



JPIA

The Journal of Politics and
International Affairs
Volume IV, Issue II
Spring 2012

The Journal of Politics and International Affairs

Volume IV, Issue II
Spring 2012

The Ohio State University



Cameron DeHart
Editor-in-Chief

Charles Trefney
Logistics
Professor Paul Beck
Advisor

Joseph Guenther
Managing Editor
Wayne DeYoung
Advisor

Ben Presson
Alumni Advisor

JPIA Editorial Staff:

Chad Blackham
Jeff Carroll
Dave Dannenburg
Sean Duffy
Chelsea Hagan

Brian Holmes
Nickole Iula
Shreeya Mathew
Seth Radley
Claire Ravenscroft

Contents

Gun Control and Gun Violence in Somalia Taylor Beale	09
Human Trafficking: Putting an End to Modern Day Slavery Alexa Odom	23
At the Edge of Global Civil Society Kevin Kulig	41
The Hague: A Question of Intention Kara Lefevers	59
Thoughts on the Supreme Court A Q&A with Professor Lawrence Baum	71
Research in the Political Science Department at Ohio State University: Opportunities Abound Professor Janet M. Box-Steffensmeier	74

Friends:

It is my honor to present the second issue of the newly reinvigorated Journal of Politics & International Affairs.

When I think back to that first meeting in January 2011, when a ragtag group of students assembled to discuss re-forming the political science club, I had no idea that this project would grow to become what it is today. For those of us on the editorial team that were at that first meeting, watching this Journal grow from just a “neat idea” to the product that you see before you has been a labor of love. The Journal has evolved drastically over the past year and a half, as a publication and as an organization, but I think that the overlying principles have remained the same.

From day one, we set out to give undergraduate students, writers and editors both, a unique opportunity that simply wasn't available anywhere else on campus. We offer writers the chance to present their research to an audience that extends beyond the classroom. Working with our editors, writers receive feedback on how to strengthen their research and argumentative skills. We offer editors the opportunity to improve their own reading and writing skills, as well as the chance to explore the variety of topics that our submissions cover.

Throughout the review and re-structuring process that took place after our first issue, we stayed true to these broader goals and hope to continue to do so in the future. That being said, we did make a few substantive changes to the Journal's organization and scope. We decided to increase the breadth by publishing more papers, as well as interest pieces written by our faculty in the political science department.

In spring quarter, we began the process of registering with the Ohio Union to become an official Student Organization, complete with scheduling, marketing, and funding perks. The editorial team is currently hard at work bolstering the Journal's online presence, through social media and our forthcoming website.

Looking forward, the editorial team is already soliciting submissions for the Fall 2012 issue and we are in the process of finding fresh-faced editors to replace our graduating seniors. For our next issue, we will be diversifying the crop of papers that we publish to include shorter current events pieces, in addition to the traditional research papers. Doing so will help the Journal stay relevant and exciting to readers, and give even more students the opportunity to have their work read. Over the summer, we will be reviewing and refining our selection process, and I am confident that our second full year will be even better than the first.

I would first and foremost like to thank our editors that will be leaving the team; this project would not have been possible without your hard work and devotion. Thank you to the Political Science department, Dr. Herrmann, Alicia Anzvine, and Wayne DeYoung for their continued support behind the scenes. Our new faculty adviser, Dr. Paul Beck, has been an invaluable source of guidance over the past few months, and we look forward to working with him in the future. Ben Presson, our alumni adviser, has been a tremendous help with this project since the beginning stages, and the Journal would not be where it is today without his guidance.

Finally, I must thank my friends in the Undergraduate Political Science Organization for their undying support over the past year and a half. Best of luck to each of you in whatever the future holds in store. Thanks for reading,

Cameron DeHart
Editor-in-Chief

The Journal of Politics and International Affairs at The Ohio State University is published biannually by the Ohio State Undergraduate Political Science Organization through the Ohio State Political Science Department at 2140 Derby Hall, 154 North Oval Mall, Columbus Ohio 43210.

The JPIA was founded in the autumn of 2006 by the members of the Ohio State Undergraduate Political Science Organization and reestablished in Winter 2011. Subscriptions are available through the Ohio State Undergraduate Political Science Organization, or each issue can be requested separately. For further information, or to submit questions or comments, please contact us at journalupso@gmail.com.

All rights reserved. No part of the publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the written permission of the Editor-in-Chief of the JPIA. The JPIA is copyrighted by the Ohio State Undergraduate Political Science Organization. The content of all papers is copyrighted by their respective authors.

All assertions of fact and statements of opinion are solely those of the authors. They do not necessarily represent or reflect the views of the Ohio State Undergraduate Political Science Organization, the JPIA Editorial Board, the Faculty Advisers, The Ohio State University, nor its faculty and administration.

COPYRIGHT © 2012 THE OHIO STATE UNIVERSITY UNDERGRADUATE POLITICAL SCIENCE ORGANIZATION. ALL RIGHTS RESERVED.



Gun Control and Gun Violence in Somalia

Taylor Beale

Since most people think of Somalia as a country suffering from a raging gun epidemic, they would be surprised to learn that Somalis are subject to a stringent gun control law. Firearms were allowed to permeate Somali society only when militarization and Cold War geopolitics made gun control a moot issue. The prevalence of weapons, in conjunction with the deterioration of society along clan-based lines, have made it possible for clan warlords to profit handsomely from the forcible seizure of land and resources during the ongoing Somali Civil War. In a country where guns are an essential feature of life, firearms will continue to play a prominent role in Somali society in spite of the rigid gun control law still on the books.

Somalia is a country well-known for its gun culture and gun related violence. Even though weaponry of all kinds is an essential feature of Somali life, firearms have technically been regulated for most of the country's history. The overall militarization of Somali society, a consequence of Cold War geopolitics, coincided with an increasing demand for arable land and deteriorating clan relations. The anarchic nature of the Somali Civil War and the prevalence of guns allowed corrupt clan warlords to seize land and resources that had been contested during peacetime. Several measures initiated by the United Nations failed to reduce the number of guns in circulation and restore order to Somalia. Although Somalia enacted a strict gun control law, the militarization of Somali society, Cold War geopolitics, and an unending civil war have rendered the matter of gun control academic.

Personal firearms in Somalia have been subject to regulations for most of the country's existence. Shortly after the formation of the Somali Republic in 1960, the government passed the 1963 Public Order Law which regulates all aspects of ownership, sale, and the trading of arms. Under this law, any type of small arms, ammunition, explosive substances, or "pointed and edged weapons used normally for offensive purposes" are defined as arms.¹ To this day, personal firearms in Somalia are technically regulated by this old law.² In theory, the distribution of weapons is restricted since the

1 Ibrahim Hashi Jama, "Public Order Law in Somaliland: Learning the Lessons of Democracy," *Somaliland Law*, http://www.somalilandlaw.com/PUBLIC_ORDER_LAW_IN_SOMALILAND_Article.htm.

2 Danish Demining Group and The Small Arms Survey, "Community Safety and Small Arms in Somaliland," <http://www.smallarmssurvey.org/fileadmin/docs/E-Co-Publications/SAS-DDG-2010-Somaliland.pdf>.

law requires all traders of arms to be registered with the government.³ Any citizen who wishes to keep and carry firearms must be issued a weapons license from their Regional Governor.⁴ Since Somalis are predominately pastoralists, they are often allowed to arm themselves so they can protect their livestock. However, on the premise of “public order and security”, state authorities may order any Somali with a valid license to temporarily surrender their weapons.⁵ Firearms which may be legally possessed, upon obtaining a weapons license, are limited to non-automatic rifles and pistols. As a result, Somalis cannot legally possess or register automatic assault rifles. Any firearms which have not been authorized by the state are subject to forfeiture.⁶

Although Somalis are legally subject to a stringent gun control law, the militarization of Somalia in the 1960s and its consequences have made the 1963 Public Order Law a dead letter. After the formation of the Somali Republic, Somali leaders pursued a foreign policy predicated upon the idea of “Greater Somalia”.⁷ Many ethnic Somalis live outside the country’s borders because Somalia’s boundaries were drawn by colonial powers. Most of the displaced Somalis are concentrated in the Ogaden region of Ethiopia. With the intention of establishing “Greater Somalia”, Somali military dictator Mohamed Siad Barre embarked on a policy of militarization. Since Barre had based Somalia’s economy on “Scientific Socialism”, Somalia initially received weapons and military equipment from the Soviet Union.⁸ With military aid provided by the Soviets, Barre invaded Ethiopia in July 1977 and inaugurated the Ogaden War. But due to Barre’s questionable devotion to Socialism and the rise of a true Marxist-Leninist state in Ethiopia, the Soviet Union switched their allegiance to Ethiopia.⁹

The changing nature of Cold War geopolitics in the Horn of Africa had a significant effect on the scale of militarization in Somalia. The pro-Ethiopian attitude adopted by the Soviet Union prompted the United States to abandon Ethiopia and back Somalia. From the mid-1970s until the end of the Cold War, the United States contributed heavily to Somalia’s arsenal of weapons. During the 1980s alone, the government of the United States gave up to 200,000,000 dollars in military aid

3 Danish Demining Group and The Small Arms Survey.

4 Jama.

5 Jama.

6 Jama.

7 Martin N. Murphy, *Somalia: The New Barbary?: Piracy and Islam in the Horn of Africa* (New York: Columbia University Press, 2011), 43.

8 Shaul Shay, *Somalia Between Jihad and Restoration* (London: Transaction Publishers, 2008), 4.

9 Stephen Zunes, “Somalia as a Military Target,” *Foreign Policy in Focus*, Institute for Policy Studies, http://www.fpif.org/articles/somalia_as_a_military_target.

to Barre’s increasingly authoritarian regime.¹⁰ Although the Ogaden War ended in failure along with the realization of a “Greater Somalia”, Somalia’s initial friendship with the Soviet Union and subsequent relationship with the United States enabled Barre to build the largest army in Africa.¹¹ American military aid increased the size of the Somali army precipitously from what had been a 12,000 strong force during the era of Soviet assistance to 120,000 soldiers.¹²

The militarization of Somalia from the Ogaden War and Cold War geopolitics made gun control in Somalia ineffectual. This militarization of Somali society played a key role in the ensuing political tensions as organized opposition to Barre’s regime mounted in the aftermath of the failed Ogaden campaign. Although opposition to his regime was widespread, Barre was better able to resist his enemies by using weaponry provided by the Soviets and Americans.¹³ In response, opposed forces to Barre armed themselves which violated the 1963 Public Order Law. Opposition groups, based outside the country, acquired weapons from neighboring countries and funneled them to their allies in Somalia via sophisticated resupply networks.¹⁴ Throughout the 1980s, opponents of Barre grew in number as Somalia’s economy declined due to corruption and inefficiency. Eventually, nearly every region and clan had produced an anti-Barre movement. Barre attempted to further suppress uprisings by arming loyal clans and pitting them against rebelling clans.¹⁵ He also used his intricate knowledge of the “clan system” to poison relations between the clans that opposed him. Barre hoped subsequent clan-against-clan infighting would secure his political survival by directing violence away from his government.¹⁶

Barre’s increasing reliance on clans to secure his power was not a wise decision. Somalia is a lineage-based society where clan power is both ancient and well-established. Clans are the principal organizing force in Somali society and most Somalis think of themselves primarily in terms of their clan.¹⁷ “Clanism” is the basis of most social and political institutions including, but not limited to,

10 Oliver Ramsbotham and Tom Woodhouse, *Encyclopedia of International Peacekeeping Operations* (Santa Barbara: ABC-CLIO, 1999), 222.

11 Ramsbotham and Woodhouse, 222.

12 Murphy, M., 44.

13 Catherine Besteman and Lee V. Cassanelli, eds., *The Struggle for Land in Southern Somalia: The War Behind the War* (London: HAAN Publishing, 1996), 22.

14 Besteman and Cassanelli, 14.

15 Murphy, M., 44.

16 Murphy, M., 44.

17 Besteman and Cassanelli, 14.

rights of access to local resources.¹⁸ As a result, clans are seen as the main source of individual and family security in an increasingly resource-poor country. In the past, clan rivalry over resources often erupted into warfare and stronger clans tended to displace weaker clans in the pursuit of fresh pasture.¹⁹ Not surprisingly, the difficult life of pastoralism has engendered a deep-seated suspicion towards all who are not in the same clan and Barre's clan-against-clan strategy only worsened the already tenuous relations between the clans.

Barre's decision to pit clan-against-clan could not have come at a more inopportune time. In the last quarter of the 20th century, arable land became a source of intense competition in Africa.²⁰ Somalia was no exception and arable land in southern Somalia became a valuable asset in the 1970s and 1980s. Deteriorating clan relations due to Barre's manipulation and a rising demand for arable land did not bode well for most of the communities in southern Somalia because they had limited access to modern weaponry with which to defend themselves. Few farmers in the region had participated in the armed forces or opposing fronts in the 1980s.²¹ Weapons were further unequally distributed when the army disintegrated into clan-based militias.²² Iona Lewis, the pre-eminent historian of Somalia, had this to say on the convergence of fateful forces:

By destroying his country's economy through corruption and inefficiency, Siad (Barre) also promoted those conditions of scarce resources and insecurity on which clan loyalty thrives, since clan loyalty offers the only hope of survival. And by providing arms – directly and indirectly – Siad's legacy of Marrehan misrule ensured a wide and persistent prevalence of extremely bloody clan conflict.²³

As fate would have it, the people least armed tended to be the ones with the most to lose to armed clans. Many residents in communities throughout southern Somalia were essentially defenseless and, as a result, were excessively victims of the inevitable civil war.

The Somali Civil War which broke out in 1991 plunged the nation into lawlessness and crime. Barre was overthrown on January 26, 1991, and with him went any semblance of a central government over most of the country's territory. Government garrisons were overrun and the sub-

18 Murphy, M., 39.

19 Murphy, M., 7.

20 Besteman and Cassanelli, 25.

21 Besteman and Cassanelli, 15.

22 Murphy, M., 44.

23 Murphy, M., 6.

sequent looting of military arsenals allowed many Somalis to arm themselves.²⁴ The weapons of the defunct government fell into the possession of the various clans when clan loyalty reasserted itself after the collapse of the government. In addition to naturally turning to clans during this time of danger and uncertainty, clan members in southern Somalia chose warlords as their "champions".²⁵ Gun violence spread as clan members rallied behind the most promising warlords in the contest over resources.²⁶

Since clan-based conflict has been compelled by an aspiration for resources and power, warlords are merely competitors using weapons to gain access to productive land. Militia mobilization, a necessity for any forcible redistribution of possessions, was therefore a natural transpiration in the struggle to secure resources in an increasingly resource-poor country. Competition over productive resources was most intense in the agriculturally rich districts of the South. There, in the agricultural heartland of the country, old tensions over land ownership came to the forefront in the ensuing militia wars.²⁷ The period of armed anarchy following the collapse of the government was the ideal circumstance for the escalation of conflict over rural land in southern Somalia. Consequently, what appeared to be two years of anarchy to the outside world was actually the culmination of a struggle for possession of land.²⁸ The bloody conflict over land and resources was fought between Somalis with unequal firepower. The outcome was never in doubt and clans with access to weapons rapidly seized control of arable land at the expense of the relatively defenseless inhabitants of southern Somalia. These wars left large segments of Somalia's population vulnerable to famine because the forcible displacement of farmers and herders in southern Somalia disrupted traditional productive systems.²⁹

The situation in Somalia provoked international outrage and compelled the United Nations to respond. The United Nations outlined several prerequisites essential to the reestablishment of a central government based on the Western model.³⁰ First, the United Nations wanted to provide humanitarian relief for Somalia's starving population. To achieve this goal, the United Nations negotiated a ceasefire in March 1992 and established a military mission called United Nations Operation

24 Alison Mitchell, "In an Armed Land, Somalis Live and Prosper by the Gun," *New York Times*, January 5, 1993, <http://www.nytimes.com/1993/01/05/world/in-an-armed-land-somalis-live-and-prosper-by-the-gun.html?src=pm>.

