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CALL FOR PAPERS: The 2007-2008 issue of the Journal will publish a variety of scholarly articles, essays, poetry, and book reviews on topics such as war, peace, global cooperation, domestic violence, and interpersonal conflict resolution; including questions of military and political security, the global economy, and global environmental issues. We wish to promote discussion of both strategic and ethical questions surrounding these issues. Our audience includes scholars with a wide range of interests within the academy and educated members of the general public. Contributors should avoid discussions accessible only to specialists in their field. Submissions are accepted on a continuing basis. Contributors should first contact the office at wiinst@uwsp.edu for a brief style sheet.
# Journal for the Study of Peace and Conflict
## 2006-2007 Annual Edition

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EDITOR’S FORWARD

As with previous issues of the Journal for the Study of Peace and Conflict, the 2006-2007 issue includes contributions on a wide range of topics by scholars representing a variety of disciplines, including political science, philosophy, religious studies, psychology, law, education, and peace studies. In the first essay, Joseph E. Thompson thoroughly examines the historical background and present status of the movement toward school integration in Northern Ireland, evaluating the potential impact of this development for easing sectarian tensions in that divided nation. Rob Gildert follows with a careful dissection of the retributivist argument for the punishment of crime, highlighting inconsistencies in the logic of this approach as applied to persons from impoverished backgrounds and pointing toward restorative justice as a more equitable and less punitive alternative. Essays by Pamina Firchow and Penny Seymoure explore Latin American issues: Firchow analyzes the interaction of recent social protest movements, both revolutionary and reformist, with the political process in Argentina, while Seymoure examines the struggles of the indigenous Mbya Guarani of northern Argentina to retain their land and preserve their culture in the face of majority pressure. Paul J. Magnarella provides an insightful summary and explication of the American Society of International Law’s important 2006 Humanitarian Law Resolution, which finds the American invasion and occupation of Iraq in violation of several categories of international law.

Several studies follow on philosophical and ethical issues. John Sniegocki provides a useful and gracefully written introduction to Catholic Social Teaching, especially as it applies to globalization and matters of war and peace. Carlo Filice explores the ethical dimensions of supposedly amoral economic behaviors practiced by developed nations, stressing the direct and indirect violence inflicted on people in less developed countries. In an eloquently argued essay, Wendy Hamblet maintains that ancient myths of the western tradition, with their themes of ordering and creative violence, have become embedded in western culture and continue to encourage patterns of violence in the contemporary world. Judith Thompson concludes this section with a sensitive introduction to efforts to achieve reconciliation and social healing, drawing on examples from such troubled areas as South Africa, Rwanda, and the American South.

Like previous issues of the journal, this issue includes two papers by students at Wisconsin Institute-affiliated schools. In the first, Iraq veteran and UW-Oshkosh senior Ben Cash presents an insightful discussion of the recent trend toward private military forces and the problems inherent in their deployment, drawing in part on his own observations in the Iraq War. Justin Van Ness, a graduate of UW-Eau Claire, follows with a thoughtful and well-argued theoretical analysis of the conditions supporting and detracting from the establishment of successful human rights regimes in international systems. The issue concludes with a book review section, introduced by a substantial review essay by Ian M. Harris on two books by Ronnie Casella on peacekeeping in schools, which includes a good survey of the scholarly literature on this important problem.

I would like to express my sincere gratitude to the authors and contributors to this issue, to the referees who read and evaluated manuscripts, to my associate editor, Kent Shifferd, who conferred closely with me in the selection process, and especially to my co-editor, Kathryn Blakeman, who performed by far the greatest portion of the correspondence, manuscript evaluation, editing, formatting, and other essential tasks leading to the production of this issue.

William B. Skelton
Emeritus Professor of History
University of Wisconsin–Stevens Point
Building Peace One Student at a Time: Northern Ireland’s School Integration

By Joseph E. Thompson

Introduction

Several regions of the world have well-deserved international reputations as divided societies, for example, Lebanon, Iraq, and Northern Ireland. Britain’s Irish province has a long established position on that special list of territories struggling with physical and psychological violence between two or more distinct communities. In the case of Northern Ireland that is governed by British government policies, the status quo group who want to keep the British province of Northern Ireland within the United Kingdom is identified as “Protestant” (unionist and loyalist political communities) and the non-status quo group who want the six counties of Northern Ireland to be reunited with the southern Republic of Ireland is identified as “Catholic” (nationalist and republican political communities).

The observation that these two communities are involved in a religious conflict, while prominent, is by no means uncontested. John Whyte produced the most widely praised academic analysis of different explanations for the conflict in his 1990 book, Interpreting Northern Ireland. This popular academic clarification of the conflict is one that sees the Protestant and Catholic communities with distinctive identities locked in a contest for supremacy within a confined territory. It could also be argued that the two groups are engaged in a struggle for economic and political dominance; religion just happens to be one further point of difference between them. Although some Protestants and Catholics continue to engage in personal violent acts against each other, this does not establish that the conflict is principally religious.

Due to events since the 1690 victory of William of Orange over the Irish armed forces, Protestant and Catholic are convenient labels that coincide with deep historical divisions. Unfortunately, this division is a determining factor in too many segments of people’s lives. Education, housing, policing, jobs, shopping areas, vacation times, community events; these are just a few areas of separation. The intent of this article is to call attention to the sectarian and ethnic division in the educational system of Northern Ireland and to offer some policy choices.

The claim that peacebuilding must involve a change in the educational system has been made by many scholars and organizations. President Abraham Lincoln wrote a letter on Reconstruction and Emancipation to Nathaniel Banks, the Union general in charge of occupied Louisiana, asserting: “Education for young blacks should be included in the [Reconstruction] plan.” (Goodwin, 2005, p. 589) More recently, former U.N. Secretary General Boutros-Boutros Ghali emphasized in An Agenda for Peace: “Reducing hostile perceptions through educational exchanges and curriculum reform may be essential to forestall a re-emergence of cultural and national tensions which could spark renewed hostilities.” Bush and Saltarelli also emphasized the need for divided societies experiencing conflict to find educational “solutions that are transformative—solutions that change the underpinning logic and structures of behavior.” (Bush and Saltarelli, 2000, p. 33) The idea that education is an integral part of peacebuilding has also driven Northern Ireland’s integrated school supporters.

What is integrated education? For contemporary American educationalists,
integrated education implies bringing experiential learning into the academic classroom. For older Americans, integrated schooling means the coming together of different racial groups for a common educational experience. The many years spent struggling for civil rights and racial equality for blacks and whites made American leaders particularly sensitive to the concept of segregation in education. From America’s fratricidal Civil War until the 1954 Supreme Court ruling in *Brown v. the Topeka Board of Education*, Americans continued to grapple with the issue of integrating all ethnic groups into the mainstream of academe. Thus, it was inevitable that the cry for enhanced non-sectarian integrated education in Northern Ireland would strike a unique chord throughout America’s political, financial, and educational world.

Whereas Americans now see all forms of integration as part of their educational system, the two Northern Ireland communities see segregation as their educational tradition. If segregated education is tolerable for the Northern Ireland communities, then how do the British and Northern Ireland governments view integrated education? According to the Northern Ireland Council for Integrated Education (NICIE), integrated education is defined as “bringing together in one school pupils drawn in roughly equal numbers from both the Protestant and Catholic traditions along with young people from other cultures. There will also be a mix of backgrounds in the teaching staff and governors, ideally reflecting a balance of representation.” (Blakeman, 2001, p. 4)

In spite of the British government’s push, integrated education in any form is yet to be welcomed wholeheartedly by the leaders of either religious community in Northern Ireland. In fact, Ireland’s Catholic bishops have come out strongly against a far-reaching review of the north’s school structure, saying “it will undermine Catholic education.” (7 December 2006. http://www.irishnews.com/access/current/indes.asp)

This attitude needs to change if the province is to move beyond separated sectarian communities.

The central questions that drove this research were structured along three lines: a history of integrated education, the challenge to improve community relations, and the political impact of school integration. How did integrated education begin in Northern Ireland, and whose support has enabled it to grow since its inception? Since the primary goal of integrated schools is to bring together children of different backgrounds in a respectful environment, do these schools fulfill this goal, serving as peacebuilders among students, faculty, and the larger community? If so, in what ways, specifically, do they do so? What role do integrated schools play in the larger processes of community reconciliation and political peacebuilding? What limitations do these schools face in their efforts to build peace? Has the government of Northern Ireland fulfilled its obligation (as set forth in the 1998 Good Friday Agreement and other legislation) to “encourage and facilitate” integrated education? Overall, what is the nature of the relationship between the integrated schools and the political sphere? Are these schools considered an important political issue domestically? Internationally? Answers to these and other questions are vital to any public policy making for the future. As the U.K. Secretary of State for Northern Ireland, Peter Hain, stated in his speech at The Queen’s University of Belfast on March 8, 2006, “We need to look at innovative ways of schooling—sharing across and between sectors—learning from examples elsewhere so that we achieve higher standards, better facilities and a better use of resources.”

**Brief Chronicle**

Public discourse regarding integrated education in Northern Ireland began in the 1970s. Newspaper articles from this period portray a heated public debate
regarding school integration. Fortunately, the Linen Hall Library in Belfast has kept a complete collection of news articles on integrated education since the topic was first introduced. The volume and content of the anti-integration articles reveal that initially the movement’s opponents dominated the debate. Dominie Cunningham, Peter McKenna, Charles Mallon, and Ray Managh contributed to *The Sunday Independent’s* two articles on February 16, 1975. The first brief article was in support of integration. The second longer article against integrated schools included arguments by various politicians, educators, clergy, and other community members. Similarly that year, *The Irish Independent* published an article by John Walshe on October 20 entitled “Dangers in Forced Integrated Education.” Although the former chairman of the Northern Ireland Community Relations Commission believed that the system of education was one of the primary factors responsible for the violence in the north, he argued that any attempt to integrate the schools quickly would be the cause of still more division. The fact that the concept of integration met such hostile reactions is not surprising, since Northern Ireland was experiencing high levels of violence at the time.

Despite the prevalence of violence and anti-integration sentiments, a few valiant supporters emerged committed to integrated schools. Most significantly, a small group of Catholic parents whose children attended Methody College in Belfast, “began to discuss how their children’s religious and cultural needs were being met in a predominantly Protestant environment.” (Fraser and Morgan, 1999, p. 9) This group soon expanded to include Protestant, agnostic, and atheistic parents as well. Eventually they formed an organization called All Children Together (ACT), which began to argue for changes in the state school system that would enable children of diverse backgrounds to feel comfortable in integrated schools. ACT argued that “one of the most powerful responses which Christians could give to the charge that the fighting was about religion would be for Protestants and Catholics to educate their children together in the same schools.” Thus, in 1976, the group developed proposals as to how existing schools might become “share schools” without teaching prejudicial religious doctrine.

Soon after the formation of ACT, Lord Dunleath promoted the passage of legislation that would make integrated schools possible. Under the Northern Ireland Education Act of 1978 (also known as the Dunleath Act), schools were permitted for the first time to change their educational status to integrated by changing their recruitment and ethos. That same year, Article 11A was inserted into the Education and Libraries Order of 1972. This change was intended to enable the Department of Education of Northern Ireland (DENI) to approve a proposal for a school’s change of character from “controlled” or “maintained” to “integrated.”1 Unfortunately, only the school’s Board of Governors could initiate this transformation, and no school successfully took advantage of this opportunity. Even so, this Act was important because it marked the British government’s first tangible undertaking in support of integrated education.

Since no existing school administrators or majority of parents were interested in changing their school ethos to integrated over the next three years, ACT opted to establish an entirely new school. Lagan College opened in south Belfast in 1981. The next day the headlines declared: “School of hope

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1 A “controlled” school, perceived as a state school for non-Catholics (Protestants), was under the management of five Education and Library Boards. A “maintained” school, perceived as schools for Roman Catholics, was, until the recent education restructuring change by the U.K. government, under the management of the advisory Council for Catholic Maintained Schools.
opens with a gun guard,” demonstrating the tremendous risk and controversy surrounding the event of the first officially integrated school in the province. As Fionnuala O’Connor was proud to point out in her 2002 book, *A Shared Childhood*, this school was indeed a pioneer in Northern Ireland education. It was specifically designed to value and respect the religious, cultural, and political values of its Catholic and Protestant pupils, as well as pupils of other backgrounds.

Interestingly, Lagan’s original purpose was not to establish a whole new school system in Northern Ireland (although that is in fact what has happened). Rather, ACT’s goal was for Lagan to serve as an example that might encourage other existing schools to transform to a “share school” in order to be more welcoming to children of diverse backgrounds.

Lagan College broke the ice regarding public acceptance. News articles published on integrated education since the 1980s are now written in favor of the movement. Along with the increased acceptance came the expansion of the integrated sector. In 1985, three additional integrated schools opened in Belfast. This bottom-up, grassroots movement was successful, however, only with the commitment of the British government.

Although existing schools did not utilize the Dunleath Act, community support for integrated schools continued to grow. Buttressed by the increasingly positive community commitment, Britain declared that its role in supporting integrated education also needed to expand. The Northern Ireland Education Reform Order of 1989 stated in Article 64: “It shall be the duty of the Department to encourage and facilitate the development of integrated education, that is to say the education together at school of Protestant and Roman Catholic pupils.” The 1989 Order also empowered DENI to support organizations that promote integrated education. Thanks to this Order, the Northern Ireland Council for Integrated Education (NICIE) continues to receive significant government support.

Another milestone in the history of integrated education was the legal power of DENI to provide recurrent funding for integrated schools from the day they acquired grant-maintained integrated status. That is, the management, control, and ethos of the school had to be deemed likely to attract equal numbers of Catholic and Protestant children to the school.

Before the passage of the 1989 Order, there was no specific category within the existing legislation for integrated schools to receive government funding. Accordingly, the 1989 Order marked an important milestone in the history of integrated education in Northern Ireland.

In the early years of the integrated movement, the vast majority of the schools created were primaries. There were only two integrated secondary schools by 1991, compared to eleven primary schools. As the first group of integrated primary pupils moved through school and looked ahead to secondary school, their parents had a difficult decision to make. “Many parents saw re-entry to the dual Catholic/Protestant system as problematic.” (Fraser and Morgan, 1999, p. 13). If a child was fortunate enough that his or her 11+ scores earned entrance into a grammar school with a history of some community crossover, that school might represent an acceptable option. However, if a child was unable to earn a place in such a school and happened to live in a highly segregated area, attending the local controlled or maintained school brought with it certain risks. That child could easily face bullying and victimization at the hands of classmates who had spent all their years in a segregated setting.

This problem served as an impetus for the establishment of more integrated secondary schools from 1990 onward.
Between 1990 and 1997, the number of integrated secondary schools in Northern Ireland increased from two to fourteen. With the establishment of so many new schools, enrollment in integrated secondary schools increased from under 2,000 in 1991 to around 7,000 in 1996. (Smith and Robinson; and Richardson)

The next important government action occurred in February 1996, when DENI conducted a special review of integrated education. This review was spurred by the rapid growth of grant-maintained integrated schools, which had begun to exert financial pressure on DENI. The review also resulted in raising the minimum viability criteria for new schools. Thus, schools had to have a larger enrollment in order to receive government funding. In addition to these viability criteria changes, the review resulted in DENI introducing new measures to encourage transformation rather than the establishment of new schools, since this process required much less financial support from the government. “A Framework for Transformation” was published the following year with advice and a step-by-step guide that encouraged schools to undergo this process.

Recent government activity with regard to integrated education is also linked to the 1998 Good Friday Agreement. In addition to the Education Reform Order, the political leaders of Northern Ireland reasserted this point in the Agreement: “An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education.” (Good Friday Agreement)

Today there are fifty-six formally integrated schools spread throughout Northern Ireland, educating over 17,000 students. This enrollment is evidence of the tremendous expansion of the integrated sector since the first class of twenty-eight students entered the Lagan school in 1981. Such growth is primarily the result of hard work by parents and community members who support integrated education, and, to a lesser degree, of government support. Although this student figure still comprises only around 5 percent of Northern Ireland’s school age population, integrated education has expanded to the point that all major populated centers now have a primary school. In some remote areas, traveling time between home and school can be considerable, but even so, most parents have the option of sending their children to an integrated primary school. Though this is not yet true of integrated secondary schools, since fewer of them exist, the number of these schools has grown to the point that accessibility for students in all areas does seem feasible in the future.

**Community Peacebuilding**

Educating children in a way conducive to the improvement of community relations is at the heart of the integrated ethos. For example, NICIE asserts that integrated education is “about cultivating the individual’s self-respect and therefore respect for other people and other cultures...bringing children up to live as adults in a pluralist society, recognising what they hold in common as well as what separates them, and accepting both.” But, how realistic is this goal? Nearly every article that mentions integrated education makes reference to integrated schools improving community relations. These articles might look at the ideals, thoughts, and experiences of those involved with integrated schools, but none have examined all of these perspectives and experiences holistically as they affect community peacebuilding. The few writers who have analyzed community relations do so only in a piecemeal fashion. Developing a comprehensive analysis of the holistic contribution of integrated education at the ground level is crucial to the analysis of its future role in the long-term peace process of Northern Ireland.
and other international struggling diverse communities.

A study was published in 1992 by the University of Ulster at Coleraine entitled “Breaking the Mould: The Roles of Parents and Teachers in the Integrated Schools of Northern Ireland.” This study by Morgan, Dunn, Cairns, and Fraser, contains information from a large number of interviews held with parents who either worked to start an integrated school or simply chose to send their children to one, as well as from teachers who were working in the integrated schools. These scholars had the opportunity to engage in primary research on a much larger scale over a longer period of time than this author could during brief visits to the Irish province. This study, therefore, has served as a strong research supplement for this article.

The majority of teachers interviewed listed ideological commitment as their primary reason for pursuing a teaching job in an integrated school. While at first this may seem like a logical choice, the reason for and implications of such a statement are important. These teachers were born and raised in Northern Ireland, and sectarian community division was their childhood norm. The reactions to such an upbringing were strong enough to motivate them to a commitment of change for future generations. “In general, the teachers believed that not only was it wrong to educate children separately, but that, in the words of one experienced teacher, it was necessary to oppose it ‘in practical terms, not just by speaking out against it.’” (Morgan, p. 33) In other words, they selected this profession because of their faith in its peacebuilding potential and their desire to be a part of the reconciliation process.

The teachers’ conviction and support of integrated schools was initially so strong that they were willing to put their entire careers and financial security on the line. Taking a position in an integrated school was considered an act of crossing the Rubicon. “Going to work in an integrated school was interpreted as ‘betrayal’ by the majority of teachers in both the private and Catholic sectors, and as a result [they] would not be ‘allowed back.’” (Morgan, 1992, p. 37) Although teachers in the integrated sector served to support the concept of these schools as instruments of community peacebuilding, the initial reaction by the majority of teachers throughout the province demonstrated how integrated schools also adversely affected community relations.

If the teaching community was divided into Protestant, Catholic, and those in integrated schools, then the Northern Ireland population was also divided by its parents. Parents interviewed in the “Breaking the Mould” study voiced similar diversity of opinions as expressed by teachers. Those who supported integrated education “indicated that they wanted their children to attend a school where they would meet members of the ‘other’ community since they believed that this would help develop better relationships across the whole community.” (Morgan, 1992, p. 19) Further, many believed that the existence of integrated schools helped to bring together not only the children, but also the adults of the community.

On the one hand, the majority of parents who send their children to integrated schools come from the economic middle class. Unfortunately, the majority of parents throughout Northern Ireland do not reside on such a comfortable level. On the other hand, the working class does not believe that joint community meetings and activities will ameliorate the actual antagonism between Protestant and Catholic. Claire McGlynn suggests that “perhaps it is not so much a question of asking what damage might be done to community relations by separate schooling, but of doubting the potential of single identity schools to engage in the same way in the rebuilding of social capital.” (2001,
A similar statement was made by Derek Wheeler, Director of the North Belfast Community Action Unit, during a personal interview. “Keeping people apart makes you imagine what the other people are like. Eventually people on the other side of the fence are demonized—they grow horns and tails and you lose out on the opportunity to interact.”

Many parents interviewed in the 1992 study commented on the impact integrated schools would have on peacebuilding at the political level. Their arguments seem to share a presupposition that true and lasting political peace will have to follow community reconciliation among the vast majority of citizens. Thus, integrated education will not have a substantial impact on political peace for a long time, and not unless it is greatly expanded. Generally speaking, of course, education is not an effective means of building immediate political peace, since it addresses children and young adults rather than politicians and voting adults. However, in the long term, peacebuilding among young people will certainly have repercussions for the political climate in Northern Ireland, as those young people in time become adults, voters, and—some—politicians.

**Funding and Expansion**

Having identified the different roles of integrated schools in Northern Ireland’s educational system, an analysis of the government’s role in supporting these institutions is crucial to the peacebuilding process. The political leaders of Britain, Ireland, and Northern Ireland declared in the 1998 Good Friday Agreement that “an essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education.” In other words, the Northern Ireland politicians participating in the peace process identified integrated education as an important part of building peace and reconciliation.

The question remains whether the Northern Ireland political system has fulfilled its duty to integrated education as set forth in the Education Reform Order of 1989 and the 1998 Good Friday Agreement. Politicians pledged themselves to “encourage and facilitate” integrated education, but have they done so? Since the language used in these agreements was fairly vague, this section of the paper will focus on two important public policy issues: the funding and the expansion of integrated education. The issue of funding is important because it is the best empirical way to measure whether the government has fulfilled its role of “facilitating” integrated schools. The issue of expansion is important because there are concerns as to the extent to which the government should in fact “encourage” the proliferation of integrated schools.

The primary question revolves around whether DENI supplies integrated schools with enough funding to ensure their successful operation. Laurie Johnson of Hofstra University (New York) did a study in 2000 on “The Impact of Integrated Education on Students’ Tolerance of Diversity” that will serve as a guideline. Although Johnson does not explicitly make this argument, her study implies that some existing integrated schools have been adversely affected by insufficient funding. For example, she describes one new school in which teachers emphasized the need for more space and improved physical facilities. The school is characterized by overcrowded hallways and mobile classrooms, all of which cause disruptions in the children’s school days. She also cites a policy in which teachers regularly “cover” classes for absent teachers. Due to budgetary constraints, the school for which they work cannot hire substitute teachers. As a result, teachers described this “covering” policy as having a definite impact on their levels
of stress and fatigue. Furthermore, without free periods, teachers find it difficult to “take care of all their professional duties.” (Johnson, 2000, p. 15) Thus, funding problems seem particularly prevalent at newer schools in terms of materials. All integrated schools, though, could benefit from increased teacher training.

