famine, “The face of aid was transformed and the face of hunger was Ethiopian.”³⁸ The media’s portrayal of famine, however, has continued to tell the same story as in 1984, even though the causes of famine and chronic food insecurity in Ethiopia are far more complex and debilitating today.

When critically examining the way in which the media depicts food crises, journalist David Campbell of *The Guardian* posed two questions in his archive on “Imaging Famine:”

First, if food crises are endemic, doesn’t that mean we are dealing with the product of an economic and political system rather than failure attributable to natural circumstances? Second, how could photographic visualizations move away from the legacy of 1984 and begin to portray the endemic and systematic nature of food crises, while still recording the human devastation of these crises?³⁹

In addressing the issues that Campbell raised, Suzanne Franks, a former producer for the BBC, noted that even in regards to the famine of 1984 it was not a “natural disaster” like the media portrayed it. Rather, it was “the consequence of an ongoing civil war and brutal regime which sought to punish civilians in what it perceived as rebel territories. Food was available, but it was not reaching the vulnerable.”⁴⁰ Depictions surrounding both the famine of 1984 and subsequent famines in Ethiopia,

however, have never managed to escape the fatalist famine narrative of environmental degradation. A *New York Times* article published on the 2003 famine in Ethiopia stated that “rural Ethiopians have never fully recovered from the famine of 1984, nor the severe droughts that have come after, especially in 1999 and 2000. The impact of drought in Ethiopia is magnified by the country’s deforestation and the depletion of soil by farmers who cannot afford to let land lie fallow.”⁴¹ However, the article did not mention the renewed hostilities in the 1998-2000 Eritrean-Ethiopian War, which caused some 80,000 people to die in 2000 independent of drought.⁴² In the media, drought is just a simpler story to tell than war.

The role the international media and larger humanitarian industry played in the 1984 famine was a crucial one, as it was through media that the world became aware of Ethiopia’s suffering, ruling out inaction as a possibility. On the other hand, media coverage of the famine was also responsible for the creation of the Pop Aid, celebrity-driven style of humanitarian relief, which has not only promoted the ad-hoc distribution of aid, but has also fostered the fetishization and

commodification of human suffering through the development of a humanitarian industry that needs disaster in order to survive.

By focusing on fundraising rather than the development of infrastructure that would facilitate a less “ad-hoc” approach to development, organizations like Live Aid and Band Aid have become ineffectual institutions entrenched in our lexicon of humanitarian aid. Furthermore, portrayals of famine and suffering in the media have remained static since the watershed moment of 1984, which has in turn led to the perpetuation of fatalist narratives of famine that do not critically engage with its underlying causes. Therefore, in order to combat issues of chronic food insecurity more effectively, international aid needs to seriously restructure the role it plays in alleviating humanitarian disasters and fostering long-term development, for the current paradigm of aid is not working. ■

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ENDNOTES

¹ Hour-long documentary about the 1984 famine in Ethiopia broadcast in July 1984 by the BBC’s rival station, Independent Television (ITV) see Peter Gill, *A Year in the Death*, 91-94.

² Dawit Giorgis, *Red Tears*, 188.

³ Kathleen Teltsch, “2-Month U.S. Total to Help Ethiopians Reaches \$40 Million,” *New York Times*, 01 Jan. 1985. Stanford University, Stanford, CA: Hoover Institution Archives. Ethiopia Subject Box Collection, Box 1/Folder, Drought and Famine, General (1983-1986).

⁴ Peter Gill, *Famine and Foreigners*, (Oxford: Oxford University Press, 2010), 37.

⁵ Andrew Cooper, *Celebrity Diplomacy* (Boulder: Paradigm Publishers, 2008), 13.

⁶ David Blundy, *With Geldof in Africa* (London: Time Books in association with the Band Aid Trust, 1985), 10.

⁷ Mike Pflanz. “Face of 1984 Ethiopia famine says food aid does not help,” *The Telegraph*. 22 Oct. 2009.

⁸ *Ibid.*, 55.

⁹ Organized for the relief of refugees from then East Pakistan, now independent Bangladesh, musicians George Harrison and Ravi Shankar teamed up with UNICEF to raise money for those devastated by the 1970 Bhola cyclone and those affected by the continuing atrocities of the Bangladesh Liberation War. Raising a little over \$243,000 for humanitarian relief, “The Concert for Bangladesh” was the first benefit concert of this magnitude. See Tom Zito, “The Concert for Bangladesh” *The Washington Post, Times Herald* (1959-1973). 23 Jan. 1972. *ProQuest Historical Newspapers The Washington Post (1877 - 1994)*, pg. G7.

¹⁰ Andrew Cooper, *Celebrity Diplomacy*, 56.

¹¹ Teferi Wossen, “The Role of the Media in Disaster Preparedness,” Relief and Rehabilitation Commission Paper presented at the National Conference on a Disaster Prevention and Preparedness Strategy (December 1988). Stanford University, Stanford, CA: Hoover Institution Archives. Ethiopia Subject Box Collection, Box 1/Accession No. XX781-60.01/

Folder 5, Drought and Famine, General (1983-1986).

¹² Ibid, 64.

¹³ Peter Gill, *Famine and Foreigners*, 5.

¹⁴ Lucinda Fleeson, "Live Aid's Millions Fund Projects from Bees to a Bridge," *Philadelphia Inquirer*. 31 Mar. 1986.

¹⁵ Ibid.

¹⁶ Martin Plaut, "Ethiopia famine aid 'spent on weapons,'" *BBC*. 03 Mar. 2010. <<http://news.bbc.co.uk/2/hi/8535189.stm>>.

¹⁷ See Peter Gill, *A Year in the Death of Africa*, (London: Paladin, 1986) pp. 91-102 and Alex de Waal, *Famine Crimes*, (London: African Rights, 1997) pp.121-123 for more information on the role of media in dictating the nature of humanitarian aid.

¹⁸ Mulatu Tefesse, interview by Sarah Frostenson, August 27, 2010, Addis Ababa, Ethiopia.

¹⁹ Michael Scott and Mutombo Mpanya, *We Are the World: An Evaluation of Pop Aid for Africa* (Washington D.C.: InterAction, 1994), 3-4.

²⁰ Ibid, 10.

²¹ Ibid, 7.

²² Ibid, 16.

²³ A program designed to address hunger and poverty in the U.S. See *We Are the World* (pp. 7-10).

²⁴ Michael Scott and Mutombo Mpanya, *We Are the World: An Evaluation of Pop Aid for Africa*, 18.

²⁵ Ibid, 18.

²⁶ See for Live Aid-Band Aid's project funding process. Lucinda Fleeson, "Live Aid's Millions Fund Projects from Bees to a Bridge," *Philadelphia Inquirer*. 31 Mar. 1986.

²⁷ Michael Scott and Mutombo Mpanya, *We Are the World: An Evaluation of Pop Aid for Africa*, 18.

²⁸ Ibid, 63.

²⁹ Ibid, 62.

³⁰ Ibid, 70.

³¹ Tefferi Wossen, interview by Sarah Frostenson, July 23, 2010, Addis Ababa, Ethiopia.

³² Ibid.

³³ Ibid.

³⁴ Alex de Waal, *Famine that Kills*, 20. The concept of "disaster tourism" is also discussed in Alex de Waal, *Famine Crimes*, pp.82-83.

³⁵ Michael Scott and Mutombo Mpanya, *We Are the World*, 5.

³⁶ Ibid, 5.

³⁷ Jill Butler, "The Emerging NGO Movement in Ethiopia," *Development Review* (1995): 67.

³⁸ Peter Gill, *Famine and Foreigners*, 2.

³⁹ David Campbell, "Imaging Famine Blog," part of *The Guardian's* online archive catalogue of photography on famine, 23 May 2010, <http://www.imaging-famine.org/blog/index.php/tag/mohamed-amin/>

⁴⁰ Suzanne Franks, "The Neglect of Africa and the Power of Aid," *International Communication Gazette*. 72.1, (2010), 81.

⁴¹ "The Ethiopian Famine," *The New York Times*, 28 July 2003.

⁴² "No Ethiopia-Eritrea border deal," *BBC*. 01 Dec. 2007 <<http://news.bbc.co.uk/2/hi/africa/7120834.stm>>

STATE NONCOMPLIANCE WITH INTERNATIONAL HUMAN RIGHTS LAW:

A Case Study of Human Rights Violations in the Philippines from 1986 to 1992

Kevin Mallen '11



This paper examines the issue of state noncompliance with international human rights treaties through a case study of rights violations in the Philippines from 1986 to 1992. In 1986, the Philippine people overthrew the repressive Marcos regime and elected a president, Corazon Aquino, who openly declared her government's support for the protection of human rights. Yet despite this declaration, human rights violations continued to occur. State noncompliance with international human rights treaties stemmed from numerous factors: the disconnect between the executive's goals and the military's goals, the executive's inability to exert total control over the military, the lack of significant international pressure, and the difference between the international human rights norms and domestic norms. The gradual improvement in the Philippines' human rights record since suggests that compliance with human rights treaties in states with a prior history of violations can occur – with time.

In 1986, the People Power Revolution removed President Ferdinand Marcos from power. Over Marcos' two decades of rule, the Philippines suffered from human rights violations: including, but not limited to torture, extrajudicial killings, witness intimidation, and disappearances.. Marcos had previously declared martial law, dismantled the Philippines' democratic institutions, and ruled with almost no constraints to his power. However, the election of Corazon Aquino, wife of the long-time Marcos opponent and victim of one of the aforementioned assassinations Senator Benigno Aquino, encouraged human rights activists. The new Philippine government then declared that it would protect human rights and prosecute former wrongs, and signed a number of United Nations human rights agreements. But despite formally acquiescing to several international laws regarding human rights, in the decade following Marcos' removal from power and the establishment of a genuine democracy, human rights violations continued to occur. This failure to comply surprised few scholars of international relations. In 2002,

Yale Law Professor Oona Hathaway contended that many nations only ratified treaties to relieve external political pressure and appease potential investors, even saying that "because human rights treaties offer countries rewards for positions rather than effects, ratification of treaties can serve to offset pressure for real change in practice;" she made the shocking discovery that in addition to states not complying with human rights legislation, "treaty ratification is not infrequently associated with worse human rights ratings than otherwise expected."¹ Through a case study of the Philippines from 1986 to 1992 as well as a look at a recent case, this paper will examine why international law could not prevent these rights violations from continuing with the goal of determining how the international community can strengthen compliance with international human rights law. Despite President Aquino's best intentions, even after signing human rights treaties, the domestic political conditions in the Philippines as well as the normative beliefs of the vigilante groups committing rights violations prevented the Philippine government

from fully preventing and prosecuting human rights violations. A look at how the Philippines deals with rights violations today demonstrates that the adoption of international human rights norms is a gradual process that takes time.