25 Murphy, M., 45.

26 Murphy, M., 45.

27 Besteman and Cassanelli, ix.

28 Besteman and Cassanelli, 15.

29 Besteman and Cassanelli, 15.

30 Shay, 10.

in Somalia (UNOSOM) to ensure the safe delivery of humanitarian aid. Secondly, the United Nations wanted to reduce violence by disarming the clan warlords. Boutros Boutros-Ghali, United Nations Secretary-General, viewed the achievement of a ceasefire and the confiscation of weapons from the rival clans as vital steps towards resolving Somalia's problems.³¹ But Boutros-Ghali had ulterior motives for wanting to disarm the clans since he wanted to use Somalia as an experiment to prove the feasibility of his new doctrine: that the absolute sovereignty of nations, in the post-Cold War era, was over and that universal sovereignty had taken its place.³²

In an attempt to reduce gun-related violence in Somalia, the United Nations decreed an arms embargo on the country. In January 1992, the United Nations Security Council adopted Resolution 733 which imposed a "general and complete embargo on all deliveries of weapons and military equipment to Somalia".³³ A Sanctions Committee was established to oversee the arms embargo. The futility of such a resolution should have been foreseen because it was applied to a country permeated with weaponry of all kinds. The ineffectiveness of the arms embargo was made evident when the Russians were able to deliver military equipment in a plane with United Nations markings to one of the major clan warlords.³⁴ It should be noted, however, that most Somalis did not engage in predacious killings and only used their firearms for the defense of their homes and families.³⁵ Although members of armed militias only made up a small percentage of the population, the use of "technical" (pick-up trucks with heavy machine guns) allowed the militants to disrupt life over large portions of the country.³⁶

The failure of UNOSOM to ensure the safe distribution of humanitarian aid led the United Nations to take a more forceful approach to the deteriorating situation in Somalia. In December 1992, the United Nations Security Council adopted Resolution 794 which mandated the creation of the Unified Task Force (UNITAF) and placed it under the command of the United States. UNITAF was authorized to use "all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia".³⁷ While many United Nations officials believed a "secure

31 Shay, 10.

32 John Drysdale, *Whatever Happened to Somalia?: A Tale of Tragic Blunders* (London: HAAN Publishing, 1994), 1.

33 Ray Murphy, *UN Peacekeeping in Lebanon, Somalia and Kosovo: Operational and Legal Issues in Practice* (New York: Cambridge University Press, 2007), 54.

34 Murphy, R., 54.

35 Besteman and Cassanelli, 14.

36 Besteman and Cassanelli, 14.

37 Murphy, R., 57.

environment" was inconceivable without disarmament, the objective was not explicitly written into the resolution since it was dropped in favor of more neutral and ambiguous language. With 38,000 troops, UNITAF certainly had the manpower to disarm the warlords, and the removal and destruction of Somalis' heavy weapons was an achievable goal when UNITAF forces arrived in Somalia on December 9, 1992.³⁸ Since this was the reality of the situation, both United Nations officials and Somalis expected disarmament to take place. These expectations caused many gunmen to bury their weapons and prices for assault rifles fell almost overnight from 150 dollars to 50 dollars.³⁹

With UNITAF under its command, the United States government opted for a narrowly scoped intervention since it was not willing to take the necessary risks to disarm the warlords. Not surprisingly, United Nations Secretary-General Boutros-Ghali was displeased with the American approach because he longed for the opportunity to disarm Somalis by deploying UN troops nationwide with powers of unlimited enforcement.⁴⁰ Only then could Boutros-Ghali prove his doctrine that absolute and exclusive sovereignty had given way to universal sovereignty in the post-Cold War era and that the rights of individuals had to be internationally safeguarded via a United Nations standing army.⁴¹

By falling back on the ambiguity of Resolution 794, the United States evaded the difficult task of disarmament. Instead of disarming Somalis as many United Nations officials desired, American officers merely requested that weapons be removed from areas "controlled" by UNITAF.⁴² At the time, United States military operations abroad were governed by a zero casualty policy and disarming the warlords could have resulted in significant casualties. Despite the initial calming effect of UNITAF forces, Somali gunmen reappeared in the streets after United States officials made it apparent they did not consider the disarmament of clan militias to be within their mandate.⁴³ UNITAF troops were under orders to follow "traditional" United Nations rules of engagement for peacekeepers and only disarm Somalis who actually threatened them. Once it became clear bandits could keep their

38 Murphy, R., 60.

39 Mitchell, "In an Armed Land, Somalis Live and Prosper by the Gun".

40 Drysdale, 102-103.

41 Drysdale, 83-84.

42 Murphy, R., 61.

43 Jane Perlez, "Gunmen Reappear in Somalia, Renewing Security Concerns," *New York Times*, December 18, 1992, <http://www.nytimes.com/1992/12/18/world/gunmen-reappear-in-somalia-renewing-security-concerns.html?pagewanted=all&src=pm>.

guns if they did not threaten UNITAF forces, armed robbery and extortion soared.⁴⁴ Failure to disarm allowed those with the most weapons to retain the most power. When United States officials finally acknowledged disarmament of clans was necessary, it was not made an objective since they wanted to ensure UNITAF was deemed a success before the scheduled handover to UNOSOM II in May 1993.⁴⁵

In March 1993, the United Nations Security Council explicitly made disarmament an objective of UNOSOM II in Resolution 814. The language in the resolution was unambiguous because the non-confrontational policy advanced by American-led UNITAF would not have been possible had Resolution 794 addressed the issue of disarmament directly. The resolution emphasized “the crucial importance of disarmament” and mandated UNOSOM II peacekeepers to disarm Somali militias under Chapter VII of the United Nations Charter.⁴⁶ When UNOSOM II formally took over from UNITAF in May 1993, only 16,000 UN troops replaced the 38,000 strong UNITAF force. Although UNOSOM II was a visibly weakened United Nations force, it was still expected to disarm the warlord militias. This belated attempt at disarmament was destined to fail from the start since failure to implement weapons control at an earlier date had led to an increase in the boldness of the warring factions.⁴⁷ Leading clan warlord Mohamed Aidede viewed the UN intervention as an attempt to deny him power.⁴⁸ Aidede had ample reason to believe this because he and other warlords had benefited financially from the armed criminal activities of their clan followers.⁴⁹ As a result, Aidede did not hesitate in resisting the weakened United Nations force. On June 5, 1993, 24 UN troops were killed while attempting to inspect an Aidede weapons site.

The massacre of peacekeeping forces prompted the United Nations to respond in a rash manner that had an unfortunate effect on the objective of disarmament. The day following the attack, the United Nations Security Council adopted Resolution 837. The resolution claimed the killings were an attempt “to prevent by intimidation UNOSOM II from carrying out its mandate as provided for in resolution 814”.⁵⁰ It acknowledged “the fundamental importance of completing the

44 Robert G. Patman, “Disarming Somalia: The Contrasting Fortunes of United States and Australian Peacekeepers During United Nations Intervention, 1992-1993,” *African Affairs* 96, no. 385 (1997): 515, <http://www.jstor.org/stable/723817>.

45 Murphy, R., 62.

46 Murphy, R., 321.

47 Murphy, R., 62.

48 Murphy, M., 47.

49 Patman, 514.

50 Murphy, R., 324.

comprehensive and effective programme for disarming all Somali parties” but also authorized UN forces “to use all necessary measures against all those responsible for the armed attacks” in order to secure “their arrest and detention for prosecution, trial and punishment.”⁵¹ Although Aidede was not mentioned by name, the detention clause of the resolution was implicitly directed against him. As a result, the United Nations unwisely placed less emphasis on the already dubious goal of disarmament and launched an all-out military operation against Aidede and his followers.

The resulting war between the United Nations and Aidede led to the eventual abandonment of forced disarmament in Somalia. On October 3, 1993, the United States attempted to capture several members of Aidede’s inner circle in the capital city of Mogadishu. During the resulting Battle of Mogadishu, two U.S. Black Hawk helicopters were shot down by rocket-propelled grenades (RPGs), 18 American soldiers were killed, and an additional 73 were wounded. The “Black Hawk Down” incident directly led to the withdrawal of the United States from Somalia.⁵² In the aftermath of the battle, the Security Council adopted Resolution 897 which no longer permitted UNOSOM II troops to use force to disarm the clan militias.⁵³ Nonetheless, other countries abandoned the effort and a lack of support from United Nations members ultimately led to the humiliating withdrawal of UNOSOM II forces on March 2, 1995. Since the withdrawal of United Nations forces, 15 international peace initiatives have ended in failure and the use of weapons continues to result in the infliction of heavy casualties in the ongoing civil war.⁵⁴

To say that Somalia has a pervasive gun culture would be an understatement. Guns are so widespread that they appear in many aspects of Somali life. AK-47s, the preferred weapon of most Somalis, are fired into the air in a celebratory manner after weddings.⁵⁵ Even youngsters play with shiny empty AK-47 shells as toys while some Somali children possess their very own AK-47 because they won it as a first-place prize.⁵⁶ The country is so awash with firearms that an AK-47 sells for around 25 dollars.⁵⁷ In comparison, the current asking price for an AK-47 in the United States is 500

51 Murphy, R., 323-324.

52 Murphy, R., 193.

53 Murphy, R., 193.

54 Shay, 149.

55 Mitchell, “In an Armed Land, Somalis Live and Prosper by the Gun”.

56 Jeffrey Gettleman, “First Prize for a Child in Somalia: An AK-47,” *New York Times*, September 20, 2011, http://www.nytimes.com/2011/09/21/world/africa/shabab-gives-unusual-prizes-for-somali-children-in-contest.html?_r=2&scp=1&sq=Somalia%20Gun&st=cse.

57 Matt Potter, “Dollars, Deja Vu, and Death in Somalia,” *Huffington Post*, April 8, 2011, http://www.huffingtonpost.co.uk/matt-potter/dollars-deja-vu-and-death_b_914738.html.

dollars.⁵⁸ The number of guns held by civilians in Somalia is estimated to be between 550,000 and 750,000, with 100,000 firearms in Mogadishu alone. This would rank Somalia 58th worldwide in terms of the number of privately owned guns. The resulting rate of private gun ownership in Somalia is about nine firearms per 100 people. The number of registered guns in Somalia is reported to be 14,000 and all are in the self-proclaimed "Independent Republic of Somaliland." As a result, the rate of registered firearms in Somalia is extremely low and only comes to a little more than one tenth firearms per 100 people.⁵⁹

Unfortunately, the lack of reliable statistics makes it difficult to substantiate the pervasiveness of gun related crimes in Somalia. Reports on homicide rates are fragmentary for Somalia since there is no central government over most of the country's territory. As a result, annual homicide rates are available for only three years. The annual rate of homicide by any means per 100,000 was about 33 in 2002, about three in 2004, and one and a half in 2008.⁶⁰ The World Bank, the organization responsible for data collection in the years 2002 and 2004, warns that data for many countries in Sub-Saharan Africa are "flawed and distorted".⁶¹ The annual homicide rate in Somalia for 2008 was estimated by the World Health Organization through "statistical modeling because of lack of death registration data from national sources".⁶² Such a low annual homicide rate could only be explained if a majority of the Somalis sampled were from Somaliland. The region of Somaliland declared independence from Somalia shortly after the fall of Barre's regime. Although Somaliland boasts of having a less violent society than the remainder of Somalia, the United States Department of State "continues to warn U.S. citizens against all travel to Somalia, including the self-proclaimed 'Independent Republic of Somaliland'".⁶³ It is hard to believe that the American government would advise its citizens not to travel to a country with a supposedly lower homicide rate than the United States.

A stringent gun control law has existed in Somalia almost since the country's inception in 1960. Massive foreign contributions of weapons infiltrated Somali society in the 1970s and 1980s.

58 Sydney School of Public Health, "Guns in the United States: Facts, Figures and Firearm Law," *GunPolicy*, <http://www.gunpolicy.org/firearms/region/united-states>.

59 Sydney School of Public Health, "Guns in Somalia: Facts, Figures and Firearm Law," *GunPolicy*, <http://www.gunpolicy.org/firearms/region/somalia>.

60 Sydney School of Public Health, Somalia.

61 World Bank, "Homicide Rate Dataset, 1995-2008," http://siteresources.worldbank.org/EXTCPR/Resources/407739-1267651559887/Homicide_Rate_Dataset.pdf.

62 United Nations Office on Drugs and Crime, "2011 Global Study on Homicide: Trends, Contexts, Data," http://www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa_study_on_homicide_2011_web.pdf.

63 Bureau of Consular Affairs, "Somalia," *Travel.State.Gov*, United States Department of State, http://travel.state.gov/travel/cis_pa_tw/cis/cis_1023.html.

As Somali society deteriorated along clan-based lines, so too did Somalia's arsenal of weapons. When the nation descended into anarchy after the initiation of the Somali Civil War in 1991, the pervasiveness of weapons fueled old clan rivalries over natural resources and made time-honored methods of peaceful settlement a thing of the past. Although guns have contributed significantly to the ongoing carnage, firearms also provide protection to Somalis who do not engage in criminal activities. In a country where guns are an essential feature of life, and internal and external attempts at gun control have ended in failure, firearms will continue to figure prominently in Somali society and conflicts.

Works Cited

- Besteman, Catherine, and Lee V. Cassanelli, eds. *The Struggle for Land in Southern Somalia: The War Behind the War*. London: HAAN Publishing, 1996.
- Bureau of Consular Affairs. "Somalia." *Travel.State.Gov*. United States Department of State. http://travel.state.gov/travel/cis_pa_tw/cis/cis_1023.html.
- Danish Demining Group, and The Small Arms Survey. "Community Safety and Small Arms in Somaliland." <http://www.smallarmssurvey.org/fileadmin/docs/E-Co-Publications/SAS-DDG-2010-Somaliland.pdf>.
- Drysdale, John. *Whatever Happened to Somalia?: A Tale of Tragic Blunders*. London: HAAN Publishing, 1994.
- Gettleman, Jeffrey. "First Prize for a Child in Somalia: An AK-47." *New York Times*, September 20, 2011. http://www.nytimes.com/2011/09/21/world/africa/shabab-gives-unusual-prizes-for-somali-children-in-contest.html?_r=2&scp=1&sq=Somalia%20Gun&st=cse.
- Jama, Ibrahim Hashi. "Public Order Law in Somaliland: Learning the Lessons of Democracy." *Somaliland Law*. http://www.somalilandlaw.com/PUBLIC_ORDER_LAW_IN_SOMALILAND_Article.htm.
- Mitchell, Alison. "In an Armed Land, Somalis Live and Prosper by the Gun." *New York Times*,

- January 5, 1993. <http://www.nytimes.com/1993/01/05/world/in-an-armed-land-somalis-live-and-prosper-by-the-gun.html?src=pm>.
- Murphy, Martin N. *Somalia: The New Barbary?: Piracy and Islam in the Horn of Africa*. New York: Columbia University Press, 2011.
- Murphy, Ray. *UN Peacekeeping in Lebanon, Somalia, and Kosovo: Operational and Legal Issues in Practice*. New York: Cambridge University Press, 2007.
- Patman, Robert G. "Disarming Somalia: The Contrasting Fortunes of United States and Australian Peacekeepers During United Nations Intervention, 1992-1993." *African Affairs* 96, no. 385 (1997): 509-533. <http://www.jstor.org/stable/723817>.
- Perlez, Jane. "Gunmen Reappear in Somalia, Renewing Security Concerns." *New York Times*, December 18, 1992. <http://www.nytimes.com/1992/12/18/world/gunmen-reappear-in-somalia-renewing-security-concerns.html?pagewanted=all&src=pm>.
- Potter, Matt. "Dollars, Deja Vu, and Death in Somalia." *Huffington Post*, April 8, 2011. http://www.huffingtonpost.co.uk/matt-potter/dollars-deja-vu-and-death_b_914738.html.
- Ramsbotham, Oliver, and Tom Woodhouse. *Encyclopedia of International Peacekeeping Operations*. Santa Barbara: ABC-CLIO, 1999.
- Shay, Shaul. *Somalia between Jihad and Restoration*. London: Transaction Publishers, 2008.
- Sydney School of Public Health. "Guns in Somalia: Facts, Figures and Firearm Law." *GunPolicy*. <http://www.gunpolicy.org/firearms/region/somalia> (accessed October 29, 2011).
- United Nations Office on Drugs and Crime. "2011 Global Study on Homicide: Trends, Contexts, Data." http://www.unodc.org/documents/data-and-analysis/statistics/Homicide/Globa_study_on_homicide_2011_web.pdf.
- World Bank. "Homicide Rate Dataset, 1995-2008." http://siteresources.worldbank.org/EXTCPR/Resources/407739-1267651559887/Homicide_Rate_Dataset.pdf.
- Zunes, Stephen. "Somalia as a Military Target." *Foreign Policy in Focus*. Institute for Policy Studies. http://www.fpipf.org/articles/somalia_as_a_military_target.
-
- Taylor Beale graduated Magna Cum Laude from The Ohio State University with degrees in History and Geographic Information Systems.*

LIVE. LEARN. INTERN.

In the John Glenn
School of Public Affairs'
Washington Academic
Internship Program

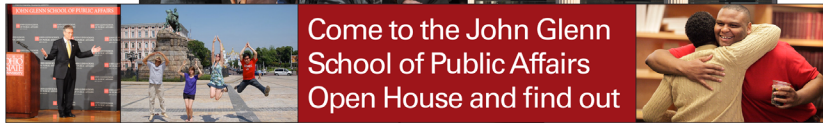


glenn.osu.edu

What is the Glenn School all about?



Come to the John Glenn
School of Public Affairs
Open House and find out



You could win an
iPad, if you are
there



Have you ever wanted to be more involved with public service or public policy? Perhaps you've considered studying these areas at the graduate or undergraduate level. Or maybe you'd just like to know a little more about what the Glenn School has to offer. Now is your chance to get a first hand look at our degree and co-curricular programs.

Go to glenn.osu.edu/open_house to learn more.