Of course, one could legitimately argue that most schools could benefit from increased funding. Even so, evidence exists that integrated schools require greater funding than traditional schools because of their nature and purpose. Bringing together children who have been raised in largely separate communities requires greater transportation costs, greater social and cultural awareness by teachers and administrators, and greater creativity in the curriculum. These qualities, it seems, do not always develop naturally. Rather, in order for a school to acquire such qualities, it may have to invest significant amounts of time and money in teacher and administrative training. Without this training, faculty members are likely to encounter difficulty discussing or otherwise dealing with sensitive issues with students.

Perhaps the principal challenge the integrated schools face as a whole is insufficient funding so as to accommodate all of the students interested in attending. The demand for integrated education far exceeds Northern Ireland’s current capacity. According to NICIE, in September 2000, over 1,100 children (one-third of all applicants) were denied placement in an integrated school due to lack of space. This happens so frequently and has frustrated so many people over the past few years that some families have begun to seek legal action to remedy the situation.

In October 2003, for example, a conflict arose between the New-Bridge Integrated College and five sets of parents whose children were denied admission to the school. These children had attended New-Bridge’s primary and wished to remain in the integrated sector at the secondary level. When the parents were told there was no space for their children in the existing integrated secondary school, they requested a “temporary variation” in the enrollment so that their children could attend the school. When the school’s Board of Governors denied this request, the parents saw no other option but to “seek five judicial reviews.” (“Integrated School Row Heads for the Courts,” Belfast Telegraph, October 23, 2003, p. 5) The New-Bridge story, as well as the sheer number of students recently denied entrance to integrated schools, serves as a clear indication that greater funding must somehow be made available for these schools.

In addition to highlighting the need for additional funding, the New-Bridge story serves as a demonstration as to existing barriers to expanding integrated schools in Northern Ireland. The head of the schools and pupils division of DENI stated in the Belfast Telegraph October 23 article: “Approving a temporary variation at [New-Bridge] in response to this protest would undermine the fundamental principles and procedures of the open enrollment and transfer process and would set a very dangerous precedent for the future and for other popular schools of Northern Ireland.” In other words, DENI is concerned that allowing a few exceptions to the numbers of students permitted to enroll would force them to do the same in other schools. If this were to happen, then the more “popular” schools would be bursting at the seams while other schools would suffer from low enrollments.

The DENI director’s comment also highlights the need to explore the topic of expansion in greater detail. Specifically, an examination is needed regarding the concerns surrounding the expansion of integrated education in Northern Ireland, as well as the ways in which these concerns have changed and developed during the life of the
integrated schools movement. These concerns indicate the extent to which DENI should encourage integrated education in general, and specifically its growth and expansion. Furthermore, an awareness of such concerns is of central importance in understanding the effectiveness of integrated education as a peacebuilding instrument.

One might presume that the early integrated schools faced greater opposition than those attempting to start up today, given the political climate of the region during the 1980s. While, at the very beginning, opposition was certainly present, its degree and extent was in a sense checked by the fact that the earliest integrated schools were small in size, isolated, lacking in official and financial support, and not considered a potential threat to the established sectarian schools. Fraser and Morgan assert that these characteristics made the first few integrated schools difficult to attack. They also point out that it has always been rather difficult for various institutions “to object to parents’ wish to influence their children’s education or to condemn an organization which has as one of its central aims the desire to improve community relations and end sectarian violence.” (Fraser and Morgan, 1999, p. 45)

In contrast to the few integrated schools of the eighties, today’s fifty-six integrated schools constitute a small yet significant educational sector of students and funding. The expansion in secondary-level integrated education has become an especially contentious question in recent years. Furthermore, it is expensive to build new integrated schools, and the government has been involved in financing this process for quite some time. Alex McEwen pointed out in 1999 that relatively little of the government’s spending on education makes it to the students. Thus, it seems that many of Northern Ireland’s schools could benefit from higher amounts of funding.

During the late nineties, budgetary problems contributed to heightened tension both within the integrated sector and between this sector and other educational sectors. A large degree of resentment existed between the traditional schools and integrated schools over funding. The reasons for this are a bit complex. As a result of the 1989 reforms, schools in Northern Ireland adopted an “open enrollment” policy, meaning that they are allowed to accept as many pupils as their physical capacity permits. Grammar schools in certain areas have since been taking more students than they did before the reforms occurred, causing some secondary schools to suffer from significantly reduced student intakes. So, it seems that concern over the expansion of integrated education is tied in part to the concern that secondary schools have about their futures.

In order to assess the legitimacy of some parents’ concern that the creation of new integrated schools might somehow threaten the continued interest in enrollment at other schools, it helps to examine the demographic trends in Northern Ireland today. If the birth rate were rising quickly, then there would be a strong chance that integrated schools could grow without taking away from the enrollment of other schools. However, according to the Northern Ireland Statistics and Research Agency’s General Annual Report for 2003, the province’s crude birth rate was 12.7, a thirty-year low. The report also shows, though, that the birth rate has been slowly declining each year since 1971. The simple fact that the birth rate is fairly low and decreasing annually implies that the availability of new integrated schools will play a major role in lowering enrollment elsewhere. Since the birth rate has been decreasing slowly for so many years, it is inevitable that declining enrollment will continue to be a pressing concern for all schools.²

² This concern is particularly relevant for sections of Northern Ireland that can barely provide a sufficient number of pupils for just
In fact, declining enrollments in Northern Ireland have to be a component of any future government education proposal at this point.

Even so, concern over expansion of integration is alive and well in Northern Ireland. People involved with other educational sectors indirectly voice concern that the integrated sector receives a disproportionate share of the funding offered by the DENI. This concern, of course, is connected to the more general concern that the other schools (and the separate cultures they represent) will be threatened as more integrated schools are introduced. In the city of Armagh, there was a recent campaign to build the town’s first integrated school. The leader of the campaign, Jeannetter Toner, said in a personal interview that while many members of the community welcomed the project, the support was far from universal. Rather, many community leaders privately voiced their support to her but could not do so in public, since “most people are against change of some sort in their lives...some people feel their culture would be threatened.”

Meanwhile, Toner pointed out the irony of such fears, when “integrated schools’ very purpose is not to threaten cultures, but rather to bring people together in order to learn to respect one another’s traditions and cultures.”

Sometimes, though, this concern over funding is voiced more directly, due to a perception that integrated schools and grammar schools receive a disproportionate share of government funding. However, this perception is more myth than reality. According to Joanna Ingram of DENI, this funding is actually quite proportionate to the percentage of students in integrated schools. For the 2001-02 school year, at which time approximately 3-5 percent of Northern Ireland’s school children attended integrated schools, the sector received a total of 52,682,470 pounds sterling in financial support from DENI. This figure constituted 3.935 percent of the department’s overall educational budget. So, if funding for a given school is to reflect the number of students in attendance, it seems that DENI is providing integrated schools with a relatively fair share of its available funds.

If funding, though, is to be given to schools according to the needs they possess, the funding integrated schools receive might not be considered “fair.” As discussed at length above, integrated schools seem to require higher levels of funding than they receive due to higher costs of teacher training and student transportation. This was not accepted by the British Education Minister for the 2005-06 budget whereby “all Northern Ireland schools will [now] be funded through a single formula designed to ensure that schools of similar size and characteristics receive similar funding regardless of their geographical location.” (Gardiner, p. 2)

Opposition, whether direct or more subtle, is still found among many individuals and groups in Northern Ireland. The point that often arises in discussions surrounding integrated schools refers to state (controlled) schools. These state schools are indeed open to anyone, non-Catholics and Catholics alike, should they choose to attend. Opponents of integrated education sometimes make this point as they argue that Northern Ireland does not need specially designed or officially designated integrated schools. Since Catholics are not legally excluded from came from their funding allotment; thus the reduction in per pupil funding. This all changed with the 2005-06 budget.

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3 Whereas controlled and maintained schools received DENI funding for their pupils through their Boards or CCMS, grammar and integrated schools received their funding directly from DENI. The Boards’ and CCMS’ administrative costs
the controlled schools of Northern Ireland, this argument does have some degree of legitimacy. However, this argument can become problematic when it is followed by an accusation. One interviewee, for instance, adamantly stated to the author: “If the Catholic Church didn’t insist on their own separate schools all would be well, because then Catholic children would come to state schools.” As offensive as this type of comment may appear, it is based on the fact that many Catholic families in Northern Ireland follow the tradition of placing their children in Catholic schools.

Regardless of the fact that many Catholics choose to send their children to Catholic schools, it is inordinately disrespectful and fundamentally inaccurate to blame Northern Ireland’s school segregation entirely on one community. Neither community is to blame totally for this present phenomenon. Rather, it is the product of many years of historical division and conflict.

Understanding that the state-run schools are largely Protestant in nature is a necessary part of grasping one reason that integrated schools seem important to Northern Ireland. Many parents desire that their children attend school with children of diverse backgrounds. Thus, some setting should exist in which Catholic and Protestant children can comfortably attend schools together. If this does not happen in a state school, then integrated schools are necessary in order to meet parent and student demand. Right now, the demand far exceeds availability with regard to integrated education. It appears that significant expansion must continue to occur. Further, it seems that such expansion should be funded by DENI, since it is its duty to “encourage and facilitate” integrated education. Despite concerns from certain sectors of society, if DENI is only providing the integrated sector with enough money to accommodate 5 percent of the province’s pupils, and the schools constantly have to turn away interested families, then it is not fulfilling its duty to integrated education.

A Political Issue

Fionnuala O’Connor remarked in her 2003 article in The Irish Times: “The outside world marvels that integrated education isn’t a political priority in Northern Ireland.” (p. 14) She asserts that integrated education is neither a domestic political priority for politicians, nor does the international community understand why this is so. The discussion in this section of the article, therefore, focuses on two questions: Why is integrated education not an important political issue in Northern Ireland? What is the role, if any, for America in this issue?

Political uncertainty definitely resurfaced in the Irish province with the community conflict and violence of “The Troubles.” At this writing, the continued absence of a devolved regional Stormont government in Northern Ireland prolongs this uncertainty. When political disorder exists, social issues are often pushed to the back burner while issues considered more pressing are addressed. (This is by no means a groundbreaking discovery.) Thus, integrated education is a particularly touchy social issue for both communities and their politicians. It is an issue with which none of the four dominant political parties want to be involved in or make comments on in public.4 By supporting integrated education, politicians would be alienating their respective communities, their church leaders, and their peers. This alienation would not bode well for individual or political party success.

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4 The two unionist (Protestant) parties: Democratic Unionist Party (DUP) and the Ulster Unionist Party (UUP); and the two nationalist (Catholic) parties: Social Democratic and Socialist Party (SDLP) and the Sinn Fein Party.
The only Northern Ireland political party that has come forward to publicly support integrated education is the Alliance Party. Then again, this Belfast middle class political party is a natural counterpart to middle class parents who support integrated schools. On a less important note, the primary article found on the DENI website is the Working Party’s progress report from November 1998, entitled “Strategies: Toward a culture of tolerance in integrating education.” It discusses the (then) current and future status of integrated education. The report cites the 1991 census, which made reference to the high degree of residential segregation in Northern Ireland. At that time about 67 percent of Northern Ireland’s enumeration districts (small homogeneous areas with around 150 households) each contained a population of either over 80 percent Catholic or over 80 percent Protestant. This statistic was used to support the assertion that “the distribution of the Northern Ireland population is such…that, even with extensive bussing of pupils (with its significant transport costs), the long-term potential for the development of formally integrated schools is limited.” The party report concluded, “With a more pro-active policy it is likely that the present rate of growth could be accelerated.”

One would presume that DENI is the government body most likely to concern itself with a pro-active policy toward integrated education. Several other articles regarding the department’s goals for integrated education, in fact, are available on the DENI website. However, these articles have not been updated in approximately six years, and no further articles have been added since that time. Thus, the seriousness of the department’s commitment to supporting integrated education appears questionable. In the period immediately following the 1998 Good Friday Agreement, DENI demonstrated a great deal of interest in integrated education. This tangible interest seems to have been driven by the British and American attention to the terms of the agreement. Since that time, however, the level of interest in integrated education for Northern Ireland politicians seems to have dissipated.

The DENI’s lack of study of integrated education since 1998 implies that, although it is willing to contribute financially to integrated schools as required by law, this is the extent of its commitment to integrated education. It appears that Northern Ireland politicians are now looking to the United States to fund their integrated education system. Just a few days before the 2003 Northern Ireland Assembly election took place, The Irish News ran a story in which its education correspondent, Aeneas Bonner, examined “the party manifestos to find out if devolution has brought education up the political agenda.” (p. 1) The very language used in this headline indicates that the editors of The Irish News were cognizant of the back seat education continues to take in the political happenings of Northern Ireland. Furthermore, this brief comment implies that the article was intended to address an existing hypothesis that while local government leaders in Northern Ireland are unlikely to focus on education on the whole, let alone integrated schools, devolution might cause educational issues to be discussed more frequently. Only two parties among the twelve party politicians interviewed mentioned integrated education. The Alliance Party emphasized the need to expand integrated schools, their goal being to double the percentage of students in integrated schools to 10 percent by 2010. Likewise, the Women’s Coalition Party (which disbanded in 2006) called for the further “development” of integrated education, as well as the establishment of a new integrated teacher training college. (Bonner, 2003, p. 2)

In the time that has lapsed since DENI set forth any new goals for integrated education, significant political
developments have occurred. The Northern Ireland Assembly that governed the province was suspended again on October 14, 2002, and direct rule was re-introduced by the British government. When examining the public statements of the active political parties in Northern Ireland’s last election to the local district councils in 2005, it becomes evident that the party leaders are not very concerned with education on the whole, and even less so with integrated education specifically.

The apathy toward education shown by the current political leaders of Northern Ireland may also be contributing to the degree of political apathy by the young voters in the province. Education is a central issue for many young people, and if politicians are not willing to make that issue a priority, then many students will be less likely to take an interest in what is happening politically. They might be less likely to vote, to run for office, or to become involved in government in other capacities. A continuation of this trend (both the apathy of politicians toward education and the apathy of young people toward politics) will have an adverse affect on the peace process of Northern Ireland. Why? Supporters of integrated education believe that today’s young people were not raised during “The Troubles,” and having only heard stories about such difficult times they might be more receptive to community reconciliation. However, a 2001 study by the University of Ulster found Northern Ireland’s young people under the age of 25 more sectarian than any other age group. Eighty-eight percent said they would not enter an area controlled by the “other” side at night (even by car), and 58 percent said they would never use the “other” side’s shops or leisure facilities. (Hari, 2003, p. 1)

Hari visited and studied the level of sectarianism present among the youth of Northern Ireland and argued that “the impetus for integrated schooling will never come from a sectarian province left to its own devices.” Instead, he supported the forced integration of Northern Ireland’s schools. “Tony Blair and Bertie Ahern should announce Phase Two of the Northern Ireland peace process...they should declare the funds for a massive programme to integrate all of Northern Ireland’s schools, and challenge the province’s politicians to be bold enough to make the leap.” (p. 1) Such a drastic suggestion is highly controversial and unlikely to garner any real support. However, his perspective on integration illustrates the way in which people outside the Irish province often view integrated education as the answer to the Northern Ireland conflict. Even a more informed observer can fall into this trap. Rather than seeing the finer details of the educational system, it is easier to grasp the vague platitudes promising quick solutions.

If any outside country has anxiously grasped at the illusionary straw of a quick fix for peacebuilding in Northern Ireland, the United States would vie for first place. Thus, it seems an appropriate time to examine the way in which Americans view Northern Ireland’s integrated schools. The difficult question here revolves around why Americans believe that integrated education should be a political priority in Northern Ireland. Why do they see integrated schools as such a crucial part of peacebuilding?

There are sufficient similarities between the sectarian schools of Northern Ireland and school segregation in America that permit a semblance of likeness. The line of reasoning for Americans might proceed as such: An official legal peace has been established in Northern Ireland, with the assistance of the United States. The level of violence in the province, as reported in the American press, is the lowest in decades. However, the Catholic and Protestant communities, especially their schools and neighborhoods, are still very much separate as are the black and white in many American
neighborhoods. While some Northern Ireland people still hang their flags from telephone poles to designate their political affiliation and paint their sidewalk curbs red-white-&-blue (Protestant) or green-white-&-orange (Catholic), so street signs and public graffiti identify many of America’s ethnic neighborhoods. To get these diverse communities (in both countries) to know and respect each other more, the most important step is simply to put them in regular contact with one another. What better way to ensure that this happens than to educate the children together so that they do not develop a hatred or fear of people different from themselves. And if the American experience is any indication, school integration is a huge part of the reconciliation process between divided communities.

Integration was forced on the United States educational system as a result of the 1954 Supreme Court ruling in Brown v. the Topeka Board of Education. Over 50 years have passed since that decision. While the United States has yet to reach the ideals so eloquently described by Martin Luther King, Jr., and while many American schools are still largely segregated on a de facto level, an indisputable change in attitudes toward African-Americans and other minorities has slowly taken place during that time. Today, racism—in any form—is no longer publicly or legally acceptable. Most Americans would agree that the integration of public schools has played a substantial role in this transformation-in-process. Since so many Americans see the Brown case and desegregation as important in the beginning of the breakdown of racism and inequality in the United States, it is tempting to see integrated schools as the solution to Northern Ireland’s conflict as well. However, such assumptions are far from accurate since the United States and Northern Ireland have such distinct histories and cultures.

Unlike America’s school segregation, Northern Ireland schools did not come about as the result of one group legally excluding the other from public state schools or confining the other group to their own inferior schools. Rather, education in Northern Ireland is a case of willful segregation. The two religious groups have undergone years of political struggle to legally separate their education systems. This dual school system, during the 1830s, served to allow the Catholic community to build itself up in Northern Ireland. Since that time, separate schools have been considered a way to ensure respect for both religious traditions. Today, however, it can be argued that the boundary between Protestant and Catholic has been frozen by parallel schools. Further, integration in Northern Ireland did not begin as a result of government action or a court order. Rather, it emerged through the will and efforts of a few citizens. Another significant point of distinction is that integration in Northern Ireland is far from being widespread, and it appears unlikely that it would become so any time soon. Considering the fundamental difference between Northern Ireland’s integrated schools and desegregated schools in the United States, it is abundantly clear that Americans must be careful in drawing similarities between them.

It is easy to believe and assert that the answer to established peace in a divided society is to integrate the school children. However, when making these comparisons between Northern Ireland and the United States, one must tread carefully, making sure to consider the differences between the two countries (Thompson). When Americans first hear about Northern Ireland’s integrated schools, they seem to view them as an easy answer for the Irish province. After all, these integrated schools appear so innovative when placed in contrast with the segregated schools system of Northern Ireland. These integrated schools seem to capture the very heart of what peacebuilding should be about: improving and developing relations between groups of people that
have been in conflict for so long. In fact, the integrated schools’ logo is a picture of two children’s hands clasped together in friendship (NICIE). The schools are idealistic and politically correct. Understandably, then, they have tremendous appeal to Americans.

Nonetheless, the all too easy connection that people make between integration in Northern Ireland and America sheds light on why integrated education in Northern Ireland has received such a high level of support from the U.S. government. This support, though well-intended, is based on an overly simplified view of community relations in Northern Ireland. From celebrities to politicians, Americans are avid supporters of Northern Ireland’s integrated education. Students at the Hazelwood integrated school are proud to recount the numerous celebrities (from the United States and elsewhere) who, when they visit Belfast, inevitably visit the school as well. American singer and songwriter Elizabeth Pendleton has written a song about these integrated schools (and she will be donating 25 cents to these schools for every copy of her album sold). Also, the American Ireland Fund donated $50,000 to the integrated schools of Northern Ireland in 2003. Whereas songs and donations are evidence of American public interest in integrated schools, a more highly effective public relations strategy is to incorporate the U.S. government in the peace process. Thus, on President Clinton’s inaugural visit to Northern Ireland, he set up the “President’s Prize” to recognize parents'/teachers’ commitment to peace and reconciliation through integrated education.

In addition to presidential media support, other important U.S. government officials have included various integrated schools in their tours of Northern Ireland. The best example is the president’s former Special Envoy to Northern Ireland, Ambassador Richard Haas. During my many trips to Northern Ireland, I have...had the honor to visit with parents, teachers, and administrators involved in the integrated schools movement. Last year [2002], I went to the Oakgrove Integrated College in Derry/Londonderry and then on a subsequent trip had the honor of cutting a ribbon to open the Millennium Integrated Primary School on the outskirts of Belfast (2003).

Clearly there is significant interest in integrated schools on the part of the U.S. government if Haas spent so much time visiting integrated schools and mentioning them in his public talks. In fact, Haas went on to make integrated education his personal priority issue for peacebuilding in Northern Ireland. Just as important as speeches, the U.S. government decided to match the American Ireland Fund’s donation to integrated education. These funds provide for teachers and administrators from integrated schools to participate in an exchange program to “visit our schools, speak with curriculum specialists, and familiarize themselves with our experience so that they may better promote integrated schools back in Northern Ireland.” (Haas, 2003)

Ambassador Hass and the current president’s Special Envoy to Northern Ireland, Ambassador Mitchell Reiss, have committed the U.S. government and themselves personally to the cause of integrated education. Integrated education is now one of the three important issues for American foreign policy toward the peacebuilding process in Northern Ireland. (Reiss) The U.S. State Department Desk Officer for Northern Ireland, Michael O’Malley, affirmed that the three issues for peacebuilding are: community relations, policing, and integrated education. Although the most important and first on the list is the problem of improving community relations, the issue is too all-inclusive and too vague for specific support by government officials in the
habit of dealing with high priority, unambiguous assessments. On the other hand, the policing issue is a dilemma that is too politically specific for any American leadership role. The U.S. government believes this issue should be left to the British, Irish, and Northern Ireland politicians, working through the 1998 Good Friday Agreement. Thus, Americans perceive integrated education as a non-political and tangible goal for building peace in Northern Ireland.

International interest in integrated education in Northern Ireland is driven by several interrelated factors. Integrated education holds great international appeal because it seems to represent peacebuilding at its best: Catholic and Protestant and other students all being educated together under one roof, forging friendships. In other words, it seems to be the ideal manifestation of peacebuilding, and thus, given time, integrated schools could conceivably build peace for the entire region. However, most international observers who believe that integrated schools have this sort of potential are not fully aware of the relatively small size of the integrated sector, or of the structural hurdles to the expansion of integration.