In the late 1980s, the Philippine government, ostensibly making good on its promise to uphold human rights, signed a number of United Nations treaties that in theory should have prevented violations like torture, extrajudicial killings, disappearances, and kidnapping. On February 28, 1986, the Philippines ratified the International Covenant on Civil and Political Rights, which obligated the Philippine government to ensure these freedoms the UN Human Rights Committee, which oversees compliance with human rights legislation, emphasizes that in order to ensure freedom from those aforementioned violations, the state has a duty to investigate any violations and to prosecute the perpetrators of said violations.² According to the Lawyers Committee for Human Rights, extra judicial killings violate Article 6 of the International Covenant on Civil and Political Rights, torture violates Article 7, and disappearances violate Article 9 and 14.³ Article 6 states that "every human has the inherent right to life," which "shall be protected by law," and declares that "no one shall be arbitrarily deprived of his life."⁴ Article 7 states that "no one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment."⁵ Article 9 states that "everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and

in accordance with such procedure as are established by law,” while Article 14 details due process of law and guarantees that anyone arrested will be prosecuted in that fashion.⁶ If the Philippine government followed these the portions of the International Covenant on Civil and Political Rights, they should have taken action against these issues..

The Philippine government also signed other UN human rights agreements, which should have further substantiated a commitment to the protection of human rights. Most importantly, it acceded to the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment on June 18, 1986.⁷ In addition to denouncing torture, the convention obligated signatory states to punish and prevent it. Among the issues agreed to is Article 4, which state that “each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture” and that “each State Party shall make these offences by appropriate penalties which take into account their grave nature.”⁸ Moreover, Article 12 states that “each State Party shall ensure that its competent authorities proceed to a prompt impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”⁹ Notably, this convention holds the state government responsible for preventing and prosecuting human rights violations that the government itself did not cause. The idea of holding a government responsible for the rights violations of its citizens is particularly relevant to this paper because many of the prominent cases of humanitarian intervention, such as the NATO bombing of Yugoslavia in 1999, were a response to violations intentionally committed by governments. However, while the Philippine government does have some connection to rights violations—since the end of the Marcos administration most

military violations were not ordered by the executive government—a significant proportion of torture, extrajudicial killing, and kidnapping is committed by nongovernmental organizations, mostly paramilitary or “vigilante” groups, with loose ties to the government. In 1989, the UN Economic and Social Council enacted the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions, which further substantiated the idea that governments must prevent or prosecute all rights violations, even those committed by nongovernmental organizations.

Naturally, with its issues with extrajudicial executions, these principles held great relevance for the Philippines; for instance, Principle 1 declared that “governments shall prohibit by law all extra-legal, arbitrary and summary executions and shall ensure that any such executions are recognized as offences under their criminal laws, and are punishable by appropriate penalties which take into account the seriousness of such offences,” while principle 9 stated that “there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary, and summary executions.”¹⁰ More importantly, principle 18 confirmed the idea of governmental responsibility to prevent or prosecute all violations committed within its territory, declaring that “governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in *any territory under their jurisdiction* are brought to justice” (emphasis mine).¹¹ In summary, by agreeing to the aforementioned UN documents, the Philippine government adopted various “international laws” which obligated them to prevent or prosecute all cases of torture, disappearances/kidnapping, extra-legal execution, and other human rights violations within their territory, regardless of who committed them. As the Lawyers Committee for Human Rights noted, “a state’s failure to punish repeated and notorious instance of torture, disappearances, or extra-legal killings

violates customary international law.”¹²

At first glance, Corazon Aquino’s government seemed to have taken the idea of protecting human rights to heart and enacted numerous measures to prevent rights violations. After all, the human rights violations committed by Ferdinand Marcos had helped galvanize the Filipino public against him, and Aquino was a member of that opposition. In order to give the aforementioned UN documents some weight, Aquino’s administration ratified the First Optional Protocol, which allowed for individual citizens to place complaints about rights violations to the Human Rights Committee. More importantly, Aquino took steps to enforce human rights protection domestically. She appointed an active a lawyer in the human rights organization MABINI, Rene Saguisag, as the secretary of state, and established the Presidential Commission on Human Rights in 1986, which served as a forum for individual complaints.¹³ The executive government under Aquino understood that protection of human rights was part of their responsibility, and thus they took it for granted that international human rights instruments would be ratified.

In 1996, looking back on their administration, Secretary of State Saguisag said, “We tried to carry out all commitments. Otherwise, we would have lost our credibility...I think that it did not even lead into a debate because we were all so philosophically committed to supporting any human rights initiatives.”¹⁴ Aquino’s efforts to incorporate human rights protection into the domestic legal structure included the restoration of legal guarantees such as habeas corpus, support for a more independent judiciary, and ratification of a new constitution that outlawed torture as well as all forms of secret imprisonment, protected citizens from random searches and seizures, and called for the dismantling of the private armies and paramilitary units established during the last years of Marcos’ rule.¹⁵ Aquino’s pro-human rights actions initially greatly impressed international human

rights organizations. For instance, Amnesty International, which had long protested the terrible condition of human rights under Marcos, stated that “the Aquino Government’s commitment to the protection of human rights and the establishment of legal safeguards had led to major improvements.”¹⁶ So following the fall of the Marcos regime, the federal government of the Philippines, under the leadership of President Corazon Aquino, agreed to international human rights legislation while concurrently taking steps to protect human rights domestically.

Yet torture, extrajudicial killings, and kidnapping/ disappearances still continued in the Philippines despite these efforts. The culprits of these human rights violations included the military as well as vigilante and private militia groups. In March 1987, the Lawyers Committee on Human Rights took their first visit to the Philippines since Aquino took power and noted that they “saw a profound improvement in the human rights record of the military” and that “serious abuses that had been characteristic of the armed forces during the final years of the Marcos administration had become the rare exception;” yet by the time they visited again in October 1987, human rights conditions had deteriorated once more.¹⁷ Insurgent groups, particularly the communist New People’s Army (NPA), had cut off negotiations with the Philippine government, and thus military operations against insurgents escalated. The Lawyers Committee observed violations of the human rights of Filipino citizens by both sides: the insurgents executed civilian non-combatants whom they identified as enemies, took hostages, and used violence to enforce their involuntary taxation of both businesses and individuals, while the military employed increasingly brutal methods in order to counter them.¹⁸

However, perhaps the most egregious violations of human rights were committed by members of vigilante groups. The military first organized these vigilante groups, purportedly “civilian volunteer

organizations,” in Davao City in 1986, but they began spreading rapidly across the Philippines after negotiations between the government and the insurgents fell through in 1987.¹⁹ Although these vigilante groups often conducted counter-insurgency operations with the military, they also acted alone at times as well. During their October 1987 visit to the Philippines, the Lawyers Committee observed that the vigilantes “have tortured, maimed, mutilated, beheaded, shot and hacked to death people who they say support or sympathize with the NPA. Their victims have included young children, infants, and the elderly.”²⁰

The cruelty of some of the vigilante groups as reported by the Lawyers Committee is excessively brutal; in addition to carrying out these extrajudicial killings, accounts of vigilante violence included rape, decapitation, disembowelment, disfigurement, and one instance of cannibalism.²¹ None of these accounts imply any sort of due process; suspected communists were killed or tortured and innocent bystanders were not spared.²² By the end of 1987, about two hundred vigilante groups existed; while some truly did serve as innocent civilian watch groups, many participated in violent counterinsurgency actions and committed human rights violations. The Lawyers Committee also observed a breakdown between military and civilian authorities; they discovered that a key pattern in the development of vigilante groups was the encouragement of such groups by local military officials over the objections of local civilian officials, resulting in “the erosion of civilian government authority during a period when the national government was working to strengthen local government institutions.”²³ Moreover, the military continued to employ the Civilian Home Defense Force (CHDF), a militia force organized during the Marcos administration whose name became synonymous with brutality; cognizant of the negativity associated with this militia, the 1987 Constitution and an executive order from Aquino dissolved it.²⁴ The

government replaced the CHDF with a new militia for the military to use, the Citizen Armed Force Geographical Unit (CAFGU), in order to avoid a more costly expansion of the regular army. Aware of the previous abuses of the CHDF, government officials tried to create a militia that would adhere to human rights standards through careful recruitment, screening, formal training, and close supervision. However, these safeguards were largely ignored, and CAFGU ended up committing numerous human rights violations themselves.²⁵

The actions of the New People’s Army and other insurgents, the vigilante groups, CAFGU, and to a lesser extent—members of the military itself, proved devastating for human rights. In January 1988, the Asian Human Rights Commission criticized the Philippine government for “serious and unjustifiable” violations of human rights, citing the vigilante groups and claiming that they were “creating the impression of a widening militarization that was ‘turning the whole of the Philippines into a battlefield’ and was ‘pitting civilian against civilian’ in a war that should be properly fought by military forces.”²⁶ Amnesty International made a similar report in March 1988, noting that “a pattern of widespread human rights violations committed by the military and paramilitary groups” had reemerged.²⁷ The statistics from 1992, at the end of Aquino’s second term in office, are shocking. The Task Force Detainees of the Philippines reported 816 victims of enforced disappearances, more than 1.2 million people dislocated due to military operations, 135 massacres, 1,064 victims of summary executions, and 20,523 victims of illegal arrest and detention.²⁸ Clearly, any attempt by the Philippine government to enforce the International Covenant on Civil and Political Rights, the Convention against Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions had failed.

How did this happen in a country with a federal government so

vocally committed to human rights? A gap in implementation existed, and despite Aquino's genuine wish to improve human rights conditions, she simply did not hold enough power to do so at the time, and the government instruments designed to prevent rights violations failed. Initially, Aquino supported the vigilantes conditionally, praising a vigilante group from Davao del Sur known as Nagasaka for a "string of honorable military victories" in March 1987 and traveling to Davao City on October 23, 1987, to commend a vigilante group known as Alsa Masa, telling them that "we look up to you as an example... while other regions are experiencing problems in fighting the insurgency, you here...have set the example."²⁹ These actions seemed to run against Aquino's campaign pledge that she would "dismantle a Marcos-era civilian militia, other paramilitary forces, and so-called "private armies." ³⁰

The 1988 Lawyers Committee saw this as evidence of the military's growing ability to impose its views on the civilian government. But at the time, her praise for the vigilante groups could coexist with her support for human rights; when human rights organizations criticized her support for vigilante groups, her spokesman retorted that Aquino did not support armed vigilantes and that she only supported groups that were "unarmed, popularly supported, and effective in combating the insurgency."³¹ Over the next year, President Aquino realized that these vigilante groups were committing human rights violations. In response, Aquino ordered the dismantling of these groups in July 1988, but by September 1990, no major vigilante group had been disbanded and efforts to disarm groups proved to be ineffectual. Military officials' resistance to the order and inadequate governmental initiative impeded this policy.³² In addition to failing to prevent human rights violations, the Philippine government also failed at prosecuting it; in the same September 1990 report by the Lawyers Committee, the dozen cases of vigilante abuse reported in June 1988's *Vigilantes in the Philippines* had not seen a single

arrest, let alone any convictions.³³ Let us now examine the underlying causes behind these failures in enforcement..