JOHN GLENN SCHOOL
OF PUBLIC AFFAIRS



Regulating Human Trafficking: Putting an End to Modern Day Slavery

Alexa Odom

In recent years, the rate of human trafficking incidents has surged, catapulting it into a \$32 billion industry that only keeps growing. Present in countries throughout North, Central and South America, Africa, Europe, and Asia, human trafficking is quickly permeating all borders. American policy makers are beginning to take charge and in both federal and state legislation action has been taken to end modern day slavery. However, through extensive research, it is clear that much more action is necessary. This paper focuses on the current status of human trafficking legislation within the United States, and discusses future steps that will aid in the eradication of modern day slavery in the United States.

When one thinks of slavery, history is typically what comes to mind. After all, slavery is but a wrinkle of the past, a moral issue that has since been dealt with. At least, this is how the modern world has viewed it. With the passage of the 13th amendment, slavery was abolished, and a once oppressed people were set free. Slavery however, has slowly crept back into the realities of the modern day world. It is no subject for historic discussion, but rather an unforeseen policy issue lawmakers across the world are burdened to solve. As it is now becoming more widely recognized, people are also forced to realize that it is as significant an issue domestically as it is internationally. And, as has been done before, slavery can be stopped. To alleviate this problem many steps must be taken. Stronger more thorough research efforts, in addition to the implementation of stronger anti-trafficking legislation combined with an increase in the number of safe houses and types of after care available to survivors are the first steps to building a strong defense against human trafficking are the essential components to putting an end to human trafficking in America.

What is Human Trafficking?

Human trafficking, also known as trafficking-in-persons (TIP), is a complex term, with an

involved definition. Various sources have differing interpretations for the meaning of human trafficking; however, the policy recommendations from this research will focus specifically on the definition according to the Trafficking Victims Protection Act of 2000 (TVPA), in which human trafficking is defined as:

“Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion. Or, in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. A victim need not be physically transported from one location to another in order for the crime to fall within these definitions.”¹

It is necessary to note that TIP also includes labor trafficking, which oftentimes is overlooked. This is likely because lawmakers consistently focus on sex trafficking as it is often considered the harsher of the two crimes. Oftentimes TIP is thought to be synonymous with smuggling, which is incorrect as human trafficking is a crime against a person and smuggling is a crime against a country's borders.² Also, human trafficking does not require transportation, though it often is a component.

Human trafficking is the second largest criminal industry in the world, behind the drug trade, and tied to arms dealing. However, it ranks number one as the fastest growing criminal industry.³

Where does it take place?

TIP crosses all international borders; in a sense, it is a crime that knows no borders. Within the United States, cases of TIP have been reported in every state. In Figure 1 below, the map shows data collected by Polaris Project, America's lead human trafficking organization centered on promoting awareness of and combating human trafficking. The data shows the number of calls placed to the

1 United States. Cong. House. *Victims of Trafficking and Violence Protection Act of 2000*. 106th Cong. HR 3244. U.S. Department of State. U.S. Department of State, 28 Oct. 2008. Web. 18 July 2011. <<http://www.state.gov/g/tip/laws/61124.htm>>.

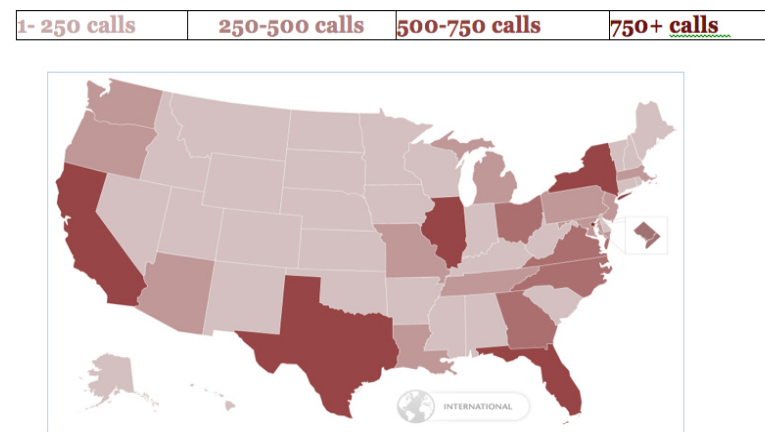
2 “What is human trafficking?” *Central Texas coalition against human trafficking*, 2005, 14 July 2011 <http://www.ctcaht.org/What_is_Trafficking.html>.

3 “About human trafficking.” Administration for Children & Families, Department of Health and Human Services, 28 June 2011, 17 July 2011 <<http://www.acf.hhs.gov/trafficking/about/index.html>>.

National Human Trafficking Resource Center (NHTRC) phone hotline used to report cases of human trafficking.

Figure 1

Total NHTRC Hotline Calls by State⁴



According to this map, which is updated daily, every state in the U.S. has had at least one reported incidence of human trafficking. Thus, it is evident that human trafficking is not limited to one section or region of America but rather infiltrates each state.

Understanding the means by which human trafficking occurs is equally as significant as the location. TIP takes varied form in each state, depending on a number of variables. For example, in Ohio, trafficking is influenced by the substantial foreign-born population in the state. “In 1990 to 2000, the foreign born population increased 30.7%. From 2000 to 2007, the population increased another 23.6%.”⁵ In less than 20 years, the foreign born population increased by more than 50%. Traffickers capitalize on the large foreign population by hiding the foreign nationals being trafficking within Ohio communities.⁶ Another factor in Ohio is the easy access to transportation as the highway

4 “Map of NHTRC Hotline Calls by State.” Polaris Project, Aug. 2011, 17 Aug. 2011 <<http://www.polarisproject.org/state-map>>.

5 “Report on the prevalence of human trafficking in Ohio to Attorney General Cordray” *Ohio Trafficking in Persons study commission Research analysis sub-committee*, 2009, 16 Aug. 2011 <<http://www.ohioattorneygeneral.gov/getattachment/5880897e-09e5-4cd1-b051-4680ce560e6d/Report-on-the-Prevalence-of-Human-Trafficking-in-O.aspx>>.

6 Ibid, 12.

systems provide quick access to Canada's border. Additionally, Ohio has the 5th ranked highest number of gentlemen's clubs in the nation.⁷ Facts like these are what make cities and states particularly popular for trafficking, though a common citizen would not necessarily associate any of these types of factors. This is how trafficking remains underground. Other variables include the size of the state, demographics, labor needs, poverty, or transportation infrastructure accessibility, such as highways.

Who is affected?

The effects of TIP are incredibly far reaching. In the United States, victims include males and females of all ages, but young females are the predominate targets. Many victims are foreign, having been coerced or deceived into traveling to the United States or abducted upon entry. There is an estimated 17,500 people trafficked into the United States each year.⁸ These foreign nationals are diverse, and most commonly originate from Thailand, India, Mexico, Philippines, Haiti, Honduras, El Salvador, and the Dominican Republic. U.S. citizens who are victimized, both adults and children, are predominantly found in sex trafficking, while foreign victims are more often found in labor trafficking.⁹

American-born, child victims often find themselves in the black market of trafficking because they are runaways, homeless, or troubled youths. The entire homeless population is vulnerable to becoming a victim of TIP, but homeless youths are especially at-risk as they are more easily coerced and manipulated. It is estimated that 300,000 youths are susceptible to trafficking in the U.S. alone.¹⁰ Though in reality, when nationally it is estimated 3.5 million are homeless each year and 25% are children under the age of 18, that number of at-risk homeless youths should likely be much higher.¹¹

Victims are typically stereotyped as uneducated, or poorly educated, and from low-income backgrounds, especially foreign victims. However, in the United States it is not uncommon for victims to come from educated and wealthy families. One example is Theresa Flores, Director of Training and Education for Gracehaven, which is a home for trafficking victims.

7 Ibid, 32.

8 U.S. Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*, <<http://www.justice.gov/ag/annualreports/tr2009/agreporhumantrafficking2009.pdf>>.

9 2006 Trafficking in Persons Report, n.p.

10 "Trafficking in the United States." International crisis aid, 14 July 2011, <<http://www.crisisaid.org/traffickstats.html>>.

11 "Facts on Poverty and Homelessness." *St. Vincent De Paul*, 2010, 22 July 2011, <http://www.stvincentdayton.org/facts_onhomelessness.html>.

"My story is a bit unique... I lived in a nice neighborhood and had a wonderful family. We weren't poor and I wasn't neglected. Yet I was targeted by a group of very evil men who used me, tortured me and made me do things for them and other men for their profit. I was kidnapped and left for dead. They didn't care about me as a human being and didn't value women."¹²

There are victims that originate from poor neighborhoods, but this is not the case for every victim. Though certain circumstances may make one more susceptible to human trafficking, it by no means implies that if one does not identify with those vulnerabilities that they will be able to avoid becoming a victim themselves.

The why and how it persists

There is no event in history that can be singled out as the cause for the recent uprising of TIP and modern day slavery. Technically, this type of involuntary servitude was likely present in the United States for decades, but even today it is often considered an international problem as opposed to a domestic one because people refused to acknowledge its existence, thus making it easier to hide.

The latest outbreak of human trafficking was spurred in the mid-1990s after the breakup of the Soviet Union and the Warsaw Pact nations led to the breeding of a new black market involving the purchasing and selling of young women.¹³ According to a New York Times article written in June of 1996, the transformation of the former Soviet Union and Warsaw pact have opened up porous borders and led to increased organized crime. In addition to a lack of civil authority, the region became infested with smugglers and their victims. "Russia acts as 'holding depot' for up to 200,000 illegal immigrants at any one time awaiting transport to the West."¹⁴

There are other causes that result in its infestation of various countries. Most commonly money, and in the case of many foreign countries, the lack of it, causes desperation amongst families, which often leads to the selling of children in hopes they will repay debts that are owed.

Nevertheless, to become a \$32 billion industry, human trafficking requires the supply of people for sex and labor acts that are constantly being demanded for by the public.¹⁵ At the root of this issue,

12 Flores, Theresa L. *The sacred bath: an American teen's story of modern day slavery*. Lincoln, Neb.: IUniverse, 2007.

13 "Human Trafficking: Modern Day Slavery," *Office of Congressman Chris Smith*, 2006, July 14, 2011, <<http://chris-smith.house.gov/specialfeatures/traffickingspecialfeature.htm>>.

14 Paul J. Smith. "Smuggling People into rich countries is a growth industry." *NY Times* June 28, 1996. May 23, 2012. <http://www.nytimes.com/1996/06/28/opinion/28iht-edpaul.t.html>

15 "International Trafficking." *Polaris Project | Combating Human Trafficking and Modern-day Slavery*. Polaris Project, 2010. Web. 18 July 2011.

particularly in relation to sex trafficking, is the demand for women and children for sex. Identifying the suppliers is typically more achievable than the identification of those in demand, thus making it a laborious task for law enforcement to put an end to the crime. These people can be anyone from employers seeking cheap labor, to perverse adults seeking sexual pleasure from children and women at a low cost.

Demand by consumers, and thus employers, fuels labor trafficking, which gives purpose and incentive to suppliers. With the constantly changing world economies, the production of goods is increasing at a faster rate, pressuring manufacturers to also improve their production rates to be competitive. Which, with global profits from forced labor is estimated to be \$4.3 billion annually, it is evident they are doing so.¹⁶ This natural and understandable drive to remain competitive is being met by unnatural and inhumane ways.

TIP directly impacts its victims, but also indirectly impacts numerous facets of society. Hence, it is not solely a crime against the individuals it victimizes, but is a crime against all of American society.

Current Legislation

Beginning in the late 1990s, there was a surge in activism to abolish human trafficking. This surge led to the first TIP legislation, which is the Trafficking Victims Protection Act of 2000 (TVPA). Enacted on October 28, 2000, TVPA marked the first Federal law that served to protect victims and prosecute their traffickers, both nationally and internationally.¹⁷ This act has three divisions. The first is the Trafficking Victims Protection Act of 2000, which is the focus of this research, division two is the Violence Against Women Act of 2000, and division three details miscellaneous provisions.

TVPA focuses on both domestic and international slavery. One component of TVPA is the increased responsibility placed on the government, including the requirement of the United States' Department of State to annually provide the Trafficking in Persons Report (TIPR), which details the current status of human trafficking and the effectiveness of the efforts made to stop it. It seeks to prevent human trafficking overseas and domestically, protect victims in the U.S. by assisting them

16 "Human Trafficking: Modern Enslavement of Immigrant Women in the United States." *American Civil Liberties Union*. 31 May 2007. Web. 5 Aug. 2011. <<http://www.aclu.org/womens-rights/human-trafficking-modern-enslavement-immigrant-women-united-states>>.

17 United States. Department of Health and Human Services. Rescue & Restore. *Trafficking Victims Protection Act 2000 Fact Sheet*. Web. 22 July 2011. <http://www.acf.hhs.gov/trafficking/about/TVPA_2000.pdf>.

with Federal and State aid, and prosecute traffickers under Federal penalties.¹⁸

Since 2000, there have been three reauthorization acts that came under the Trafficking Victims Protection Reauthorization Act (TVPRA). These acts were proposed and passed in 2003, 2005, and 2008. The purpose of each was to authorize appropriations for the TVPA to improve anti-human trafficking efforts. These appropriations were to be used for enhanced law enforcement training and other benefits and services for victims, including the provision of visas for foreign victims and mental and health care assistance. Protection and assistance to human trafficking survivors is available in the form of education, health care and job training benefits, and more acceptable housing.¹⁹ The U.S. is the 2nd most popular destination country for traffickers, with the 17,500 trafficked into the U.S. annually not including American citizens trafficked within the U.S., further proving the undeniable presence of foreign national victims in the United States, which calls for unique provisions.²⁰ TVPA recognizes the need for and allows the distribution of temporary visas that enable victims to become temporary U.S. residents through T (temporary) Visas. Victims are also eligible for U (non-immigrant status) Visas, which are issued to aliens who suffered physical or mental abuse and are willing to cooperate in criminal investigations of traffickers.²¹ Foreign victims are treated as refugees, and are given access to benefits and services like food stamps, cash assistance, and Medicaid. Additional government-funded programs include crisis counseling, short-term housing, and mental health assistance.²² The law also allows them to be eligible for the Witness Protection Program.

The most recent piece of legislation is the Trafficking Victims Protection Reauthorization Act 2011. It was proposed by Sens. Leahy (D-Vermont), Brown (R-Massachusetts.) Kerry (D-Massachusetts), Boxer (D-California), Cardin (D-Maryland), and Wyden (D-Oregon). It is a bipartisan bill to "authorize appropriations for fiscal years 2012 through 2015 for the Trafficking Victims Protection Act of 2000."²³ It also strengthens current anti-trafficking laws. In Title II of the Trafficking Victims Protection Reauthorization Act of 2011, the tampering and improper use of documents, particularly for immigrant documentation, is deemed unlawful. Also, anyone who violates this title "in order to, without lawful authority, maintain, prevent, or restrict the labor services of the individual"²⁴ is sub-

18 Ibid, 1.

19 Ibid, 2.

20 2009 Trafficking in Persons Report, 10.

21 TVPA Fact sheet, 1.

22 ACLU, n.p.

23 Trafficking Victims Protection Reauthorization Act 2011, S. 1301, 111th Cong. (2011).

24 2011 TVPRA, n.p.

ject to be fined, or imprisoned for not more than one year, or both. The bill also established reporting requirements for the Secretary of Labor. The first must come by December 1, 2012 and then occur every two years following. All reports are presented to Congress. Additionally, the bill will continue to support law enforcement training efforts and after care services provided to victims. The bill was introduced by the senators in June 2011 and has yet to pass through the Senate.

Increased measures in legislation

The United States seeks to serve as a model for other nations to follow in their efforts to combat human trafficking. And though the United States has set forth a strong effort in setting an example, various deficiencies remain. Numerous obstacles hinder movement towards abolishing human trafficking, thus requiring constant and persistent action in order to fully confront the problem. The current efforts made to eradicate human trafficking are the necessary beginning steps that have proven to be beneficial, though additional efforts can be made that will only further help to address this issue.

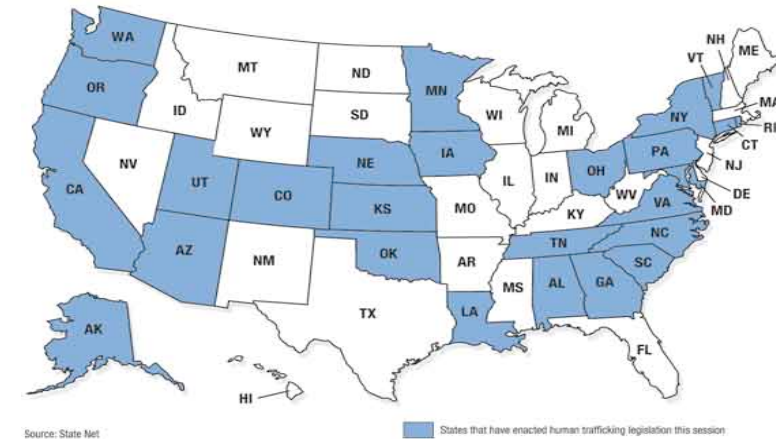
Proposal 1: First and foremost, the most effective way to combat an issue is to present it with a united front. As of 2011, each State has recorded at least one case of human trafficking (See Figure 1); however, there are still states remaining that have only one of the two crimes, either sex or labor trafficking, banned, and there are even some states that don't have laws prohibiting either. Nations can fall under three distinct categories: origin countries, that recruit potential victims; destination countries, where the demand means and opportunity to purchase victims is greatest; and bi-directional countries that serve as both origin and destination countries.²⁵ America is the second ranked destination country, behind Germany, but it also has a growing population of trafficking victims. Thus, the first proposal deals with states that have not passed legislation banning human trafficking. If this step is not taken, there are many negative consequences. First, there is a higher a risk of traffickers relocating to states without anti-trafficking laws. "State laws do play a role in the decision making of human trafficking organizations that are sophisticated and networked. The more sophisticated trafficking rings are aware of the laws and potential risk of doing business in a particular U.S. state."²⁶ States need to become less attractive to traffickers. America already appeals to the people traffickers are trying to manipulate and coerce into slavery, because of the freedoms offered and higher class mobility. This makes it easy to coerce people unknowingly into becoming trafficking victims. Yet, the

²⁵ 2009 Trafficking in Persons Report, 11.