As for American support of integrated schools, the overall appeal derives from the sphere of peacebuilding in Northern Ireland. With government officials, however, their support for integrated education is (or should be) based on a greater knowledge of the issue. It seems, then, that they would be aware that the integrated schools alone are not going to bring peace to Northern Ireland. Thus, it seems likely that their support of integrated education is not driven purely by an ideological commitment to the schools, but rather by an awareness of the public relations appeal the schools hold for the general public. By providing vocal and even some degree of financial support for integrated schools, the U.S. government is able to demonstrate its “commitment” to the peacebuilding process. Further, since the schools do seem to be the embodiment of peacebuilding, government officials are able to demonstrate that the peace process continues to be successful.

Conclusion

This article has sought to clarify the specific ways in which integrated schools might contribute to the peacebuilding process, and to this point there are three central conclusions. First, integrated schools most certainly help to build respect, understanding, and friendship among those involved. Second, these schools alone cannot reach all or even most of the country’s citizens. Third, for this reason, other peacebuilding efforts are crucial to the success of the community reconciliation process. Overall, the growth of every positive effort offers promising results, inasmuch as they are all constructive approaches to peacebuilding. Integrated schools put children together who would have been, under the traditional school and social system of Northern Ireland, separated for most of their lives. Integrated schools challenge existing structures by making tangible efforts to unite a long-divided society.

Arguments suggesting that integrated education would have to exist on a much larger scale before being capable of producing a noticeable difference in the political dynamics of Northern Ireland certainly make sense on a theoretical level. However, the arguments are also supported through a consideration of the current number of integrated schools, their rate of growth, and the percentage of Northern Ireland’s students they can accommodate. As discussed previously, the rate at which integrated schools are being established is regular, but still fairly slow. Right now, there are over 1,200 non-integrated schools (including primary, secondary, and grammar) in Northern Ireland. There are approximately 56 integrated schools, educating approximately 5 percent of the
population, and these schools can only be created at a realistic rate. Thus, at the rate of two new integrated schools per year (the current rate) it would take another 453 years for enough schools to be established (or transformed) so that every child in the province could attend an integrated school.

These calculations serve to illustrate the slow rate at which integration is expanding and the incapacity of integrated schools to educate all of Northern Ireland’s children in the near future. However, these calculations cannot contribute to any further judgment about the future of integrated education, nor the ways in which education might lead to peacebuilding in Northern Ireland. Why? Firstly, it is important to note that the goal of the integrated school movement is not to replace the other existing schools. “The integrated education supporters have always campaigned on the basis that integrated education was something which should be available by right as a real choice—alongside the traditional Catholic and state Protestant systems—not as a replacement.” (Stephen, 2000, p. 2) Secondly, even if the goal of the integrated sector were to create an all-inclusive educational system for the province, this goal could not be attained. Catholic schools will always exist in Northern Ireland, regardless of how many integrated schools are available. The United States is evidence to the validity of this prediction. American public schools teach students of various religious denominations, but some Catholics still choose the Catholic school system for personal and religious reasons. Likewise, people of other faiths choose different religious schools for their children (for example, the Anabaptist Amish and Mennonites groups in Pennsylvania and Ohio). The availability of religious schools, one could argue, is an important feature of a free society. This also applies to gender, where some schools accept both boys and girls and other schools separate their pupils according to gender. (Sax)

Therefore, such calculations cannot predict the number of years that it will take before Northern Ireland achieves a real and lasting peace. Rather, they highlight the necessity of other measures in education and in other sectors for better community relations. It seems that integrated schools alone will not impact the peace process in any substantial way. The spokesman for the Belfast Charitable Trust for Integrated Education said in 1985: “We don’t think we are going to solve the whole Northern Ireland problem by having our children educated together. We aren’t making any big claims like that. We just think it would be a step towards developing understanding between the two communities and breaking down some of the prejudices we have.” (O’Connor, 2002, p. 181) These schools constantly keep their sights on building mutual respect, understanding, tolerance, and friendship among their pupils. Thus, integrated schools represent only one important step in the peacebuilding process of Northern Ireland. Practical considerations render other measures necessary in order to reach a greater percentage of Northern Ireland citizenry sooner.

There are many lessons to be learned, both positive and negative, from Northern Ireland’s integrated schools. Divided societies throughout the world now have a comprehensive example of how to build peace one student at a time.


http://cain.ulst.ac.uk/emu/emuback.htm.


Sinn Fein Party.


Social Democratic and Socialist Party.


Ulster Unionist Party.


http://cain.ulst.ac.uk/csc/parents.htm

Joseph E. Thompson is Professor of Political Science at Villanova University in Villanova, Pennsylvania.
Punishment, People, and Social Condemnation
By Rob Gildert

Introduction

This paper is a criticism of a currently influential brand of retributivism labeled, “expressive retributivism.” My sole concern with expressive retributivism, in this paper, is its willingness to license the punishment of individuals from impoverished social backgrounds. Many expressive retributivists argue that individuals from impoverished social backgrounds are to bear the full weight of state punishment for their crimes, irrespective as to whether or not social conditions played a role in their offending. According to Jean Hampton, for example, offenders from impoverished communities are to be punished for their crimes, in full, to vindicate the worth of victims that is denied by the criminal and the crime. According to Jami L. Anderson, offenders from impoverished communities are to be punished for their crimes, in full, to correct wrongful rights claims that they make through their crimes. In this paper, I dispute the claims of expressive retributivists like Hampton and Anderson. I argue that yes, (given the arguments of either Hampton or Anderson), social circumstances such as poverty or systemic racism do create the conditions necessary to preclude (note that I do not say mitigate) the punishment of offenders suffering from poverty or systemic racism. However, it must be made clear that I do so in a novel way.

It is typically argued that social circumstances mitigate the punishment that is to be delivered to offenders from impoverished backgrounds. These arguments proceed on the grounds that adverse social circumstances reduce the moral culpability of offenders. That is to say, the typical argument claims that adverse social circumstances either force offenders to act in a certain manner, or create some type of “mental condition” that reduces an offender’s ability to properly choose between options. (Menninger, 1968 & 1998) In either instance, the offender is not morally culpable due to some impaired moral agency and, consequently, offenders are less deserving of punishment for their crimes. Thus, the punishment of those offenders is to be mitigated accordingly to match their reduced moral agency.

I make no such claims. Instead, I seek to meet both Hampton and Anderson on their ground. I will grant, for the sake of argument, their positions that offenders from impoverished communities are to be seen as full and capable moral agents to be held accountable for their crimes. I will even grant that these offenders are fully deserving of their full punishment—thus their punishment is not to be mitigated. However, I argue that as a matter of philosophical (and moral) consistency, both Hampton and Anderson must accept, as their theories purport, that all wrongdoers are held accountable for their wrongdoing. This would include the state. What we shall see is that in holding all parties accountable for their respective wrongdoing, empirically verifiable problems associated with punishment present these theories with conceptual challenges that are, I argue, insurmountable. I argue that when we hold both the state and the impoverished social background offender accountable for their respective wrongdoing, that these empirically verifiable propensities inherent in punishment render it the inappropriate vehicle to either vindicate the worth of victims or correct wrongful rights claims. Consequently, the deserved punishment of these offenders is to be
precluded as punishment and cannot perform the task that expressive retributivism requires to justify it.

**Hampton's Retributive Expressivism**

According to Hampton, one of the salient features of a crime is the sentiment it expresses. She claims that “for a criminal to behave so as to hurt, brutalize, or damage the interests of another individual to further his own purposes is indirectly a way of saying to that individual ‘I am up here, and you are down there; so I can use you for my purposes.’” (Hampton, 1998, pp. 38-39) In other words, in committing crimes, criminals claim to be of greater worth than their victims. To see how this works we must note that Hampton starts from the Kantian position that human beings have worth equal to other human beings merely from the fact that they are human beings. (Hampton 1992, p. 1692) This value is purely objective as it does not matter whether or not people recognize their moral worth as they are worthy nonetheless. Any act that fails to acknowledge this worth, or prevents a person from realizing this worth, demeans the person's worth and is a moral harm. (1679) To properly address this sentiment, Hampton contends that we need a mechanism that will appropriately recognize the worth of both victim and offender. In recognizing this worth, the mechanism will express to offenders that they do not possess any inflated worth, while simultaneously recognizing the true and great worth of victims. In short, a balance will be restored between victim and offender with regards to worth. And for Hampton, as we shall see, that mechanism is punishment.

To illustrate this point, Hampton argues that sometimes the wrong done by an offender may be so grievous that anything less than a severe sanction will do more harm than good by furthering the degradation of the victim's value. Thus, the severity of the punishment must match, as best as is possible, our commitment to the values that are challenged by the crime and seek a fit within already existing punishments. For example, victims of rape are told that they matter less than property when their injurers are sentenced more lightly than robbers. In these instances, the state actually confirms the low worth the offender places on the victim. A punishment for rape that is more severe than the punishment for robbery speaks to the opposite. (Hampton, 1992, pp. 1691-1692)

This point has been made before. Joel Feinberg draws a distinction between penalties and punishments based on the symbolic significance of the latter corrective measure. Feinberg argues that penalties and punishments are similar in that they are both “authoritative responses” for some failure to conform to the law. However, punishments are reserved for more serious violations that call for a more “expressive function.” (Feinberg, 1965, p. 400) But there is also something else at work. According to Hampton, punishment is a two-sided coin. Hampton argues that we must strike a balance between the victim and the offender. Consequently, a theory of punishment must incorporate “both compassion and condemnation, both healing and justice.” (Hampton, 1998, p. 37)

For example, the offender cannot be punished in any way one sees fit, or by just anyone. In order to ensure the vindication of the worth of helpless victims and protect others from vengeful mobs, there are certain restrictions regarding who may punish. According to Hampton, only the state has both the impartiality and the resources necessary to ensure that offenders are punished. (Hampton, 1992, p. 1692) Moreover, Hampton argues that even the offender has a moral worth as a human being that must be respected. (Hampton, 1998, p. 39) Thus one does not rape a rapist or torture a torturer because such acts deny those people...
their worth as human beings. Although Hampton agrees that it’s difficult to fashion a response appropriate to some crimes, she nonetheless stands by Kant’s assertion that human beings are to be treated as ends in themselves. (Hampton, 1992, p. 1691) To ensure that offenders are treated with the dignity they deserve, Hampton argues that offenders are to be offered treatment while incarcerated. They are to be given the opportunity to be educated as well as having their particular needs addressed (say, treatment for alcohol addiction). Moreover, prison may provide offenders with time to reflect on their crimes and effect, perhaps, some change of heart. (Hampton, 1998, p. 43) It is her hope that the success of these treatments will not merely benefit society in the future by reducing recidivism rates, but that offenders will be able to rejoin the community upon their release as productive members. (p. 43)

However, it is one thing to say that an act is a crime, it is another to say that we are justified in punishing someone for that crime or even that punishment is the remedy warranted by the crime. For example, David Dolinko rightly notes that there are other areas where it is perfectly intelligible to argue that some people deserve some special treatment, but where the state offers no such special treatment:

People, for example, who do good deeds—people who are kind, charitable, caring, who take care of ailing relatives or help strangers in distress—might be thought to deserve a reward, yet the state does not routinely administer such a reward system. (Dolinko, p. 542)

For Dolinko, ignoring desert in these instances, but not in others seems arbitrary. Dolinko rightly wonders why a government is thus licensed to single out one particular type of act to inflict what is supposedly deserved.

Many retributivists have attempted to solve this problem by showing an analytical link between retributivism and punishment. For example, J. D. Mabbott argues that, “the only justification for punishing any man is that he has broken the law.” (Mabbott, 1988, p. 28) The analytical connection between punishment and rule breaking is not as obvious as he thinks. For example, why couldn’t denunciation or simply compensating the violated rectify the infraction?

Hampton’s link between punishment and retributivism is not analytical but contingent. (p. 551) According to Hampton, the implementation of punishment is the most appropriate means to vindicate the worth of the victim, preserve the agency of the offender, and uphold our democratic values. (Hampton, 1992, p. 1663 and p. 1686) For example, it isn’t enough to simply throw the victim a parade. The parade may speak to the worth of the victim on some level (say, that the person was worthy enough to warrant a parade), but it cannot address other relevant issues. For instance, the parade may tell others that the victim matters, but it does not tell the offender that the victim matters. Moreover, throwing the victim a parade does not tell anyone that the victim is not to be used in the offending manner. However, when we punish, we make it clear that the offending acts are abhorrent, that they are not be tolerated, and that victims cannot be used in the manner they were used. In punishing, we don’t merely address offenders directly but we let their punishment serve as a future warning to them and others: in punishing we say, “treat people in this manner and this is what we will do to you.” (p. 1695) Punishing offenders for their crimes tells them and others that their acts were theirs and that they will be held accountable for those acts. (Hampton, 1998, p. 35)

Punishment for Hampton should thus be seen as serving a beneficial or social
purpose. And it is this social purpose that leads her to argue that impoverished social background offenders should bear the full burden of punishment for their crimes. Hampton asks us to consider individuals that commit crimes against women. According to Hampton, these crimes not only harm particular people but they aid in the “subordination of women as a whole.” (p. 42) This is especially pertinent to women hailing from impoverished backgrounds, as offenders often victimize their neighbors. When we claim that an offender’s background is a mitigating factor in that person’s culpability we ignore the value of the victim. This is particularly damning for women since they not only suffer under the same oppressive conditions as their offenders, but their offenders oppress them as well. In these situations, victims are forced to endure a type of double indignity. (p. 34) According to Hampton, the state’s refusal to address the crimes of offenders in these circumstances amounts to an acquiescence in that violence and a refusal to affirm the value of equality that is supposedly the foundation of the polity. Such a refusal can help to reinforce, rather than combat, socially oppressive practices that take the form of violence. (pp. 42-43)

Thus, Hampton argues that circumstances that could potentially mitigate an offender’s culpability for a crime are to be ignored if they could serve to undermine the punishment’s expressive content, as this expressive content is essential in ending oppressive social conditions. It must be noted that Hampton recognizes that this conclusion (ignoring an offender’s potential mitigating circumstances) comes at a cost. (p. 42) Unfortunately, she believes it is one we must endure. Hampton argues that justice cannot be perfect and as a result we must get “our hands dirty.” It is simply her belief that in order to combat oppression, vindicate victims, and generally to protect society, we must side with victims. (p. 43)

The Empirical Case Against Hampton’s Expressivism: Offenders versus Victims

Unfortunately, Hampton’s proposals may ultimately do more harm than good, causing further and greater victimization. The arguments I will now present to illustrate this problem are not meant to be a consequentialist alternative to Hampton’s theory. Instead, I contend that Hampton’s theory demands an examination and consideration of the negative consequences of punishment. To see this, we must recall that punishment’s expressive content both vindicates the worth of victims and upholds political values. According to Hampton, criminal violence against women and children not only harms the particular women and children it touches, but it serves as a tool of oppression by threatening women and children in general. Thus, we must not only vindicate the worth of the direct victims, but we must break the cycle of violence that serves oppression. Again, punishment is meant to do both. Unfortunately it can’t. While condemnation may be vital in some initial first step towards vindication, there is still the problem of the social conditions that initiate the violence. Ignoring these conditions, or worse, actively engaging in their

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1 This expressive ability of punishment to condemn has often been used by utilitarians. For utilitarians, expressing public moral outrage via punishment can be seen as a beneficial mechanism to control potentially devastating social outbursts, or, as a means to educate and reinforce socially acceptable conduct. What is important for the utilitarian in this regard is that some benefit, such as the increased well-being and security of the community, is gained through punishment. For these utilitarians, justice and desert are merely contingent considerations and their implementation is to be considered only to maintain the efficacy of the system. (Durkheim, 1964, or Stephen, 1980)
Perpetuation, sets the stage for future and greater victimization. What is troublesome for Hampton is that punishment sets the stage for future and greater victimization.

There is much weight to Hampton’s argument that to end oppression we must end violence and to end violence we must directly address offenders. When we look at impoverished communities we see neighborhoods with many ills but few resources. Women and children, the very people whose rights we are charged to vindicate, do not merely comprise the largest percentage of people residing in poverty, but their impoverished communities are “increasingly abandoned, disinvested, and bereft of economic resources.” (Coulton, et al, 1995). Such realities have devastating consequences for one’s community as a lack of economic opportunities degenerates into a lack of other opportunities. For example, it is a documented fact that poor people often have higher rates of substance addiction and mental illness. As well, poor people with a mental illness or an addiction have a difficult, if not impossible, time in obtaining effective treatment for their troubles. (Sherwin, 1994)

Moreover, poorer communities are not simply less healthy, they are also more violent. (National Crime Prevention Council, 1995, and Tremblay, 1994) What we see here is that poorer communities have higher concentrations of individuals not merely in need of help, but of people generally unable to help themselves adequately in more traditionally pro-social ways. An example of this can be seen with the deterrent effect that punishment seems to have on offenders from poor communities. While most youths have a fear of punishment, more serious young offenders do not. These young offenders are often marginalized and “their fear of punishment is reduced by their poverty, drug use, association with criminal peers, and missing normative constraints.” (Baron, et al, 1998, p. 33)

Punitive measures do not end their marginalization but rather facilitate further marginalization. As these already marginalized offenders are singled out and humiliated by punishment, a further wedge is driven between them and society. Such a wedge can be most conducive to future incidents of crime. (Carp, 1998)

These findings are given extra importance when one notes that researchers have isolated the characteristics of interventions with offenders that decrease their incidence of re-offending. To reduce recidivism rates, offenders are placed in programs that match their needs with treatments that directly address those needs. (Andrews and Hoge, 1995) This would appear to be a boon for Hampton who, as noted, has argued that offenders are to receive treatment while incarcerated. Unfortunately, prison is not a place where one’s heart is softened through reflection. Prison is hard and dangerous, and offenders often respond by becoming more hardened and more dangerous. Making sentences more punitive or adding measures deemed to be symbolic or expressive of society’s condemnation of the offender’s act have been shown to increase recidivism rates—regardless of the punishment implemented. (Gendreau, et al, 1999) This fact cannot be overemphasized: penal conditions often work against successful treatments. Incarcerated offenders often seek treatment programs not for their medicinal benefit but to reduce their sentences or because they are ordered to do so by their jailers. Unfortunately, such motivations do not make for good patients. But if officials were to bar people with these motives, “most of the treatment programs would be shut down for lack of clients, and many dangerous offenders would go untreated.” (Marshall and Firestone, p. 277)

Moreover, even if the programs are successful, there is still the problem of stigmatization. Upon their release, ex-cons must face a public that is not
merely hostile and untrusting towards them but often unwilling to employ them. In addition, time spent in prison means a lack of employment experience and a break in one’s education that is often hard to overcome. Facing these hardships, offenders may resort to their criminal ways regardless of their treatment, thus adding to the hardships already imposed on impoverished communities. (Walker, p. 109)

This slant is made all the more troubling when one realizes that much criminal behavior can be avoided. An analysis of offenders in prison shows individuals with remarkably similar character traits. Offenders are typically under-employed, under-educated individuals with histories of substance abuse, poverty, and juvenile delinquency. (Farrington, 1978) This is important to note as it has been shown that children exposed to delinquent behavior have a higher tendency to engage in delinquent behavior. Just as important, children engaging in delinquent behavior have a far greater tendency to grow into adult criminals. (Caspi and Moffit, 1992) However, exposing delinquent youths to more conventional peers and a commitment to school can reduce their incidences of later anti-social behavior. (Simmons, et al, 1998) But this cannot be done without a commitment from society as a whole. A lack of internal resources in impoverished communities means that outside money is needed to fund education and after school activities. Without an influx of effort, understanding, and capital, we are merely ensuring a perpetuation of the cycle and countless future criminals.

Thus, if we are attempting to vindicate the worth of victims and end oppression, punitive measures are counter-productive as they create a situation where offenders are at a greater risk to re-offend. But, interventions such as treatment programs are effective in reducing offender recidivism rates. In other words, punishment addresses the wrongfulness of the offender’s acts, but it does nothing to address the conditions that spawn these wrongful acts. Thus, on the occasion when an offender does re-offend, entire communities are subjected to further oppression through additional acts of violence and thus further degradation and oppression. In such instances, one will be hard pressed to correctly assert that the state has acted in a manner to vindicate the worth of victims. Not only is the violence and oppression that is part of the denial of worth allowed to remain, but it is, in fact, nurtured by the very practices meant to oppose it. Thus, what the state has done with punishment is create a cycle of violence and produce more victims. But recall that ending the violence that maintains oppression was a fundamental objective of Hampton’s expressivism. If punishment cannot succeed in this respect, then it would seem to be more important to find some remedy that will. However, if the state takes non-punitive measures to treat offenders then, as Hampton notes, victims will be hard pressed to see their worth as being defended. Thus Hampton appears to be on the horns of a dilemma: neither punishing offenders nor treating them has the potential to vindicate the worth of their victims.

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2 Treating offenders more effectively may have results more dramatic than anticipated. One study reported that 6% of the American population commits 50% of criminal offenses. If these offenders could be targeted and treated, much trouble could be avoided. (Department of Justice, 1993)

3 In Canada, almost 80% of incarcerated individuals have records as juvenile offenders. In Britain, 70% of those convicted as juveniles have been convicted as an adult, while in the United States a cohort study consisting of 1,222 members revealed that 77.5% of chronic juvenile offenders were arrested as adults. (National Crime Prevention Council of Canada, Incarceration in Canada, 1997; or, Correctional Service of Canada, 1995; or, Gabor, 1986; or, U.S. Department of Justice, 1985)
The Conceptual Case Against Hampton's Expressivism: Offenders versus the State

But even if we ignore this empirical difficulty, there is still a conceptual problem. Hampton's theory may not demand what she thinks it demands. According to Hampton, we punish offenders to indicate the worth of victims. However, if we're truly committed to this enterprise, we must acknowledge the denigration of the worth of offenders. But in recognizing this additional denigration of worth, it would seem that punishment for offenders from impoverished backgrounds is precluded. To see how this works we must remember that the offenders in question, like many of their victims, hail from impoverished communities. Punishing these offenders seems to exacerbate the problems faced by their communities. When we punish, we take away potentially viable members of the community and return, in many instances, more dangerous individuals. But there is something else at work here. Many of the factors contributing to poverty and criminality are not merely the result of neglect but the result of misguided penal policies. For example, in the United States, drug laws appear to target blacks unfairly. The possession of a few grams of crack will net the possessor five years in prison. To warrant the same sentence for cocaine, a person would need to possess half a kilogram. What is of interest here is that crack is the drug of choice of black Americans while cocaine is the drug of choice of white Americans. Moreover, law enforcement agencies appear to target blacks more aggressively for incarceration.