As alluded to earlier, a serious disconnect existed between the goals of the civilian government and the military. Military leaders, all the way up to the top of the chain, believed that both vigilante groups and CAFGU were useful tools against the insurgents in their current form. For instance, General Fidel Ramos (who would later succeed Aquino as president), chief of staff of the Armed Forces of the Philippines, publicly supported the vigilante groups; in April 1987, Ramos praised Alsa Masa, the prototype of a spontaneous vigilante group, as deserving "full support and encouragement in dismantling communism" in Davao and elsewhere.³⁴ The chief of the Police Constabulary, Major General Montano, told supporters of the vigilante group Puerca Masa that they "all deserve the support and protection of your government and the military."³⁵

When Aquino made her 1988 order to disband the vigilante groups, Ramos responded by issuing his own "clarification" to her order, stating that armed anti-communist civilian groups must not be disbanded because they were helping to "turn around" the fight against communist insurgents and that only "scalawags" needed to be removed from the groups.³⁶ Five months later, Aquino made no mention whatsoever of the vigilante groups in her December 10, 1988 Human Rights Day speech, possibly demonstrating that the military had influenced her away from continuing to try to disband the vigilantes.³⁷ Aquino simply could not afford to pit herself against the members of the military who supported her. In the first year as president, she faced several coup attempts from military officers loyal to Marcos or others who had become disillusioned by her rule, surviving the last one only thanks to intervention from the American military.³⁸ The Philippines military had significantly fractured loyalties, and thus it was of paramount importance for her to keep the loyalties of as much of the military as possible.

Although the coup attempts failed, each successive attempt continued to weaken the civilian government. The military's power was enhanced by the fact that General Ramos, still Chief of Staff, remained loyal to Aquino throughout all the coup attempts; as Aquino became increasingly indebted to Ramos for her administration's survival, the military was able to elicit concessions to the demands of disaffected military personnel.³⁹ The military wanted to continue to use vigilante groups and the CAFGU, and needing their support, Aquino could only acquiesce, which stopped her from implementing any effective preventative measures against the human rights violations committed by those civilian groups.

At the same time, despite the proliferation of reports of human rights violations from nongovernmental organizations like the Lawyers Committee for Human Rights and Amnesty International, other states placed very little pressure on the Philippine government to improve conditions. In fact, the United States government placed the blame on the New People's Army; in his testimony to the House Committee on Foreign Affairs on December 2, 1987, Deputy Assistant Secretary of State for East Asian and Pacific Affairs David Lambertson declared that "the chief violators of human rights in the Philippines" were the insurgents.⁴⁰ Furthermore, the United States State Department and the Central Intelligence Agency, as well as private American organizations such as the World Anti-Communist League, strongly supported the program to civilianize counterinsurgency and supported the Reagan Administration's "low-intensity conflict" strategy against revolutions.⁴¹ The United States and the Philippines have historically had a close relationship since the colonial period, so it is unsurprising that Aquino sidelined the vigilante issue, considering that both a very significant ally as well as the military whose support she needed supported the usage of civilian groups. One is left to wonder what might have happened if the US government or other powers (such

as states on the UN Security Council) had voiced strong disapproval of the human rights violations committed by the vigilantes.

Prosecution of human rights violators proved to be as difficult as prevention, as many obstacles existed. The Lawyers Committee for Human Rights identified four main factors that hampered efforts to pursue human rights cases and prevented the instruments created by President Aquino to prosecute and punish rights violations: military obstruction, intimidation, an inclination by agencies to shift responsibility to others, and a lack of political will.⁴² The issue with military obstruction (until 1991, the national police force was subsumed under the military) was that while they bore the primary responsibility for investigating alleged human rights violations, both the military and national police force did not wish to prosecute their colleagues (this, for some reason, also included includes the militia and vigilante groups).⁴³

Many in the Philippine military also believed that prosecuting soldiers for human rights violations would tarnish the military institution rather than promote discipline and show respect for the law.⁴⁴ This has led to weak or pointless investigations into rights violations committed by both the military and vigilante groups. Members of the military and police realized the futility of these investigations: one police official claimed that “there is often the tendency to cover-up or justify the allegations of wrong doing,” while some military officials have called the investigations “useless.”⁴⁵ To make things worse, both complainants and witnesses of human rights violations often find themselves threatened and intimidated by defendants (or their supporters), including death threats and assassination.⁴⁶ For instance, several witnesses in the trial of those charged with the 1983 assassination of Benigno Aquino were abducted, and their remains were found in shallow graves years later.⁴⁷ Even worse, both human rights lawyers and domestic human rights advocates often found themselves threatened or killed by vigilante groups.

Meanwhile, impediments to prosecutions existed within the instruments of the civilian government. The institutional structure for prosecutions diffused responsibility for investigating human rights violations amongst a number of agencies, with overlapping duties leading to either wasteful repetitions of work among competing agencies or absolving each agency from assuming responsibility under the presumption that another agency would complete the necessary work.⁴⁸ For instance, prosecutors often neglected their role of locating persons who had disappeared because they believed the Commission on Human Rights should do it; military officials dismissed the effects of bias against the accused during the investigation by claiming that problems could be solved at trial, even though biased investigations ensured ensure that cases often did not reach trial; and prosecutors blamed investigators for producing insufficient evidence rather than doing independent fact-finding.⁴⁹

To make things worse, Philippine officials often placed significant responsibility on the victims of human rights violations themselves; both investigators and prosecutors placed responsibility for finding witnesses and other evidence on complainants, while a government produced pamphlet blamed the poor performance of the Committee for Human Rights on the failure of witnesses to come forward.⁵⁰ In addition to the institutional issues present, the Lawyers Committee also claimed that the government lacked the resolve to establish accountability for serious human rights offense, pointing to the poor performance of the Commission on Human Rights in resolving rights violation cases. One Justice Department official claimed that it “can’t even investigate a simple case,” and the Commission often dropped its cases when it encountered difficulties such as recalcitrant witnesses.⁵¹ The weaknesses of the prosecution system can be seen in the trial of the Lupao Massacre (February 11, 1987), where a military force killed seventeen civilians whom they accused of being insurgents.

The initial military investigation claimed no wrongdoing, the public prosecutors did no fact-finding and did not visit the site of the massacre or interview the villagers there. It was survivors of the massacre who were forced to make the nine-hour round trip from Lupao to Manila every day of the seventeen-month trial. These, survivors of the massacre were never called as witnesses (only defendants were), and the court eventually found all the defendants not guilty.⁵² The military officials involved in the trial justified their verdict by citing the failure of witnesses to testify, claiming that twenty witnesses failed to testify, resulting in “insufficiency of evidence;” yet in reality, only seven surviving victims existed, and all of them testified for the court.⁵³ President Aquino accepted the military’s version of the trial and its verdict. In short, both the prevention and prosecution of human rights violations in the Philippines faced numerous obstacles which allowed for continued rights violations despite the pro-human rights rhetoric employed by President Aquino and the Philippine government’s signing of numerous UN human rights agreements.

So, what can the case of human rights violations in the Philippines from 1986-1992 teach us about state noncompliance with human rights treaties in general? The most obvious problem is a disconnect existed that exists between the goals of the executive branch of the government and the goals of the military, and that the executive did not possess enough power to impose its will on the military. Interestingly enough, Article 2 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions alludes to the necessity of holding that power: “In order to prevent extra-legal, arbitrary and summary executions, Governments shall ensure strict control, including a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as those officials authorized by law to use force and firearms.”⁵⁴ In both these cases, President Aquino did not have that control: she could not get her

military investigators and prosecutors to go after their own colleagues who may have committed crimes, and she could not exert control over the vigilante groups, who were in fact authorized by law to use force and firearms.

This reveals an important assumption that the UN made when drafting human rights legislation: that a government could in fact exert total control over its own instruments. Even disregarding the violations committed by the New People's Army, the Aquino administration could not control the paramilitary groups that supposedly served her, not to mention the Philippine military itself. This assumption probably holds true for the majority of developed countries, but in developing nations like the Philippines, it might be an unfair presumption. In short, the UN human rights treaties impose a "first-world" standard of human rights on all of their signatories, and while the leadership of third world countries might be able to understand the importance of these human rights standards, they may not be able to actually enforce them.

Another issue present is that the only international pressure that the Philippine government faced was from nongovernmental watchdog organizations, not states or even the United Nations. Despite the fact that groups like the Lawyers Committee for Human Rights and Amnesty International published reports detailing the human rights violations committed by the vigilante groups, the human rights abuses generated little of the international outrage that the Marcos Administration did in the 1970s and early 1980s. To make things worse, the United States government actually approved of the Philippine government's usage of the civilian vigilante groups, believing it to be a sound strategy. This raises several general questions. One is the role of the Cold War in perceptions of the rights violations. Although retrospect shows that the fall of the Soviet Union was approaching and that the Cold War would soon come to an end, the Western powers could not anticipate this; thus, they still possessed an anti-Communist mindset. The possibility

exists that the Philippine government and their vigilante groups were granted a "free pass" because they fought against communist forces. If so, this would somewhat damage the ability for this case study to be applied to modern day cases.

However, if we view the fight against communism as an ideological battle, we can apply the case of the Philippines from 1986-1992 to other ideological conflicts. Coincidentally, this might explain why the Philippines did not receive a large amount of international attention when its military committed similar human rights violations on a much smaller scale in the War on Terror; once again, the United States provided support for the Philippine military, this time in its efforts to shut down Abu Sayyaf, a Filipino terrorist group with ties to Al-Qaeda. Of course, we cannot ignore the possible role of race affecting Western governments' reactions to human rights violations in the Philippines. Perhaps Western leaders simply cared less about rights violations happening to the citizens of a Southeast Asian country as compared to violations in Europe, such as Yugoslavia in 1999, which seemed closer to home culturally as well as ethnically. Unfortunately, without more evidence from the Western governments, the only definite conclusion we can make is that Cold War politics led the Reagan and Bush administrations to support the Philippines' use of vigilante groups, since statements from American officials strongly implied this idea. Hopefully future studies will be able to further discern the effects of political ideology and race on international reactions to human rights violations.

But perhaps the most significant factor at play is that domestic norms did not match the international human rights norms that Aquino wanted to impose on the Philippines. In fact, on May 16, 1988, the Chairman of the Philippines' Commission on Human Rights, Mary Concepcion Bautista, made a similar point in her rebuttal of the Lawyers Committee's report *Vigilantes in the Philippines*. She noted that:

"The abuses became a way of life

then for the military men in the field, sanctioned as they were by the past regime as a way to suppress the insurgency problem. But we likewise admit - and this cannot be disputed - that the vies, beliefs, and habits of the military men fighting the insurgents cannot be changed overnight. Habits die hard. Change takes time, especially after two decades of divisiveness and corruptions that destroyed the basic virtues of some of our civilian government officials and men in uniform."⁵⁵

Bautista then went on to state that "the present administration has changed the policies and is determined to change the attitudes and beliefs of the men and the machinery to effect the change" and that "we submit that two years are too soon to make a final judgment on the present administration's determination to prevent human rights abuse."⁵⁶ Bautista's notion that the international community often judges the effects of newly enacted international human rights law is one that many international relations scholars might agree with, including David Weissbrodt, a law professor from the University of Minnesota and a member of the UN Sub-Commission on the Promotion and Protection of Human Rights. In his article "Do Human Rights Treaties Make Things Worse?", Weissbrodt noted that although Turkey continued practices of torture after ratifying various anti-torture human rights treaties, over time the Turkish government began to take practical measures against torture that have decreased its occurrence.⁵⁷ With that in mind, let us now take a look at how the Philippine government and how people have handled a recent case of human rights violation.