²⁶ 2009 Trafficking in Persons Report, 13.

additional benefit of passivity in lawmaking only adds to the overall appeal. The other issue that arises is that it shows a lack of responsibility on the part of the government, and a lack of serious concern for this issue. In Figure 2, the map details how many states had laws criminalizing human trafficking in August 2010. At this time there were 26 states with enacted legislation barring human trafficking, while nine states had pending legislation.

Figure 2



As of 2011, all but three states, Wyoming, Massachusetts, and West Virginia, and the District of Columbia, had either passed and/or enacted anti-trafficking legislation. The rapid increase in legislation against human trafficking across the country in only one year, illustrates a stronger stance being taken by America. However, as long as there are states remaining that do not have anti-trafficking legislation, the U.S. remains a nation divided. Therefore, I propose that each state require legislation banning TIP in all forms. The reality of human trafficking calls for a pro-active effort, beginning with our lawmakers.

The moral issues and human rights violations of TIP are unquestionable. Therefore, what must be questioned is why a state would not have legislation banning human trafficking. The level of feasibility of enacting legislation is a non-issue, as majority of the United States has already passed legislation, with the only hindrance being the amount of time it took to do so as a result of the American legislative process. Another possible explanation for the slow reaction to TIP, may connect to rapid growth rate of TIP. Within the past 20 years, human trafficking has had consistent exponen-

tial growth within the United States' borders. But the Federal government only began to aggressively address the issue within the past 11 years. Moreover, anti-human trafficking organizations who are vital forces in actively pursuing the eradication of human trafficking, were mostly conceived within the last 10 years. Therefore, though it is not an excuse, the uncontrollable factor of timing seemed to have played a pivotal role in the lack of legislation in some states.

Yet, time is only a hindrance and excuse, not a justification. There remain many benefits to enacting legislation in each state. The most effective and efficient way to weaken the stronghold of human trafficking on society is to create statutes, which enforce stricter penalties. This would increase law enforcements' capacity to fight against modern-day slavery. The message sent to traffickers is much more powerful when the country as a whole agrees to enact stricter legislation. Subsequently, with the passing of the 13th amendment and abolishment of slavery, the nation saw a shift in the hope brought to an oppressed people. The change was not immediate, but change was impossible without the government first deciding to take a stand. One of the greatest obstacles confronting victims is the fear of being attacked by their traffickers, unfairly treated by law enforcement, or sent back to their country, which is clearly vulnerable to trafficking.

“Victims of trafficking have a fear or distrust of the government and police because they are afraid of being deported or because they come from countries where law enforcement is corrupt and feared. Sometimes they feel that it is their fault that they are in this situation. As a coping or survival skill, they may even develop loyalties and positive feelings toward their trafficker and try to protect them from authorities.”²⁷

Though passing laws against trafficking will not necessarily guarantee that such a fear would become obsolete, it at least offers the chance, but more importantly, it provides justice for the victims who had their freedoms stolen. This justice would also show them the United States' commitment to stopping this crime, and would encourage them to step out and help.

Proposal 2: In the United States, a common trait of U.S. child victims of human trafficking is that they are homeless, runaways, or throwaways, which means they have been kicked out of their home by a parent or guardian. Therefore, it is essential for legislation to include the allocation

²⁷ United States. Department of Health and Human Services. Rescue & Restore. *Resources: The Mindset of Human Trafficking Victim*. 2010. Print.

of funding to provide homes for the survivors of trafficking. For many survivors, returning home is not an option. Another complication is the non-citizens who are brought to the United States under the pretense of job security, but were deceived. With no financial stability or means to return to their home country, they are left with few options, jobless, and vulnerable to recruiting.

“Nationwide, organizations specializing in support for these victims collectively have fewer than 50 beds. Other facilities, such as runaway and homeless youth shelters and foster care homes, may not be able to adequately meet the needs of victims or keep them from pimps/traffickers and other abusers.”²⁸

50 beds are only enough for one in each state, and with Ohio alone claiming at least ten beds, it is clear that more housing would serve preventative measures and protective ones as victims of trafficking would benefit from the safe houses. I propose that more safe houses are made more available to victims of human trafficking.²⁹

This proposal is particularly challenging because of the required costs. Not only is it necessary to include the costs of construction, but also labor and continued maintenance of the home, any insurance costs, mortgages, furnishings, such as desks, dresser drawers, beds, etc.

In lieu of the recent debt-ceiling crisis, receiving additional funding is increasingly difficult with fewer resources to pull from. Therefore, this proposal requires a restructuring of how the money appropriated through TVRPA.

In 2010, \$12.5 million was allocated in funds for “expanding counseling, protection, housing, and legal assistance to trafficking survivors.”³⁰ An additional \$5.3 million was allocated to the Department of Justice's Human Trafficking Prosecution Unit.³¹ The \$12.5 million in funds is not an adequate amount to truly serve even just the annually estimated 17,500 new trafficking victims in the U.S. each year, let alone the total number of victims at any given time. Therefore, funds directed to specially training law enforcement to better identify traffickers and victims should be reallocated to better serve the need for housing and aftercare. From 2003 to 2005, there was a total of 490 prosecu-

²⁸ United States. Congressional Research Service. Congress. *Sex Trafficking of Children in the United States: Overview and Issues for Congress*. By Kristin M. Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin. District of Columbia, 2011.

²⁹ “Our Mission.” *Gracehavenhouse.org*. 2009. 18 Aug. 2011 <<http://www.gracehavenhouse.org/gracehaven/mission/>>.

³⁰ Alliance to end slavery and trafficking. “Federal Spending Bill Includes Dramatic Increases to Help Fight Modern-Day Slavery.” Press release. *ATEST*. ATEST. 19 Aug. 2011 <<http://www.endslaveryandtrafficking.org/news/federal-spending-bill-includes-dramatic-increases-help-fight-modern-day-slavery>>.

³¹ Alliance to end slavery, n.p.

tions and 142 convictions between North, Central and South America.³² These numbers show an immense disparity and are highly under-representative of the number of traffickers globally. However, these numbers will only increase when stronger measures are taken to criminalize traffickers.

The feasibility of this is great, as it would not require additional funding. When observing the cost-benefit of services, I believe there is a much higher cost benefit to providing more housing for victims than there is for providing officers with more training. Victims that have access to homes that allow them to feel safe, give law enforcement agents the best tool in fighting human trafficking: witnesses. Like any underground market, only an insider truly knows how to navigate through it. There are two types of insiders: traffickers and those that are trafficked. The more trafficking survivors who share their story with law enforcement and engage in criminal investigations, the higher levels of prosecutions and convictions of traffickers. Also, there is a possibility for increasing the rate at which these prosecutions occur, helping to stop trafficking much faster.

Proposal 3: In addition to providing more safe houses for victims, I propose that more T Visas and U Visas be made available for foreign victims. Foreign victims receive funding through the Office of Refugee Resettlement, which from 2005 to 2009 received approximately 9.8 million annually.³³ Currently, there are 5,000 T visas and 10,000 U visas available annually, each costing roughly \$270, plus an additional \$120 for additional family members.^{34 35} This number is lower than the number of victims trafficked into the U.S. each year, and though this limit does not apply to family members, it is still an unacceptable number of visas available for foreign victims. The government should raise the number of visas available annually to at least equal the number of victims who are trafficked into the U.S. annually at 17,500. This is feasible as it only means adding an additional 2,500 visas collectively, however it is likely improbable as it would demand a higher level of funding appropriated to TVPA.

The greatest opposition to all proposals is the means of funding. In TVPA and all the legislation that followed it, there was a heavy focus on training law enforcement to better recognize traffickers and pimps. Though this is important, the resources spent on trafficker identification train-

32 2006 Trafficking in Persons Report, n.p.

33 Office Of Refugee Resettlement: Funding & Grants." *Administration for Children and Families*. 22 July 2009. Department of Health and Human Services. 18 Aug. 2011 <<http://www.acf.hhs.gov/programs/orr/funding/appropriations.htm>>.

34 ACLU, n.p.

35 Michael Ramage. "Chief's Counsel: New Visa Option May Fit Your Human Trafficking Witnesses and Victims to a T." *Chief's Counsel: New Visa Option May Fit Your Human Trafficking Witnesses and Victims to a T*. 2007. *International Association of Chiefs of Police*. Alexandria. 19 Aug. 2011 <http://www.policchiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1085&issue_id=12007>.

ing could be better utilized. The best sources for law enforcement are the victims they are trying to protect. Victims will always struggle in coming forward and accusing their traffickers because of their fear of being harmed. This is especially true for foreign victims who often come from corrupt governments that have strict law enforcement and who are apart of the human trafficking network that aided in the trafficking. Nevertheless, with more safe houses and better after-care for victims, I believe this can be changed. In fact, when combining stronger penalties, more safe houses, and better after-care and counseling, victims are more apt to come forward. This would help researchers gather data that is more credible, thus helping the United States monitor the progress of anti-trafficking efforts within the U.S. and abroad. Victims would give the best insight into how to infiltrate the human trafficking industry.

It is clear that much of the data found on human trafficking is somewhat ambiguous. Its sudden global presence and intensely secret underground network make it difficult to track any concrete information, thus causing concern over the credibility of the annual human trafficking reports. This lack of clarity is a major hindrance in combating human trafficking, but it also gives deeper insight into how serious the black market of trafficking really is. Steps must be taken to eradicate the problem. Over the past ten years of moderating the issue, there has been much success. However, the success has been felt on both sides. For one, the U.S. and other nations are becoming stronger in their stances against human trafficking by putting forth more effort to combat it. However, the black market of trafficking continues to maintain its strength and as more information is uncovered, only more questions arise and the number of victims seems to always be increasing. The approach taken towards understanding and changing human trafficking must be different. America needs to utilize its resources, which in this case, are the victims and survivors. First we must protect them, continuing to provide them with the necessities to rebuild their lives. We then must fight harder for their mental recovery from the abuses suffered. Finally, we must partner with them to bring down their offenders.

Conclusion

Human trafficking is an incredibly complex issue; however, the beginning steps necessary to eradicate the issue are far less intricate. More comprehensive and detailed research, as well as the achievement of stronger anti-trafficking legislation coupled with more nationally distributed safe houses that provide various types of after care. It is my observation that for many issues, action is not taken until those with the power to make change, have a personal encounter with the problem. Unfortunately, though there is progress made towards eradicating human trafficking in the United

States, there is still an incredible need for a stronger stance and concerted effort to put an end to it. The longer human trafficking is allowed to flourish, the greater its looming presence becomes in the United States. As a world leader, the United States is often looked to first in times of great trouble. The current approach has not yielded the results necessary to truly begin putting an end to human trafficking. The steps taken by the United States often dictate how other nations address similar issues; therefore, the leadership of the United States is vital.

Works Cited

1. "About human trafficking." Administration for Children & Families, Department of Health and Human Services, 28 June 2011, 17 July 2011. <<http://www.acf.hhs.gov/trafficking/about/index.html>>.
2. "Facts on Poverty and Homelessness." St. Vincent De Paul, 2010, 22 July 2011, <http://www.stvincentdayton.org/facts_onhomelessness.html>.
3. "Human Cargo: SNCJ Spotlight." *State Net Capitol Journal* 18.25 (2010). 10 Aug. 2011. <http://www.statenet.com/capitol_journal/08-16-2010/html>.
4. "Human Trafficking: Modern Day Slavery," *Office of Congressman Chris Smith*, 2006, July 14, 2011, <<http://chrissmith.house.gov/specialfeatures/traffickingspecialfeature.htm>>.
5. "Human Trafficking: Modern Enslavement of Immigrant Women in the United States." *American Civil Liberties Union*. 31 May 2007. Web. 5 Aug. 2011. <<http://www.aclu.org/womens-rights/human-trafficking-modern-enslavement-immigrant-women-united-states>>
6. "International Trafficking." *Polaris Project | Combating Human Trafficking and Modern-day Slavery*. Polaris Project, 2010. Web. 18 July 2011. <<http://www.polarisproject.org/human-trafficking/international-trafficking>>.
7. "Map of NHTRC Hotline Calls by State." Polaris Project, Aug. 2011, 17 Aug. 2011 <<http://www.polarisproject.org/state-map>>.

8. Meader, Deborah. Anti-Human Trafficking Task Force Initiative. Bureau of Justice Initiative. 14 July 2011. <http://www.ojp.usdoj.gov/BJA/grant/httf.html>.
9. "Office Of Refugee Resettlement: Funding & Grants." Administration for Children and Families. 22 July 2009. Department of Health and Human Services. 18 Aug. 2011 <<http://www.acf.hhs.gov/programs/ort/funding/appropriations.htm>>.
10. "Our Mission." Gracehavenhouse.org. 2009. 18 Aug. 2011 <<http://www.gracehavenhouse.org/gracehaven/mission/>>.
11. *Policies and Priorities of the U.S. Department of Health and Human Services*, Congress Cong., 6 (2011) (testimony of Kathleen Sebelius).
12. "Report on the prevalence of human trafficking in Ohio to Attorney General Cordray" Ohio Trafficking in Persons study commission Research analysis sub-committee, 2009, 16 Aug. 2011 <<http://www.ohioattorneygeneral.gov/getattachment/5880897e-09e5-4cd1-b051-4680ce560e6d/Report-on-the-Prevalence-of-Human-Trafficking-in-O.aspx>>.
13. Smith, Paul J. "Smuggling People into rich countries is a growth industry." *New York Times*. 28 June 1996. May 23, 2012. <http://www.nytimes.com/1996/06/28/opinion/28iht-edpaul.t.html>
14. The Polaris Project. 2010. Polaris Project. 14 July 2011.
15. <http://www.polarisproject.org/resources/state-and-federal-laws>
16. "Trafficking in the United States." International crisis aid, 14 July 2011, <<http://www.crisisaid.org/traffickstats.html>>.
17. Trafficking Victims Protection Reauthorization Act 2011, S. 1301, 111th Cong. (2011).

18. U.S. Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*, <http://www.justice.gov/ag/annualreports/tr2009/agreporhumantrafficking2009.pdf>.
19. United States. Cong. House. *Victims of Trafficking and Violence Protection Act of 2000*. 106th Cong. HR 3244. U.S. Department of State. U.S. Department of State, 28 Oct. 2008. Web. 18 July 2011. <<http://www.state.gov/g/tip/laws/61124.htm>>.
20. United States. Congressional Research Service. Congress. [Sex Trafficking of Children in the United States: Overview and Issues for Congress](#). By Kristin M. Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin. District of Columbia, 2011.
21. United States. Department of Health and Human Services. Rescue & Restore. Trafficking Victims Protection Act 2000 Fact Sheet. Web. 22 July 2011. <http://www.acf.hhs.gov/trafficking/about/TVPA_2000.pdf>.
22. "What is human trafficking?" [Central Texas coalition against human trafficking](#), 2005, 14 July 2011 <http://www.ctcaht.org/What_is_Trafficking.html>.
23. United States. Department of Health and Human Services. Rescue & Restore. Resources: *The Mindset of Human Trafficking Victim*. 2010. Print. Flores, Theresa L. The sacred bath: an American teen's story of modern day slavery. Lincoln, Neb.: IUniverse, 2007.
24. Ramage, Michael. "Chief's Counsel: New Visa Option May Fit Your Human Trafficking Witnesses and Victims to a T." Chief's Counsel: New Visa Option May Fit Your Human Trafficking Witnesses and Victims to a T Jan. 2007. International Association of Chiefs of Police. Alexandria. 19 Aug. 2011 <http://www.policiechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1085&issue_id=12007>.
25. Alliance to end slavery and trafficking. "Federal Spending Bill Includes Dramatic Increases to Help Fight Modern-Day Slavery." Press release. ATEST. ATEST. 19 Aug. 2011 <[es-help-fight-modern-day-slavery>.](http://www.endslaveryandtrafficking.org/news/federal-spending-bill-includes-dramatic-increas-

</div>
<div data-bbox=)

Alexa Odom is a recent Ohio State graduate receiving her Bachelor of Arts degree in Journalism with a minor in Spanish.