But, not only do black Americans face heftier bail orders, they are sentenced more harshly than their white counterparts for similar crimes. A full three quarters of drug arrests resulting in sentences are of blacks. As a result, fully one-third of young black men between the ages of 18-29 are embroiled in the penal system in some manner. According to The Economist, such is the recipe for disaster as these policies not merely remove young black men from their community but they hamper these people with the further burden of being unemployable and undereducated. (The Economist, 1996).

It is my contention that this differential treatment denies people their worth as human beings. These practices unfairly single out minority groups for treatment that would not be deemed acceptable to inflict on the dominant group. These acts do not attest to our belief in the equality and high moral worth of all citizens. To the contrary, they state that some people are of more worth than others. Thus, they meet Hampton's condition for constituting a wrongdoing. Subsequently, it is my contention that all people from an impoverished community are a victim of wrongdoing by the general society. Since many offenders are included in this group, many offenders hold this claim as well. However, I will focus my current attention only on offenders from impoverished communities as we are dealing with how they should be treated.

But saying that offenders hold this claim is one thing; attempting to determine a response to meet it is another. According to Hampton, in committing a crime offenders have not only failed to recognize their victims' worth, but they have done so in a manner that is contrary to our values of equality. Punishment is imposed to vindicate the worth of these victims. Again, punishment is imposed because of its ability to express our condemnation of criminal acts and thus distinguish them as wrongful in the most serious and unambiguous of terms. But expressing condemnation becomes difficult when it is the state that is the perpetrator of a wrongdoing. It is not practical or even intelligible to assume that we can simply lock up the state. Thus, how are we to properly punish it to address the retributivist
claims of individuals from impoverished backgrounds?

To answer this question, let us imagine for a moment that some punishment is meted to society to vindicate the worth of its victims. I would argue that this punishment or indeed any punishment is bound to fail unless we explicitly address the inequity between wealthy and impoverished communities. This is so despite the fact that our worth may be objectively fixed, as Hampton believes. For while our worth may be objective and unalterable, our social standing may artificially denigrate or elevate that worth before any crime takes place. In other words, punishment as vindication may only work between social equals. Punishment as vindication may not work between social classes as there is an already pervading denigration or elevation of worth that is occurring prior to the crime. Punishing in this case may only vindicate worth to the original status quo—a status quo that failed to recognize the genuine worth of many citizens.

Thus, it may be the case that punishing an offender from an impoverished community for crimes against another member of an impoverished community restores the balance between them. But punishing society for its crimes against members of an impoverished community may only restore, at best, some false measure of value and thus fail to recognize our true value as moral equals. Firstly, if we punish the society but ignore these inequities we maintain the very things that we’ve deemed damaging in the first place. In other words, what worth have we vindicated as the impoverished are still poor and powerless and subject to the whims of the empowered? (Murphy, p. 53) Secondly, we cannot damage the society and its members to the extent that it is now on level with the impoverished community. Since poverty is degrading and dehumanizing, this lowering would entail treating society and its members in a degrading and dehumanizing manner. This would be akin to raping the rapist. But Hampton, as we have seen, forbids such responses: we cannot ignore the offender’s human worth, and I would assume that to include society and its members. Thus, if poverty is degrading then our answer is not more poverty but less poverty.

Perhaps then, to address the politically significant denigration of offenders we could simply compensate them financially. (Hampton, 1992, pp. 1687-1688) This route would have much historical precedence. Germany has acknowledged its role as unjust aggressor in World War II, providing many of its victims with financial reparation, and Canada and the United States have compensated citizens of Japanese decent that were interned for the duration of that war. However, compensation alone is problematic for the case in question. Punishing the society by awarding impoverished background offenders some type of monetary compensation may bankrupt the society, effectively stopping the payments and jeopardizing the worth of everybody. As we have seen a moment ago, such a response seems precluded by Hampton’s expressivism. Moreover, who would receive the money? Would we give the money to offenders as society’s punishment and then imprison these offenders for their punishment? Would this handout serve as an incentive for others to commit crimes? Or should we give the money to the communities to allocate as they see fit? Would we then punish the offenders already in hand? In these instances we would be hard pressed to say we have vindicated the worth of offenders as they sit in prison. Finally, even if it were possible, the handing of $100,000 or $1,000,000 to an offender with needs such as education, addiction counseling, or anger management would not relieve those needs. Thus the potential remains for such individuals to offend again. In fact, the underlying causes of poverty would perhaps remain to affect future generations. Subsequently, I would argue that
compensation alone does not deal suitably with the wrongs committed by the society.

I would argue that if society fostered the conditions that increased one’s risk of offending, then society bears the burden of helping alleviate those troubles in hopes of ensuring the offender is a productive member of the society. This response stems from the offender’s retributivist claim against the society for the society’s offenses. The offender’s retributive claim demands some remedy on behalf of the offender to vindicate the offender’s worth. In many instances, this necessitates treatment or intervention programs and not the incarceration of the offender. In doing so, in alleviating the factors that increase one’s tendency to crime, the society provides offenders with the tools necessary to take their rightful place as productive and vibrant members of the community. This would vindicate the worth of the offenders since they are now removed from their downward spiral and equipped to compete with others as equals. That is to say, the current status quo is abolished as the elevated status claimed by the society through the implementation of its hurtful policies is replaced with policies that effectively raise the status of the offender to that of the equal of the dominant members of society.

This remedy is what is owed to the party harmed by some wrongful act to vindicate the worth of that party (in this case the offender). This not only helps the offender, but it will work towards breaking the cycle of violence and abuse, thus acknowledging the harm done to all members of the community. As such, treatments and intervention programs have a political significance, as they seek a remedy that is consistent with our political values. Moreover, we see that the remedy owed to the party wrongfully harmed to vindicate that party’s worth also works to hold the society accountable for its acts. The society is held accountable when it is ordered to organize, provide, and pay for the treatment for the conditions that precipitated the crime. In other words, society is not held accountable when offenders are given treatment instead of some punitive sanction. Society is held accountable when it is ordered to provide the means to institute meaningful treatment. In doing this we meet all of Hampton’s objectives.

This position is a marked departure from two well-known retributivist theories that also seek to mitigate, instead of preclude, the punishment of certain offenders. Firstly, Immanuel Kant has argued that there are circumstances that may preclude a society from punishing certain offenders. In these instances the offender’s moral autonomy is not diminished, but what is altered is the state’s right to prosecute the crime. The society cannot punish X for dueling because equally pressing social norms within the society support the practice. Thus, the society forfeits any moral standing to inflict the required punishment. (Kant, 6:331-6:337).

Jeffrie Murphy adopts a retributivist position on the relationship between moral autonomy and punishment that is similar to Kant’s. Individuals are to be seen as rational and autonomous. The problem, according to Murphy, is that we can only punish offenders retributively when all agents are autonomous and properly benefiting from social cooperation. Since this is not the case, punishment is not merely precluded, but a massive social restructuring is necessitated. Secondly, retributivism is often portrayed using metaphors of commerce. That is to say, we often speak of retributivists as “owing a debt to society.” But when one looks at impoverished communities they will see much that is lacking. Thus,

4 This is not the last word on Kant. According to Jennifer K. Uleman, Kant ultimately claims that punishment is to be inflicted. It is Uleman’s contention that Kant is showing us an injustice in the law and recommending legal reforms. (Uleman, 2000, pp. 194-195)
Murphy asks rhetorically, if a debt is owed, it is a debt for what? Subsequently, one is to assume that if no debt is owed, then no punishment is justified. (Murphy, pp. 109-110)

Dual Retributivist Claims—Some Objections Addressed

Unfortunately, recognizing the claims of offenders and victims raises its own problems. Firstly, we have the difficulty mentioned above regarding individuals engaging in crime to garner treatment. This is a potentially devastating problem. For example, alcoholics may intentionally rob other citizens to gain admittance to programs treating addictions. In such instances, offenders engage in a type of extortion against law-abiding members of society. As such, any theory that presented such possibilities is hopelessly flawed. I believe this objection is easily dealt with. First, I argue that everyone from impoverished backgrounds is eligible for treatment as a result of the retributivist claims they hold against society. Subsequently, they need not, ideally, engage in crime to gain those benefits. However, imagine that priority is given to offenders and that waiting lists are long. As a result, some people actually do engage in crimes to gain some treatment benefit. There could be two categories of people here. One such group would be people that were genuinely afflicted by social injustices. Such people would be like the homeless individuals that commit petty crimes to secure a warm jail cell bed in the dead of winter. I would argue that a society that made such an option necessary is already corrupt to a great degree and the acts of those homeless individuals are warranted. In such instances there is no extortion but an act of necessity.

But what of people that have no such afflictions and simply engage in crime to avoid potential waiting lists or some other inconvenience? I would argue that our courts of law are in a position to readily deal with such people. These individuals are akin to those that murder their parents to expedite the receipt of their inheritance. It is a well-established principle of jurisprudence that one cannot benefit from such acts—that is to say, the courts cannot be used as a tool of injustice. Thus, an offender cannot commit crimes to jump the queue to benefit from any criminal wrongdoing.

In making this distinction, we are in a position to deal with a related conceptual difficulty. It could be argued that what we have is a problem of distributive justice. We need to reallocate our resources on a much larger scale to help everyone from an impoverished community. As such, there needs to be some broader social remedy that is achieved politically. What, then, gives the court the jurisdiction or the right to engage in this redistribution with regards to offenders? I would argue that our answer is similar to the one expounded above. The court cannot involve itself in injustice or be seen as being a party to injustice—social or otherwise. Subsequently, it is the role of the court that it must distance itself from remedies that perpetuate the social injustice. Thus the court is obligated to seek remedies such as non-penal interventions when circumstances deem it necessary.

But what of the problems posed as a direct result of this additional retributivist claim? When a crime is committed there can be two retributivist claims. There is a claim against the offender on behalf of the victim because the offender failed to recognize the worth of the victim. As well, there is a potential retributivist claim against society on behalf of the offender. But when it comes time to deal with these claims, one is hard pressed to reconcile them. Retributivism demands that the offender be punished to vindicate the worth of the victim. But retributivism also demands that the offender be treated for the conditions that society unjustly inflicted, and this treatment could preclude punishment. To see this
problem, imagine a mugger from an impoverished community, previously abused, and genuinely afflicted by societal forces such as racism. It is quite understandable that this person's victim might want the offender locked away for a substantial period of time. But the proper treatment and subsequent rehabilitation of this person may necessitate non-penitentiary programs and the maintenance of familial ties in the community. To incarcerate this person in a facility where adequate treatment is unavailable may further exacerbate already prevalent criminal tendencies, leading to future crime and more victims. The current victim may not care if the offender receives treatment, but society should care because society owes the offender a debt. Just as importantly, however, the society owes everyone from an impoverished community. Returning an offender to the community after a term of incarceration may only create more victims and perpetuate a cycle. But should this offender receive treatment without punishment then the claims of the victim against the offender appear to be ignored.

Of course, it could be objected that offenders hold no retributivist claim. Society's failure to address certain social conditions makes it a willing accomplice in the activity that eventually harmed the victim. As a result, society owes the victim, not the offender. But this is misleading, as the harm pertaining to offenders is different and separate from the crime committed by the offenders. The harm to offenders consists in their having their worth denied. As a result, the victims of these injustices hold a retributivist claim against society. They hold this retributivist claim because society has not only failed to acknowledge their worth but it has done so in a politically significant manner. Moreover, we can't simply ignore the retributivist claim against society that is held by the offender. That is, we cannot say that victims must come first, thus we will vindicate the worth of those harmed by offenders first and foremost. If offenders hold retributivist claims then they too are victims. If we ignore their claims, we no longer have some imperfect system of justice that is morally obligated to choose victims over offenders. Instead we have a system of arbitrary injustice where we choose some victims over other victims.

I believe that recognizing this problem as a dual retributivist claim effectively removes a potential objection to my position. Hampton has argued that theories mitigating the culpability of offenders from impoverished backgrounds, because of their backgrounds, may actually harm those they seek to protect. (Hampton, 1998, p. 35) What we do in these instances is create a class of perpetual victims where individuals are not autonomous moral beings, but creatures to be pitied and manipulated. But I claim no such thing. It should be noted that the argument I am developing does not absolve offenders of their responsibility. If we believe that an ability to understand right from wrong and act accordingly matters, then we may still hold these people responsible for their acts. For it is still very possible that these offenders knew the difference between right and wrong and could act on that knowledge, but they simply chose to act wrongly.

In other words, it isn't necessarily the case that the offenders' environments unavoidably compelled them to act in a particular manner. This is so even if

5 This is a potentially potent objection. For this very reason many therapists have resisted calling alcoholism a disease. It is their worry that attaching such a label to alcoholism will reduce the ability of those afflicted to help themselves. Alcoholics may continue to drink under the impression that doing so was some type of unavoidable consequence of their disease. As such, they risk further surrendering any control they may have over their condition. (R. Heather and I. Robertson. Problem Drinking (Oxford: Oxford University Press, 1989), p. 151)
the environment *strongly* lends itself to criminal acts. Even in these instances it is still intelligible to ask when is it the case that a person acted as a direct result of their environment as opposed to something else, say, greed, or opportunity, or some combination of everything. (Wasserstrom, 1998, p. 55) But my argument takes its force even before we reach this stage. It is my contention that the conditions in which these people live—conditions that we support—are the root of their retributivist claim and not their offending. I don’t make any claims regarding the moral culpability of the offender. Instead, it is enough to show that before anyone offends, a harm has been committed, and it is this harm that generates the retributivist claim held by offenders. As such, there is not a decrease in responsibility but instead an *increase* in moral responsibility. Offenders are still responsible for their acts, but we also hold society responsible for its acts. In this case, society is being held responsible for perpetuating a system that devalues certain lives by making criminal activity a viable option for survival. If we ignore the claim of offenders, we punish some to vindicate the worth of others. And again, this seems contrary both to the very spirit of retributivism *and* the obligation of the court to distance itself from social injustice.

**Annulling Crimes and Punishment: Anderson’s Account of Expressivism**

Jami L. Anderson believes that it is possible to hold the state accountable for its wrongdoing while simultaneously holding all offenders accountable for their wrongdoing. According to Anderson, the answer is found in Hegel’s *annulment retributivism*. The advantage of this approach is that Hegel’s retributivism is derived from his political theory, and his political theory takes seriously an individual’s social context. (Anderson, 1999, p. 372) However, like Kant, the impetus for Hegel’s theory appears to be the dignity of the individual. According to Anderson, Hegel argues that we are free and autonomous beings and that, as such, we should be treated as free and autonomous beings. (p. 372) As a free and autonomous being, an individual is capable of performing *willful actions*. In turn, our willful actions create *rights claims*. Rights claims are assertions that a person is free to do the particular thing that the person has done. When other rights-bearing people in my community acknowledge or recognize my rights claim, I can then be said to have an actual right. (pp. 373-374)

Similarly, when offenders attack others by assaulting them or stealing from them, offenders make rights claims. In doing so, offenders deny that their victims are free and autonomous beings and instead make the claim that their victims can be used in the manner that the offenders have used them. However, as free and autonomous beings, morality forbids our being used in the manner that offenders use us. As such, these rights claims by offenders are *wrongful rights claims*. But, “unless society explicitly invalidates criminal rights claims, those rights claims will exist as valid rights, even though they are, in fact, wrongs.” (p. 375) In these situations, the society in question actually legitimizes the offender’s rights claim, although the rights claim never becomes a *real right*. It is here, I think, that we begin to see the retributivist claim in Anderson’s theory taking shape. In order for the society to show and legitimize what is really right—that is, how a free and autonomous person should morally be treated—it is necessary for the society to nullify the offender’s rights claim. The society accomplishes this when it punishes the offender, thus nullifying the rights claim. (p. 379) Nullification does not mean that a state of affairs is achieved that is equivalent to one in which the crime had never occurred. Instead, punishment “makes vivid the fact that the victim has rights, that the criminal committed a wrong, and that the society takes the victim’s rights seriously enough to invalidate the criminal’s
wrong.” (p. 381)\(^6\) Thus, like Hampton, individuals, as individuals, hold a retributivist claim—that is to say, victims have the right to have their legitimate rights taken seriously.

But Anderson’s theory is similar to Hampton’s in yet another way. The members of society in general also have a stake in this retributivist claim. To see this, we need to examine Anderson’s justification for punishment. It may be the case that crimes are to be annulled, but it’s another thing to claim that only punishment can annul them. Critics may contend that other less drastic measures may work as well as punishment at annulling crimes. For example, it could be the case that denunciation alone is sufficient to annul a criminal act. When we denounce such acts we not only draw attention to the fact that a crime has taken place, but we can also claim that free and autonomous individuals have rights and cannot be used in certain ways. According to Anderson, this is misleading, as denunciation cannot differentiate between crimes and non-crimes. (pp. 384-385) Denunciation may claim that certain acts are wrong, but in actuality it denies that there is a difference between how a person should be treated and the wrongful treatment of a person. By withholding punishment from offenders, denunciation treats crimes and non-crimes alike. But the two are not alike and our actions must reflect this difference: it must be the case that the punishment is painful to properly identify the crime as a wrong. (p. 385) It would not be sufficient to fashion some response to the offender’s act that was otherwise. Such a response could potentially differentiate between crimes and non-crimes, but it could not tell us that crimes were wrong; that is to say, the non-punitive response would not be serious enough to intelligibly register our disapproval. Instead, a non-painful response could only tell us that crimes were deserving of special treatment. However, Anderson contends that this would be a descriptive response, not a normative response. The problem here, according to Anderson, is that a normative response would lack the

normative force necessary to validate rights . . . . To the Annulment Retributivist, the point of inflicting pain is not to bring about any particular consequence(s); to inflict pain is simply what it is to respond intelligibly and appropriately to a criminal will. (pp. 384-385).

This linking of punishment with sending the proper normative message sets the stage for society’s share in the retributivist claim. Anderson believes that this linking will provide the rationale for dealing with individuals from rotten social backgrounds (Anderson uses this specific term and the abbreviation RSB) and provides two arguments to support her claims. Firstly, she argues that if we’re to take the rightful rights of individuals seriously, then we must negate the wrongful rights claims of offenders by punishing them. If we do not, then these wrongful rights claims have validity. This is especially pertinent for individuals from rotten social backgrounds. Like Hampton, Anderson is quick to note that the victims of offenders are often their neighbors—that is, individuals suffering from the same injustices. And, like Hampton, Anderson argues that if “we are committed to ending social injustice, rather than perpetuating it, then we must validate the rights of those individuals victimized by RSB crime.” (p. 387) Secondly, Anderson distinguishes between a society that is “sure of itself” and a society that isn’t. A society that is sure of itself will be clear about the political values it adheres to. As such,
the society’s “political institutions” will be more stable and its citizens will more readily affirm its values. In such a society, crime is less damaging. Crime is less damaging because individuals will be sure of their rights and their political standing. As a result of our security regarding our rights, the need to punish to affirm those rights will be less demanding. (p. 387) However, a society that is burdened with social injustices will be “inwardly unstable.” In such a society, concepts such as liberty and equality are given little more than lip service. In such a society, those who suffer from social injustice will regard their rights as contingent, and wholly dependent on the good will of the privileged, rather than as rights they are due because of their own willful actions. In such a society, the need for the annulment of crime is urgent: For it is only by means of a consistent and public punitive system properly proportioning punishment that all individuals can have a clear idea of their rights. (p. 387)

Thus, if a society is inwardly unstable, then all of the members of the society share in the retributivist claim since their rights are jeopardized by crime as well. According to Anderson, our society is an example of an inwardly unstable stable. To ensure that some will not see their rights as contingent, we are forced to punish offenders from impoverished backgrounds. Thus, we must ignore the potentially mitigating circumstances of some offenders.

**Same Problem, New Name**

At first glance, Anderson’s theory appears to have met the problems that plagued Hampton. We are no longer concerned with vindicating the worth of each and every victim. Instead, we are attempting to create a political system wherein citizens understand that they have certain rights and that they can’t be used in certain ways. As such, we will begin to grow less needy of punishment as this understanding of our rights takes hold. As this occurs, we can become more lenient and rehabilitative towards offenders from impoverished backgrounds as their victims will better understand the wrongfulness of their offenders’ rights claims. In these instances, we lose the need to punish every offender to vindicate the worth of their victims because these victims will recognize their true worth. Or, as Anderson says, “a few unpunished crimes would have little effect on our conception of right and wrong; in fact, if our conceptual hold on right and wrong were that tenuous, it would be impossible for us to identify miscarriages of justice.” (p. 385)

Unfortunately, however, deciding to forgo punishment in some instances is not as easy as Anderson implies. To see this, we must note that Anderson’s theory is similar to Hampton’s in yet another important respect: In both theories there is a deep and pervading tension between giving offenders what we deem they deserve and reconciling this with potentially mitigating circumstances. As shown, punishment, at least as we currently practice it, tends to breed future violence. In these instances (as already mentioned), we release undereducated and difficult to employ offenders back into their community to potentially engage in additional crimes and additional rights violations. It would seem, then, that we have good reason to forgo punishment in some instances. Yet, punishment is necessary to convey the proper normative response. While a few aberrations from the norm may not collapse our conceptions of right and wrong, they do enrage our sense of right and wrong. That is to say, when we are faced with offenders that do not receive the desert we deem just, we are deeply angered and prone to act. In these instances there is not a tendency to be more sympathetic to the plight of offenders, but rather to be more harsh—that is, to institute policies that prevent the recognition of potential mitigating
circumstances and create more crime in the process. This is not dealing with or eradicating social injustices.

Yet Anderson’s theory, if consistently applied, appears to demand that we do exactly those things that create more problems. According to Anderson, an impoverished background is not an injustice because of some unequal distribution of goods. An impoverished background is an injustice “because being poverty-stricken (or the victim of racism or sexism) means that one is not recognized as an equal by the members of one’s society.” If this is left unchecked then what becomes validated “is the legitimacy of the oppression and disenfranchisement of persons suffering from RSB.” (p. 386) But this is a wrongful rights claim against everyone from an impoverished background—offenders and victims included. In recognizing this, Anderson argues, we face a dilemma. We either punish individuals from impoverished backgrounds as we would any other offender or we simply refuse to acknowledge all of the rights claims of individuals from an impoverished background. (p. 386) According to Anderson, for reasons already mentioned, we must side with the former. But this solution is far too quick as our dilemma is actually a false dichotomy. There is, at least, a third choice: we could address all of the rights claims of individuals from impoverished backgrounds. If offenders in impoverished communities have been victimized by wrongful rights claims, then this must be addressed lest we validate the wrongful rights claim. As well, we must consider the offender’s victim and address the wrongful rights claims of the offender. While this may seem a daunting task, it is nonetheless demanded by Anderson’s retributivism. If we live in an unstable society as she contends, then justice requires the annulment of wrongful rights claims to avoid the impression that rights are contingent. But how we can punish offenders to nullify their wrongful rights claims yet unpunish them to nullify society’s wrongful rights claim remains a mystery in need of solving.