On November 23, 2009, Esmael Mangudadatu sent his wife, along with a group of supporters, to file his candidacy for the upcoming elections for governor of the province of Maguindanao, located in southern island of Mindanao.⁵⁸ He sent his wife because he feared that the Ampatuan family, a political dynasty who held a stranglehold on power in the province, would harm him for

challenging Andal Ampatuan, Jr. for the position of governor; he thought that they would not harm a woman. Unfortunately, Mangudadatu was wrong, and his wife along with his supporters, accompanying journalists, and a number of innocent bystanders were assaulted by the Ampatuan family's private militia. Ampatuan's militia mutilated, raped, and tortured a number of the victims before killing them; fifty-eight people were killed. Current governor Andal Ampatuan, Sr. used machinery owned by the Maguindanao government to dig the mass grave.

How did the public and government reaction here differ from previous human rights violations? For one, despite the Ampatuans' political clout, the Philippine government acted swiftly; President Gloria Macapagal-Arroyo declared martial law and the Philippine military quickly stabilized the situation in Maguindanao, while the members of the Ampatuan family implicated in the massacre were arrested. The public outcry to the massacre was also much greater than any previous reactions to human rights violations, although this could be due to new forms of media. Still, this implies that a normative shift, in which the Filipino people are no longer willing to accept extrajudicial violence or be cowed by private militias, may be occurring. To help with issues of obstruction of justice, the Philippine government intends to grant security to individuals associated with the trial, including the witnesses, defendants, and judges and lawyers.⁵⁹ Yet for all the encouraging signs that the Philippines, through strong prosecution measures, might rid itself of extra-legal killings and other rights violations, some of the old problems have reemerged. For instance, Judge Luisito Cortez refused to handle the case, claiming that he feared for his and his family's safety, demonstrating the fear of assassination still exists in today's Philippines.⁶⁰ Even worse, witness killing and intimidation has occurred. On June 14, 2010, a key witness in the Ampatuan Trial, Suwaid Upham, was killed, likely by supporters of the Ampatuans; he had applied for admission to the Department of

Justice's Witness Protection Program, but despite two scheduled meetings, officials failed to meet Upham, illustrating that the human rights mechanisms of the Philippines still do not always work properly.⁶¹ One month later, gunman strafed the center of a southern township, killing the aide of Vice Mayor Rasul Sangki, another key witness to the Maguindanao massacre in a show of intimidation; at the time, Sangki had already testified against the main suspects.⁶² While the Philippines has shown marked improvement from the late 1980s in how its government and people have deal with human rights violations, the process of fully embracing international human rights norms is still ongoing.

Thus, in the twenty-five years since President Corazon Aquino took over and the Philippines became a signatory to numerous UN human rights treaties, conditions have improved to some extent.. While many of the same obstructions of justice, such as witness intimidation, murder, and extra-legal killings still occur, the Filipino people and government understand that these actions are unacceptable and must be prevented if possible, prosecuted if not. As Weissbrodt suggested in his article, this is a gradual process. When the Philippine government first signed the various UN human rights agreements, the country was not politically nor normatively ready to prevent or prosecute human rights violations. Over time, both the government

and the people have begun to embrace international human rights norms, demonstrating that these UN treaties on human rights do have some effect. To those who wonder if human rights treaties work, the answer is that it depends. While the national government might want to try to fit in with the rest of the international community and make their country more attractive to foreign politicians and businessmen, that does not mean that their people, local government, or military want to do so as well. From 1986-1992, extra-legal killings, torture, and disappearances, the human rights violations that the Philippines had promised to prevent and prosecute, had clearly occurred. Even today, the Philippine government still fails to prevent many of these human rights violations. But as Chairman Bautista noted, President Corazon truly did try to enact laws that would protect human rights, and every Philippine president since has done the same thing. As long as the genuine desire to protect human rights exists in the leader of a signatory state, that state will gradually move towards a better human rights record. ■

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ENDNOTES

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²⁴ Ross, 3.

²⁵ *Ibid.*, 3-4.

²⁶ Jetschke, 172-173.

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²⁸ *Ibid.*, 173.

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³⁷ *Ibid.*, 33.

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³⁹ Haugen, 21.

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⁴⁴ *Ibid.*, 5.

⁴⁵ *Ibid.*, 6.

⁴⁶ *Ibid.*, 7.

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⁴⁸ *Ibid.*, 8.

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⁵¹ *Ibid.*, 9.

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⁵⁸ I was in the Philippines in December of 2009, and learned most of the following background information about the Ampatuan incident from Filipino TV news outlets such as ABS-CBN News (www.abs-cbnnews.com).

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BIODIVERSITY DERIVATIVES: Benefits, Problems, and Costs for the World

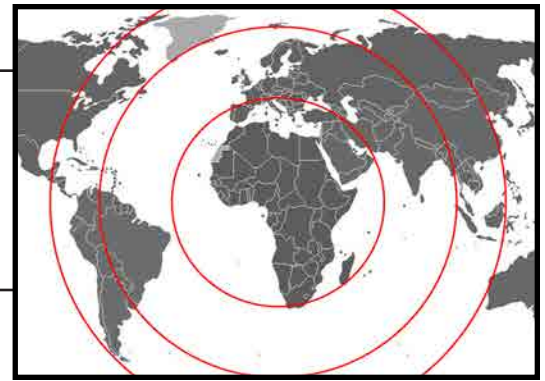
Shiyu Xu '12

Nature has been increasingly viewed as a service provider fit to be incorporated into the global capital markets. A variety of market-based tools, such as nature derivatives, debt-for-nature swaps, and ecotourism, among others, have been proposed to commodify ecosystem services to improve the efficiency and impact of conservation endeavors. Biodiversity derivatives are financial instruments designed to allow market participants to provide insurance for species of animals against endangerment. This paper explores the implications that biodiversity derivatives may have on conservation and social justice. Potential problems associated with the utilization of biodiversity derivatives warrant further research for the purpose of improving the accuracy of cost-benefit analysis, which should be conducted prior to the implementation of any policy involving the use of biodiversity derivatives.

In the past few decades, nature has been increasingly viewed as a global service provider. Although the ideas of putting price tags on ecosystem services, integrating nature into the global capital markets, and letting profit-driven tools aid worldwide conservation efforts are not new, they have gained attention in recent decades partly as a result of capitalism's success at generating economic growth.¹ Researchers have proposed a variety of profit-driven, market-based tools and approaches — such as nature derivatives, debt for nature swaps, ecotourism, and premium for green labeling — to commodify ecosystem services, integrate them into the global capital markets, and build conduits for capital to flow into every corner of the world.² Proponents have claimed that commodifying nature and creating financial products from organisms and ecosystem services generate incentives for market participants worldwide to reward ecologically sound practices and to penalize environmentally unsound practices.³ They have argued that the market can merge profit with addressing climate change, replace destroyed habitats, and preserve biodiversity.⁴ Many policymakers have underestimated the problems and the less obvious costs associated with profit-driven,

market-based tools. It is essential to conserve biological diversity in today's world where economic development often takes precedence over conservation.⁵ However, should policymakers domestic and abroad rely on the free-market to aid conservation?

This paper explores one of the newest profit-driven, market-based tools: biodiversity derivatives. Biodiversity derivatives are financial instruments designed to allow market participants to help with conservation efforts in order to achieve two goals: to insure animal species against endangerment and to align the interests of conservationists, market participants, and other stakeholders.⁶ Today, an animal species has little monetary value until governments label it as endangered and protect it at high costs.⁷ Biodiversity derivatives aim to use the capital market to assign a price to a species of animal so that its value depends on the number of animals in existence, rather than its status as an endangered creature.⁸ Although biodiversity derivatives help biodiversity conservation projects tap funding sources worldwide, they may lead to problems for conservation projects and social justice. This paper explores how biodiversity derivatives can help with conservation efforts, how biodiversity derivatives can



create problems for conservation endeavors, and how these derivatives can generate problems for social justice, both in the United States and abroad. Problems for conservation projects and social justice will lead to costs that may outweigh the benefits of using biodiversity derivatives. Therefore, more research is needed to determine the costs associated with problems that may result from using biodiversity derivatives; policymakers should neither rely on biodiversity derivatives to protect species of animals nor use biodiversity derivatives on a large scale until researchers gain a better understanding of the costs.

Benefits for Conservation

Biodiversity derivatives use capital markets to provide insurance for different species. For example, a government and an investment bank could collaborate to create biodiversity derivatives for the red foxes. The expected return on red fox biodiversity derivatives from the date of issuance to the maturity date would equal that of investing in US treasury bonds, if the number of red foxes does not change during this period of time.⁹ The value of this red fox biodiversity derivative would be linked to the number of red foxes in existence.¹⁰ If the number of red foxes at the maturity date is above a certain number determined at the time of issuance of the biodiversity derivatives, the owner of the biodiversity derivatives would receive a performance-based payoff in addition to a base payoff equal to investing in US treasury bonds.¹¹ As a result, the owner would profit. However, if the red fox population fell below a number called the forfeiture

threshold — which is determined at the time of issuance, on or before the maturity date — the derivatives would become worthless for the owner.¹² The derivative market would be funding protection efforts: all of the money initially raised by a government through selling these red fox biodiversity derivatives would be used to protect the red foxes and to try to increase the number of red foxes.¹³ If the number of red foxes were above the forfeiture threshold and below the number that would trigger a performance-based payoff, an investor would only receive a payment compensating him or her for insuring the animals.¹⁴ Thus, biodiversity derivatives raise funds through the free-market to help insure species against extinction.¹⁵

This method of providing insurance for species will not only generate funding for conservation efforts, but will also better align the interests of conservationists, market participants, and other stakeholders.¹⁶ Biodiversity derivatives would advance the interest of the conservationists by providing insurance for species of animals and generating funding needed to help protect animals harmed in the course of economic development.¹⁷ In turn, biodiversity derivatives would align the interests of market participants with those of conservationists. The owner of the red fox biodiversity derivatives — who might be a landowner, an investor, or another type of market participant — would be financially motivated to act for the benefit of red foxes to ensure that the number of red foxes did not decrease.¹⁸ The owner could take indirect and direct approaches to accomplish this goal. The owner could indirectly help the red foxes by providing financial incentives for land developers to preserve the red fox's natural habitats.¹⁹ The owner could also indirectly help the red foxes by provide funding for research in areas such as disease prevention.²⁰ The owner of the biodiversity derivatives could also help the red foxes directly by engaging in species recovery, enlarging existing critical habitats, and establishing new habitats.²¹ In addition, the owner could buy the

land inhabited by existing red foxes and initiate vaccination and breeding programs to encourage an increase in the number of red foxes.²² Because market participants would profit from helping animals, their interests would be aligned with those of conservationists.