At the Edge of Global Civil Society

Kevin Kulig

This paper calls into question the idea of a unified global civil society by drawing on recent scholarship highlighting similarities between terrorist organizations and transnational advocac networks (TANs). I formulate a rough definition of civility in global civil society as “non-violent interaction outside the context of explicit hostility” so that I may draw a distinction between “good” and “bad” civil societies. I then present al-Qaeda as a case study to clarify the similarities between terrorist groups and TANs, and thus show evidence for the existence of “bad” global civil societies. I conclude the paper by offering further research questions for the global civil society literature which may help explain how, or if, the existence of multiple “global” civil societies come to exist.

Within recent years there has been an increased focus on global civil society and global governance in International Relations theory.¹ On account of this, there has also been an increased focus on non state actors (NSAs), specifically non-governmental organizations (NGOs) and transnational advocacy networks (TANs).² However, this focus has been almost entirely on the “good” side, for example, the international campaign to ban landmines, the creation and existence of the International Criminal Court, and universal jurisdiction³ —very little effort has been expended on the dark side of NSAs, or in this paper, “bad” TANs. The little that has been

1 Bohman, James. “Expanding dialogue: The Internet, the public sphere, and prospects for transnational democracy.” In “After Habermas: New Perspectives on the Public Sphere,” ed. John Michael Roberts and Nick Crossley, supplement, *The Sociological Review* 52, no. S1, June 2004: 131-155; Fraser, Nancy. “Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World.” *Theory, Culture & Society* 24, no. 4, July 2007: 7-30; Ruggie, John Gerard. “Reconstituting the Global Public Domain: Issues, Actors, and Practices.” *European Journal of International Relations* (EJIL) 10, no. 4, December 2004: 499-531; and Scheuerman, William. “Global Governance without Global Government? Habermas on Postnational Democracy.” *Political Theory* 36, no. 1, February 2008: 133-151

2 Sending, O. J. and I.B. Neumann. “Governance to Governmentality: Analyzing NGOs, States, and Power.” *International Studies Quarterly*, 50, September 2006: 651–672

3 Addis, Adeno. “Imagining the International Community: The Constitutive Dimension of Universal Jurisdiction.” *Human Rights Quarterly* 31, no. 1, February 2009: 129-162; Anderson, Kenneth. “The Ottawa Convention Banning Landmines, the Role of International Non-governmental Organizations and the Idea of International Civil Society.” *EJIL* 11, no. 1, 2000: 91-120; and Deitelhoff, Nicole. “The Discursive Process of Legalization: Charting Islands of Persuasion in the ICC Case.” *International Organization* 63, Winter 2009: 33-65

done has primarily focused on foreign policy implications and the best way to stop them,⁴ but not much has been done on theorizing the exact nature of violent NSAs, such as terrorist organizations or militant environmental NGOs. These violent NSAs bear theoretical importance with regard to their effects on global civil society and global governance, since they bear great resemblance to peaceful organizations, save for their violence. So then, are they not also a part of global society (if perhaps not civil), and thus do they not also play a role in global governance? In this paper, I will examine al Qaeda as a case study of terrorist organization as a violent TAN, and from there, after having shown the existence of a violent TAN, I propose a few questions for global civil society that such an existence poses.

Firstly, it is necessary for two reasons to establish what exactly I mean by “bad” means for an NSA and why I even use that word. One is that I wish to stress that I am not attempting to put moral labels on any organization. I simply wish to highlight the fact that the term is used widely within Western society. Perhaps more important, the other reason is that by unpacking the term to find out what is really meant by it, analyzing a “bad” organization as part of global (civil) society will be easier, since something that is immoral yet also part of that society seems somewhat antithetical. Once a consistent meaning behind the word is found and parallels drawn to putative actors in global civil society, it becomes easier to conceive of such organizations belonging to that same society. Drawing on the article “Bad Civil Society,” I will apply its conception of “bad” to the international level to help define “bad” in this context.⁵ In the article, the authors describe why six already proposed theories for the existence of bad civil societies are not correct. Those six theories each offer a different explanation for the existence of bad civil societies: 1. The states in which they develop are undemocratic. 2. Governments don’t even promote civil society. 3. Bad civil societies discriminate amongst members. 4. They contain violent or hateful individuals. 5. They develop in conditions of social and economic inequality. Instead, the authors state that some civil societies are bad because participation in them weakens liberal democracy.⁶ Specifically, the authors mean that bad groups violate the “value of reciprocity,” or “the recognition of other citizens as moral agents deserving civility.”⁷

Taken to the international level of global civil society, there is no exact analogue for liberal

4 Arquilla, John and David Ronfeldt. *Networks and netwars: The future of terror, crime, and militancy*. Santa Monica, CA: RAND Corp., 2001; and Raab, Jörg and H. Brinton Milward. “Dark Networks as Problems.” *Journal of Public Administration Research*, Vol. 13, no. 4, October 2003: 413-439

5 Chambers, Simone and Jeffrey Kopstein. *Political Theory* 29, no. 6, December 2001: 837-865

6 Ibid., p. 838

7 Ibid., p. 839

democracy or citizens, presenting a problem for extrapolating this definition. However, removing the requirement of weakening liberal democracy and using only reciprocity partially solves this issue. Remaining still is that different cultures have different definitions of “civility” and that, in the absence of a world state with a police force, there is uncertainty of whether an individual does not intend to harm another.⁸ To solve this, we may replace civility with “non-violent interaction outside the context of explicit hostility.” Given that states have the monopoly on violence and declare hostilities, we should understand “explicit hostilities” as situations in which a state or states sanction or permit violent interaction, a prime example of which would be war. I propose that “bad” for global civil society means violating this modified value of reciprocity, the recognition of other citizens as moral agents deserving non-violent interaction outside the context of explicit hostilities. To put this another way, bad groups use non state sanctioned violence.

My use of bad in this paper it contains two elements: one is a matter of having state sanction, whether or not a state gave the NSA permission to use violence, and the other is intensity and quantity, whether or not violence is the primary method used. The higher the levels of either of these values, the more “bad,” as it were, an NSA is. That said, permission is the more important of the two, as use of violence without a state’s permission will always be considered bad. Non state-sanctioned use of violence as a primary means of (inter)action is the best determinant of goodness or “badness” for NSAs, offering the most descriptive power considering the lack of a global concept of civility. Because states traditionally have a monopoly on the use of force, domestically and internationally, I believe I am justified in asserting that they then have the ability to “officially” declare hostile situations which warrant violence. The implication of this is that a bad NSA will vary from country to country, and thus this captures the situation as it actually is in the world. Being good or bad will depend on which state you choose to view the organization from. While it may sound similar to the idea of containing violent individuals, it is actually quite different—violence is the means that these NSAs use to accomplish their goals, not an inherent part of their nature. They may contain hateful or violent members, but this is not the main reason for their “badness.”

It is important to note that this use of violence must be the primary—meaning in both frequency and intensity—method in order for an NSA to be considered bad. My definition is not meant to reduce being good or bad to a black or white issue—it is more of a scale than a binary. Merely including violence in its repertoire does not automatically an NSA completely bad, though

8 E.g., see Jervis, Robert. *Perception and Misperception in International Politics*. Princeton: Princeton University Press, 1976

certainly it does push it closer. The Animal Liberation Front (ALF) or the Earth Liberation Front (ELF) use violent means on a small scale, but one would be hard pressed to say they are as violent an organization as the Tamil Tigers or the Kurdistan Workers Party. That states prioritize the elimination of the latter organizations over the former would indicate that the primacy of violence for a group determines what value of bad a state assigns to it.

“State-sanctioned” simply means a state must give some type of permission to an organization to use violence. Giving permission can mean hiring an organization to carry out violence in lieu of a state, supplying them with arms and weapons (covertly or openly), or simply saying they support the mission of the organization. Private military contractors (PMCs) need not worry about being hunted down other states, save for those they are being used against, if they are hired by one state. For example, PMCs in Iraq, unlike the terrorist groups there, are not attacked by other states, the obvious difference being that the PMCs are an NSA given permission by a state to carry out violence whereas the terrorist groups have no state’s permission. The mujahideen in Afghanistan during the Soviet-Afghan War also had permission for violence granted, since the U.S. would supply them with them with arms and other support. Unlike the successors of the mujahedeen fighters today, such as al Qaeda, they were not viewed as terrorists, but rather allies fighting against the Soviets.⁹ The moral labels given to a group depend, at least partially, on whether they have permission to carry out violence. They may still be seen as bad, of course, but only because they associate with an enemy state, not because they lack permission.

I have chosen to examine a bad TAN since, according to the article “Terrorism as Transnational Advocacy,” terrorist organizations can best be described as TANs.¹⁰ Seeing as terrorist groups are among the most violent of all NSAs, they unambiguously fall under my definition of bad. Furthermore, TANs are not just simple, monolithic organizations; they are complex system of interweaving networks. They incorporate and connect many different NSAs, such as NGOs and TNCs alongside people from many different countries. This connecting and bringing together of people from many countries to form a macro-society is a key point in the global civil society literature.¹¹

9 Institute for Counter-Terrorism (ICT). “Background.” In *Al-Qaeda: An Organization To Be Reckoned With*, ed. Lawrence J. Bevy, 2-3. Hauppauge, NY: Nova Science Publishers, Inc. 2006.

10 Asal, Victor, Brian Nussbaum, and D. William Harrington. *Studies in Conflict & Terrorism* 30, no. 1, January 2007: 30

11 Scheuerman, “Global Governance without Global Government,” 133-151; and Wapner, Paul. “Governance in Global Civil Society.” In *Global Governance: Drawing Insights from the Environmental Experience*, ed. Oran R. Young, 65-84. Cambridge: MIT University Press, 1997.

This paper’s case study examines al Qaeda as a TAN. While this has already been done to a small extent in the aforementioned article, “Terrorism as Transnational Advocacy,” I will seek to highlight some aspects that the article left unmentioned or poorly explained, with the aim to shed some light on the violence aspect of “bad” TANs. Briefly, I will show that violence is actually not external to TAN strategies, but rather can constitute a normal tactic and not necessarily place a violent TAN in a different category than regular TANs. “Normal” tactic here means a tactic that does not interfere with the existing tactics defining a TAN, i.e. they can use violence and still be a TAN, rather than a different type of NSA. Violence is a legitimate tactic for a TAN to use, though we may adopt the term used by Asal, Nussbaum, and Harrington, Terrorist TAN (TTAN), to denote its use of violence.

I will be using the concept of a TAN as developed by Keck and Sikkink.¹² A transnational advocacy network is defined by them as “[a] network[] of activists, distinguishable largely by the centrality of principled ideas or values in motivating [its] formation.”¹³ These networks “make international resource available to new actors in domestic political and social struggles.”¹⁴ These TANs use information to help create new issues and leverage in order to influence policy. Furthermore, TANs provide a space “in which differently situated actors negotiate [...] the social, cultural, and political meanings of their joint enterprise.”¹⁵ Thus, we see a few important themes in this definition of a TAN: it is a transnational network, reaching across multiple countries and bringing different people together, it is founded on ideology and principles, its primary tool is information, and finally, it seeks policy change.

Al Qaeda is perhaps one of the most global and networked terrorist organization. In order to complete its stated goal—the creation of a pan-Islamic state that is founded on Islamic jurisprudence—it carried out numerous attacks, most notably September 11th and the strike on the U.S.S. Cole off the coast of Yemen.¹⁶ However, after 9/11, the organization began turning from a hierarchical network structure to a looser, more diffuse network.¹⁷ Even before this, it still bore many characteristics of a TAN. The organization has been affiliated with many other jihadist organizations, such as Gamaah

12 *Activists Beyond Borders*. Ithaca: Cornell University Press, 1998.

13 *Ibid.*, 2

14 *Ibid.*

15 *Ibid.*, 3

16 Blanchard, Christopher M., “Al Qaeda: Statements and Evolving Ideology,” in Bevy, *Al Qaeda*, 18

17 Jones, Calvert. “Al-Qaeda’s Innovative Improvisers: Learning in a Diffuse Transnational Network” *Cambridge Review of International Affairs* 19, no. 4, December 2006: 557

Islamayyah, Jemaah Islamayah, the Salafist Group, and al Jihad—it has even cooperated with the Shia group Hezbollah.¹⁸ All these groups maintain their independence, but are coordinated to one extent or another at some point under al Qaeda. Osama bin Laden at one point in 1998 founded a group called “The Islamic World Front for the struggle against the Jews and the Crusaders.” This group was a front that, even though it answered to al Qaeda, encompassed other groups, such as the Gamaah al-Islamiyyah and al Jihad.¹⁹ Members of al Qaeda even helped out in the Bosnian ethnic conflicts, and the organization itself has also helped out militant Islamic organizations in Pakistan.²⁰ ²¹ As can be seen from these examples, al Qaeda clearly shows a transnational, network character. It brings together people from various countries, even across language barriers, to accomplish its goals.

Their funding and money gathering schemes also bring together and rely upon various organizations. Various charities, businesses, and individuals donate money to them, much like how money is donated to charities such as Amnesty International or the Red Cross. They also have to launder the money (either through hawala, diamonds, gold, or other means), another thing humanitarian organizations have not done.²² They have also received state sponsorship—the Taliban regime was perhaps the most well known of al Qaeda patrons, housing the organization in Afghanistan for years and providing them with monetary support, but even Sudan housed the nascent beginnings of al Qaeda and the Inter Services Intelligence of Pakistan has also given them support.²³ This behavior bears striking similarities to the way TANs act, in that they receive support from all types of sources, such as NGOs, individual citizens of different countries, and even states.²⁴

Al Qaeda, especially after September 11th and the destruction of their home base in Afghanistan, operates more like a network of networks, similar to TANs. It now lacks a centralized, hierarchical structure, and so it has turned into a network of autonomous regional networks which communicate with each other.²⁵ It is this communication between these autonomous regional

18 Asal, Nussbaum, and Harrington, “Terrorism as Transnational Advocacy,” 23

19 ICT, “Background,” 5

20 Mincheva, Lyubov and Ted Robert Gurr. “Unholy Alliances: New Evidence on Linkages between Trans-State Terrorism and Crime Networks.” Paper presented at the Annual Meeting of the International Studies Association, Panel on Terrorism and Ethnic Politics, Chicago, March 3, 2007

21 See n. 18 above

22 Ibid.

23 Ibid.

24 See, for instance, Canada’s support for the international campaign to ban landmines in Richard Price’s article, “Reversing the Gun Sights: Transnational Civil Society Targets Land Mines” *International Organization* 52, no. 3, Summer 1998: 625

25 See n. 17 above

networks that really makes it like a TAN. Smaller networks (or cells as they are more popularly called) have sprung up across the world, such as in Madrid and London. These small networks have loose communication to larger networks, but nonetheless seek to carry out the overall mission; they are not directly commanded by them, but rather receive material and ideological support and with that, attempt to violently effect policy change, such as in the case of the Madrid and London branches.²⁶

Communication and learning throughout these networks takes place in ways similar to that of TANs. Al Qaeda members who were originally in Afghanistan have fled and either formed their own groups or joined others; similarly, graduates from al Qaeda training camps have also spread out, doing much the same as the al Qaeda members. Further than just training new groups and spreading their knowledge, these graduates and members also know who to contact in order to get certain information.²⁷ Like TANs, different people from different backgrounds come together to share information, and they attempt to connect with others who are sympathetic to their cause. For example, Zarqawi was able to get into contact with bin Laden and other al Qaeda operatives to help the insurgency in Iraq.²⁸ Another example, albeit one that shows the limits of such stretched communication, is the 2003 bombings in Casablanca. The bombers received some training on camping trips outside the city, but their training was hurried and the bombings did not go off as planned. Regardless, they were able to learn some tactics and the ideology of al Qaeda from other agents.²⁹ The transfer of information, to both inside and outside populations, is at the core of how al Qaeda operates, much like it is the same for TANs.

Certain technological advances have also helped communication and network linkages in al Qaeda. The internet has been a huge boon for TANs, enabling fast communication among members. Email, websites, and forums have provided not only a hub for gathering and sharing information, but also a venue for learning among new members as well.³⁰ With the destruction of al Qaeda’s territorial nexus in Afghanistan, and their failure to establish another effective one elsewhere, the Internet has become all the more important for them to communicate. Other devices such as satellite phones and encryption software have also been a great boon to communication among the terrorist network.³¹ This new communication technology makes it much easier to spread important information, whether

26 Ibid.

27 Ibid., 561

28 Ibid., 559

29 Ibid., 564

30 Ibid., 565

31 Asal, Nussbaum, and Harrington, “Terrorism as Transnational Advocacy,” 24

it is a new statement issued by a senior al Qaeda operative or instructions on how to create a bomb.³²

Symbolic politics and leverage politics are two other important tactics employed by TANs, according to Keck and Sikkink. In most good TANs, this takes various forms such as grafting, shaming, and other non-violent methods. However, this is where bad TANs and good TANs differ—in their use, or rather, deployment of symbolic and leverage politics. The following two paragraphs will describe both of these politics in their abstract form, but will be followed by concrete examples from al Qaeda.