Unfortunately, neither Anderson’s annulment retributivism nor Hampton’s expressivism is up to the job.

**Conclusion**

The idea that human beings are morally valuable and thus afforded certain inalienable rights is an ideal that is hard to displace. When attempting to formulate some response to deal adequately with violations of our worth or rights, punishment looms large as an obvious default position. But social inequalities, the very inequalities we are attempting to address, often make it morally problematic to justify punishment. What we have seen is that punishment not only leads to increased incidences of the very behaviors we find morally repellant, but that consistency demands that all retributivist claims be addressed. Unfortunately, it seems impossible to consistently address these claims. If we punish a morally denigrated X to vindicate the moral worth or the rights of Y, then we risk further denigrating the moral worth or the rights of X. However, if we forgo punishment and attempt to address properly the moral worth or rights of X, then we risk the further denigration of the worth or rights of Y. Moreover, to simply choose one side over the other seems arbitrary. It may be the case that in an imperfect world factors such as scarcity render justice imperfect. For example, if there isn’t enough of a certain necessity, then some of those that deserve it may simply not be able to receive it. However, we needn’t add to this imperfection by building injustice into our theory. A theory that demands punishment, despite its propensity to add to the very problems that it was meant to displace, constitutes such an injustice. Now, while it is beyond the scope of this paper to offer a detailed remedy to this problem, I nonetheless believe a solution is possible. What is required is a lessening of our reliance on punishment while maintaining a firm resolve to hold offenders—all
offenders—accountable for their acts. The practice of restorative justice does just that. An explanation of how this is possible must be postponed for later consideration.

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Rob Gildert was a philosopher in the Department of Community Studies at Cape Breton University in Canada. He died in the fall of 2006.
Social Protest in Argentina: Strategies, Conflicts, and Forms of Interaction with the State

By Pamina Firchow

Introduction

In March 1997, Argentina began to explode spontaneously in a series of popular upheavals that were as unexpected nationally as they were internationally. Picketers blockaded the highways, students demonstrated and confronted the police, workers and farmers went on strike. Since then, such traditional as well as other more unconventional forms of popular contention have transformed Argentina into a veritable landscape of social and political unrest. Attacks on government and commercial buildings, barricades of national and provincial roads, and conflicts with the police have become something of a routine occurrence. What are the reasons for this initially unexpected, but by now enduring effort at social transformation? The usual etiology cited by experts and social movements alike, is the failure of the established neo-liberal policies which, along with rampant corruption and neglect of its traditional social responsibilities by the state, caused the unemployment rates in Argentina to soar and thereby plunged the country into a deep economic crisis.

What seems to have been forgotten amid all this turmoil is that the protests took other less sensational and less publicized forms, as well. In the years immediately following 2001, masses of the unemployed began to organize themselves into protest groups. Towards the end of that year, the socio-economic crisis, which by this time had also spread to the middle classes, resulted in a huge demonstration called the “cacerolazo.” Hundreds of thousands of people came out into the streets to demand the resignation of the Minister of Economy, Domingo Cavallo, who had advised Carlos Menem to implement the convertibilidad plan which pegged the dollar to the peso 1:1 and eventually caused immense debt for the country. This was followed by another massive demonstration on December 20, 2001, in the Plaza de Mayo, which resulted in twenty-four deaths and the resignation of then-President Fernando de la Rúa. These demonstrations and their consequences were both extraordinary and more or less immediate. Less noticed at the time but more important in the long term, however, was the alliance that came about at this time between the middle classes and the working classes who were the most affected by the economic crisis and unemployment. After the crisis of 2001, this alliance gradually separated out into distinct groups that eventually became recognized substitutes for the state in many of the poorest areas of Argentina. As a consequence, under the so-called

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1 The name derives from the fact that during this demonstration the protestors loudly beat pots and pans in the streets or out of their windows.
2 For more information on these events, please refer to Maristella Svampa and Sebastián Perya, Entre la Ruta y el Barrio: La Experiencia de las Organizaciones Piqueteros, (Buenos Aires: Editorial Biblos, 2003) or the recently published Marina Sitrin, Horizontalism: Voices of Popular Power in Argentina, (AK Press, 2006).
3 According to World Bank statistics, almost 50% of Argentines are considered to be below the poverty line since 2001.
piquetero⁶ umbrella, there now exists a plethora of different social groups which are very heterogeneous in their motivations, strategies, and interests. What binds them together, however, is their direct action methods and the decision-making processes that work through assemblies and representation. Their by now well-known custom of establishing road blocks is in fact merely one way of reminding society that the unemployed have been “detoured” out of the productive circuit. In point of fact, different factions in the movement employ various tactics besides the traditional road blockades. Some groups have made the decision to join the current administration under Nestor Kirchner (e.g., Barrios de Pie) and to search for institutionalized means of integration, while others seem to have almost no institutional political ambitions (e.g., MTD Aníbal Verón).

When examining the piquetero movements, it becomes clear that they were born and began to mobilize as a consequence of the weakening of the welfare state. The organizations arose as a response to precarious living conditions in the neighborhoods and were often based on community work. The underprivileged areas had experienced worsening conditions during the 1990s and, as a natural consequence, organization and protest became responses to the inadequacy of food supplies, health services, and basic community infrastructures. Until recently, there has been a lack of formal institutionalized forums in which politics were negotiated between the organizations and the government; therefore protest replaced traditional political negotiation. However, this is beginning to change as organizations such as Barrios de Pie and even traditional “outsiders” such as the MTD Aníbal Verón have begun a discourse with the Kirchner administration. Using institutional means to achieve social goals is something some of the movements are willing to explore, regardless of their ideological backgrounds. This indicates their willingness to use democratic means as a way of achieving their goals, rather than choosing other, more dissident means. As we have seen, it is the movements themselves that have chosen to institutionalize themselves because they feel they may benefit from representation in the institutionalized political system. However, the situation is not quite so simple: the line between institutionalized politics and non-institutionalized politics, as Goldstone (2003) points out, is not always an easily definable one. Ultimately, as is proven by my own case studies, in a democracy, social movements cannot separate themselves entirely from the institutionalized system because there is too much interchangeability between the state and the movements. In many cases, the system incorporates the movements or, in some cases, the movements incorporate themselves into the state. However, as demonstrated by recent events in 2006, all the social movement groups have rekindled their declarations of autonomy from the state, staging protests in the streets and disregarding their commitments to institutionalization.

Over the past two decades, social scientists and political analysts have suggested that Argentina’s working classes have undergone a process of fragmentation as a result of both the 1976-1983 dictatorship and the neoconservative policies of the Menem government.⁷ This process of social disorganization has led to cultural and political changes, including a reaction...

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⁶ The term piqueteros comes from the French “piquet de grève,” which was traditionally a barricade put up by workers on strike at the entrances of factories in order to prevent workers from entering the factory.

against the leftism of the 1960s and 1970s and the rise of a “democratic” culture. Another relevant factor is that many institutionalized leftist groups and parties have been spending their scarce resources, along with the energies of their members, in elections, thus pulling them away from the work force. A good deal of effort has also gone into forming electoral alliances within the middle classes. Thus, increases in votes by and for the left in recent years have also meant a pulling away from, and a fracturing of, their base among workers, the unemployed, and the urban poor. The social and political upheavals of the last few decades suggest that Argentina’s democratic system has promoted the disenfranchisement and marginalization of broad sectors of the population.

This paper proposes to look more closely than is customary at the phenomenon of social movements and their relationship to institutional politics and the state. It presupposes in particular the premise that the piqueteros are excluded from the political institutional system, and it questions the assumption that mobilization and social protest constitute strategies which attempt an incorporation into this space. Research was conducted in Buenos Aires beginning in early 2003 and finishing in late 2004 and is based primarily on qualitative data from various interviews. The author recognizes that politics in Argentina, especially in terms of social movements and democracy, is in constant motion and change. Therefore, this paper gives an analysis of the time period immediately preceding the economic crisis in Argentina and the election of President Nestor Kirchner.

Before the 1980s, prevailing images of social movement actors were that they were all “outsiders,” which meant that they were excluded or marginalized and not integrated into institutionalized politics. Yet, as later studies have shown, it soon became clear that in most political situations the actors, the fates, and the structures of political parties and social movements were closely intertwined. Therefore, it is difficult to classify social movements in concrete “inside” or “outside” terms, in particular in relation to their goals and attitudes towards the state. As Goldstone summarizes, “While some groups may, at different times, be more ‘inside,’ in the sense of being more aligned and integrated with the institutional authorities, while other groups are more ‘outside,’ there is neither a simple qualitative split nor a ‘once and for all’ crossing of some distance line separating challengers from insiders.” (Goldstone, 2003)

However, although all of those who are unemployed may consider themselves excluded, the strategies that they use to voice that sense of exclusion to the government may and do vary. That is why, despite the objections stated by Goldstone, an “insider”/“outsider” framework of classification is nevertheless appropriate in attempting to make sense of the recent developments taking place in Argentine society and politics. It is a framework which in its simplicity gives order to, and provides an explanation for, the recent political events in Argentina. As explained by Korzeniewicz and Smith, “insiders” are defined as those groups that attempt to work closely within the official process, sometimes compromising their demands so as to make them more politically viable. The “outsiders,” on the other hand, are those who exercise external pressure, articulating their demands in a more explicit manner and often against governmental resistance. (Korzeniewicz and Smith, 2001; Goldstone, 2003)

The principal questions which I have addressed through a process of literature review, interviews, and documents, are the following: 1) Up to what point can social movements make effective claims on the state and insist on receptiveness, representation, and participation?, and 2) What are the
forms and strategies they use to succeed in their goals?

**Background**

Research on social movements and political change has rapidly expanded in Latin America since the early 1980s. Such authors as Escobar and Alvarez (1992), Eckstein (2001), and Davis (1999), among many others, have contributed fundamentally to the study of social movements in the Latin American context. Davis (1999) in particular argues that social movements have played a central role in bringing democracy to Latin America. She goes on, however, to urge scholars to take into account “if historical evidence suggests that social movements are not new, and that they may be just as likely to lead to restrictions on democratic participation as to political openings, and if evidence suggests that context matters as much as mobilization, we must be cautious in accepting new social movement claims about a direct relationship between popular mobilization and democratization in contemporary Latin America.” (Davis, 1994) Both Eckstein (2001) and Davis (1999) argue that New Social Movement theory and Political Opportunity Structure frameworks are limited in their explanatory potential because they are based on “western” experiences. Instead, these authors support a historically specific framework for the study of social movements, built around a “phenomenological understanding of space conceived as both a material and a social construct.” (Davis, 1999) Although both argue forcefully for a contextual framework, Eckstein differs in indicating that defiance is not a monolithic social phenomenon and therefore may assume different forms and have different origins, thus making it difficult to analyze by set theories. In this respect, the historically specific frameworks which Eckstein, Davis, and others employ belong to the “middle-range” theories concerning social movements developed mostly in discussions of Latin America.

The question of the relation of democracy to social movements is also one of significant importance, especially in the Latin American context. We need to know whether or not social movements aid or impede democratization and democratic political institutions. The answer to this question is based, again, on which approach is preferred in order to determine the effect of social protest on democracy in Latin America. One approach is based on understanding the importance of free expression while the other is based on the instrumental notion of whether or not citizens can make claims on the state. Of course, it is important to keep in mind that democracy in Latin America is a relatively recent phenomenon, one that is neither altogether stable nor always formally institutionalized in structure or practice. The challenge of consolidating democracies has drawn researchers back to Tocqueville’s proposition that democratic governance depends on the quality of associational life in a civil society. In general, social movements are considered by scholars to be integral parts of democratic consolidation because they help establish lasting connections between citizens and the state. They do so primarily by opening new channels or devising new mechanisms for citizen participation in politics and governance policies.

When, in early 2003, Nestor Kirchner was elected, the *piquetero* movements were already noticeably present, and they have continued to be active throughout his tenure as president of Argentina. During earlier administrations as well as during the current one, the government’s temporary work programs (Programa Jefes y Jefas) have functioned as a

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8 For more information on the *Jefes y Jefas* program, see E. Gallasso and M. Ravallion, "Social Protection in a Crisis: Argentina’s
kind of subsidy to the unemployed and have usually been awarded in an arbitrary manner. Because of the gradual withdrawal of the state’s presence from the poor areas during the period of the military dictatorship and the subsequent Menem era, a transfer of responsibilities from weak municipalities towards the end of the 1990s worked to institutionalize the new structure of non-state providers of social services. *Piquetero* and neighborhood organizations were then the only viable channel for the state to reach those in need. In this way they became the distributors and administrators of state aid and began to replace local institutions. In many ways, since this new strategy has lacked a formal institutionalized forum in which politics can be negotiated, protest has replaced traditional political negotiation. However, within the organizations, direct democracy is generally the chosen form of representation and decision-making. (Pozzi, 2000) Such democratization, however, does not extend to the society as a whole. As a consequence, *piquetero* organizations negotiate directly both with the municipalities and with the national government through occupation of municipal buildings, marches, and roadblocks, as well as through pacific meetings with officials.

**Negotiation**

As defined by Zartman, negotiation is a process of two (or more) parties conflating their conflicting points of view into a single outcome. (Zartman, 1977) It is a positive-sum exercise, since by definition both parties prefer the agreed outcome to the status quo. In this situation, both sides have power over each other because a) both parties have equal stalemating power, and b) both parties are necessary to reaching a decision or to vetoing it. The key question, in this case, is who exactly are the parties?

It is clear that there are several different strategies used by different organizations under the *piquetero* umbrella. This lack of a uniform and representative negotiating body on one side renders negotiations difficult, since it forces the state to deal with various interests as expressed by a plethora of different groups. Some of these groups may be willing to use moderate tactics, such as engaging in bargaining, establishing alliances with political parties, or undertaking pragmatic negotiations, while others may be confrontational, presenting disruptive challenges to political elites and competing with established political parties (especially from the left). Although the lion’s share of the literature on social movements in Latin America propagates the belief that social movements have been forms of democratic expression, the current trend may leave us wondering as to whether some of these social movements are in fact challenging democratic forms of political expression, since they do not necessarily leave room for negotiation.

However, Fox Piven and Cloward (1977) argue that social movements can create political opportunities. In their discussion of the conditions under which protest has influence, the authors maintain that instability increases the likelihood for protest to become conciliated because insecurity leaves government with fewer possibilities to ignore or repress protest. Fox Piven and Cloward further state that protest can be used as political currency and they maintain that the value of such currency is determined by the compensations that can be exchanged as a way of resolving conflicting interests. In the case of Argentina, it appears that protest has become a form of negotiation and the currency/voice of the people is expressed through mobilization. To achieve any progress at the negotiation table, however, there are several other

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factors to be considered. On the one hand, there is no evidence that the state has formed any concrete negotiation strategy (Interview 1, 2004), whereas, on the other hand, there appears to be no consensus on the part of the piqueteros to put a united agenda or strategy on the table. Some organizations, to be sure, have chosen to collaborate with the government and therefore have to a certain extent become integrated and institutionalized. Others, however, have little intention to voice their demands as part of a democratic process in the current state apparatus. As della Porta points out, “the presence of various SMOs [Social Movement Organizations] also produces internal conflicts and competition inside a social movement or social movement family, which under some circumstances can induce serious consequences for the movements.” (della Porta, 1995) This lack of consensus on the part of the piqueteros, and the lack of policy regarding social movements on the part of the state, leaves both sides without much room for discussion.

For the government to be able to act in any way to alleviate unemployment in Argentina, significant results can only be achieved by working through the piquetero organizations. Most municipal institutions are non-existent or non-functioning, although some changes have been made since the economic crisis of 2001. The police force continues to be one of the most corrupt in the world, and it is evident that the administration does not possess a monopoly on the use of force even within its own territory. (Interview 1, 2004) Thus, the only way the current administration can effectively reach the unemployed and the poor is through the organizations that the people have set up themselves.

Davis maintains that “policy reforms” can be manipulated by both the state and local citizens in ways that undermine their original intent. But by and large, if a policy introduced by state actors is explicitly intended to open—or close—democratic participation, it is highly likely that “its basic thrust will be in that general direction.” (Davis, 1994) Thus, it is possible that if the government continues to work with those piquetero organizations that are willing to negotiate and to ignore those who continue to maintain their “outsider” status, ultimately a democratic result may transpire. However, the question remains whether or not those piquetero organizations willing to work with the government should first possess political legitimacy in order to represent the excluded.

“Kirchnerismo”

By the end of 2001, the piqueteros had established themselves as a political force, and political discontent was channeled through their organizations. This result was due not only to their own efforts but also to the inheritance of decades of economic and political mismanagement culminating in a sense of radical dissatisfaction with the government. This development follows a general trend in social movements, as experts such as Eckstein (2001) and Tilly (1978) have pointed out. Once the mass protest, including sectors of the middle classes, ended in 2002, the piquetero groups continued their protests, but splintered off into various organizations with different ideological and economic agendas. This process continued into 2003, when President Kirchner was elected in the first national election since the economic crisis of 2001, after a succession of six different failed presidencies. The strategies of the various piquetero organizations since that time have varied considerably, ranging from

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9 Names of respondents have been omitted to preserve their anonymity.
10 In Transparency International’s 2005 Corruption Perceptions Index, Argentina had a score of 2.8 out of 10 to tie with Algeria and Mozambique for 97th place, with 158 being the most corrupt.
working with the government to protesting against it.

The *piquetero* organization called Barrios de Pie broke off from the political party, Patria Libre, and later developed into an organized protest mechanism. It gained strength and prominence in 1997 along with the expanding *piquetero* phenomenon. Barrios de Pie began building soup kitchens in the *villas* (slums) to feed the unemployed and to convene informal gatherings of the inhabitants because there were no suitable meeting places for the community. In this way, they provided stimulation for the organization of political protest and for participation in lively political discourse. Initially, their chief strategy of protest was to encircle supermarkets in order to prevent potential customers from entering. This strategy forced the national and international grocery chains to negotiate with Barrios de Pie and ultimately give them food for their soup kitchens. Sergio Serulnikov, observing the beginnings of this kind of mobilization in the early 1990s, argues that this was a point of departure from traditional forms of popular struggle because there was an emergence of the neighborhood as a privileged site of solidarity and collective action. This popular mobilization, in his view, displayed little concern “for rationalizing grievances and goals in terms of customary political rhetoric.” (Serulnikov, 1994) Although this was initially the case for Barrios de Pie, which focused in its beginning stages solely on practical measures—i.e., political rhetoric was downplayed and neighborhood gatherings were stressed—it did not continue to be the case throughout. Barrios de Pie had and continues to have a strong ideological basis. This is true not only of Patria Libre, the political party out of which Barrios de Pie originally sprang, but also, even earlier, of the *montoneros*, out of which the four founding members of Patria Libre came. It was not until the government of Kirchner that their ideology was supplanted by a different and more pragmatic political agenda. In 2003, with the coming to power of Kirchner, Barrios de Pie voted in the annual December congress to join the Kirchner government and try to push forward their agenda through institutionalized means. They made a decision to represent the Kirchner government to the masses and thereby begin a dialogue for the government with the excluded in Buenos Aires and in the rest of Argentina. Their goal was to create a social basis for Kirchner’s political program, popularly known as “kirchnerismo” (a play on “peronismo”). They collectively decided to abandon street protest and instead advocate for a more institutional advancement of their ideals. As of 2004, there were about twenty members of Barrios de Pie who were working within the government in different ministries dealing primarily with problems of unemployment. Instead of negotiating with the government through marches or roadblocks, Barrios de Pie eventually chose a path of representation within the government structure.

Now, through “insider” groups such as Barrios de Pie, Kirchner is slowly beginning to succeed in integrating himself politically into the protest movement and, as a consequence, he has managed to some degree to distance himself from the powerful *Partido Justicialista* (PJ). For its part, Barrios de Pie, by making itself representative of the unemployed in the government of Kirchner, has succeeded in giving an institutionalized political face to the excluded. As Davis (1999) points out,

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11 The *Movimiento Peronista Montonero* was an Argentina leftist guerilla group active in the 1970s.
12 The “PJ” was founded in 1945 by Perón. It is the principal *Peronista* political party in Argentina.
Social movements frequently desire access and proximity to the formal institutions of governance. She argues that such distance is one of the main problems in Latin America, manifesting itself in a lack of representation in the poorest areas. Organizations such as Barrios de Pie are attempting to create a bridge between the government and the people by being close to both sides at once. Barrios de Pie, with its origins in an ideologically based political party, Patria Libre, also has become a path for that party to enter into a government where non-peronist parties have not had much success. As Pozzi (2000) has pointed out, since the middle class has a higher electoral turnout than the working class, the left tends to move to the right, adopting middle class values and demands. Thus, an increase in votes for the left also means fracturing their base among workers and the urban poor.

Korzeniewcz and Smith (2001) argue that from the point of view of the ability to attain goals (Weber, 1958), the adoption of institutionalized procedures by “insiders” can allow for greater “efficiency.” Nevertheless, despite apparent progress, the adoption of such practices by “insider” organizations tends to challenge the traits that accompany informality “such as closer, more direct, and less hierarchical relations between the leadership and rank-and-file members along with a more ‘mobilizational’ quality to the organization’s orientation.” (Korzeniewcz and Smith, 2001) In one of the first major studies of social movement consequences, Gamson (1975)

13 Korzeniewcz and Smith define “efficiency” in Weberian terms, namely that it “[i]s superior to any other form in precision, in stability, in the stringency of its discipline, and in its reliability. It thus makes possible a particularly high degree of calculability of results for the heads of the organization and for those acting in relation to it. It is finally superior both in intensive efficiency and in the scope of its operations, and is formally capable of application to all kinds of administrative tasks.” (Weber, 1958)
“Nacimos en la calle, seguimos en la calle”

Prior to the 1980s, prevailing images of all social movement actors indicated that they were “outsiders.” However, Goldstone (2003) maintains that empirical research has repeatedly shown that the actors, the fates, and the structures of political parties and social movements are all closely intertwined. Korzeniewcz and Smith also claim that “while the ‘insider’ strategy privileges technocratic policy-making and tends to accentuate bureaucratization, the ‘outsider’ strategy emphasizes direct popular representation as a means of promoting empowerment and social equity.”