As biodiversity derivatives become popular, a robust secondary market will emerge.²³ Such a market would help market participants buy and sell biodiversity derivatives suited to their specific needs more easily increasing biodiversity derivatives' desirability among market participants²⁴ and augmenting the number of funding sources available to conservation projects. The secondary market would allow market participants to sell biodiversity derivatives before their maturity dates.²⁵ For example, the original owner of the red fox biodiversity derivative has owned those derivatives for a year, but now she wants to sell those derivatives before their maturity date. The owner established new habitats for the red foxes during the past year. Because she would like to cash in her investment before the maturity date, she would need to sell the biodiversity derivatives on the secondary market. If activism on the owner's part led to an increase in the number of red foxes, she would be able to sell the red fox biodiversity derivatives on the secondary market for a profit because the market value of the red fox biodiversity derivatives would be higher than what she paid for them.²⁶ The owner would collect the financial gain as reward for her activism.²⁷ If activism on the part of the original owner did not increase or decrease the number of red foxes, she would just receive compensation for the risk she took in providing insurance for the red foxes. If the number of red foxes decreased, the owner would have to take a loss because whoever bought the biodiversity derivatives from her would have a relatively smaller chance of receiving a performance-based payoff on the maturity date.²⁸

Other market participants might be interested in buying the red fox biodiversity derivatives

because they believe that the unconventional financial instruments would add value to their investment portfolios.²⁹ On the one hand, market participants might purchase the red fox biodiversity derivatives in order to diversify their portfolios.³⁰ In this case, the biodiversity derivatives become a form of insurance for the red foxes. On the other hand, the new owners might purchase the red fox biodiversity derivatives in order to increase the number of red foxes and to generate capital gains in addition to compensation for providing insurance.³¹ In this case, the red fox biodiversity derivatives would serve as insurance as well as align the interests of conservationists and market participants, as they did under the ownership of the original owner. As the secondary market becomes more robust, it will become more efficient at identifying the objectives of market participants and at matching market participants with biodiversity derivatives most suited to their needs.³² A robust secondary market will increase the desirability of biodiversity derivatives as financial securities, which will increase the number of insurers for species of animals and will increase the number of potential sources of funding for biodiversity conservation projects.³³ As a result, governments, global NGOs, and other organizations that work to conserve biological diversity will be able to raise more money more easily through issuing biodiversity derivatives.

Problems for Conservation

Although biodiversity derivatives can help organizations interested in conserving biological diversity raise money and incentivize market participants worldwide to protect animals, these financial instruments may incentivize market participants to harm the animals during in pursuits of profits.

A lack of effective regulations would allow market participants to profit through cheating, which would harm the animals.³⁴ For example, a land developer could buy biodiversity derivatives in response to

the government's plan to incentivize the developer to protect the habitat of a species of turtle. After the land developer became an owner of the turtle biodiversity derivatives, he would buy a cheap piece of land elsewhere and develop the original piece of land to unlock its economic value, killing the turtles on the premises development project.³⁵ At the same time, the developer could raise turtles on the newly purchased land to offset the decrease in the number of turtles on the land that was developed.³⁶ This strategy would prevent the value of the turtle biodiversity derivatives from decreasing because there would be no net decrease in the number of turtles.³⁷ However, after the turtle biodiversity derivatives matured, the developer who previously owned those derivatives would no longer have financial incentives to keep sustaining the turtles on the land that was purchased to offset any decreases in the number of turtles on the land that was developed. He would most likely sell the land. Since the turtles might not be suited to survive on the new land without help from the owner of the biodiversity derivatives, their numbers might decline sharply. If this scenario played out, the owner of the biodiversity derivatives would receive undeserved financial rewards while the government would lose financial resources due to transaction costs associated with issuing biodiversity derivatives and due to money paid to the owner who cheated the system.³⁸ As a result, the purpose of using biodiversity derivatives to protect the turtles would be defeated. Therefore, regulations are needed to prevent market participants from cheating the system.

Even if appropriate regulations are in place, violation of regulations will lead to serious problems for conservation. For example, short selling is a technique that enables market participants to profit from declines in the prices of financial securities such as derivatives. It poses a major challenge for biodiversity derivatives because the values of these derivatives depend on the number of animals of a species in

existence.³⁹ Hedge funds, proprietary trading desks, and other organizations that generate profits through trading financial securities on the global capital markets use short selling regularly as a part of their arbitrage strategies to profit from price discrepancies in financial securities.⁴⁰ Short selling itself is a valuable tool in finance, and is usually considered legal.⁴¹ Short selling biodiversity derivatives would work in the same way as short selling regular financial securities.⁴² For instance, if a fictional Investor A short-sold a number of biodiversity derivatives for a turtle species for \$1,000,000, it means that she sold biodiversity derivatives that she did not own to a second investor. Investor A conducted this transaction because she hoped that the price of biodiversity derivatives for that species of turtle would decrease in the future; if the price of the biodiversity derivatives decreased, she would buy the biodiversity derivatives at a lower price. Then, she would deliver the biodiversity derivatives to the person who bought them from her when she short sold them. As a result, she would close the short position and collect the profit, which would be the discrepancy between the price of the biodiversity derivatives at the time of short selling and the price at the time of delivery.⁴³

Although short selling regular financial derivatives is legal, short selling biodiversity derivatives should not be legal. Short selling biodiversity derivatives will be problematic for conservation projects because, through short selling biodiversity derivatives, market participants can profit as the prices of those derivatives decrease and as species become endangered.⁴⁴ In the case of regular financial derivatives, short selling is legal because it is difficult and costly for market participants to manipulate the prices of the underlying assets.⁴⁵ Therefore, through short selling regular financial derivatives, market participants will simply take on risks in an innovative way and will receive compensations for risk-taking.⁴⁶ In the case of biodiversity derivatives, taking a short position on the biodiversity derivatives will incentivize market

participants to manipulate the prices of those derivatives because of the low monetary cost of manipulating the prices of those derivatives.⁴⁷ For example, the price of the turtle biodiversity derivatives would decrease if the number of turtles decreased, and the profit for Investor A would increase because she took a short position on the turtle biodiversity derivatives.⁴⁸ Therefore, after short selling the turtle biodiversity derivatives, Investor A would be incentivized to decrease the number of turtles in order to drive down the price of the turtle biodiversity derivatives.

Although policymakers will likely establish regulations that prohibit short selling biodiversity derivatives, market participants today often violate regulations during financial transactions.⁴⁹ Two problems arise. First, the costs of regulatory failure are high; we risk permanent, irreversible harm to our global ecosystem because biological diversity, unlike financial assets, cannot be recreated after species extinction. Second, the globalized nature of the modern financial world renders regulations difficult to implement. Because the interests of investors in one country may be linked to populations of animals in other countries, investors may drive a species of animal in foreign countries towards endangerment and extinction. The global nature of the financial system will require a robust level of financial regulatory coordination between governments in order to be effective — a degree of financial regulatory cooperation that even the EU, hitherto the most tightly integrated supranational systems, has trouble sustaining consistently.

Problems for Social Justice

Using biodiversity derivatives will incur a cost on society because using these instruments will increase income inequality in the United States and potentially other countries. Using biodiversity derivatives will lead to expansions of the domestic and global capital markets. Although no empirical data shows that

market expansions resulting from using financial innovations such as biodiversity derivatives will lead to increases in income inequality, research on foreign economies shows that structural economic changes have led to increases in income inequality.⁵⁰ Because a market expansion associated with using biodiversity derivatives resembles market expansions associated with structural economic changes, there is a high likelihood that a market expansion associated with using biodiversity derivatives will lead to an increase in income inequality.

The experiences of China and Russia demonstrate that market expansions associated with structural economic changes will increase income inequality. In these cases, market expansions were caused by the transformations of planned economies into market economies.⁵¹ The economic structure of China has changed significantly over the past three decades, especially after economic reforms accelerated in the 1990s.⁵² The central government's plan to transform the Chinese economy into a market economy led to significant expansions of existing markets for financial securities and commodities and to the creation of new markets.⁵³ Partly as a result of the significant expansion of markets, income inequality rose sharply in China during the period from 1987 to 1997.⁵⁴ The Gini coefficient of income distributions, which measured income inequality in a country, increased from 0.20 in 1987 to 0.35 in 1997.⁵⁵ The case of China demonstrated that a significant rise in income inequality would accompany an expansion of markets.

The structure of Russia's economy changed significantly in the decade following the collapse of the Soviet Union, as it transformed from a planned economy to a market economy.⁵⁶ As in the case of China, an increase in income inequality accompanied the expansion of markets in Russia.⁵⁷ Income inequality rose sharply in Russia from 1990 to 2000.⁵⁸ The measurement of income inequality on the Theil index, which also measured income inequality in a country, increased from 0.031 in 1990

to 0.102 in 2000.⁵⁹ Although political instability following the collapse of the Soviet Union accounted for part of the increase in income inequality in Russia, expansion of markets resulting from structural economic changes contributed to the rise in income inequality. In Russia's case, the rise in income inequality was visible across various sectors of the economy. Financial and energy sectors benefited more from the expansion of markets than other sectors.⁶⁰ People in the financial sector and the energy sector enjoyed sharper rise in income compared to people employed in other sectors of the economy.⁶¹

Although a market expansion associated with using biodiversity derivatives is not identical to the expansions brought about by structural economic changes, these two types of market expansions share similarities. First, both types of market expansions would disproportionately affect certain sectors of the economy.⁶² In the case of Russia, the financial sector and the energy sector received disproportional benefits as a result of the expansion of markets, while in China, financial, utilities, and transportation sectors received disproportional benefits.⁶³ In the case of a market expansion that would result from using biodiversity derivatives, the financial sector would benefit the most from the capital market expansion. Financial institutions would provide valuation, advisory, and other investment banking services for organizations that would issue biodiversity derivatives.⁶⁴ They would gain from an increase in underwriting opportunities and the corresponding rise in underwriting fees associated with helping governments and global NGOs issue biodiversity derivatives in the primary market.⁶⁵ Moreover, acting as market makers would allow financial institutions to profit from biodiversity derivatives.⁶⁶ Since biodiversity derivatives would be traded over-the-counter on secondary markets, financial institutions would naturally act as market makers for biodiversity derivatives as they have extensive experience with creating over-the-counter secondary markets and with trading on these markets.⁶⁷

Another similarity between

both types of market expansions is that both will generate challenges for legal infrastructures.⁶⁸ In China, the legal infrastructure needed to adapt to changes in the economic structure of the economy to regulate innovative but unfair business practices and to prohibit practices that might destabilize the economy.⁶⁹ Market expansion exposed the lack of effective regulations, the existence of inappropriate regulations, and other regulatory problems in the legal system.⁷⁰ Using biodiversity derivatives would lead to analogous problems. As the capital market expands as a result of using biodiversity derivatives, lawmakers will need to enact new laws and update regulations to guide the utilization of these financial instruments.⁷¹ Therefore, because of the similarities in these two types of market expansions, the use of biodiversity derivatives in a country would widen the income gap between wealthy professionals in the financial sector and the rest of the population as well as exacerbate problems caused by income inequality.