Symbolic politics involve “framing issues and providing convincing explanations for powerful symbolic events.”³³ TANs provide “symbolic interpretation” which helps “catalyze network growth.”³⁴ TANs give symbolic meaning to certain events, interpreting them in a way which supports their ideological goals. This in turn creates greater issue salience among target populations—those outside of the group itself—since the event now has a meaning beyond its material and concrete effects; it imparts implications that are not readily apparent.

Leverage politics in Keck and Sikkink’s work involves “pressuring and persuading more powerful actors.”³⁵ TANs seek to effect policy change. There are two types of leverage, material and moral. Material leverage seeks to “link[] the issue to money or goods.”³⁶ This allows the TAN to exert influence far beyond their normal capabilities. By linking the issue to material factors, this means that TANs don’t necessarily gain these resources for themselves, but rather, it means that the issue at hand has material effects upon actors. For instance, if a corporation does not cease certain activities, it may lose or have already lost customers, and thus there is a material consequence of monetary loss. Also note that the actual loss of materials or money is not what gives leverage, but rather the threat of future losses: if a company has already lost the money and there is no possibility of losing more, than it has no incentive to change its policies. Because of this linkage, the TAN is able to wield more leverage over the corporation—the corporation now has something to lose. Moral leverage is based “on the assumption that governments value the good opinions of others.”³⁷ If the state is violating some type of international norm, this allows it to be shamed into following it and living up to its own claims.

³² See n. 30 above

³³ Keck and Sikkink, *Activists Across Borders*, 22-23

³⁴ Ibid.

³⁵ Ibid., 23-24

³⁶ Ibid.

³⁷ Ibid.

Al Qaeda has utilized symbolic politics primarily through the use of violent acts, though this is a two part process. Violence itself has become one of the political languages they speak—they communicate through the use of violent acts. They both carry out the attack and then offer an interpretation of it. Soon after the 9/11 attacks, statements were issued by al Qaeda calling for a holy war against America; statements issued after previous attacks also stressed that they were retribution against America for the sins they had committed. As he states, America is leading a “crusade” against Islamic countries. This linkage to the crusaders, who have a bad reputation in Islamic countries, provides religious symbolism. America is not merely occupying or interfering, but rather actively attempting to destroy and replace Islam. By linking the American support of Israel and presence in some Islamic countries with the crusaders invasion of Islamic lands, the stakes immediately become much more drastic. The language used, such as concepts like jihad, ulema, umma, and the Islamic caliphate, is more geared towards citizens of Islamic countries than the citizens of the U.S; such concepts and words have no symbolic significance to many Westerners.³⁸ However, this does not mean that Islamic countries or populations are considered on the inside of the TAN network, but only that the network changes its discourse depending on which outside population it is conveying its message to. Fatwas issued by bin Laden also carry a heavy symbolic element; fatwas are traditionally the realm of religious scholars and leaders (the ulema) and thus carry a certain significance; these fatwas are virtual word of law for many Muslims. Thus these fatwas carry heavy religious significance and symbolisms for Muslims (and also moral implications, which will be described later).³⁹ These statements and fatwas allow al Qaeda to “provid[e] convincing explanations for powerful symbolic events,” with the “powerful symbolic events” being the destruction of the World Trade Centers or the USS Cole.⁴⁰ Because the United States occupies Islamic countries and supports the destruction of Palestine, these terrible events happen to the country. The violence they perpetrate creates the symbolic event which they then interpret and explain.

Leverage politics for al Qaeda is another very prominent part of their strategies, and has pronounced focus on material factors, though moral leverage is also quite important. As with the symbolic events, al Qaeda creates the events which then they use to achieve material leverage over other nations. The true purpose of the violent actions is not to take over the attacked country or seize

³⁸ For an example of *jihad* specifically, see Osama bin Laden’s “Declaration of Jihad against the Americans Occupying the Land of the Two Holy Places,” trans. available at “Bin Laden’s Fatwa.” Public Broadcasting Service: August 1996, http://www.pbs.org/newshour/terrorism/international/fatwa_1996.html

³⁹ ICT, “Background,” 6

⁴⁰ Keck and Sikkink, *Activists Beyond Borders*, 20

territory, but rather to send a message: that without policy change, further material and human losses will be incurred. The act of violence itself is not the material leverage, but rather threat of further violent acts. The attacks on the World Trade Center caused much economic damage, not to mention loss of human life, and the attack on the USS Cole caused the destruction of a U.S. warship. While the actual leverage gained over the U.S. is debatable the attacks have an obvious material component to them.⁴¹ If the U.S. does not wish to suffer any more material, monetary, and human loss, they should change their policies. This is also seen in countries other than the U.S. which have been struck; the 2003 Casablanca bombings in Morocco happened because the regime was not Islamic enough, i.e., they had American troops on their lands, and thus they should change their policies to “kick out American troops” to become more Islamic to avoid any more damage.

In addition to material leverage, al Qaeda heavily uses moral leverage; this moral leverage is heavily connected to their use of symbolic politics, and often times a statement or fatwa will accomplish both; this is due to the heavy religious significance of a fatwa and the symbolism laden in the statements, using words like “crusaders” and “jihad.” One of al Qaeda’s stated reasons for its campaign against the U.S. is the aggression towards and mistreatment of Islamic countries. For instance, bin Laden said in one statement, “By electing these leaders, the American people have given their consent to the incarceration of the Palestinian people [and] the demolition of Palestinian homes [...] [t]his is why the American people are not innocent.”⁴² In this excerpt, we can see obvious usage of moral leverage; both the American people and the American government are identified as incarcerating the Palestinians and destroying their homes. There is also a linkage here to breaking humanitarian norms—America (they are assuming) does not want to be cast as a nation which puts other peoples under the yoke or supports a nation that oppresses other peoples. This puts the moral burden on the U.S., pointing out how it has encroached on poor, defenseless countries. However, they do not just target the U.S. government; they have also used moral leverage by manipulating religious language against regimes in the Middle East, regimes they believe are un-Islamic, e.g. Saudi Arabia.⁴³ Granted, one of the measuring sticks of how un-Islamic a government is, is how much it collaborates with the U.S.

41 For a small sample of this debate, see Pape, Robert. *Dying to Kill: The Strategic Logic of Suicide Terrorism*. New York: Random House, 2003; Moghadam, Assaf. “Suicide Terrorism, Occupation, and the Globalization of Martyrdom: A Critique of Dying to Win.” *Studies in Conflict and Terrorism* 29, no. 8, November 2006: 707-729; and Abrahms, Max. “Why Terrorism Does Not Work.” *International Security* 31, no. 2, Fall 2006: 42-78

42 Osama bin Laden, quoted in Blanchard, “Al Qaeda: Statements and Evolving Ideology,” 24

43 Ibid., 14

Their use of moral leverage also shows an example of the “boomerang” effect.⁴⁴ The emergence of an Arab public sphere has in fact greatly helped them in this endeavor; with non state controlled news channels, al Qaeda and its related organizations have much freer access to a wider audience.⁴⁵ It would be highly inaccurate, though, to portray these news channels, such as al Jazeera, as being a front for radical Islamic movements. It is first and foremost a space for the Arab public sphere to develop; however, merely by allowing al Qaeda and other organizations to issue their statements and viewpoints, they are giving them an audience, whether intended or not. Their statements, issued through news stations, such as al Jazeera, and newspapers, such as al Islah and al Quds al Arabi, are meant to put pressure on these un-Islamic governments through the citizens of that country. Al Qaeda exhorts citizens to rise up against these governments and establish an Islamic government; they reach out to other Islamic groups that use violence to help achieve this, either by using them to help recruit, borrowing help, or learning from them.⁴⁶ They also manipulate religious language to achieve this; they cast the situation in terms of right and wrong, Islamic and un-Islamic, declaring that those who support such un-Islamic governments are enemies of Islam and those who fight against them are true Muslims. By declaring governments un-Islamic, especially those that claim to be Islamic (e.g., Saudi Arabia), they are attempting to shame those governments in the eyes of the citizens of those countries. The unabashedly secular governments of Muslim majority countries obviously do not care if they are not Islamic, but the pious Muslims there might.⁴⁷ Such use of religion and religious language allows them to appeal to all Muslims, thus greatly expanding their potential audience.

Despite their anti-democratic bent, they do support reforms and quasi democratic form of government. Zawahiri, one of al Qaeda’s chief ideologues, stated that citizens should be allowed to choose and criticize their rulers, and that no one should be allowed to dispose of people’s rights, except in accordance to shariah (Islamic law) judiciary.⁴⁸ He also criticized hereditary monarchies, like Saudi Arabia and Morocco. However, this is not the same as Western democracy, which is viewed as corrupt, immoral, and un-Islamic.⁴⁹ Thus they also try to appeal to more moderate Muslims as

44 Keck and Sikkink, *Activists Beyond Borders*, 12

45 Lynch, Marc. *Voices of the New Arab Public: Iraq, Al-Jazeera, and Middle East Politics Today*. New York: Columbia University Press, 2006

46 Blanchard, “Al Qaeda: Statements and Evolving Ideology,” 20

47 For example, see “Scarf Conundrum Grips Turkey” by Morgan Tabitha, published online by the British Broadcasting Channel, Istanbul at <http://news.bbc.co.uk/2/hi/europe/3513259.stm>

48 Blanchard, “Al Qaeda: Statements and Evolving Ideology,” 18

49 Ibid., 15

well by portraying themselves as supporting democracy; moreover, this is again an example of moral leverage, as those who support Western style democracy are supporting an immoral democracy that does not follow Islamic law. As with much of their symbolism, this moral leverage is directed at primarily Muslim audiences and Muslim majority countries, as much of the significance is lost upon non Muslim audiences.

As shown, al Qaeda is clearly a TAN; it operates in the same fashion and is nearly analytically indistinguishable, except for the fact that it uses violence as a tactic. What, then, are the implications for global civil society? What does it mean that a TAN, something that is thought of as exemplifying the best qualities of global civil society (in that they unite peoples from all different nations and use dialogue to effect policy change), actually goes against the very idea of a civil society? While it is beyond the scope of this paper to offer complete answers to such questions, I will attempt to flesh them out and offer possible explanations, starting places from which they can begin to be answered. The most immediate and pressing question is: why do these TANs use violence? What possible advantage does violence give over non violent activity? As can be seen from the analysis of al Qaeda, violence allows for the creation of events which can then be symbolically interpreted and used for material and moral leverage. Further, it is not the TAN that is actually creating these events, but rather the norms of the TAN. This means that the norms themselves specify such behavior, and to avoid the undesirable consequences the countries should change their policies to comply with those norms. Future research into this matter can clarify the role of norms in promoting political violence at the international level.

This brings up further questions about what type of issues global civil society can handle. Is it really equipped to handle governmental change and territory issues? Most issues discussed so far in the global public sphere, especially with regard to TANs, have not dealt with government/territory change; if it has, it has certainly not been about any Western nation's government or territory (Iraq, Kosovo, Bosnia, Rwanda, etc.). Most issues involving Western nations have been about environmental and humanitarian issues; territorial issues have always involved non-Western and third world countries. Does this violence erupt because the "global" public sphere is really a Western public sphere, and thus a TAN originating and completely operated out of non-Western countries is simply ignored, thus causing them to resort to more violent measures to be heard? The divide between the West and the non-West, is it the edge of global civil society?

Are violent, destructive events catalysts for issue emergence in TANs? The current literature

is seemingly at a loss for explanations for how the issues emerge.⁵⁰ A massively disruptive event such as a terrorist attack can seize the world's rapt attention for weeks or even months. The violent event can then be symbolically interpreted and used for moral leverage by the TAN that perpetrated it in front of a captive global audience; whether they choose to listen is still their choice, but certainly al Qaeda is much more well known now than it was before the 9/11 attacks. Violent and destructive events seem to offer an interesting answer to issue emergence in TANs, especially in the case of terrorist TANs, though further research can show whether non violent TANs pick up issues after destructive events.

Another interesting aspect of this violence is that it has a particular punishing quality to it. That is, the violence used, in addition to creating symbolic events and leverage, also punishes the country it is used against, though perhaps this aspect is itself a type of symbolic politics. It has both a retributive quality too it, since the punishment is carried out because the country has transgressed a particular norm, and a deterrent quality to it, since more punishments will occur if the country does not cease to transgress the norm. States do the same thing when they use coercive diplomacy; they seek retribution and deterrence when they punish states which violate international norms.⁵¹ Even though the same mechanism is occurring for the same reasons, when an NSA does it, however, states don't take too kindly to it and it is labeled "bad." Why is this case? What makes a punishment just, and who are the true arbiters of justice (and thus executors of punishment) in a global civil society? Is coercive diplomacy and punitive justice just another form of hegemony?

This paper has attempted to introduce some new questions about global civil society. The existence of TAN that uses violent tactics presents some serious issues that, while not fully answered in this paper, have hopefully been fleshed out more and brought to light. Particularly of import is the tension between Western and non-Western countries in global civil society. Further research should see if there exist civil societies (or similar entities) across non-Western countries, though it certainly might be meaningless to speak of a non-Western civil.⁵² It might perhaps make more sense to speak of multiple transnational civil societies than an entire global civil society, pushing against each other at their bordering "edges." A concept of and theory for global civil society should attempt to explain how these "bad" groups come to exist and further explain their non-violent role in global civil society.

50 Carpenter, R. Charli. "Setting the Advocacy Agenda: Theorizing Issue Emergence and Nonemergence in Transnational Advocacy Networks." *International Studies Quarterly* 51, no. 1, March 2007: 99-120

51 Lang, Anthony F., Jr. "Punitive Justifications or Just Punishment? An Ethical Reading of Coercive Diplomacy." *Cambridge Review of International Affairs* 19, no. 3, September 2006: 389-403

52 Wapner, "Global Governance in Global Civil Society," 72

Works Cited

- Abrahms, Max. "Why Terrorism Does Not Work." *International Security* 31, no. 2, Fall 2006: 42-78
- Addis, Adeno. "Imagining the International Community: The Constitutive Dimension of Universal Jurisdiction." *Human Rights Quarterly* 31, no. 1, February 2009: 129-162
- Anderson, Kenneth. "The Ottawa Convention Banning Landmines, the Role of International Non-governmental Organizations and the Idea of International Civil Society." *EJIL* 11, no. 1, 2000: 91-120
- Arquilla, John and David Ronfeldt. *Networks and netwars: The future of terror, crime, and militancy*. Santa Monica, CA: RAND Corp., 2001
- Asal, Victor, Brian Nussbaum, and D. William Harrington. "Terrorism as Transnational Advocacy." *Studies in Conflict & Terrorism* 30, no. 1, January 2007: 15-39
- bin Laden, Osama. "Declaration of Jihad against the Americans Occupying the Land of the Two Holy Places." Translated in "Bin Laden's Fatwa," by the Public Broadcasting Service: August 1996, http://www.pbs.org/newshour/terrorism/international/fatwa_1996.html
- Blanchard, Christopher M. "Al Qaeda: Statements and Evolving Ideology." In *Al-Qaeda: An Organization To Be Reckoned With*, edited by Lawrence J. Bevy, 11-28. Hauppauge, NY: Nova Science Publishers, Inc. 2006.
- Bohman, James. "Expanding dialogue: The Internet, the public sphere, and prospects for transnational democracy." In "After Habermas: New Perspectives on the Public Sphere," edited by John Michael Roberts and Nick Crossley, supplement, *The Sociological Review* 52, no. S1, June 2004: 131-155
- Carpenter, R. Charli. "Setting the Advocacy Agenda: Theorizing Issue Emergence and Nonemergence in Transnational Advocacy Networks." *International Studies Quarterly* 51, no. 1, March 2007: 99-120
- Chambers, Simone and Jeffrey Kopstein. "Bad Civil Society." *Political Theory* 29, no. 6, December 2001: 837-865
- Deitelhoff, Nicole. "The Discursive Process of Legalization: Charting Islands of Persuasion in the ICC Case." *International Organization* 63, Winter 2009: 33-65
- Fraser, Nancy. "Transnationalizing the Public Sphere: On the Legitimacy and Efficacy of Public Opinion in a Post-Westphalian World." *Theory, Culture & Society* 24, no. 4, July 2007: 7-30
- ICT. "Background." In *Al-Qaeda: An Organization To Be Reckoned With*, edited by Lawrence J. Bevy, 1-10. Hauppauge, NY: Nova Science Publishers, Inc. 2006.
- Jervis, Robert. *Perception and Misperception in International Politics*. Princeton: Princeton University Press, 1976
- Jones, Calvert. "Al-Qaeda's Innovative Improvisers: Learning in a Diffuse Transnational Network" *Cambridge Review of International Affairs* 19, no. 4, December 2006: 555-569
- Keck, Margaret E. and Kathryn Sikkink. *Activists Beyond Borders*. Ithaca: Cornell University Press, 1998
- Lang, Anthony F., Jr. "Punitive Justifications or Just Punishment? An Ethical Reading of Coercive Diplomacy." *Cambridge Review of International Affairs* 19, no. 3, September 2006: 389-403
- Lynch, Marc. *Voices of the New Arab Public: Iraq, Al-Jazeera, and Middle East Politics Today*. New York: Columbia University Press, 2006
- Mincheva, Lyubov and Ted Robert Gurr. "Unholy Alliances: New Evidence on Linkages between Trans-State Terrorism and Crime Networks." Paper presented at the Annual Meeting of the International Studies Association, Panel on Terrorism and Ethnic Politics, Chicago, March 3, 2007

Moghadam, Assaf. "Suicide Terrorism, Occupation, and the Globalization of Martyrdom: A Critique of *Dying to Win*." *Studies in Conflict and Terrorism* 29, no. 8, November 2006: 707-729

Morgan, Tabitha. "Scarf Conundrum Grips Turkey." British Broadcasting Channel, Istanbul: Last updated February 25, 2004, <http://news.bbc.co.uk/2/hi/europe/3513259.stm>

Pape, Robert. *Dying to Kill: The Strategic Logic of Suicide Terrorism*. New York: Random House, 2003

Price, Richard. "Reversing the Gun Sights: Transnational Civil Society Targets Land Mines" *International Organization* 52, no. 3, Summer 1998: 613-644

Raab, Jörg and H. Brinton Milward. "Dark Networks as Problems." *Journal of Public Administration Research*, Vol. 13, no. 4, October 2003: 413-439

Ruggie, John Gerard. "Reconstituting the Global Public Domain: Issues, Actors, and Practices." *EJIL* 10, no. 4, December 2004: 499-531

Scheuerman, William. "Global Governance without Global Government? Habermas on Postnational Democracy." *Political Theory* 36, no. 1, February 2008: 133-151

Sending, O. J. and I.B. Neumann. "Governance to Governmentality: Analyzing NGOs, States, and Power." *International Studies Quarterly* 50, no. 3, September 2006: 651-672

Wapner, Paul. "Governance in Global Civil Society." In *Global Governance: Drawing Insights from the Environmental Experience*, edited by Oran R. Young, 65-84. Cambridge: MIT University Press, 1997.