(Korzeniewcz and Smith, 2001)

Furthermore, the MTD Aníbal Verón argues for the ambiguity and interchangeability of the “outsider” social movements in Argentina.

(Interview 3, 2004) Although both the MTD Aníbal Verón and Barrios de Pie originated as “outsiders” and were part of the two main protest groups during the Menem era (Pozzi, 2000), the MTD Aníbal Verón has not sought to integrate itself into the government system, although it does seem open to some kind of negotiation. Still, it remains an outside actor to a large extent, autonomous and revolutionary, although, ironically, it too is dependent on government funds to feed and house its members.

This situation is, in large part, due to its adherence to its own ideology. The Kirchner government states that it will work with all social movements and that it is prepared to begin a dialogue with them. It publicly encourages them to join various other organizations such as Barrios de Pie to become a part of the government. However, the MTD does not feel that the Kirchner government has responded appropriately to their protest, as indicated by their slogan: “Before anything, we reaffirm: while the government maintains a hostile attitude towards the movements of the unemployed, while there are no concrete responses to unemployment, and while the government continues to pursue workers or piqueteros who are fighting for their rights, we will continue [our protest] in the streets.” Although, as Goldstone (2003) points out, the notion that there are in-groups (“insiders”) and out-groups (“outsiders”), and that the latter engage in protests while the former engage in politics, is an exaggeration of reality, it is true that the MTD continues its protest in the streets. For example, the MTD continues to block off the Puente Pueyrredón every 26th of June, regardless of government demands. It also participates in daily road blockades and protests, and it maintains that the government has not been willing to compromise. However, it does negotiate the unemployed plans and food rations with the government and has assumed the responsibility for the distribution thereof among its members. It is evident, therefore, as I can testify from personal observation, that the movement is not entirely autonomous. For example, the food stockpiles which are kept at the headquarters are to a great extent government funded, although it is true that some have come from private sources such as supermarkets which have been picketed. (Interview 3)

The question for the last three and a half years since Kirchner assumed the presidency, is how to deal with outsider groups such as the MTD Aníbal Verón. Since the beginning of his term, Kirchner has attempted to add the piquetero groups to his political project. As one government official states: “The idea has been not to repress, but to contain the protest and cause the least possible violence.” (Interview 1) However, he was only able to succeed in one sector, namely in limiting police involvement in the protests, for fear of a violent reaction.

14 June 26 is the anniversary of the deaths of Maximiliano Kosteki and Darío Santillán, two piqueteros from the MTD Aníbal Verón who were killed by police during a protest.
Kirchner maintains that there are other forms of expression for the movements that do not have to include road blockades and public disturbances. However, the “outsider” groups disagree and feel that Kirchner is only ready to speak to them on his own terms. This “outsider” strategy contradicts Davis’s argument that Latin American social movements are attempting to build a bridge between the people and the governing institutions of the state. In Argentina, there is a deep divide between those that seek to change things from the inside and those who believe the government must respond to pressure from the outside.

**Conclusion**

This paper has presented another perspective from Charles Tilly’s 1978 presentation of social movements as “challengers” seeking to integrate themselves into the institutionalized world of political parties and state structures. In Argentina in the early twenty-first century, social movement organizations do not appear to be necessarily looking for institutionalization, and “outsider” groups do not necessarily seek to be integrated into the “insider” network or perceive to be able to attain more of their goals through institutional means. My findings, along with those of other scholars on this subject such as Goldstone (2003), conclude that social movements constitute an essential element of normal politics in modern societies, and that there is only a fuzzy and permeable boundary between institutionalized and non-institutionalized politics in Latin America. State institutions and parties are interpenetrated by social movements, often developing out of such movements, or in response to such movements, or in close association with such movements.

However, looking at the inner workings and strategies of social movements as either participating with or, instead, rejecting institutionalized systems is fundamental to understanding how these movements form and interact with the state. This recognition of the strong interconnections between social movements and the state, tends to confirm Della Porta and Diani’s (1999) findings that the fundamental force behind protest is a desire to reclaim the right to have one’s interests taken into account by political representatives. It also confirms Walton’s (2004) claim that this feeling of injustice is characteristic of Latin America and that protest there is viewed as legitimate because governments have generally failed to live up to their political promises.

Furthermore, Korzeniewcz and Smith (2001) point out that the tension between bureaucratization and representation must be familiar to any observer of the development of labor movements and political parties in the twentieth century. For example, while labor movements have often found their identity in opposition to existing political arrangements, the practice of negotiation has just as often led trade unions and their leaders to enter into close negotiations with national political authorities. The development of such mechanisms of integration enhances the ability of the new actors to influence and shape useful patterns of institutional regulation, but it also sometimes leads these actors to challenge prevailing notions of governance.

The dismantling of the welfare state of the 1990s led to important changes in the socio-economic structure of Argentine society. The relative growth of the lower classes in proportion to the population as a whole and the rapid increase in poverty left the state facing an entirely different and much more difficult role. Demands increased on the state to provide for the population that had become unemployed, partly because of the reduction in size of government institutions and the privatization of public companies. Together with the rupture between the unions and the Peronist party, the
weakening of the representative
capacity of the parties left the
unemployed and excluded without
access to the main channels of political
influence that had previously existed
between workers and the state.

Eckstein (2001) maintains that a state-
structure that excludes representatives
of the labor sector is likely to become
more conflictive. This certainly seems
to be the case in Argentina. The
piquetero organizations, on both a
national and local level, have taken over
part of the representative function of
the unions.

The Kirchner government has also not
maintained a consistent stance in
relation to the piqueteros. Negotiations
remain ad hoc, and there does not
appear to be any clear strategy in the
eyes of the administration as to how to
respond uniformly to the piquetero
movements. Fundamentally, the
government hopes to quiet protests by
integrating the movements and by
building a popular base for Kirchner in
the villas through alliances with
piquetero groups. Thus, political
opportunity would include both the
political environment in which dissident
organizations operate and the ability of
these organizations to invent solutions
to obtain resources for and avoid
repression of their members. In this
sense, political opportunity is not
something which is graciously provided
by the regime in power, but is, rather, a
result of the negotiation between the
government and protest organizations
over solutions to the collective action
problem.

So, how does social change manifest
itself in Argentina? What is the
relationship between reformist and
revolutionary social movements and
how do they relate to the state? This
has been an attempt to provide answers
to these questions by presenting case
studies of two different movement
organizations in Argentina, one radical
and the other reformist, after a period of
economic crisis. Therefore, finding a
conclusive answer as to where and how
social change is brought about most
effectively is something which involves a
complex analysis of the government in
power, the relevant social movements,
and the cultural, political, and economic
characteristics of the society in
question. Thus, in line with Eckstein
(2001) and Davis (1994), I have found
that general conclusions about social
movements and their “effectiveness” or
their political currency can only be
made on a specific case basis. The
piqueteros in Argentina are helping to
shape the future of Argentine
institutionalized and non-
institutionalized politics by using two
opposing strategies—one “inside,” one
“outside”—to achieve their goals. One
faction believes in sacrificing some
ideals in order to achieve change
through institutional means, whereas
the other believes it can achieve change
without sacrificing its ideals. The
question remains where these
movements will go in future years as
institutionalized government returns to
Argentina.

The fundamental task, however,
remains the systematic examination of
how social movements act and react
towards the state. This paper has tried
to shed some light on the political
dynamics of a post-crisis Argentina and
to help interested observers to
understand that there is a very fine line
between non-institutionalized and
institutionalized politics in Latin
America, one that should be respected,
perhaps even celebrated, for, if nothing
else, it is proof of a democratic system
at work.
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*Pamina Firchow holds a Master’s degree in comparative politics from the London School of Economics. She has worked for various non-governmental organizations, such as Saferworld, The Small Arms Survey, The Federation of American Scientists and the Arias Foundation for Peace and Human Progress, as well as for the German Bundestag. Pamina has published several articles on U.S. arms exports, as well as an article on the changing nature of war in Colombia. While researching “Social Protest in Argentina,” she was a Rotary World Peace Scholar at the Universidad del Salvador, Buenos Aires, Argentina. Pamina is a fellow of the 21st Century Trust and a Ph.D. candidate at the Graduate Institute of Development Studies, University of Geneva, in Switzerland. She is currently in Argentina researching her dissertation which deals with perceptions and motivations of political violence and revolution in Argentina and Latin America.*
**Cinco Siglos Igual**  
**By Penny Seymoure**

**Historical Context**

*Cinco Siglos Igual* (Five Centuries the Same) is the title of a song sung by popular Argentine singer León Gieco (León Gieco and Luis Gurevich) that laments social inequality in the Southern Cone of South America since the arrival of the Iberians. At that time, five centuries ago, the Southern Cone was populated by an estimated one and a half to two million Guaraní (Ganson, 2003, p. 18; Jacobsen, 2003, p. 382), who lived in the southern forests from the Andean foothills to the Atlantic Ocean. The ancient homeland of the Guaraní is today partitioned into Bolivia, Paraguay, Brazil, Argentina, and Uruguay.

The first sporadic contacts between the Guaraní and Europeans began in the early sixteenth century as explorers moved into the coastal region of southern Brazil. Contact between the Guaraní and Iberians intensified in 1537 when Juan de Ayolas founded an inland outpost, Nuestra Señora de Santa María de Asunción (Paraguay) in an area heavily populated by Cario-Guarani. Initially the relationship between the Cario-Guarani and the Spanish was amicable as each side believed it derived benefit from the other, but within two years the Guaraní attempted to mount an unsuccessful uprising to rid themselves of Spanish authority. (Ganson, 2003, pp. 23-26; Reed, 1995, p. 34) Thus, began almost five centuries of unfortunate encounters between the Guaraní and the Iberians and those who followed: Portuguese, Jesuit priests, slave traders, state politicians, yerba plantation owners, and lumber corporations.

Many of these early encounters and the resulting Guaraní Wars, also called the War of the Seven Reductions (Ganson, 2003, p. 88) have been documented in books and movies, such as the 1986 movie, “The Mission.” After the wars between the Guarani and the Spanish and Portuguese militaries, along with the expulsion of the Jesuits in 1767, many Guaraní fled the Paraná forests of the Argentine region for the protection of forests in Paraguayan and Brazilian regions.

The economy of the Guarani has always been dependent upon agroforestry. One crop that brought the Guarani into conflict with the outside world was the production of yerba mate, a powerful stimulant herb served in liquid form. Yerba grew wild in the southern forests and was used traditionally by the Guarani as a medicinal and religious drink. (Ganson, 2003, pp.63-64; Martinez, Crivos, & Teves, 2004, pp. 347-350; Reed, 1995, p. 34) The drink became popular throughout the Southern Cone when the Guarani brought it into the Jesuit reductions. Although the Church banned the drink as evil, the Jesuits turned the drink into an economic profit by using their Guarani charges to produce the labor-intensive product for market. This effort put the Jesuits in direct financial competition with neighboring yerba plantations and partially led to their expulsion from the Southern Cone.  
(Reed, 1995, pp. 34-47)

By 1800, yerba was a major economic asset to the region and the demand for the labor-intensive product began to outstrip the ability of plantation owners to supply the market. This was at a time when the Guarani population had already rapidly declined as a result of the Guarani Wars, slavery, and exposure to European diseases. In the Paraguayan region, Guarani were housed in villages near colonial towns to be used as tribute labor or by large landowners as encomendados in their yerba plantations. However neither of
these attempts to force the Chiripá or the Mbyá Guaraní ethnic groups into work was successful. The Guaraní laborers proved to be undependable because they could, and did, escape into the forest where yerbal bosses were afraid to follow. (Reed, 1995, pp. 35-47) In truth, the Mbyá Guaraní had a history of avoiding contact with whites or yerua, which continues today. The Mbyá, who are also called the Caingua or Caaiguá (forest dwellers), were not among the Guaraní who entered the Jesuit reductions. The Mbyá preferred to avoid slave traders by remaining deep in the forest. Hence, the Mbyá were neither enculturated or christianized by the Jesuits and remained culturally autonomous during this one-hundred-and-fifty-year period of Jesuit reductions. (Clastres, 1975, p. 3; Martinez, Crivos, & Teves, 2004, pp. 347-349; Sánchez & Giraudo, 2003, pp. 201-202)

The Mbyá Guaraní and the Argentine Nation

Around 1850, the Mbyá Guaraní started to repopulate the Paraná forest. (Martínez, Crivos, & Teves, 2004; p. 349) At this time, the Paraná forest and the surrounding lands were not within the borders of the Argentine state. But at the same time the Mbyá were resettling the Paraná forest, the federal government of Argentina began giving away land within Argentina to European immigrants, called cólonos. Article 25 of the 1853 National Constitution stated:

The federal government will favor European immigration and will not restrict, limit or burden with any taxation the entry, into the Argentine territory, of foreigners who would come with the intention to work the land, to improve industry, and to introduce the sciences and the arts. (Schmidt, 1996, pp. 4-5)

Within 60 years, over 6 million Europeans answered the call and immigrated to Argentina. The indigenous groups living in the northern and southern regions of Argentina did not fall within the government’s plan to develop the country. Indigenous groups in the south of Argentina were massacred. (Gasteyer & Flora, 2000, pp. 143-145) In 1876, the Misiones region came under control of Argentina and this region was opened to a flood of European colonists who began to claim Guaraní lands for farming, including growing yerba for market. (Schmidt, 1996, pp. 4-7)

The tumultuous history of the relationships between Guaraní and outsiders has been well-documented; however, little international attention has been paid to the continuing conflicts between the Guaraní and state politicians, yerba plantation owners, and lumber corporations. Data from the last census records indicate that an estimated 3,700-4,000 Mbyá Guaraní currently live in approximately 54 communities in Misiones Province. These communities vary in size from four families to over 700 hundred individuals in the joint community of Fortín Mbororé and Iríapú. (www.misiones.gov.ar, 2006) Because the Mbyá move around in small groups from aldea to aldea, and across the borders of Misiones Province with Paraguay and Brazil, it is difficult to obtain an accurate census. (Pochettino, Martinez, & Crivos, 2002, p. 696; Sánchez & Guiardo, 2003, p. 200; World Rainforest Movement, 2004) In Argentina, their villages are located on the periphery of towns and cities, such as Posadas and Puerto Iguazú, and near the monte. (Crivos, Martinez, Navone, Pochettino, Arenas, Digiani, Teves, Remorini, Sy, Illkow, & Delorenzi, 2002, pp. 258-259; Pochettino, Martinez, & Crivos, 2002, p. 696) Their economy has been traditionally based on agroforestry, with a reverence for the products of the forest and for the forest, the monte, itself. The monte was a creation of the gods and all activities in the monte must be carried out in accordance with their religious beliefs. Thus the monte, according to Guaraní culture, has always been a place

Agroforestry, as practiced by the Guarani today and historically, necessitates freedom of movement through the forest for the collection of game, honey, yerba mate, and other medicinal plants. Additionally, Guarani horticulture depends on small swidden plots that are abandoned or rotated when the land is no longer fertile. These plots are reclaimed by the rain forest, a process that normally occurs within a few years. Then, after forest reclamation, the Mbyá reuse the land again for cultivation. Thus, the agriculture of the Mbyá is based on a cyclical pattern of land use and a symbiotic relationship with the monte. (Pochettino, Martínez, & Crivos, 2002, pp. 697-700; Martínez, Crivos, & Teves, 2004, p. 350; Sánchez & Giraudo, 2003, p. 202)

The Impact of Recent Federal and Provincial Legislation on the Mbyá

For many centuries the Mbyá Guarani culture has been semi-nomadic, and their economy has been based on a pattern of semi-nomadic agroforestry. (Sánchez & Giraudo, 2003, p. 202) However, legislation in 1985 by the national government of Argentina attempted to force the Guarani, and other indigenous groups, to live in permanent villages. Federal Ley de Aborigen 23302 recognized Indian communities, but it did not speak of Indian nations or of the right of the indigenous to incorporate their lands into larger aboriginal communities or pueblos. The outcome of this federal Indian law was to prohibit the Mbyá from moving to and from land plots as necessitated by their agroforestry practices and to restrict their access to the monte. (Schmidt, 1996, p. 64)

Additionally, this federal law threatened the rights of the Mbyá to self determination of their cultural practices (Quane, 2005, pp. 671-677) and of cultural autonomy. (Yashar, 2006, pp. 164-165)

In early 1987, caciques from twenty-one Mybá Guarani communities, along with individuals from thirty-six Mbyá communities staged a series of protests to obtain recognition of Guarani land rights in Misiones Province. They were assisted by faculty from the Department of Anthropology of the National University of Misiones, the Institute Montoya, and representatives of the Catholic Church. After almost six months of protests and meetings with government officials in Posadas, Ley del Aborigen 2435 of Misiones Province was written. (Schmidt, 1996, pp. 31-91)

Indian Law 2435, which superseded the Federal Ley de Aborigen 23302 within Misiones Province, granted to the Mybá Guarani three essential rights. Article 10 granted the right to communal property such that the land title was in the name of the Guarani people as a whole. This meant that families or individuals could freely live anywhere within the lands granted by the provincial government. Article 6 gave the Mybá Guarani judicial status by recognizing an Asamblea Comunal and Conesjo Comuna, such that the Guarani had the right to govern themselves. Article 1 granted the Mybá Guarani nation status as Pueblo Guaraní within Misiones Province. This law was passed by the provincial government on June 11, 1987, implemented on November 9, 1987, and became a legal statute on November 23, 1987. (Schmidt, 1996, pp. 40-51)

On December 10, 1989, Carlos Menem was inaugurated as president of the Republic of Argentina and the Peronist Party gained a majority in the government of Misiones Province. Four days later, Indian Law 2435 of Misiones Province was abrogated. On December 26, 1989, Indian Law 2727 was passed in Misiones Province. This new law was similar in language to the Federal Indian Law, such that the designation of Pueblo Guaraní (nation status) was
removed and the Mbyá were assigned to individual communities instead, and without a council of Guaraní representation. (Schmidt, 1996, p. 64)

**Current Land Changes and Conflicts**

Since the abrogation of the *Pueblo Guaraní*, the Mbyá have been engaged in continuing conflict to preserve their culture and the land they claim is theirs. In February 2002, the Argentine Ministry of Ecology authorized the slashing and burning of 30 hectares of land bordering Yaguaroundi Reserve, along with the use of chemical weed-killing products and the planting of tobacco for cash crops and pine trees for logging revenue. The outcome of this action destroyed food sources, trees, and forest plants used for medicines by the Mbyá Guaraní. (World Rainforest Movement, 2002a)

The Mbyá are currently engaged in a struggle to prevent Mocona Forestal S.A. from felling trees in the Yabotí Biosphere Reserve, a world UNESCO environmental site since 1995. (Montenegro, 2004) Mocona Forestal S.A. claims ownership of two land plots (plots 7 and 8) and has been attempting to evict two Mbyá Guaraní *aldeas*, Tekoa Yma and Tekoa Kapi’I Yvate, residing within the reserve. Land plot 8 is the site of one of these communities. Raúl A. Montenegro, the 1989 winner of the Global 500 award from the United Nations Environmental Policy, reported that Mocona Forestal S.A. originally offered the two communities only 30 hectares in restitution for the land and its resources, which was rejected, and now has offered 200 hectares in compensation. (Montenegro (2003, 2004; World Rainforest Movement, 2002b, 2004) The two communities have asked for the enforcement of Article 41 of the Argentine Constitution which states that all inhabitants have the right to productive activities that are necessary, but that these activities cannot compromise future generations’ use of the land. The Article further states that it is the responsibility of the Ministry of the Environment to recognize this established law and that the authorities must protect this right of rational utilization of natural resources, the preservation of natural and cultural resources, and diversity of biology, and provide information and education about the environment. (Constitution of the Argentine Nation) Additionally, the Mbyá have asked for the enforcement of Article 75, item 17 (the recognition of preexisting ethnicities and cultures of indigenous pueblos of Argentina) of the Constitution of Argentina (Constitution of the Argentine Nation), along with the enforcement of ILO Convention 169 Declaration of Indigenous and Tribal Peoples Rights. (Montenegro, 2003, 2004)

For the last several years, seven to eight hundred Mbyá have been living on 224 hectares of forestland in the *aldea* of Fortín Mbororé near the city of Puerto Iguazú. Twenty percent of this land is within the Iguazú Falls National Park, with only 24 hectares of the land owned by the Mbyá. (J. Cataliano, personal communication, 1-21-2005) The amount of land that is now available to this large community is not large enough to sustain the community
through their traditional agroforestry practices. They have lost many plants that were used for making herbal medicines; currently there are only five plant types left from the assortment of 80 plants that they historically used for medicine. (Santiago, personal communication, 1-21-2005) Mbyá who live permanently in aldeas like Fortín Mbororé are at a greater risk of illness and parasitosis because the communities do not have adequate sanitary systems and the residents have increased contact with yerua diseases through work and commerce with tourists. (Crivos, Martínez, Navone, Pochettino, Arenas, Digiani, Teves, Remorini, Sy, Illkow, & Delorenzi, 2002, pp. 261-267) This situation has left the Mbyá of Fortín Mbororé with the need to buy manufactured medicines from pharmacies in Puerto Iguazú. Additionally, the Mbyá need to buy many of their meat products from yerua stores because of the scarcity of game and the shrinking hunting grounds. Many of the wild animals, especially the larger animals, have left this forest area because of increased human development. This means that the Mbyá must spend pesos for products that were previously forest resources available to them.

The waterfalls in the national park attract 3,000 to 5,000 tourists daily. (Argentine National Park Service officer, personal communication, 6-12-2003) Within the last four years, the Mbyá in Fortín Mbororé have shifted their economy from forestry to yerua tourism. They now allow pre-paid guided tours of selected areas of their aldea; however, these tours have caused dissent within the community. Many older members of the community dislike the tours as an invasion of their privacy and feel that they have become subject of yerua entertainment. (Santiago, personal communication, 1-21-2005) The aldea also supports itself though handicrafts that are made by artisan families and sold to tourists at the falls and in town. In just a few years, the crafting and selling of wooden forest animals, baskets, and jewelry has gone from a small enterprise to an industry involving many members of the community.