Despite the similarities, the two types of market expansions associated differ in the scales of market expansions. In market expansions caused by structural economic changes, the scales of market expansions were large because existing markets experienced significant expansions and new markets came into existence.⁷² By comparison, the absolute size of capital market expansion provoked by using biodiversity derivatives would be relatively small. Also, because the United States already has a sophisticated market economy, the relative size of the capital market expansion will be small compared to the existing American market.⁷³ As a result of this difference, the capital market expansion associated with using biodiversity derivatives will have a relatively limited impact on income distribution in the United States compared to other countries, but using biodiversity derivatives will still bring along the problem of increasing income inequality in the United States. This problem

will generate a cost, and this cost will need to be considered when researchers and policymakers in the United States and other countries assess whether biodiversity derivatives are appropriate tools for conserving biological diversity.

Conclusion

Many new profit-driven, market-based approaches — which include using biodiversity derivatives — have been proposed to commodify nature and to integrate global ecosystem services into the global capital markets.⁷⁴ Although biodiversity derivatives will help international organizations managing conservation projects to tap new sources of funding in the private sector and facilitate the conservation of biological diversity worldwide, biodiversity derivatives may also harm the animals they aim to protect and exacerbate income inequality in the United States and other countries utilizing biodiversity derivatives.

Although the problems for conservation and social justice are difficult to quantify, they will incur costs. Even though biodiversity derivatives offer benefits for biodiversity conservation projects, offering benefits is not sufficient to justify the use of these derivatives. Therefore, the problems and their associated costs must not be trivialized or ignored. Until the costs associated with problems for conservation and social justice are studied more extensively, biodiversity derivatives should not be used on a national or global scale to help with efforts to conserve biological diversity. A better understanding of the costs involved can lead to more accurate cost-benefit analyses for biodiversity derivatives. Cost-benefit analyses that aim to weigh all costs against all benefits can aid policymakers in determining the true value of biodiversity derivatives. Even though not all costs and benefits can be assessed when conducting cost-benefit analyses, these analyses can help policymakers more effectively compare biodiversity derivatives with other approaches that aim to conserve biological diversity. A better

understanding of the costs associated with using biodiversity derivatives can ultimately help policymakers decide whether biodiversity derivatives should be used in the United States and in other countries to conserve biological diversity. ■

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Interview

with Micah Zenko of the Council on Foreign Relations

WO: *Is it possible to work toward a world that is entirely free of nuclear weapons? The Nuclear Non-Proliferation Treaty is very vague, and sometimes it's even giving states that don't have nuclear power ways to get nuclear energy and that has contributed toward their working toward getting nuclear weapons.*

MZ: Whatever [Iranians] do has nothing to do with pursuing nuclear energy. They're developing the ability to have a nuclear weapon state capability. And we know this because they are members of the NPT and I suppose they signed it – I did a proposal on this last week. They signed the agreement in 1974 that lays out their nuclear safeguards agreement with the IAEA in 98 articles of what they have to do, and they don't do it. They don't live up to the agreements they sign. So, if I were Iran, I could either [de-pledge] from the NPT like North Korea did in 2003 or they should be obliged to do what they promised since 1974. I think nuclear disarmament should be a goal; it is a goal. I think it should be moved ahead faster and people have thought about this in a very serious way for 40 years. If political leadership was interested and made movements toward it, things would go faster. But I don't see that happening any time soon, unfortunately. But if you grew up in the early '80s, the '80s were a really dangerous and scary time. There's a great memo, *Why is the World So Dangerous*, written in 1983, that lays all the particular flashpoints between the Soviet Union and the United States, Central America, Angola, the Middle East, and Iran. People forget that one of the reasons Iran got all those nukes was not just Iraq or Israel, but the Soviet Union was going to invade the Kurdistan oilfields. There were these insane threads going on in the world, and they all had nuclear elements to them. You should compare the acute crises that existed throughout the Cold War and particularly the '80s to today: the world is a much safer place, an infinitely safer place. Nuclear Iran and nuclear North Korea are very manageable. I think the United States should do more. They do a lot, but they should do a lot more. As Obama says, it won't happen in his lifetime, and I think he's right.

WO: *You mentioned nuclear weapons being an essential part of a nation's identity. Could you expand on that and explain its implications?*

MZ: Russia exists across 11 time zones: it's a huge territory. They had a number of wars internally. They believe that the growth in missile defenses in Europe has the potential to disarm its ballistic missile capability. If they, in a crisis situation, needed to launch a nuclear ballistic missile, the U.S. can shoot it down. If they believe the U.S. can shoot it down, then they are essentially disarmed totally. That's why President Reagan's Star Wars drove all the Soviet leadership insane. It's part of their identity and security. Nuclear weapons, in the United States, were in today's dollars, a true dollar venture. It was a huge thing to have nuclear weapons. They're part of the U.S. alliance structure. The U.S. has formal treaty alliances with 36 countries, and the U.S. extends its nuclear umbrella to these countries. Russia has formal alliances with five or six countries (they claim) and they extended nuclear umbrellas to all these countries as well. Nuclear weapons are infinitely involved in a lot of what countries that have them do. Israel has had nuclear weapons since 1967. They believe that they deter other countries to potentially wipe them off the face of Earth. They see other countries' nuclear weapons as existential threat. France perceives them as part of their lasting role as a global power. The Chinese got in the nuclear game and stayed as a very minimal nuclear power for a long time. They went to war with Russia; they went to war with Vietnam and got killed in 1979. They could potentially go to war with India or the South China Sea. So [nuclear weapons] are just a big part of their national security strategy and how they see themselves and secure their interests and rights in the world.

WO: *What's your opinion on the use of sanctions against Iran? Every time that we discover Iran has made new progress in its nuclear program, the United States and the European Union impose economic sanctions which obviously have not deterred Iran from further developing its nuclear program.*

MZ: We don't know if that's true. First, every time new evidence comes to light, actually we don't impose sanctions. There have been flow rounds of sanctions. The open-ended questions between Iran and the IAEA have been unchanged since 2002. They have just become more specific and vivid as more countries provide intelligence to the IAEA. There have been four rounds of UN sanctions – UN Security Council mandate sanctions. There have also been a series of U.S. unilateral sanctions and EU unilateral sanctions. But we don't know if they've worked or not, because we don't know if Iran has made the decision to acquire nuclear weapons. We know that Iran refuses to comply with

its obligations under the NPT, but they might be doing that because they want to cut a better deal on what uranium enrichment they'd be allowed. They might want a series of security guarantees from the U.S. It's not lost on other people that no country with nuclear weapons has ever been invaded and their regime overthrown. In 2002/2003, Qaddafi gave up his nuclear weapons program. He had spent a couple hundred million dollars on them. If he had the bomb in March of this year, he wouldn't have been invaded. That's not lost on the North Koreans. That's not lost on the Iranians. So I don't think sanctions have much to do with their decisions about nuclear weapons. As I noted, Iran was invaded by Iraq, who used weapons of mass destruction against the Iranian people. Iran was threatened by the Soviet Red Army throughout the '80s, who, it was believed, would invade and steal all their energy resources. Although no one ever mentions it, Israel has 100 to 200 nuclear weapons on nuclear ... planes. The Israeli government could kill every Iranian if they wanted to, if they launched all the nuclear weapons in Iran. The United States has tried to stop the Iranian government from purchasing legal centrifuge and civilian nuclear energy. When they tried to buy a reactor from the Chinese, we stopped it. When they tried to buy a reactor from the Russians, we stopped it for almost 25 years. Iran and the United States have had having a low covert war since the '80s, but I can imagine a lot of reasons the Iranians have wanted a nuclear weapon. They started the nuclear program since the mid-80s, when all these threats were at the greatest. But we don't know if they have decided to acquire nuclear weapon. That the IAEA can't do — they can't determine intent. But there are various other specific behaviors required of Iran's known nuclear facilities that they are supposed to do — that the IAEA can do that. They are good at that. And so far Iran refuses to do that.

WO: *In your opinion, should the U.S. government declare an official end to the War on Terror, or should the cause remain as a perpetual battle against terrorists?*

MZ: The framing reference point for the war on terrorism—which is a term the Obama administration doesn't use—is what's called the AUMF, which is a December 2001 congressional act authorizing the use of military force against al-Qaeda. The argument is that al-Qaeda created a state of war against the United States, and the U.S. has the inherent legal right to defend itself against al-Qaeda and affiliated groups wherever they exist. That is U.S. policy, and, whether the administration declares an end to the global war on terrorism or not, it will remain a U.S. policy. And in a sense the Obama administration doesn't use the term, so I think you need to consider different ways to conceive of how the U.S. is using military force and intelligence. Because in some ways the global war on terrorism is over, and what you have now are very persistent, localized issues, which fall under the legal framework created after 9/11.

WO: *What are the risks and complications of using unmanned aircraft?*

MZ: For a long time, all of the unmanned drone controllers were also certified Air Force pilots. That's not true anymore — there are certain people now who only control drones... They can't know what's going on. They don't have situational awareness that people on the ground have, they don't have maneuverability, and they don't see things that a pilot would. As people describe it, a drone is like seeing a battle through a soda straw. Your aperture is quite limited, whereas if you're a pilot, you can just look around and see everything. You only see what's on a screen in front of you. So you have less sensitivity to what's going on. ...One of the things that I worry about are autonomous missions. There's already a lot of autonomy in drones. For the surveillance drones, only one or two people control 10 drones, so they're set on pre-programmed missions, usually for IED missions for surveying roads. They can test electromagnetic frequencies to determine whether or not the ground was disturbed. And there are certain areas where they know IED's tend to be placed a lot, so they look for disturbances in the ground, and the drones just fly by them over and over again, and nobody controls drones, nobody even looks at the data. Only when a signature looks bad is a human notified, and they just go back and find that signature and see, was the ground disturbed? Does it look like there's nitrate fertilizer here that you can actually see from certain radar systems? So the question is, then, in the future, will we give robots the ability to kill people, without a human trigger puller? You can imagine some scenarios where you might do that, and it's really worrisome.

WO: *What do you see unmanned aircraft vehicles playing in the future?*

MZ: Unmanned drones will not go down. The method they use for drones is what they call a Combat Air Patrol, which requires three drones and provides nonstop surveillance. The U.S. now has 65 caps — they want to get that up to 80 — and the cap in 2009 was 35. So the numbers are growing exponentially. They're going to raise the cap, but that requires not just the drones themselves, but the intelligence people to process the information, and the people to fuse that intelligence with targeting.

And, by the way, 99 percent of all drones don't bomb things, they just do surveillance. Armed drones are rare in the U.S. military. As people like to say, they're really good for the three D's: dull, dirty, and dangerous. Anything

that humans can't do because it's boring or high danger, like flying over the Fukushima reactor in Japan — I would rather have an unmanned system do that than a human. Drones are also important for patrols; in the U.S. we have four or five flying over the Texas-Mexico border and one in North Dakota that flies the Canadian border.

WO: *What do you see as the ideal relationship between U.S. and UN military operations?*

MZ: In Department of Peacekeeping operations, which oversees the UN peacekeeping ops, the U.S. gives 27 percent of the funding, and the head of all military planning is an active duty U.S. army colonel. We also have less than 150 troops in the UN peacekeeping missions, but there are 16 UN peacekeeping missions with over 100,000 people. So we are only contributing 150 people, but we give a lot of money and logistic support.