The Hague: A Question of Intention

Kara Lefevers

In the article by Chris Jochnick and Roger Normand (1994), entitled “The Legitimation of Violence: A Critical History of the Laws of War”, they assert that the “laws of war have facilitated rather than restrained wartime violence.” In other words, they state that it was the intent of those present at the Hague Conventions in 1899 and again in 1907 that the laws be “vaguely worded and permissive, enabling states to use the latest military technology with little regard to humanitarian consequences.” It is this question of intent that I will challenge. I will show that it was not, as Jochnick and Normand have stated, the intent of those who drafted the original Hague Laws to create a legalistic system through which acts of war could be further enhanced and legitimized. Instead, I will contend that the intent of these Conferences was to limit and restrain use of military violence so that, as historian Geoffrey Best said during a lecture about the Hague Conventions given at the University of Oxford, “the conduct of (that) conflict could be regulated so as to make it less rather than more unpleasant.”

In the article by Chris Jochnick and Roger Normand (1994), entitled “The Legitimation of Violence: A Critical History of the Laws of War”, they assert that the “laws of war have been formulated deliberately to privilege military necessity at the cost of humanitarian values. As a result, the laws of war have facilitated rather than restrained wartime violence.”¹ In other words, they state that it was the intent of those present at the Hague Conventions in 1899 and again in 1907 that the laws be “vaguely worded and permissive, enabling states to use the latest military technology with little regard to humanitarian consequences.”² It is this question of intent that I will challenge. I will show that it was not, as Jochnick and Normand have stated, the intent of those who drafted the original Hague Laws to create a legalistic system through which acts of war could be further enhanced and legitimized. Instead, I will contend that the intent of these Conferences was to limit and restrain use of military violence so that, as historian Geoffrey Best said during a lecture about the Hague Conventions given at the University of Oxford, “the conduct of (that) conflict could be regulated so

1 Chris Jochnick and Roger Normand, “The Legitimation of Violence: A Critical History of the Laws of War,” *Harvard International Law Journal* 35, no. 1 (Winter 1994): pg. 50.

2 Ibid., 53

as to make it less rather than more unpleasant.”³

B. Organization of Paper

This paper is divided into four parts. Following the current section, Part II contains two sub-sections - the first provides a brief overview of Jochnick and Normand’s supporting arguments (they will be addressed in more detail later) followed by a concise summary of how these claims will be countered, and the second supplies a historical context that illustrates the period during which the Hague Conventions occurred. Part III is comprised of three sub-sections that provide an in-depth critical analysis of each of their supporting arguments, and Part IV contains the summative conclusion and a reiteration of the thesis.

II. OVERVIEW OF THE AUTHORS’ ARGUMENTS AND THE HISTORICAL CONTEXT OF THE HAGUE

A. Jochnick and Normand’s Supporting Arguments and Counter-Claim Methodology

Jochnick and Normand highlight the following points to support their claim that it was the intent of those present at the Hague Conventions to purposefully create vague and permissive laws of war in order to legitimate and facilitate acts of war with little or no regard for humanitarian values. First, they assert that the principals of distinction and proportionality “did not introduce restraint of humanity into war.”⁴ Second, they infer that the self-interest of states is what prompted diplomats to come together at Hague with the intention of writing laws that were purposefully unclear. Jochnick and Normand believe that this was a way for states to address the “public pressure to limit the horrors of war” while first prioritizing states’ desires to be able to “deploy the level of military power they deem necessary to uphold national security”.⁵ Third, they state that because there is an inherent belief that “law places humane limits on war, even if factually mistaken”, then that same belief in the intrinsic legitimacy of law “lends unwarranted legitimacy to customary military practices.”⁶ Furthermore, they indicate that “[b]ecause people generally view compliance with ‘the law’ as an independent good,

3 G. Best, “Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after,” *International Affairs* 75, no. 3 (July 1, 1999): pg. 65.

4 Chris Jochnick and Roger Normand, “The Legitimation of Violence: A Critical History of the Laws of War,” *Harvard International Law Journal* 35, no. 1 (Winter 1994): pg. 53.

5 *Ibid.*, 56

6 *Ibid.*

acts are validated simply for being legal.”⁷

I will repudiate these arguments through the presentation of comprehensive historical and contemporary scholarly evidence that substantiates the view that the intent of The Hague was not to facilitate wartime violence through the creation of “purposefully vague and permissive” laws, as Jochnick and Normand assert, but to restrain it in the favor of humanitarian values.

B. A Historical Overview of the Political Landscape During the Hague Conventions

In order to address Jochnick and Normand’s claims, one must first present the historical frame within which The Hague Conferences occurred. As Best put it, it was still a world of empires – some crumbling, some growing – during which an Arms Race was going on. The words “globalization” or “human rights” were not yet coined and the international diplomatic community was in an infantile stage.⁸ A mere 26 sovereign states were ultimately represented at the Hague in 1899 (a number that would grow exponentially throughout the 20th century as countries previously occupied claimed their individual sovereignty and joined international institutions). Egos were fragile and all states present referred to themselves and one another as “powers”, no longer granting the term only to the exclusive ‘Great Powers’.⁹ They were a small party of dignitaries who had seen war both in actuality and written on the pages of historical records but could not feasibly comprehend how technology and the media would change the application of wartime violence in the century to come. As Best said, “The men who made the Hague Regulations and attempted those other fringe softenings of the rigours of war could only most vaguely imagine what total war would be like.”¹⁰

It was within this context that heads of states, naval officers, and diplomats converged to initiate negotiations and treaties that would slowly set in motion a chain of events and institutions that would affect acceptance of humanitarian international norms. In light of an appropriate historical backdrop, one can now address the question of intent in relation to Jochnick and Normand’s

7 *Ibid.*, 56

8 G. Best, “Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after,” *International Affairs* 75, no. 3 (July 1, 1999): pg. 620.

9 *Ibid.*, 619

10 *Ibid.*, 628

supporting claims.

III: CRITICAL ANALYSIS OF THE AUTHORS' ARGUMENTS

A. *Regarding the Principles of Proportionality and Distinction*

Jochnick and Normand assert that the principles of proportionality and distinction have not introduced restraint or humanity into war and that these are simply statements of the obvious. They attest that combatants who engage in war activities that cause minimal damage to civilians do so only out of a desire to “achieve political objectives”, and that any unnecessary violence would incur high economic and political costs to the state.¹¹ While there is an element of truth to this assertion (states will always seek to maintain political and economic power), there is a broader perspective to consider. The principles were adopted not to set a tone of irrelevancy, but to strengthen international norms of, quite simply, moral behavior. To assume that international laws over sovereign nations could have omnipotent power is unreasonable, but it is likewise impulsive to entirely dismiss the notion that they can influence and encourage change over time. The goal of the Hague authors of these principles was to affect change over the long haul.

Regarding the principles of proportionality and distinction, members of The Hague Conventions sought to codify certain behaviors and actions associated with war that threatened civilians and promoted unnecessary violence. These principles were constructed to exist as a framework that would serve to impose basic designated restrictions, which would eventually evolve into international humanitarian norms applicable to all – not just those who may employ those actions for their own benefit. It was the idea that the increasing international acceptance of humanitarian values would eventually prioritize humanitarian values on the global stage that would persuade, over time, those who would not have previously adopted such behaviors would begin to do so regardless of their prior intentions. Respected international scholar and delegate to the second Hague Conference in 1907,

11 Chris Jochnick and Roger Normand, “The Legitimation of Violence: A Critical History of the Laws of War,” *Harvard International Law Journal* 35, no. 1 (Winter 1994): pg. 53.

James Brown Scott (1908)¹² made the following points about the principles reflected in the Hague Laws:¹³

However opinions may differ as to the nature of international law, there can be no doubt of the existence of certain rules and regulations which do by common consent control the conduct of independent nations, nor can there be any reasonable doubt that enlightened people of all countries take a deep and abiding interest in international law, and share the hope of the dreamer, not only that greater definiteness may be given to its principles, but that the principles themselves may be developed and applied with regularity, certainty, and accuracy of a municipal code.¹⁴

This clearly indicated a long-term view of slow international acceptance of these principles, thus further illustrating the intent of the lawmakers.

B. *Regarding the Issue of the Self-Interest of States*

In order to qualify their second point which infers that self-interest of states led to the construction of laws that were intentionally written to be “vague and permissive”, Jochnick and Normand cite a loose interpretation of history. They state that “the history of war...reveals that the development of a more elaborate legal regime has proceeded apace with the increasing savagery and destructiveness of modern war.”¹⁵ They are thus implying that, throughout history, laws of war were created to exist in a strange and paradoxical symbiosis with increasingly virulent acts of war – and that one feeds the other and back again. To this end, one must examine the complexity of interpretation within the

12 According to the biography “James Brown Scott,” in The Columbia Encyclopedia, Sixth Edition. 2008. Encyclopaedia.com. 27 Nov. 2011 <<http://www.encyclopedia.com>>, James Brown Scott 1866-1943, American lawyer and educator, b. Ontario. “He studied international law at Harvard and at Berlin, Heidelberg, and Paris. He was dean of the law schools of the Univ. of Southern California (1896-99) and the Univ. of Illinois (1899-1903) and professor of law at Columbia and George Washington universities and the Univ. of Chicago. He was solicitor of the Dept. of State (1906-10), delegate to the Second Hague Peace Conference (1907), and a prominent arbitrator in international disputes. One of America’s most noted experts on international law, Scott was a trustee and secretary of the Carnegie Endowment for International Peace from 1910 to 1940, as well as director of its division of international law. He edited (1907-24) the *American Journal of International Law* and was president (1915-40) of the *American Institute of International Law*. His books include *The Hague Peace Conference of 1899 and 1907* (2 vol., 1909) and *Law, the State, and the International Community* (2 vol., 1939).”

13 Credit phrasing to David Traven; Teaching Assistant and PhD Candidate at The Ohio State University

14 James Brown Scott, “The Proceedings of the Hague Peace Conferences,” proceedings (University of Oxford Press, 2009), pg. 2.

15 Chris Jochnick and Roger Normand, “The Legitimation of Violence: A Critical History of the Laws of War,” *Harvard International Law Journal* 35, no. 1 (Winter 1994): pg. 55.

international community regarding weapons they are remiss to be rid of, especially when considering their own defensive capabilities.

What is an unavoidable truth is that laws of war tend to be highly responsive, not proactive. However, to understand why, one must examine not only the historical framework of the original Conventions but also the evolution of technology and its impact on war throughout time. Best summarized the problem of how to categorically restrict weapons that are in a constantly changing state of technological development with this question: "How can we legislate about weapons still on the drawing board, whose effects cannot be calculated?"¹⁶ It is for this very reason that modern international laws are amended and new laws written in response to technological military advances, otherwise the world's civilian populations would be left with little or no moral norms to protect them at all.

To bear light on the technological concerns present during the late 19th century and to highlight the tension felt among many delegates about new military weapon developments of the time, Geoffrey Best spoke of the Arms Race going on during the decade of the first Hague Convention:

New weapons and new means of delivering them were being developed every year. As soon as one military establishment had acquired a new military marvel, every state with which it might come into conflict felt the lack of an equivalent. It was repeatedly claimed... that the costs were becoming too hard to bear.¹⁷

The desire for weapons regulation (and disarmament) was a driving factor at the Conventions, albeit for some nations more than others.

Jochnick and Normand make several assertions that the laws of war are not only serving the act of war but are ineffective in that they have not succeeded in banning weapons aside from balloon-launched weaponry, asphyxiating gases, and dum-dum bullets (from the first Hague Conference in

16 G. Best, "Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after," *International Affairs* 75, no. 3 (July 1, 1999): pg. 626.

17 Ibid, 621

1999, Declarations I¹⁸, II¹⁹, and III²⁰) – all of which they cite as having "dubious military value".²¹ Regarding this last question of value, one must again consider the historical context. Pertaining to the ban on balloons and projectiles, this action was motivated by "the aerial bombardment from Austrian balloons during the siege of Venice in 1849 (which) led to calls for a permanent ban on the discharge of any kind of projectile or explosive from balloons or by similar means at The Hague in 1899."²² While considered non-threatening by today's standards, during the pre-flight era this form of remote combat was indeed thought to be extreme. Furthermore, in reference to the dum-dum (soft-nosed) bullets, Brown Scott summarized the catalyst and rationale for their eventual ban:

In 1863, a bullet was introduced into the Russian army, to be used for blowing up ammunition wagons, which exploded, by means of a cap, on contact with a hard substance. The fear that this sort of bullet might be employed against troops was increased when, in 1867, a modification of it was suggested which enabled it to explode, without a cap, on contact even with a soft substance. The Russian War Minister, General Milutine, was reluctant to sanction it...²³

The issue of banning this instrument was introduced several times at international forums before it was codified at the Hague Convention in 1899. Despite impassioned arguments at the Convention by both the British and American governments against this regulation, citing the bullets unique ability to quell attacks by "barbarian" populations within their imperial territories, the rest of the Hague delegation voted them down.²⁴ As Brown Scott said of this specific legislative action, "The underlying

18 See The Avalon Project: Documents in Law, History and Diplomacy. *Laws of War Declaration on the Launching of Projectiles and Explosives from Balloons*; July 29, 1899. Retrieved from http://avalon.law.yale.edu/19th_century/dec99-01.asp.

19 See The Avalon Project: Documents in Law, History and Diplomacy. *Laws of War : Declaration on the Use of Projectiles the Object of Which is the Diffusion of Asphyxiating or Deleterious Gases*; July 29, 1899. Retrieved from http://avalon.law.yale.edu/19th_century/dec99-02.asp.

20 See The Avalon Project: Documents in Law, History and Diplomacy. *Laws of War : Declaration on the Use of Bullets Which Expand or Flatten Easily in the Human Body*; July 29, 1899. Retrieved from http://avalon.law.yale.edu/19th_century/dec99-03.asp.

21 Chris Jochnick and Roger Normand, "The Legitimation of Violence: A Critical History of the Laws of War," *Harvard International Law Journal* 35, no. 1 (Winter 1994): pg. 72.

22 A. Singh, "The Revolution in Military Affairs: 4-Dimensional Warfare," The Institute for Defence Studies and Analysis, New Delhi, India: pg. #, <http://www.idsa-india.org/an-may8-2.html>.

23 James Brown Scott, "The Proceedings of the Hague Peace Conferences," proceedings (University of Oxford Press, 2009), pg. 21.

24 "Developed by the British to stop the rush of fanatical tribesman, the bullets were vigorously defended by Sir John Ardagh against the heated attack of all except the American military delegate, Captain Crozier, whose country was about to make use of them in the Philippines." Excerpt taken from p. 262: Tuchman, Barbara. (1962). *Proud Tower: A Portrait of the War Before the War 1890-1914*. New York, New York. Random House.

spirit of the Declaration is...so clearly humanitarian and universal in its aim.”²⁵

These first steps in the prohibition of these items were not to be isolated incidents. They led to more legal bans and regulations of weapons that would be arguably considered less “dubious” by Jochnick and Normand. For example, 1972 and 1993 brought bans on chemical and biological weapons; some fragmentation weapons were forbidden in 1981, and the use of landmines have also since been outlawed.²⁶ If the Hague Conventions had not taken the initial steps to proscribe weapon production of any kind, it is feasible to assume that it would be that much more difficult to address similar issues today.