**Human Rights Declarations and Indigenous Peoples**

Quane (2005, p. 655) has examined the rights of indigenous peoples in light of the Draft UN Declaration on the Rights of Indigenous Peoples, currently under review by a working group of the Commission on Human Rights. Article 3 of the Draft Declaration acknowledges that indigenous peoples have the right to determine their political status and to pursue their economic, social, and cultural development. (Quane, 2005, pp. 663-667) These rights were accorded to the Mbyá under the 1987 Indian Law 2435 of Misiones Province. (Schmidt, 1996, pp. 40-51) Since the abrogation of this law, the Mbyá have asked for the right to internal self-determination, which includes the right to oppose the extraction of natural resources from lands that they have traditionally occupied. The extraction of natural resources clearly includes the large trees and medicinal plants that have historically been part of the Mbyá reko (tradition) and economy from before the region came under the control of Argentina. While not all states have agreed to the language of Article 3, a growing number of states with indigenous populations, including Argentina, have recognized that these populations have a right to internal self-determination. (Quane, 2005, pp. 664-665)

Several international covenants, conventions, and declarations have addressed the rights of indigenous peoples to participate in public planning and development of their traditional lands. Article 25 of the International Covenant of Civil and Political Rights (ICCPR) grants indigenous persons the right to participate in the planning of developmental policies without discrimination. (Quane, pp. 667-669) The Draft UN Declaration broadens the
issue of indigenous participation to encompass all levels of decision-making, including programs regarding health, housing, and social and economic environments. (Quane, pp. 669-670) The Indigenous and Tribal Peoples Convention (ILO 169) confers extensive rights to indigenous peoples to participate in developmental plans and actions that affect their land, their territories, and their cultures. (Quane, 2005, p. 660) Article 6 of ILO 169 states that it is the responsibility of the state to consult with indigenous peoples, and ensure that they can participate in making decisions of policy and programs involving them. Furthermore, it recognizes the need for indigenous peoples to establish and pursue their own plans and institutions. Article 7 grants to the indigenous the right to establish priorities for development that affects their cultural traditions and the lands they occupy. (United Nations, pp. 93-94, 2002) ILO 169 was adopted by the United Nations on June 27, 1989, and entered into force September 5, 1991. (United Nations, p. 91, 2002) However, six months after the adoption of ILO 169, the provincial government of Misiones abrogated Indian Law 2435, a law that gave the Mbyá the right to develop and govern their own national lands. (Schmidt, 1996, p. 64)

Development of forestland within Misiones Province has endangered the existence of the Mbyá reko and its sacred relationship with the monte. Articles 5 and 8 of ILO 169 declare that indigenous peoples have the right to retain their customs and traditions and that it is the responsibility of the state to ensure the these cultures are protected. Furthermore, Article 13 states that it is the responsibility of the state to recognize the spiritual and cultural relationship that many indigenous cultures share with their land. (Quane, 2005, p. 675; United Nations, pp. 93-94, 2002) Additionally, Article 27 of the ICCPR affords indigenous persons the right to enjoy their culture individually and in the presence of others of their culture. (Quane, 2005, pp. 667-669) The Article further broadens the enjoyment of culture to include the way of life that is associated with territory, its resources, and traditional activities. Article 27 does not place restrictions on cultural activity. However, states may demonstrate that commercial activity, such as cutting timber, is reasonable and justified although it impedes cultural activity. Logging and road construction are two activities that exemplify Quane’s position that states, in their developmental plans and actions, do not always consider important the traditions of indigenous peoples. (Quane, 2005, pp. 671-675)

International agencies recognize the need for indigenous peoples to participate in public affairs, especially regarding the development of lands that affect their cultural and spiritual traditions. Furthermore, these external agencies recognize the right of indigenous peoples, such as the Mbyá, to have internal self-determination. Unfortunately, international recognition of human rights regarding indigenous peoples has a poor history of translation into local policy and action in Misiones Province of Argentina.

**Conclusion**

The story of the Guaraní is one of almost 500 years of unfortunate and exploitative encounters with the yerua that continues today. In Argentina, the land rights and natural resources of the Mbyá are diminishing by the day, along with an increasing loss of their sacred space—the monte. At the same time, the Mbyá are forced into increasing, and sometimes hostile, legal interactions with yerua, who they distrust and wish to avoid. Given the current economic situation, some Mbyá have abandoned their traditional agroforestry practices and semi-nomadic culture and work for yerua landowners in Misiones Province, while others have chosen more limited contact through the sale of handicrafts to tourists. (Martínez, Crivos, & Teves,
Even the Mbyá who continue to live traditionally within the forest increasingly encounter the yerua as lumber corporations move deeper into the Paraná forest. Many of these current encounters and situations have adversely impacted the centuries-old Mbyá culture and economy. Cinco Siglos Igual.

Personal Communication

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Penny Seymoure is Director of the Neuroscience Program and an Associate Professor of Neuroscience and Psychology at Carthage College in Kenosha, Wisconsin. She held postdoctoral fellowships with the University of Colorado Health Science Center and the University of Denver. She was also a research consultant at the University of Denver. She has two on-going lines of research. She is interested in the long-term cognitive consequences of neonatal intervention on the development of gonadal and stress hormone systems and how adult rodent housing paradigms buffer early adversity. Secondly, she is interested in issues of deforestation of the Paraná forest of Argentina and its impact on the cultural and medical practices of the Mbyá Guarani people, a preliterate rainforest culture with centuries of indigenous knowledge about forest management. She received her B.A. (cum laude) and M.A. (with distinction) from California State University at Stanislaus and her Ph.D. from the University of Illinois at Urbana-Champaign.


The American Society of International Law’s 2006 Humanitarian Law Resolution versus the U.S.-Led Invasion of Iraq and Related Activities

By Paul J. Magnarella

The American Society of International Law (ASIL) held its 100th Annual Meeting in Washington, D.C., March 29 to April 1, 2006, with the theme “A Just World Under Law.” The meeting had a record attendance of over 1,600 and a number of high profile speakers, including U.S. Secretary of State Condoleezza Rice, U.S. Supreme Court Justice Anthony Kennedy, retired U.S. Supreme Court Justice Sandra Day O’Connor, and President of the International Court Justice Rosalyn Higgins. Most special about the meeting, however, was the ASIL membership’s adoption of a resolution on a matter of current public policy. Although the resolution does not name the United States, it constitutes a sharp criticism of Washington’s recent disregard for international humanitarian law (IHL), which encompasses the laws of war, including the treatment of persons in custody as a consequence of armed conflict.

ASIL is not a left-wing, activist organization. It is a nonprofit, nonpartisan, educational membership society, founded in 1906, with the mission of promoting the study of international law and international conduct based on law and justice. The Society’s 4,000 members (from nearly 100 countries) comprise attorneys, academics, corporate counsels, judges, representatives of governments and non-governmental organizations, international civil servants, students, and others interested in international law. Its executive council usually includes current and former U.S. State Department lawyers, judges, law professors, and others not known for public criticism of Washington’s foreign policy and practices. The Society rarely takes a position on international politics. In fact, this was only the eighth time in its 100-year history that it has done so. Many American law professors have been quite open in their criticism of the present U.S. administration’s attitudes toward international law. For example, Professor Barbara Frey of the University of Minnesota School of Law is quoted as saying, “I conclude that this administration has significant contempt for international law. This is shown by its eagerness to set aside international obligations or to reframe its actions in new language and then claim that they are not governed by existing law.” (Frey, 2003)

What follows is the seven-part resolution, with added commentary by this author and others on the IHL principles and U.S. practices that each part appears to address.

1. Resort to armed force is governed by the Charter of the United Nations and other international law (jus ad bellum).

International law governing the initiation of armed force is known by the Latin term jus ad bellum. In his March 7, 2003, legal memo to British Prime Minister Tony Blair on the legality of the invasion of Iraq, British Attorney General Lord Goldsmith succinctly and accurately spells out the main legal requirements for engaging in armed conflict and concludes that the U.S. position does not meet any of them. The pertinent parts of Goldsmith’s memo follow.

... there are generally three possible bases for the use of force: (a) self-defence (which may include collective self-defence);
(b) exceptionally, to avert overwhelming humanitarian catastrophe; and
(c) authorisation by the Security Council acting under Chapter VII of the UN Charter.

Force may be used in self-defence if there is an actual or imminent threat of an armed attack; the use of force must be necessary, i.e., the only means of averting an attack; and the force used must be a proportionate response. . . .

The concept of what is imminent may depend on the circumstances. . . . I am aware that the USA has been arguing for recognition of a broad doctrine of a right to use force to pre-empt danger in the future. If this means more than a right to respond proportionately to an imminent attack (and I understand that the doctrine is intended to carry that connotation) this is not a doctrine which, in my opinion, exists or is recognised in international law. (Goldsmith, 2003)

The British Attorney General goes on to write that “regime change cannot be the objective of [legitimate] military action.” In short, the U.S. invasion of Iraq, without a UN Security Council resolution authorizing the use of military force and absent an imminent threat to U.S. security, violated the UN Charter and international law. Among the many authoritative voices commenting on this issue, was that of the United Nations Secretary-General Kofi Annan who told the BBC that the U.S.-led invasion of Iraq was an illegal act that contravened the UN charter. (BBC, September 16, 2004)

Unfortunately, Attorney General Goldsmith reversed himself, apparently under political pressure, and subsequently told Prime Minister Blair that a U.S.-British invasion of Iraq would be legal. As a consequence of his reversal, Elizabeth Wilmshurst, then a deputy legal adviser in the Foreign Office, resigned. In her letter of resignation, dated March 18, 2003, just one day before the war was launched, she wrote: “I regret I cannot agree that it is lawful to use force against Iraq without a second Security Council resolution...My views accord with the advice that has been given consistently in this office...and with what the Attorney General gave us to understand was his view...” (Third World Network, 2005) British Foreign Secretary Robin Cook also resigned from his post on March 17, 2003, in protest against the 2003 invasion of Iraq, citing the lack of a UN Security Council resolution authorizing the use of military force, the lack of international support for an invasion, and the absence of evidence of weapons for mass destruction in Iraq. (BBC, March 18, 2003)

The UN Charter is a multilateral treaty, whose provisions legally bind the United States, its principal author, and all UN member countries (currently over 190). The Charter outlaws aggressive war. Article 2(4) states that “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” The Charter empowers the Security Council under Chapter VII to authorize the use of armed force against a State that has committed very serious violations of international law and has refused to heed previous UN Security Council warnings to cease its illegal activity. George Herbert Walker Bush, the 41st president of the United States and previously an ambassador to the United Nations (1971–1973), knew this well. He wisely secured a UN Security Council Resolution authorizing the use of military force prior to the 1991 Gulf War in which U.S.-led coalition forces expelled Iraq from its illegal occupation of Kuwait. By contrast, George W. Bush, ordered the 2003 invasion of Iraq without a UN Security Council resolution or other legal justification, and thereby violated international law.
2. Conduct of armed conflict and occupation is governed by the Geneva Conventions of August 12, 1949, and other international law (jus in bello).

Once military action has been initiated, its conduct is subject to the rules of armed conflict or jus in bello. This branch of IHL relies on treaty law as well as customary law. The latter consists of those customary principles of armed conflict that the leaders of most states regard as legally obligatory, even though they may violate them in practice.

After World War II, the International Committee of the Red Cross (ICRC), a private organization headquartered in Switzerland, codified much of then-existing IHL in the four Geneva Conventions of 1949 and their Additional Protocols of 1977. The United States and practically every country on earth have ratified the four Geneva Conventions of 1949. Together, these Conventions list the human rights duties that warring parties have towards the wounded and sick on land or at sea, prisoners of war, and civilians. The Conventions contain a list of grave breaches of IHL that includes: willful killing; torture, or inhuman treatment (including medical experiments); willfully causing great suffering or serious injury to body or health; extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly; compelling a prisoner of war or civilian to serve in the forces of the hostile power; willfully depriving a prisoner of war or protected civilian of the rights of a fair and regular trial; unlawful deportation or transfer of a protected civilian; unlawful confinement of a protected civilian; and taking of hostages.

In its so-called “war on terror,” the Bush administration has repeatedly denied that the Geneva Conventions apply to many of its actions. For example, in a series of legal memoranda written in late 2001 and early 2002, then-White House Counsel, and current Attorney General, Alberto Gonzales advised the president to declare the Afghan Taliban and al-Qaeda forces outside the coverage of the Geneva Conventions. This, he said in a memo dated January 25, 2002, would preserve the U.S.’s “flexibility” in the war against terrorism. (Gonzales, 2002) In sharp reaction to Gonzales’ position, then-Secretary of State Colin Powell and his legal adviser William H. Taft IV sent a memo to Gonzales and presidential advisor Condoleezza Rice arguing that: “[declaring Geneva does not apply] will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general.” (Boorstin, 2004)

Unfortunately, the president accepted Gonzales’ recommendation.

After the capture of al-Qaeda and Taliban fighters and their subsequent detention at Guantanamo Bay, Cuba, Secretary of Defense Donald H. Rumsfeld refused to convene tribunals to determine whether the men were prisoners of war, a requirement of the Third Geneva Convention, dealing with prisoners of war. Article 5 of that Convention states that persons who fall into the hands of the enemy should enjoy the protection of the Convention “until such time as their status has been determined by a competent tribunal.” As of July 2006, the United States had labeled most of its prisoners as “unlawful enemy combatants” not entitled to the protections of the Geneva Conventions and had yet to establish competent tribunals to determine their status in proceedings that afford prisoners due process.

In the case of Hamdan v. Rumsfeld (June 29, 2006), the U.S. Supreme Court ruled that the military commission devised by the Bush administration and convened to try prisoner Hamdan violated in structure and procedure both the Uniform Code of Military Justice and the Geneva
Conventions. The Court also reaffirmed the rights of hundreds of inmates, held without charge at Guantanamo for up to four years, to challenge the legality of their detention in U.S. courts. Suspects brought before the military commission would have had no right to a lawyer, or even to see all the evidence against them. Prosecutors would have been able to introduce evidence obtained by coercion. Hamdan, a Yemeni citizen, was captured in Afghanistan in 2001 and transferred to Guantanamo Bay, Cuba. His attorneys argued that Hamdan was entitled to the full protections of IHL, at least until he was adjudged not to be a prisoner of war in accordance with the due process requirements of the Third Geneva Convention.

Human rights critics of the war claim that among the coalition forces humanitarian law violations, the disregard for civilian deaths and casualties as well as the destruction of civilian homes and infrastructure are especially alarming. For instance, in its study of civilian health in Iraq, Medicine for Peace (MFP), a medical relief and humanitarian organization, found that “the invasion of Iraq by Coalition Forces in March 2003, and the subsequent insurgency, has imposed enormous physical and emotional hardship on the Iraqi people.” Of the twelve Baghdad hospitals the research team surveyed, it found that three had “suffered major bombing damage by Coalition Forces” (MFP). A study by a research team at the Bloomberg School of Public Health at Johns Hopkins University in Baltimore estimated that 100,000 civilians died in Iraq as a direct or indirect consequence of the March 2003 U.S.-led invasion (Rosenthal, 2004). The Bush administration claims not to maintain a count of civilian casualties from the conflict.

The intentional or persistently negligent bombing of residential areas and hospitals violates the Geneva Conventions. “Unintentional collateral damage” cannot be a valid excuse if deaths to civilians and damage to civilian infrastructure are extensive and without sufficient military justification. The Geneva Conventions prohibit military actions, such as “shock and awe,” whose primary purpose is to spread terror among the civilian population. It also prohibits indiscriminate attacks or the use of weapons whose devastation is so widespread that non-combatants and civilian structures will inevitably be adversely affected. Consequently, Amnesty International was quick to condemn the United States and Great Britain for their extensive use of cluster bombs in Iraqi cities. The British Ministry of Defense admitted that British forces dropped Israeli-made L20 155 artillery shells—each of which scatters 49 submunitions over a 50-meter radius. Cluster bombs produce large numbers of unexploded bomblets which effectively turn into land mines, ready to detonate on contact, causing death and injury to anyone who happens upon them, children included. (Moszynski, 2003)

In 2003, the Iraqi information minister, Mohammed Saeed al-Sahaf accused the United States of dropping cluster bombs on a residential area of Baghdad, killing 14 people and wounding 66. And Dr. Sadid Moussawi of Hilla Hospital, 100 km south of Baghdad, reported that 33 Iraqi civilians had been killed and more than 300 wounded in U.S. air raids on a residential area using cluster munitions. A spokesperson for Amnesty International described the U.S. use of cluster bombs in civilian areas as indiscriminate attacks and a grave violation of international humanitarian law. (Amnesty International, April 2, 2003; Michaels, 2003)

Human Rights Watch claims that hundreds of civilian deaths in the U.S.-led invasion of Iraq could have been prevented by abandoning two misguided military tactics: the use of cluster bombs and “decapitation” attempts. Human Rights Watch sent a team of researchers to Iraq between April 29
and June 1, 2003, to investigate civilian casualties and damage to civilian infrastructure. The team focused on the main areas of fighting in the Tigris and Euphrates river valleys. The team concluded that the use of cluster munitions in populated areas caused more civilian casualties than any other factor in the coalition’s conduct of major military operations in March and April, 2003. U.S. and British forces used almost 13,000 cluster munitions, containing nearly 2 million submunitions, that killed or wounded more than 1,000 civilians.

The team also charged that the fifty strikes or attempts to “decapitate” top Iraqi leaders failed to kill any of the intended targets, but instead killed dozens of civilians. On April 7, 2003, a “decapitation” attack, apparently targeting Saddam Hussein on the basis of a satellite phone intercept, killed 18 civilians and destroyed three homes in the Mansur neighborhood of Baghdad. Residents said there was no evidence that Saddam Hussein or any members of the Iraqi government had been there. (Human Rights Watch, 2003) The Human Rights Report also examines violations of international humanitarian law by Iraqi forces, including use of human shields, abuse of the Red Cross and Red Crescent emblems, use of antipersonnel landmines, and placement of military objects in mosques and hospitals.

British Foreign Secretary Robin Cook had anticipated the high number of civilian casualties that a U.S.-British invasion would cause. In his resignation speech to the House of Commons just prior to the invasion, he said, “None of us can predict the death toll of civilians from the forthcoming bombardment of Iraq, but the U.S. warning of a bombing campaign that will 'shock and awe' makes it likely that casualties will be numbered at least in the thousands.” (BBC News. March 18, 2003)

3. Torture and cruel, inhuman, or degrading treatment of any person in the custody or control of a state are prohibited by international law, from which no derogations are permitted.

Human Rights Watch and other human rights organizations have maintained that prisoners in U.S. custody in Iraq and Afghanistan have experienced beatings, prolonged sleep and sensory deprivation, forced nakedness, and humiliation from as early as 2001. Cases of torture and inhuman treatment had been extensively documented by the ICRC and by journalists at numerous locations in Iraq, besides Abu Ghraib. In other parts of the world, detainees in U.S. custody have been “disappeared” or “rendered” to countries where torture is routine. (Human Rights Watch, April 2005)

Torture and cruel and inhuman treatment of persons in custody are prohibited by both conventional and customary international law. Article 3 common to the four Geneva Conventions of 1949 makes it clear that “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment, and torture” as well as “outrages upon personal dignity, in particular humiliating and degrading treatment” are banned under any circumstances. Article 17 of the Third Geneva Convention states that “No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever.” Article 31 of the Fourth Geneva Convention prohibits the same kind of treatment against civilians.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by the United States, is even more expansive. It defines torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for
such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (Art. 1). The Convention also states that “No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture” Art 2(2). In January 2005, however, Attorney General-designate Alberto Gonzales wrongly claimed in a written response during his confirmation hearings that CAT’s prohibition on cruel, inhuman or degrading (CID) treatment does not apply to U.S. personnel in the treatment of non-citizens abroad! (Lichtblau, 2005)

According to the ICRC, U.S. forces have used interrogation techniques including hooding, stripping detainees naked, subjecting them to extremes of heat, cold, noise and light, and depriving them of sleep, all of which violate the Geneva Conventions and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This apparently routine infliction of pain, discomfort, and humiliation has escalated in many cases into vicious beatings, sexual degradation, sodomy, near drowning, and near asphyxiation. Detainees have died under questionable circumstances while incarcerated. (ICRC, 2004)

4. Prolonged, secret, incommunicado detention of any person in the custody or control of a state is prohibited by international law.

The 1949 Geneva Conventions on Prisoners of War and Civilians call for the humane treatment of persons in detention or imprisonment, including, the right of the ICRC to visit those detained or imprisoned. According to press reports, however, the United States has been involved in secret “extraordinary renditions,” that is, transfers of detainees, without recourse to the regular legal procedures of extradition, removal, or exclusion, to countries that are known to use torture and abusive interrogation tactics to extract information. (Mayer, 2005)

According to a briefing paper issued by the New York University School of Law’s Center for Human Rights and Global Justice, “the usual destinations for rendered suspects are reported to be States such as Egypt, Jordan, Morocco, Saudi Arabia, Yemen, and Syria, all of which have been implicated by the U.S. State Department in using torture in interrogation.” (Center for Human Rights and Global Justice, 2005) In July 2006, the European Parliament adopted an interim report that agrees with earlier findings by the Council of Europe that European states were complicit in alleged incidents of U.S. CIA extraordinary rendition. The report criticizes European states for complying with CIA efforts to seize illegally European and other suspects on European territory. The European Parliament report accuses the CIA of violating fundamental rights protected by international law. (Pantesco, 2006)

In its briefing paper, NYU’s Center for Human Rights and Global Justice listed the following international instruments applicable to Extraordinary Rendition:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
- International Covenant on Civil and Political Rights (1966);
- Convention relating to the Status of Refugees 1951 and its Protocol;
- Geneva Convention relative to the Treatment of Prisoners of War 1949 (Geneva III), and

The Center explains that these treaties, together with customary international law, place three legal obligations on States:

1) the prohibition on torture, and to varying degrees, on cruel, inhuman or degrading treatment;
2) the prohibition against the refoulement, or transfer, of an individual to another State where that individual faces the risk of torture; and
3) the legal obligation to prevent, criminalize, investigate and punish acts of torture, conspiracy in torture, and the aiding and abetting in acts of torture. (Center for Human Rights and Global Justice, 2005)

5. Standards of international law regarding treatment of persons extend to all branches of national governments, to their agents, and to all combatant forces.