I would like the U.S. to be more engaged with its military assistance to the UN. I wrote a paper with a former research associate of mine, Rebecca Friedman, called *UN Early Warning Capacity*, where we look at what the U.S. could do to build up the capacity of the UN for its peacekeeping operations and intelligence, because the U.S. could do a lot if it wanted to. The main reason the U.S. isn't as involved is because Congress is concerned about U.S. soldiers going to the International Court of Justice for war crimes, and it's believed that if you serve on U.S. missions, you make yourself more open to that. That's not true, as lots of people have proved, but it's still a big worry. So if I'm a colonel and I want to serve in UN military operations, it's really hard. You have to sign off from a lot of people and it takes six to nine months.

The U.S. should also be doing a lot more to work with the UN in regional organizations, because there's nothing the U.S. can do unilaterally anymore. And that's going to become more true as the U.S. budget shrinks and global governance issues become more persistent and chronic and hurt. If we don't work with other countries and international institutions, everything we attempt will fail. And if you come with a preventive mindset — knowing that doing it unilaterally is not going to work, costs more, and creates more animosity — you've got to think of different ways to engage with institutions and regional organizations.

Señor and Señora Populista

by Nicholas Preti

On October 23, people flocked to the famous Plaza de Mayo in Buenos Aires, a square that has stood as a symbol for revolution and celebration since the country's inception. With the characteristic chants usually associated with Argentine hooligans, the supporters at the Plaza de Mayo ecstatically celebrated the sweeping victory of Cristina Fernandez de Kirchner, who was re-elected to the presidency with 54% of the votes. Amid this spirit of revelry, Argentina enters its tenth year of *Kirchnerismo*.

Cristina Kirchner's discourse following this landslide victory was emotive, powerful, and poignantly directed to her supporters and to the memory of Nestor Kirchner. Mr. Kirchner, who died of heart failure in October 2010, has become the Facebook profile picture of countless young, militant *Kirchneristas* and been portrayed as a martyr within the *Kirchnerismo* movement.

While Nestor Kirchner may be the source of the energy produced by his wife's speech at the *Front for Victory* headquarters in late October, Cristina Kirchner's continued mention of her "compañero Hugo" (compañero may be translated as companion or comrade) sheds light on the relationship between Left-Wing Latin American governments. Although Hugo Chavez and the Kirchners' policies and methodologies are different, a closer analysis of the mechanisms at work in both countries reveals some fundamental similarities in their ability to retain power.

The "Turn to the Left" in Latin America is in no way exclusive to Argentina and Venezuela, but the populist agendas in these two countries, expressed through a modern socialist rhetoric, lend themselves easily to comparison and critique.

The Kirchners have built a regime that seems invincible. Mrs. Kirchner has won by the largest margin of victory in the Argentine presidential election in decades with 54% of the votes, and her party has taken a majority control in both houses of congress. However, the Kirchners' policies are driving Argentina away from a free-market democracy and towards a convoluted and undependable state where capital flight is the norm.¹ Meanwhile, the infamous Hugo Chavez's policies of expropriation and animosity towards Western powers have characterized him as a volatile leader with little regard for international standards.

While these governments maintain their populist facade, bureaucratic corruption and inefficiency causes their economies to leak substantial amounts of money. Transparency International's 2011 Corruptions Perceptions Index, which rates a country's perceived corruption on a scale of one to ten, awarded Argentina a mere 3.0. Venezuela received a dismal 1.9, worse than the kleptocratic Democratic Republic of the Congo, and has fallen nearly every year for the past decade.² Behind the populist facade of wealth redistribution, both countries sanction the redistribution of the funds for such programs to corrupt officials.

In Argentina, the million peso question is why the people have re-elected a president that has created such a volatile political and economic situation. The state of affairs has become so unstable that Argentina has received sanctions from both the International Monetary Fund (IMF) and the Financial Action Task Force (FATF) for the misuse of funds.³ In Venezuela, such indicators are non-existent because Chavez withdrew the country from most international organizations aimed at financial regulation. The same question applies, nonetheless, as Venezuela has suffered from growing poverty and insecurity under the Chavez regime. Most notably, the capital city of Caracas now has the highest homicide rate in the world.⁴

In spite of these countries' inefficiencies and high levels of corruption, the current Argentine and Venezuelan regimes are adept at self-preservation. Not only have both the Kirchners and Chavez effectively mastered propaganda as a political weapon, but they have also managed to manipulate some of their countries' signature institutions into becoming their supporters.

Kirchnerismo has fashioned itself around the leftist branch of Peronism⁵, and has put welfare programs in place that provide substantial financial support to lower class citizens. The Kirchners have consequently managed to cultivate substantial popular support from Argentina's lower class. Chavez, who has been president since 1999, has also attached

¹ Claudio Jaquelín. "Nunca tanto poder y jamás tan concentrado." *La Nación*, 1st edition October 24, 2011.

² Transparency International, "Corruptions Perceptions Index 2011." Last modified October 26, 2011. Accessed November 17, 2011.

³ James Roberts, "Holding the Kirchners Accountable for Argentina's Economic Freefall," *The Heritage Foundation*, no. 2527 (2011)

⁴ "High crime rates make Venezuela one of the most violent countries." *El Universal*, 1st edition August 27, 2010.

⁵ Peronism is the political movement associated with the policies of Juan Peron who was president of Argentina intermittently from 1946 to 1974. Peron managed to mix certain elements of fascism, namely a highly centralized concentration of power, with elements of populism.

himself to the lower class and enacted programs designed to alleviate poverty. This strategy has proved exceptionally effective in Venezuela, where high levels of economic disparity have created widespread class animosity.

In Argentina, just ten years after the world's largest default, the Kirchners are siphoning money to finance massive welfare projects that don't contribute to the economy in any productive fashion, and namely serve to perpetuate their rule by maintaining a status quo supported by the lower class. Chavez has similar programs. For example, he promises an expansive restructuring of the electrical grid, an long unfulfilled project designed to maintain his popular image. He also uses his Sunday afternoon television show to talk about various plans and agendas to further endear himself to lower-class Venezuelans.

In Argentina, support from the lower class is further substantiated by the power of unions. In Venezuela, Chavez consolidates power more aggressively through the secret police and the expropriation of his opposition's businesses. Today, the Argentine syndicates function more as a political mechanism through which to superficially diffuse power than as an institution representing the rights of the workers. Chavez' aggressive state apparati serve to target and eliminate any chance of empowered dissent from his most dangerous opponents – the upper class.

But how are these two governments able to fund massive welfare programs despite poor national credit and the risk of expropriation? Argentina is one of the world's leading agricultural producers, blessed with a relatively small population in comparison to its size, and some of the most fertile land in the world. The Kirchner regime, again fomenting political polarization, ostracized large land-owning farmers by labelling them wealthy elites and used the resulting popular resentment to slap a detrimental tax on agricultural exports. Venezuela now boasts the world's largest known oil reserves, having passed Saudi Arabia, owning between 380 and 652 billion barrels, and its nationalized oil program feeds money directly to the Chavez regime.⁶ Consequently, when South American countries met to establish the BancoSur in September 2009, Hugo Chavez had no problem using his oil reserves as financial backing.⁷

Kirchnerismo has managed to socially polarize the population, building a popular welfare program that drains the country's agricultural wealth. With the world's richest oil reserves and a politically charged lower class, Chavez is also in an ideal situation to build regime security. Argentina's current welfare plans do little to systematically and effectively ameliorate the standard of living in the lower class, but build a base of populist support. In Venezuela Chavez gradually develops programs that appease the masses while amassing wealth undetectably. In addition, the officials charged with implementing these important government programs are friends and political allies who refuse to submit to foreign monitoring, engage in corruption, and reduce the country's political and economic credibility.

The wide variety of elements involved in perpetuating the populist regimes in both countries - economic manipulation, extensive regulation, and an unmonitored bureaucracy – makes it difficult to formulate a solution or speculate on the likelihood of future political change in either country. Amidst this current political and economic disorder, Argentinians can correct Andrew Lloyd Weber and “cry for me Argentina.” Venezuelans can only wait to feel the effects of Chavez's cancer and see what legacy Chavez will leave in his country.

⁶ Schenk C.J., Cook, T.A., Charpentier, R.R., Pollastro, R.M., Klett, T.R., Tennyson, M.E., Kirschbaum, M.A., Brownfield, M.E., and Pitman, J.K. “An estimate of recoverable heavy oil resources of the Orinoco Oil Belt, Venezuela.” *U.S. Geological Survey Fact Sheet*. no. 3028, pg. 4 (2009).

⁷ “South American leaders sign agreement creating South Bank.” *MercoPress*, 1st edition September 29, 2009.

The Price of Peace

by Justin Ciambella

Back in December 2006, when Felipe Calderón took power, Mexico was a much more secure and peaceful place than today. With a total crime rate of roughly a quarter of that of the United States, no one would have ever guessed the damages that one “minor” policy decision would have triggered in less than five short years.⁶ After over 40,000 government reported drug related deaths (the actual number is much higher) and billions of dollars wasted, I think that it’s safe to say that Calderón’s efforts to dismantle these powerful drug cartels have been a bust.¹

Calderón went into his presidency with lofty expectations of dramatically changing the role that the drug cartels played in society by ordering massive raids and increased surveillance on them. The current wave of conflict began when he sent “6,500 troops to the state of Michoacan to address the drug violence there.”² From here, the intensity escalated and led to the ongoing conflict that perpetuates Mexican society today.

While proponents of Calderón’s anti-cartel policy may try and highlight the fact that the police have caught high-ranking members and increased the price of many drugs in the US market (which indicates less supply), these results are marginal at best considering economic resources and social unrest that this government interference has caused.³ Since 2006, the violence has increased, on average, by over one thousand percent a year.⁴ When is enough, enough? Looking at this pragmatically, it takes a lot more than the employment of an additional 40,000 (crooked) cops to disincentivize gang members from a \$48 billion a year industry.⁵ Furthermore, when one in ten cops have been found guilty of accepting bribes, this demonstrates that corrupt individuals plague the industry. Calderón has tried to ameliorate this problem by hiring more federal cops, in order to reduce the chances of local penetration, but this just shifts the problem up one level.

These arguments do not mean that I think that I condone the actions of these drug cartels. Rather, I am saying that until the U.S. drug market is closed, or at least better policed, there is nothing that the Mexican government can do to contain the violence. The best policy that Felipe Calderón could have pursued to minimize the effects of the drug cartels impact on society would be to do nothing.