In addition to Hague discussions that centered on weaponry and issues of proportion and distinction, serious deliberations took place pertaining to possible choices states could make to avoid war at its outset – the primary one being about arbitration. Discourses about arbitration in lieu of violence to settle disputes were initiated and the Permanent Court of Arbitration (under the Convention for the Pacific Settlement of International Disputes²⁷) was initially established by The Hague in 1899. Best said of this tenuous development that “[w]hat was new and striking about it was not the idea of arbitration as such but its institutionalization, its installation in the foundations of an improved world order.”²⁸ These efforts, from the implementation of the principles of proportion and distinction and weaponry bans, to the installation of arbitration courts were all initiated specifically to humanize and restrain acts of war.

C. Regarding the Issue of the Inherent Belief in the Legitimacy of Law

The third point that Jochnick and Normand state goes directly to the issue of the inherent legitimacy of law and its relative power to grant legitimacy to actions (in this case – violence in war) that adhere to it. To illustrate this point, they assert that “the ‘respectable garb’ with which belligerents have dressed their assaults is precisely the laws themselves.”²⁹ They also infer that the law influ-

ences public perception of an act if it has been labeled “legal”, thereby psychologically encouraging the public to support the act whether moral or not. This assertion is then summarized as an illustration of legitimation theory “in which law is internalized as belief and belief leads to compliance.”³⁰ Their contention culminates in the view that the Hague laws were created to be intentionally vague so as to provide rationale to states who wish to engage in violent acts of war while professing their adherence to legitimate international law.

This claim of intentional use of the inherent legitimacy of law is two-fold and is examined as such. The primary component addresses the notion of inherency in relation to public (and state) recognition of the legitimacy of law, and the secondary element refers to the intentional abuse of this perception.

When analyzing the primary module of the claim, which purports that there is an inherent belief in the legitimacy of law, one needs only to highlight their own questions about this subject and, more importantly, their subsequent answer in order to ascertain the value of their argument. Jochnick and Normand first ask, “How does legal language influence popular attitudes towards wartime violence?” and “Do these laws translate into more or less public pressure on belligerents to adhere to humanitarian standards?”, only to answer “[t]hese questions have no clear, empirically based answers.”³¹ While their rationale is interesting, it is far from substantiated³² and therefore yields little weight regarding this issue. Furthermore, the omission of evidence in support of this argument becomes even more glaringly obvious in light of the wealth of logic and data that maintain a contradictory view. For example, if law was considered universally and inherently legitimate, why then did American and European abolitionists challenge the implementation and use of slavery during the 18th and early 19th centuries when it was not only commonplace, but also legal?

Jochnick and Normand’s inability to validate this position then negates their secondary point about combatants using the inherent legitimacy of law to supplement and legitimate acts of war. One cannot utilize what is not proven to exist. The only area of certainty regarding the laws of war is not that they were written to be intentionally vague and corruptible to the will of state self-interest due to their supposed inherent legitimacy, but that they were devised instead to provide persuasive moral restrictions upon what states can and cannot do within the confines of war.

25 James Brown Scott, “The Proceedings of the Hague Peace Conferences,” proceedings (University of Oxford Press, 2009), pg. 21.

26 G. Best, “Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after,” *International Affairs* 75, no. 3 (July 1, 1999): pg. 631.

27 See Permanent Court of Arbitration: Founding Conventions. Forthcoming URL = http://www.pca-cpa.org/showpage.asp?pag_id=1037

28 Ibid, 628

29 Chris Jochnick and Roger Normand, “The Legitimation of Violence: A Critical History of the Laws of War,” *Harvard International Law Journal* 35, no. 1 (Winter 1994): pg. 57.

30 Ibid, 58

31 Ibid, 59

32 See Marmor, Andrei, “The Nature of Law”, *The Stanford Encyclopedia of Philosophy* (Winter 2011 Edition), Edward N. Zalta (ed.), forthcoming URL = <http://plato.stanford.edu/archives/win2011/entries/lawphil-nature/>. This is a good overview of the vast and diverging theories of the interpretation of law.

IV: CONCLUSION

To sum, Jochnick and Normand (1994) make an inflammatory claim that “the delegates (of the Hague Conventions) masked their failure to draft concrete limitations on important means and methods of warfare by formulating vague, indeterminate provisions that sounded humane but did not impose any binding commitments on signatories.”³³ They surmise that the delegates of these Conventions were of malicious intent and only convened to create an illusion of an international humanitarian community in order to quell the demands of their populaces while covertly supporting only the self-interest of their states. Jochnick and Normand give a lengthy example to illustrate this mal-intent in regards to their references to chivalry mentioned in the Hague Conventions: “It... claims romanticized chivalric ideals, such as justice and mercy, as its humanitarian ancestors. This view obscures the fact that chivalric rules actually served to protect... privileged knights and nobles, entitling them to plunder and kill.”³⁴ This is an example of the use of a distorted view to support a claim. According to religious historian Christopher Howse (2010) the word chivalry took on a new meaning in the post-medieval era,

Chivalry, in the door-opening sense, is a 19th-century invention. In the Middle Ages chivalry meant ‘mounted fighting men’, just like cavalry, which comes from the same source. Then in 1790, Edmund Burke said: ‘Chivalry is only a name for that general spirit or state of mind which disposes men to heroic and generous actions.’³⁵

Thus, while intriguing on the surface, this argument ultimately falls flat when faced with reason.

The claim that Jochnick and Normand have stated, that the delegates of The Hague intended to create “vague and permissive” laws in order to facilitate acts of war as a vehicle of the self-interest of states is invalid. History has illustrated that the intent of the delegates of The Hague was to restrict acts of war and create an evolving, persuasive international community that prioritizes humanitarian values over the self-interest of states. The blame for ongoing war therefore lies not within the Hague Conventions, but instead with the inability of the international community to find a solution to the ongoing debate as to how enforceable international laws can be created in a global community that is based on the concept of absolute sovereignty. There is evidence, however, that the nations

³³ Ibid, 74

³⁴ Ibid, 61

³⁵ Christopher Howse, “Chivalry Was Born on a Wet Day in 1839,” editorial, *The Telegraph*, <http://www.telegraph.co.uk/comment/columnists/christopherhowse/7590628/Chivalry-was-born-on-a-wet-day-in-1839.html>.

of the world are moving towards a better understanding and acceptance of humanitarian law. Judge George H. Aldrich wrote in *The American Journal of International Law*, that “while today I would still identify the same factors (of institutional failure), some recent and significant developments may, by themselves, promote better compliance with the law and encourage further developments to the same end.”³⁶ It is safe to say that without the efforts of The Hague, these progressions towards compliance may not be occurring at all. As to the intentions of the delegates of the Hague Conventions, Geoffrey Best succinctly said, “The men at The Hague in 1899 did what they could.”³⁷ Charged with the extremely difficult task of creating laws of war within such a culturally and ideologically diverse international forum such The Hague, the fact that they “did what they could” was more than most of us could have done.

Works Cited

Aldrich, G. H. (January 01, 2000). *The Laws of War on Land*. *American Journal of International Law*, 94, 1, 42-63.

Best, G. (July 01, 1999). *Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after*. *International Affairs (royal Institute of International Affairs 1944-)*, 75, 3, 619-634.

Brown Scott, J, Carnegie Endowment for International Peace. Division of International Law. (1920). *The proceedings of the Hague Peace Conferences: translation of the Original Texts: The Conference of 1907*. University of Wisconsin – Madison: University of Oxford Press. Digitized Sept. 9, 2009.

Howse, Christopher. Chivalry was Born on a Wet Day in 1839. *The Telegraph*. Retrieved from <http://www.telegraph.co.uk/comment/columnists/christopherhowse/7590628/Chivalry-was-born-on-a-wet-day-in-1839.html>

Singh, A. *The Revolution in Military Affairs: 4-Dimensional Warfare*. *The Institute for Defence Studies and Analyses*, New Delhi, India. Retrieved from <http://www.idsa-india.org/an-may8-2.html>

³⁶ G.H. Aldrich, “The Laws of War on Land,” *American Journal of International Law* 94, no. 1 (January 1, 2000): pg. 54.

³⁷ G. Best, “Peace Conferences and the Century of Total War: The 1899 Hague Conference and What Came after,” *International Affairs* 75, no. 3 (July 1, 1999): pg. 633.

Tuchman, Barbara. (1962). *Proud Tower: A Portrait of the War Before the War 1890-1914*. New York, New York. Random House.

Thoughts on the Supreme Court

A Question and Answer with Professor Lawrence Baum

-
1. ***The Supreme Court is expected to render its decision regarding the Affordable Care Act in June. Based on the oral arguments and make-up of the Court, what do you expect the Justices to decide? What will be the implications of that decision for the 2012 election?***

BAUM: There are some cases in which it is fairly easy to predict what the Supreme Court will decide once it has held oral arguments. That is not true of the set of cases involving the Affordable Care Act. One reason is the complexity of the cases: there are four different issues, some of which are intertwined with others. Another reason is that the justices are well aware that these cases are important to politics and public policy. That awareness will cause justices to take into account a broad range of considerations, perhaps including the possible effects of the Court's decision on the attitudes of the general public toward the Court. Some of those considerations might work against the kind of partisan division of the Court that some people are expecting.

It is almost inevitable that the Court's decision in these cases will be an issue in the 2012 presidential and congressional elections, especially if the Court strikes down at least part of the Act. But how important this issue is to voters and which side will benefit, like the Court's decision itself, are difficult to predict.

2. ***Since 2005, the Roberts Court has dealt with a number of important issues, including torture, campaign finance, and the 2nd amendment, and now health care, affirmative action, and voting rights. At the same time, the bench is as diverse as ever, with regards to the gender, race, and religious make-up of the Justices. What do you think***

Kara Lefevers is a senior majoring in Political Science at the Ohio State University.

will be the legacy of the Roberts Court?

BAUM: Although this is the seventh Court term in which Chief Justice Roberts has presided, in all likelihood we have seen only the early part of the Roberts Court. (Roberts is fifty-seven years old, far below the age at which the average justice retires.) To this point, the Roberts Court is probably best described as moving cautiously but clearly in a conservative direction on many issues. If the Court addresses the broadest issues in the health care, affirmative action, and voting rights cases that it is hearing this year, its decisions in those cases will tell us more about how strong its conservative tendency is.

But the key to the legacy of the Roberts Court is the changes in its membership that will come in the future. The Court has five conservative members, but one--Justice Anthony Kennedy--is relatively moderate. If the Court gains a stronger conservative majority through one or more new appointments, then the Roberts Court might make a series of fundamental changes in the law. If it gains a liberal majority, then it might reverse direction even under a conservative chief justice. Thus the outcomes of presidential elections in 2012 and beyond are likely to determine the legacy of the Roberts Court.

3. ***On the surface, it would appear that the Supreme Court has been greatly politicized in recent years. President Obama was criticized by Republicans for commenting on the Citizens United and health care cases, and Justice Samuel Alito shocked some observers by uttering "Not True" during the 2010 State of the Union address. Justice Elena Kagan was asked to recuse herself from the health care debate because of her role as solicitor-general, and Justice Clarence Thomas faced similar requests because his wife is a vocal Tea Party activist. How can you explain this politicization, if it really is unique in the Court's long history?***

BAUM: The Court has often been enmeshed in partisan politics, so the current period is not unique. For instance, it has been common for the Court to be an issue in presidential elections. Still, in some respects the current Court is caught up in politics to a greater degree than usual. This is primarily a result of the strong partisan

polarization among political leaders and activists today. Because presidents have become increasingly careful in their nominations to the Court, since 2010 the Court's division between conservatives and liberals has coincided with a division between Republicans and Democrats. This development fosters a tendency to think of the Court in partisan terms. Sharp divisions between the parties and a growth in political nastiness have led to more frequent political attacks on the Court and its members. And it may be that partisan polarization has affected the thinking of some justices as well. This situation is likely to continue unless and until there are changes in the political process that reduce polarization.

Research in the Political Science Department at Ohio State University: Opportunities Abound

Professor Janet Box--Steffensmeier

One of the advantages of attending Ohio State University is to be involved in research – either your own under the guidance of faculty mentors or as part of a faculty research project. You can get involved through a number of ways. Talk to either of our outstanding political science advisors, Wayne DeYoung or Charles Smith, and they can help guide you to faculty that may have similar interests or that have current projects with student research assistant openings. Sign up with the Undergraduate Research Office <http://undergraduateresearch.osu.edu/> to receive emails that describe faculty research projects and the duties for undergraduates on those projects. Scour faculty websites and discover their areas of expertise to see what might overlap with your interests. Faculty typically have a portfolio of research projects and we almost always have openings for students to get involved. Then email faculty to make an appointment. Faculty are thrilled to work with the talented undergraduate student body at Ohio State. Come meet us and hear about project openings. I have a link on my website that describes Research Opportunities for OSU undergraduates that you may find helpful <http://polisci.osu.edu/faculty/jbox/resops.htm>. As described, it is a process of matching your interests and skills with ongoing projects with the goal of gaining research experience for you and expanding your skill set. You may discover that you want your future career to be one of research, whether as part of the academy, a lobbying firm, think tank, or government agency.

One of my current research projects is “The Evolution and Influence of Interest Group Networks before the Supreme Court,” with Dino Christenson (a former graduate student at Ohio State). The project was funded by the Law and Social Science Program & Political Science Program of the National Science Foundation. It is one of my four currently funded projects. This project addresses three important questions about interest group behavior: how have interest group coalition strategies changed over time; which factors determine whether interest groups work together; and do

particular interest groups wield more power before the Court? Utilizing a network measure of interest group coalitions based on cosigner status to United States Supreme Court *amicus curiae*, or friend of the court briefs, the central players and overall characteristics of this dynamic network from 1930 to present-day are illuminated. In addition, the analyses suggest which attributes bring interest groups to work together and how power in the network influences judicial decision-making and litigation success. It is important because the state of democracy depends on the ability of individuals and organizations to find representation for their respective values in the bodies of government. Through the creation of a new network measure applicable to 80 years of interest group activity and an associated data set of interest group characteristics, this research provides scholars an unparalleled opportunity to study the relative impact of interest group coalitions as they engage the governmental process.

Many undergraduates helped with the coding because the information was not in a format that was able to be scraped. Other students assisted with building the project website: <http://amicinetworks.com/>. Another student, Jamie Richards, investigated a subset, environmental groups, for her thesis and subsequently presented her results at the Midwest Political Science Association’s annual conference. Faculty research projects usually have opportunities for students to assist by conducting literature reviews or data analysis as well.

Ohio State University encourages students to conduct their own research by having Honors Thesis options as well as graduation with Research Distinction in Political Science. You can also get course credit for independent research. Occasionally, faculty have funds to pay students or a student may be eligible for workstudy, but often the work is voluntary and more for the experience, resume line, and unique letter of recommendation that a faculty advisor writes. The Denman Research Forum at Ohio State provides a conference venue for students to present their research, which is a valuable and unique experience. Finally, there are funds to support undergraduate research available from the College of Social and Behavioral Science <http://artsandsciences.osu.edu/sbsundergradresearchgrant>, Arts and Science <http://artsandsciences.osu.edu/students/researchgrants>, and the Undergraduate Research Office <http://undergraduateresearch.osu.edu/participate/funding/index.htm>, among others. The last link provides additional opportunities. What are you waiting for? Knock on the doors of your faculty!

Submission of Manuscripts

The Journal of Politics & International Affairs (JPIA) welcomes submissions from undergraduates and graduates of any school, class or major. We seek to publish manuscripts of the highest quality, and papers selected for publication are generally exceptionally written, with well-developed theses, and exhibit articulate arguments with original analysis. The JPIA also accepts and encourages submissions from professors, Ph.D. candidates, guest lectures, subject matter experts, and distinguished faculty. Submissions can include opinion pieces, short policy analysis, and book reviews.

Papers are typically 10-20 pages in length, and have been written for an upper-level course. Shorter argumentative and current events papers will also be considered for publication. Manuscripts for consideration should include an abstract of approximately 150 words. Citations and references should follow the American Political Science Association Style Manual for Political Science. All references must be complete, accurate, and up-to-date for submissions to be considered. References in manuscripts should be submitted in the form of footnotes.

Those who submit papers may be asked to revise their manuscript before and after it is accepted for publication. Submissions must be in the form of a Microsoft Word document and should be e-mailed to journalupso@gmail.com. Please include name, university, a short biography, and contact details (mailing address, e-mail address, and phone number). Although papers are encouraged and accepted on a rolling basis, they will only be considered for publication during each publication cycle. Please visit the Twitter feed (@OSU_JPIA) or find us on Facebook for additional JPIA and submission information.

Gun Control and Gun Violence in Somalia
Taylor Beale

**Human Trafficking:
Putting an End to Modern Day Slavery**
Alexa Odom

At the Edge of Global Civil Society
Kevin Kulig

The Hague: A Question of Intention
Kara Lefevers

**Thoughts on the Supreme Court:
A Q&A with Professor Larry Baum**

**Research in the Political Science Department
at Ohio State University**
Professor Janet M. Box-Steffensmeier