Essentially, these cartels have the power dynamics of mini-states and follow Meirshheimer’s realist philosophy of “act[ing] according to their own self-interest.”⁶ Furthermore, these cartels “look for opportunities to alter the balance of power by acquiring additional increments of power at the expense of their rivals.”⁷ These “plazas,” as the drug corridors are called, are extremely valuable and the minute there may be a power discrepancy, another cartel may capitalize on it. When Calderón interferes, as he has done with the Gulf Cartel and in the state of Michoacá, he upsets the balance of power. As Blainey would point out, these groups are least prone for violence when there is a balance of power. However, when there is a disruption in the system, it generates tension, which frequently leads to bloodshed, as different groups try to “exploit the power vacuum” caused by government interference.⁸ Lastly, these cartels are arranged horizontally and compartmentalized so that “one section’s removal does not compromise the group as a whole.”⁹

Since Mexico’s best policy is to do nothing, there needs to be action from the United States. The U.S. needs to make a more concerted effort in stopping the cartels from having access to America’s massive drug markets. While the U.S. has committed \$1.4 billion to helping Mexico in this fight through the Merida Initiative, this is not enough.¹⁰

¹ Scott Stewart, “Mexico and the Cartel Wars in 2010,” *Stratfor Global Intelligence*, 16 Dec. 2010, Web, 17 Nov. 2011, http://www.stratfor.com/weekly/20101215-mexico-and-cartel-wars-2010?utm_source=SWeekly.

² Colin Gray, “The Hidden Cost of the War on Drugs,” *Stanford Progressive*. May 2010, Web, 17 Nov. 2011. <http://www.stanford.edu/group/progressive/cgi-bin/?p=521>.

³ Ibid.

⁴ “Oficial: Más De 22 Mil 700 Muertos Por Violencia,” *El Universal*, 1 July 2010, Web, 17 Nov. 2011, <http://www.eluniversal.com.mx/notas/672485.html>.

⁵ United States Congress, *Mexico’s Drug Cartels*, By Colleen Cook, Congressional Research Service, 16 Oct. 2007, Web, 17 Nov. 2011, <http://www.fas.org/sgp/crs/row/RL34215.pdf>.

⁶ John Mearsheimer, “Anarchy and the Struggle for Power,” *The Tragedy of Great Power Politics* (New York: W.W. Norton, 2001), 33.

⁷ Ibid., 34.

⁸ Fred Burton, “Mexico: The Price of Peace in the Cartel Wars,” *Stratfor Global Intelligence*, 2 May 2007, Web, 17 Nov. 2011, http://www.stratfor.com/mexico_price_peace_cartel_wars.

⁹ Ibid.

¹⁰ Randal C. Archibold, “Mexican Drug Trafficking News,” *The New York Times*, 25 Oct. 2011, Web, 16 Nov. 2011, <http://topics.nytimes>.

Without access to America's markets, the price of the drugs would plummet which would naturally decrease the desire to be involved in a drug cartel. Another thing the U.S. can do is to spend more money on policing the POEs (Points of Entry) into the U.S. as we know that 88% of all drug seizures occurred at just 20 of the 327 POEs.¹¹ If the U.S. better secures their borders, there is no question that the incentives for violence between drug cartels will be dramatically reduced, which will make them much less of a problem for the government.

In conclusion, in order for Mexico's Drug War to stop, there needs to be a much more collaborative effort with the United States, and until then, this problem can't be solved internally without massive repercussions to the Mexican public.

com/top/news/international/countriesandterritories/mexico/drug_trafficking/index.html.

¹¹ "Drug Movement Into and Within the United States - National Drug Threat Assessment 2010," *Drug Movement Into and Within the United States*, U.S. Department of Justice, Feb. 2010. Web. 16 Nov. 2011, <http://www.justice.gov/ndic/pubs38/38661/movement.htm>.

Trade Wars

by Manav Raj

During last term's Republican debate here in Hanover, candidates wrangled over the United States' stance on trade with China, specifically with China's manipulation of the value of its currency. Some advocated punitive measures against China, while others claimed that tariffs or barriers would lead to a trade war. Not to be left out, Rick Santorum exclaimed, with the excitement of a kid on Halloween, "I want to go to war with China!"

The outburst and comment led to derision, and many mocked Santorum. (Frankly, can you blame them? Sometimes he just makes it too easy.) But looking at the options, perhaps hitting China with trade sanctions and risking a trade war isn't the worst option. While America has continually shown a reluctance to engage China, the country's first priority should be protecting its own industries. And if China doesn't like that, so be it.

For years, China has undervalued its currency, the Yuan, artificially lowering the prices of its goods on the world market. In this way, China makes its exports to foreign markets more competitive at the expense of American products. The United States' response over the years has amounted to little more than a series of pointed complaints. In a time of economic depression, these have failed to produce the substantive change in trade relations necessary to boost American competitiveness and generate jobs.

Some fear that China would respond punitively to trade barriers or other policy responses, leading to higher prices of U.S. goods in China and an overall decrease in U.S. exports to China. But how long can a superpower sit back and watch its fragile economy be manipulated for a competitor's gain?

Numerous reports have exposed the negative impacts that the current trade policy with China has had on the United States. In areas where Chinese imports were most prevalent, manufacturing employment has dropped by one-third, according to a recent study released by MIT. The Economic Policy Institute recently estimated that the U.S.-China trade deficit, partially fueled by China's currency policy, has led to the loss of nearly three million jobs over the last ten years. According to the report, the trade deficit with China has led to large overall increases in unemployment and a decrease in government benefits, negatively impacting the welfare of ordinary Americans.

Certainly, erecting barriers to trade may encourage China to retaliate economically or flex political power in other spheres. However, the United States must not forget the strong leverage it maintains in this relationship as well. After all, regardless of boastful statements and political threats in the world, China's economy is even more dependent on the United States than the American economy is on China.

China exports \$2.97 trillion worth of goods across the world, and out of that, \$385.3 billion of that is sent to the United States. To put it frankly, China cannot afford a trade war with the U.S. If one did break out, China's exports to the United States would drop substantially and that substantial sum of money would stop flowing into China, seriously damaging its prospects for further development. Considering that our country's unemployment rate sits above eight percent and our manufacturing sector is perhaps in the worst shape it has ever been, now is the time to take chances.

If China continues to refuse to revalue its currency, the United States must raise trade barriers against the country to prevent any further damage from their unbalanced relationship. Although there may be some consequences in the short run if a trade war broke out, which is unlikely due to China's heavy dependence on American consumption, the concurrent strengthening of American manufacturing would be well worth the price. The U.S. should not be bullied by another country. We remain the world's only super power for the time being, and it's time we act like it.

The Rule of Law

by Michael Altamirano

On September 30, 2011, a drone strike orchestrated by the United States killed Anwar al-Awlaki, an imam who was associated with al-Qaeda in the Arabian Peninsula. At the heart of the debate surrounding his death is the legality of the drone strike given that he was an American citizen, his standing as an American citizen was never revoked, and no court ever found him guilty of criminal activity. There is no law currently in place that addresses such a sensitive operation.

The Constitution states that “[n]o person shall... be deprived of life, liberty, or property, without due process of law.” If the federal government accused an American citizen of engaging in criminal activity, his or her right to due process would be recognized, and the government would need to provide enough evidence that the person would be found guilty in a court of law before enacting a punishment.

In this case, no court ever found Mr. Awlaki guilty of any activity that warranted lethal force. *Crosby v. United States* (1993) established that in order for a defendant to be tried in absentia, he or she must be present at the initial proceedings. Thus, it was impossible for the U.S. to prosecute Mr. Awlaki while he was in Yemen.

Congress ought to establish a set of laws for how the Executive should behave under exceptional circumstances like these. If it does not, it fails to prevent potential abuses of power by failing to keep the Executive in check.

According to Reuters, a secret panel composed of senior National Security Council officials chooses who gets placed on a kill or capture list.¹ There is no record of these meetings. The panel then reports its list to President Obama, who can reject a target’s sentence, but does not need to approve it. This provides him plausible deniability in making the final decision, much like Reagan had following the exposure of the Iran-Contra scandal.

There is no Congressional oversight of this panel.

A secret U.S. memo, drafted last year regarding targeting Mr. Awlaki, and the details of which were acquired by the New York Times, argued that his killing would be legal if: a) it was not feasible to capture him alive, b) he posed a significant threat to Americans due to his association with Al Qaeda, and c) Yemeni authorities were unable or unwilling to stop him.²

It is possible that the Executive branch examined scenarios in which the U.S. put forces on the ground to capture him (after all, the U.S. put Navy SEALs in Pakistan for the Bin Laden operation). Ultimately, we are forced to deduce that the Executive felt that capture was not a viable option since it approved of the drone strike. It is also true that Yemeni authorities were unable to stop him: last year they surrounded a village where he was believed to be hiding, but he escaped.³

If it was determined that Mr. Awlaki posed a threat to Americans, one might assume that his association with al-Qaeda would grant the president power under the “Authorization for Use of Military Force Against Terrorists” to target him. That joint resolution, passed one week after the September 11th terrorist attacks, grants the president authority “to use all necessary and appropriate force... in order to prevent any future acts of international terrorism against the United States” against any entity he determines was complicit in September 11th attacks.⁴

However, the branch of al-Qaeda that Mr. Awlaki was associated with, al-Qaeda in the Arabian Peninsula, did not exist prior to the September 11th attacks. Targeting Mr. al-Awlaki as an extension of al-Qaeda, then, does not fall under the jurisdiction of that resolution.

The aforementioned constitutional privileges would be irrelevant if one considers Mr. Awlaki an enemy combatant on a battlefield against the United States. However, Mr. Awlaki was a propagandist associated with a non-state entity that engages in unconventional combat, terrorism. He also resided in a state far removed from the United States’ active military campaigns. If the United States is to treat these two roles as equal, then it should do so through procedure established in law, not a novel reading of the permissions granted to the Executive in the never-ending “War on Terror.”

¹ Mark Hosenball, “Secret panel can put Americans on “kill list,” *Reuters*, 05 Oct 2011. <<http://www.reuters.com/article/2011/10/05/us-cia-killlist-idUSTRE79475C20111005>>.

² Charlie Savage, “Secret U.S. Memo Made Legal Case to Kill a Citizen.” *New York Times*, 08 Oct 2011. <<http://www.nytimes.com/2011/10/09/world/middleeast/secret-us-memo-made-legal-case-to-kill-a-citizen.html?pagewanted=all>>.

³ *Ibid.*

⁴ Public Law 107-40, <<http://www.gpo.gov/fdsys/pkg/PLAW-107publ40/pdf/PLAW-107publ40.pdf>>

If Congress is content with the kinds of actions outlined in this essay, then it should pass a statute in order to make these actions explicitly lawful. Instead, it silently defers power to the Executive – granting it the privilege of crying foul when Executive operations go awry. This is democratic failure: members of Congress cannot be held accountable because they neither approved nor disapproved of such actions, and no one in the Executive branch can be held accountable either because they are anonymous individuals making decisions behind closed doors, without record.

President Obama, when accepting his Nobel Peace Prize, said that the United States has a “moral and strategic interest in binding ourselves to certain rules of conduct,” because it derives its strength from being a standard bearer in the conduct of war, which makes us different than “those whom we fight.”⁵ In the wake of this event it behooves Congress to establish laws that move the United States away from the obfuscation currently taking place in Executive branch. “Rules of conduct” connotes the need for accountability in government decision-making, not carrying out extra-judicial targeted killings decided upon by unnamed, unelected, and unconfirmed Executive officials.

⁵ Barack Obama. “Full text of Obama’s Nobel Peace Prize speech.” *MSNBC*, 10 Dec 2009. <http://www.msnbc.msn.com/id/34360743/ns/politics-white_house/t/full-text-obamas-nobel-peace-prize-speech/>.