Douglass W. Cassel of Northwestern University School of Law’s Center for International Human Rights interprets the implicit message of this provision to be that “neither the CIA nor private contractors are exempt from rules against torture and mistreatment. Nor, for that matter, are Al Qaeda and other terrorist groups who kidnap and behead people in Iraq and Afghanistan.” (Cassel, 2006)

An estimated 20,000 armed private security contractors work in Iraq. Most are employed by Blackwater, Aegis, and Erinys security firms. U.S. military officials have expressed concern about the extent to which private contractors engage in open fire. (Tyson, 2005) The increasing reliance on outsourcing military functions in Iraq raises important questions about accountability and the chain of command. Retired Marine Col. Thomas X. Hammes, who served in Iraq in early 2004, commented to PBS’s Frontline on the Blackwater security guards hired to protect Paul Bremer, the former head of the Coalition Provisional Authority. “They had to be very aggressive,” he said, “and each time they went out they had to offend locals, forcing them to the side of the road, being overpowering and intimidating, at times running vehicles off the road, making enemies each time they went out.” (PBS, 2005)

Journalist James Conachy writes that, “among those who were torturing Iraqi prisoners at Abu Ghrail prison near Baghdad were contractors employed as interrogators and translators. . . . The mercenaries in Iraq have complete immunity from Iraqi law under an edict issued by the U.S. Coalition Provisional Authority.” He charges that “Mercenaries provide the Bush administration with a supply of hired killers to carry out the dirtiest aspects of colonial repression—from torture to provocations and assassination—which it would prefer the military was not directly involved in.” (Conachy, 2004)

In November 2005, Sean Rayment, defense correspondent for UK’s Telegraph.com, reported that a “trophy” video appearing to show Aegis Defence Services security guards in Baghdad randomly shooting Iraqi civilians sparked two investigations after it was posted on the internet. “There is concern,” he writes, “that private security companies, which are not subject to any form of regulation either in Britain or in Iraq, could be responsible for the deaths of hundreds of innocent Iraqis.” (Rayment, 2005)

Phillip Carter writes that, “The Coalition Provisional Authority has decreed that contractors and other foreign personnel will not be subject to Iraqi criminal processes. Yet, there’s also no clear mandate for American jurisdiction.” He explains that “The Uniform Code of Military Justice’s jurisdictional article (10 U.S.C. Section 802) provides that ‘In time of war, persons serving with or accompanying an armed force in the
field’ may be tried by a military court, but there’s little precedent for military trials of civilian contractors who behave badly in a war zone…. The legal murkiness helps shield the contractors from effective discipline.” (Carter, 2004)

Mary Ellen O’Connell, a professor at Notre Dame Law School, explains that the law of state responsibility provides the rules for determining when a state has committed a violation of international law. “The conduct of a person or group of persons shall be considered an act of a State under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that State in carrying out the conduct.” She goes on to explain that the United Nations General Assembly Resolution on the Responsibility of States for Internationally Wrongful Acts (December 12, 2001) states that international law applies directly to “all combatant forces”—a broad term that encompasses anyone engaged in an armed conflict. (O’Connell, 2006)

Hence, the United States and the United Kingdom share responsibility for the wrongful acts of private security guards that they hire or whose presence in Iraq they facilitate.

6. In some circumstances, commanders (both military and civilian) are personally responsible under international law for the acts of their subordinates.

Under the IHL concept of command responsibility, leaders may be held criminally liable for the acts of their subordinates. Command responsibility extends as high as any officer in the chain of command who ordered his subordinates to commit war crimes or who knew or had reason to know that his subordinates were committing war crimes and failed to act to stop them. Article 86 of Additional Protocol I to the 1949 Geneva Conventions states: “the fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal disciplinary responsibility as the case may be if they knew, or had information which would have enabled them to conclude in the circumstances at the time that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.”

Douglass W. Cassel believes that the implicit message in this provision is that “there ought to be a serious investigation of whether Secretary of Defense Donald Rumsfeld and other senior officials have ‘command responsibility’ for torture and mistreatment of prisoners at Abu Ghraib, Guantanamo and elsewhere.” (Cassel, 2006) One may go further and ask whether George W. Bush and Tony Blair are legally liable under international law for illegally initiating a war by invading Iraq!

7. All states should maintain security and liberty in a manner consistent with their international law obligations.

With this last part of the resolution, ASIL members are advising states that “security issues” are neither sufficient nor necessary reasons for violating treaties and international legal norms. In fact, as recent U.S. experience shows, violating international law by invading Iraq and holding hundreds of prisoners for extended periods of time—many for over four years—without charge, legal counsel, or the ability to communicate with the outside world have not improved security either for Americans or for the Iraqi people whom Bush claimed to rescue. Quite the opposite is true. By December 2006, U.S. military deaths in Iraq approached 3,000, while American causalities, many involving the loss of limbs and/or eyesight, exceeded 46,000. (Iraq Coalition Casualty Count, 2006) These figures top the number of Americans killed and injured in the 9/11 terrorist attacks. Estimates of the number of Iraqis killed in the invasion and during the
subsequent occupation range from 40,000 to over 650,000. (Iraqbodycount.org, 2006; Johns Hopkins Iraq Mortality Study, 2006) Iraqi casualty numbers must be far greater. Each one of these deaths and serious casualties has caused suffering, grief, and hardship for one or more families.

Critics of international law often claim that major powers, such as the United States, can and do commit violations with impunity. Because the United States holds veto power in the UN Security Council, that body is unable to pass any resolution critical of U.S. practice abroad, much less call for the use of military force against the United States, as it did when Saddam Hussein wrongfully invaded Kuwait. Also, no state or group of states would be willing to punish the United States and risk retaliation from the superpower. Even though there is presently no world court capable of trying the United States and successfully demanding a serious penalty for a conviction, the United States has already paid dearly for its unlawful invasion and treatment of prisoners. The death and casualty toll summarized above is part of the penalty. The huge financial cost is another. The total U.S. taxpayer cost of the Iraq War, based on Congressional appropriations, had reached nearly $300 billion dollars by July 11, 2006. (National Priorities, 2006)

This staggering amount, which grows at a rate of about $6 billion a month, could have been used for so many human security or quality of life needs that contemplating the opportunity costs is depressing. Hospitals and health care for the aged and needy; financial aid to aspiring doctors, nurses, teachers, scientists, social workers, police, etc.; better housing and parks; improvements and repairs to roads, bridges, dams, tunnels, levees; an improved and expanded FEMA (Federal Emergency Management Agency) to help citizens avoid or recover from disasters; and last, but certainly not least, a well-funded Federal Department of Peace and Academy of Peace Diplomacy. The last should produce people who can intelligently and effectively resolve or transform potential and actual conflicts by peaceful (not wasteful) means.

In addition to the problems listed above, the United States has lost much of its moral authority in the world. Respected statesmen, such as U.S. Senator Ernest F. Hollings, and internationally recognized human rights advocates, such as William F. Schulz, former executive director of Amnesty International USA, are lamenting this loss. (Hollings, 2004; Schultz, 2006) International polls show that many people throughout the world now regard the United States as the greatest threat to world peace. (Regan, 2006)

Because international law prohibits offensive war by states, the American and Iraqi people could have been saved from much of their current misery and loss if only the Bush administration had simply respected the international legal obligations of the United States.
Notes

1 For more information about ASIL, visit www.asil.org.
2 The resolution can also be found on ASIL’s web site at http://www.asil.org/events/am06/resolutions.html.
3 For the UN Charter and State membership list, see: www.un.org.
4 The four Conventions of 1949 have the following titles: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Convention (III) Relative to the Treatment of Prisoners of War; and Convention (IV) Relative to the Protection of Civilian Persons in Time of War. The full text of each Convention and a list of ratifying States can be found at the International Committee of the Red Cross website: www.icrc.org.

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**Paul J. Magnarella, Ph.D., J.D.,** is Director of Peace and Justice Studies, Warren-Wilson College, Asheville, North Carolina, and a member of the American Society of International Law. He served as Expert-on-Mission with the UN Criminal Tribunal for the Former Yugoslavia (1997). His most recent book—*Justice in Africa* (2000)—received the Association of Third World Studies’ Book of the Year award.
Catholic Social Teaching, Empire, and the Quest for Justice

By John Sniegocki

Catholic Social Teaching (CST) is a tradition consisting of documents and speeches on social issues by Roman Catholic popes and bishops. This tradition contains many resources that provide a strong basis for work on behalf of peace and social justice. Among the themes of CST are critiques of central features of what critics term “empire,” including practices of economic injustice and war. Given the pivotal role that Catholics currently play in the political dynamics of the United States, educating Catholics about the anti-imperial principles of the Catholic tradition seems crucial. As well, I would argue that CST can be a valuable dialogue partner for non-Catholics who seek constructive social change. In this paper, I will first provide a brief overview of some of the central themes of CST, then take a closer look at CST’s views on economic democracy, globalization, and issues of war and peace. Finally, I will explore the question of how well CST gets translated into actual Catholic Church practice.

Central Themes of Catholic Social Teaching

At the core of Catholic Social Teaching are several fundamental affirmations concerning the human person. Foremost among these affirmations is the belief that all persons have intrinsic dignity, a result of being created in the image of God. Also central is the claim that the human person is social by nature. Human dignity can be fully realized and protected only in community. Based upon these beliefs, CST develops a broad, communitarian conception of human rights. Human rights are understood to include not only civil and political rights, such as the right to freedom of speech and freedom of assembly, but also economic and social rights, such as the right to food, housing, education, and health care. (John XXIII, 1963) Depriving any person of the ability to meet their basic needs is to undermine their full participation in community life and to violate their basic God-given human dignity.

CST grounds its arguments concerning human rights both in natural law (derived from human reason and therefore accessible to all) and in the witness of Scripture. Throughout the biblical texts, for example, a strong emphasis is placed upon the obligation to

1 An earlier version of this paper was presented at the 2005 annual conference of the Peace and Justice Studies Association held at Goshen College in Goshen, Indiana. The theme of the conference was “In Solidarity: Engaging Empire in Activism, Education, and Community Strategies.” For good discussion of the responsibilities of Christians in the context of the current “empire” of the United States, see Nelson-Pallmeyer, 2005.

2 Along with these rights come corresponding duties, such as the duty to work if physically and mentally capable of doing so. According to CST, this implies at the same time an obligation of society and the state to make sure that employment at just wages is available for all who are capable of work. If employment is not available, there is an obligation to guarantee that the basic needs of these unemployed persons are nonetheless met. Emphasized also is the duty to employ private property in service of the common good, a principle which places limits on the right to private property. See John XXIII, 1963, nos. 11, 13, 18-22. Note: The Catholic Social Teaching documents are generally cited by section number (no.) rather than page number (p.), since pagination differs depending on printing format. Most of the major CST documents can be found in O’Brien and Shannon, 1992.
of society to meet the basic needs of the poor. This is strikingly evident, for example, in the Sabbath Year and Jubilee Year provisions of the Hebrew Scriptures (what Christians often term the “Old Testament”). These Sabbath and Jubilee provisions call for the redistribution of wealth to be structured into the laws of society. Every seventh year, for example, there is to be forgiveness of debts and release of servants/slaves, and every forty-ninth or fiftieth year there is to be redistribution of land. (See Deut 15, Lev 25) The contemporary global “Jubilee” movement for Third World debt relief takes its inspiration from these biblical texts. The intention of these redistributive measures was to maintain relative equality among the Israelite people and to guarantee that no one became permanently poor or marginalized. When the Israelite leaders strayed from this social vision of the covenant, the biblical prophets repeatedly arose and called on them to repent and to do justice, reminding them that God has compassion for those who suffer. In addition to being central to the Hebrew Scriptures, Jubilee-related themes and concern for the poor likewise play very central roles in the teaching and ministry of Jesus in the New Testament. This can be seen, for example, in Jesus’ inaugural sermon in the Gospel of Luke. In this sermon, in which he summarizes the purpose of his ministry, Jesus proclaims that he has been anointed by God’s Spirit to “bring glad tidings to the poor. He has sent me to proclaim liberty to captives..., to let the oppressed go free, and to proclaim a year acceptable to the Lord.” (Lk 4:18-19) According to biblical scholars, the phrase “year acceptable to the Lord” was a reference to the year of Jubilee.\(^3\)

In order to realize in practice the biblically-inspired vision of human rights that CST sets forth, the CST documents emphasize the need for both economic and political democracy. They repeatedly warn of the ways in which concentrated economic power and concentrated political power serve to undermine basic human rights and human dignity. On this basis, as we will see, CST develops a sharp critique of current forms of economic globalization. CST also stresses that respect for human rights, broadly conceived, is essential for the establishment of authentic and lasting peace. As Pope Paul VI famously stated, “If you want peace, work for justice.” (Paul VI, 1972)

**Catholic Social Teaching and Economic Democracy**

Economic democracy refers to a more equitable (though not fully equal) distribution of wealth, along with significantly increased worker and community participation in economic decision-making. In its most concentrated form, economic democracy can be seen in worker-owned cooperatives, member-owned credit unions, and similar enterprises. Support for these cooperative enterprises has deep roots in CST. This support was reiterated by Pope John Paul II, who stressed the need to “promote real economic democracy.” By supporting cooperatives and small and medium-scale businesses, and by putting in place adequate governmental regulation of markets, John Paul hoped that it would become possible to defend the dignity of the human person from what he termed the “inflexible laws of capital” and from “a market that is always in danger of forgetting that the goods of creation are meant for all.” (John Paul II, 1998b)

In his encyclicals and speeches, Pope John Paul II was consistently very critical of existing forms of capitalism. “[T]he Church, since Leo XIII’s *Rerum Novarum* [in 1891],” John Paul states, “has always distanced herself from capitalist ideology, holding it responsible for grave social injustices....

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\(^3\) For discussion of Jubilee themes in the ministry of Jesus, see Yoder, 1994 and Kinsler, 1999.
I, myself, after the historical failure of communism, did not hesitate to raise serious doubts on the validity of capitalism.” (John Paul II, 1993a) “It is unacceptable,” John Paul declares, “to say that the defeat of so-called ‘Real Socialism’ leaves capitalism as the only model of economic organization.” (John Paul II, 1991, no. 35) The alternative that John Paul calls for recognizes the value of markets, as opposed to Soviet-style central planning. However, in contrast to the concentration of wealth in current market-based systems, John Paul emphasizes the need for wealth to be widely dispersed. “It is the task of nations, their leaders, their economic powers and all people of goodwill,” John Paul declares, “to seek every opportunity for a more equitable sharing of resources.” (John Paul II, 1996, no. 2) John Paul also emphasizes the need for markets to be extensively regulated in order to protect the common good, including the rights of workers, the environment, and consumers. “[T]he market,” John Paul argues, “[must] be appropriately controlled by the forces of society and by the state, so that the basic needs of the whole of society are satisfied.” (John Paul II, 1991, no. 35) John Paul II’s teachings, building upon the tradition of CST, thus present a fundamental challenge to existing forms of capitalism in which disparities between rich and poor continue to widen and the rights of workers, consumers, and the environment are often inadequately protected.

The tradition of CST repeatedly affirms the integral connection between economic democracy and political democracy. If economic democracy is lacking and wealth is allowed to concentrate in the hands of a few, the grave danger exists that political democracy will also be undermined as concentrated economic power gets translated into concentrated political power, for example through lobbying, bribery, political contributions, corporate control of the media, and the ability of large holders of capital to threaten to move elsewhere if their political demands are not met.Warnings against the dangers of concentrated economic power have a long history in CST. Pope Pius XI, for example, stated in his 1931 encyclical Quadragesimo Anno:

[It] is patent that in our days not alone is wealth accumulated, but immense power and despotic economic domination is concentrated in the hands of a few…. This accumulation of power, a characteristic note of the modern economic order, is a natural result of unrestrained free competition which permits the survival of only those who are the strongest. This often means those who fight most relentlessly, who pay least heed to the dictates of conscience…. Free competition, and especially economic domination, must be kept within definite and proper bounds, and must be brought under effective control of the public authority…. (Pius XI, 1931, nos. 105, 107, 110)

Pope Paul VI in his 1971 encyclical Octogesima Adveniens expressed particular concern about the concentrated power of multinational corporations:

We can see new economic powers emerging, the multinational enterprises...which are largely independent of the national political powers and therefore not subject to control from the point of view of the common good. By extending their activities, these private organizations can lead to a new and abusive form of economic domination on the social, cultural, and even political level. (Paul VI, 1971, no. 44)

Pope John Paul II reaffirmed these critiques of concentrated economic power and stressed the need to challenge those sinful structures of the global economy that perpetuate poverty and inequality:
One must denounce the existence of economic, financial, and social mechanisms which, although they are manipulated by people, often function almost automatically, thus accelerating the situation of wealth for some and poverty for the rest. These mechanisms, which are maneuvered directly or indirectly by the more developed countries, by their very functioning favor the interests of the people manipulating them. (John Paul II, 1987, no. 16)

Catholic Social Teaching and Neoliberal Globalization

What implications does Catholic Social Teaching’s emphasis on economic democracy have in our contemporary context of economic globalization? Current forms of globalization, generally termed “neoliberal” or “corporate” globalization, center upon practices of “free trade” and the implementation in Third World countries of “structural adjustment policies” designed by the International Monetary Fund (IMF) and the World Bank. Many Third World nations have been required to implement these structural adjustment policies as a result of their accumulation of external debt. Catholic Social Teaching has expressed serious concerns about both free trade and structural adjustment, arguing that these policies have consistently led to widening of the gaps between rich and poor, violation of the rights of workers, increased social conflict, and increased ecological damage.

With regard to free trade, CST has long expressed concern that free trade can contribute to the creation of an “economic dictatorship” by undermining the interests of workers, small farmers, small businesses, and the local industries of poor nations. “[T]he rule of free trade, taken by itself,” said Pope Paul VI,

\[\text{can produce unfair results...} \]

\[\text{[A]n economy of exchange can no longer be based solely on the law of free competition, a law which, in its turn, too often creates an economic dictatorship. Freedom of trade is fair only if it is subject to the demands of social justice. (Paul VI, 1967, nos. 58-59)}\]

Similarly, CST has been critical of the impact of structural adjustment policies. These policies typically stress intensification of production for export (in part to maximize the foreign exchange available for debt repayment) rather than production to meet local needs. This has often seriously hurt small farmers and has contributed in numerous cases to rising levels of hunger and malnutrition. Reductions in government spending have also been required. This reduced spending has contributed to increased unemployment and has often resulted in decreased funding for education and health care. Many Third World governments spend much more on debt payment than on basic services for their own population. Governmental subsidies and price controls have also typically been eliminated in the name of free markets as part of structural adjustment, often resulting in major increases in the cost of basic items such as food, public transportation, and the inputs needed by small farmers. Governmental credit to small farmers and small businesses has been restricted or eliminated. Privatization of basic services has often increased costs and reduced accessibility for the poor.\[\text{5}\]

Speaking of the impact of structural adjustment and related neoliberal economic policies, Pope John Paul II states:

\[\text{4 For good discussion of free trade and its impacts, see Madeley, 2000.}\]

\[\text{5 For detailed discussion of structural adjustment policies, see SAPRIN, 2004.}\]

Excellent case studies exploring the negative impacts of structural adjustment policies on the health of the poor throughout the world can be found in Kim, et al., 2000.
Various places are witnessing a resurgence of a certain capitalist neoliberalism that subordinates the human person to blind market forces.... From its centers of power, such neoliberalism often places unbearable burdens on less favored countries.... In the international community, we thus see a small number of countries growing exceedingly rich at the cost of the increasing impoverishment of a great number of other countries; as a result the wealthy grow ever wealthier, while the poor grow ever poorer. (John Paul II, 1998a, p. 177)

The pope also strongly criticizes neoliberal capitalist policies in his 1999 document *Ecclesia in America*:

More and more, in many countries of America, a system known as ‘neoliberalism’ prevails; based on a purely economic conception of man, this system considers profit and the law of the market as its only parameters, to the detriment of the dignity of and the respect due to individuals and peoples. At times this system has become the ideological justification for certain attitudes and behavior in the social and political spheres leading to the neglect of the weaker members of society. Indeed, the poor are becoming ever more numerous, victims of specific policies and structures which are often unjust. (John Paul II, 1999a, no. 56)

While expressing hope that economic globalization conducted according to ethical standards could have positive impacts, the pope expresses deep concern about globalization that is guided primarily by market forces:

If globalization is ruled merely by the laws of the market applied to suit the powerful, the consequences cannot but be negative. These are, for example, the absolutizing of the economy, unemployment, the reduction and deterioration of public services, the destruction of the environment and natural resources, the growing distance between rich and poor, unfair competition which puts the poor nations in a situation of ever increasing inferiority. (John Paul II, 1999a, no. 20)

What kinds of policy changes does CST call for with respect to economic globalization? One of the primary reforms called for is substantive debt relief for Third World nations. “It is not right,” Pope John Paul II says, “to demand or expect repayment when the effect would be the imposition of political choices leading to hunger and despair for entire peoples. It cannot be expected that the debts which have been contracted should be paid at the price of unbearable sacrifice.” (John Paul II, 1991, no. 35)

Other specific policy suggestions made by CST include the need for trade rules that protect the rights of workers and the environment, mechanisms to ensure fair prices for Third World commodities, land reform, more progressive systems of taxation, measures to protect and support small and medium-sized farms and businesses, decreased military spending, increased spending on basic education and health care, and increased levels of thoughtfully designed aid meant to empower grassroots efforts for change. (Paul VI, 1967, nos. 43-65; John Paul II, 1987, nos. 43-45) Rather than a “trickle-down” model of economic development based on prioritizing the interests of local elites and foreign corporations, CST emphasizes what has been termed a “bubble-up” model, one which places priority upon effectively utilizing local resources and capacities and which views a more equitable internal distribution of wealth as being a primary catalyst for more just, ecologically sustainable forms of economic development.6 Development

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6 For reference to a “bubble-up” approach to economic development, see Collins, Lappé, and Rosset, 1998, p. 119.
that includes attention to justice, ecological sustainability, and other values beyond economic growth is referred to in CST as “integral development.” (Paul VI, 1967, no. 14) These policy changes favoring greater equity and placing priority upon the well-being of the poor would of course meet significant resistance from entrenched economic interests, as Pope John Paul II acknowledges: “The Holy See is fully aware of the difficulties of devising concrete mechanisms for the proper regulation of globalization, not least because of the resistance that such regulation would meet in certain quarters.” (John Paul II, 2003) Implementation of CST therefore also implies the need for broad-based, grassroots nonviolent struggle to create the conditions under which such policies could be enacted.  

Catholic Social Teaching on War, Peace, and Nonviolence

Catholic Social Teaching, as we have seen, strongly challenges empire in the form of economic domination. It likewise challenges empire in the form of military domination. It rejects notions of preventive war, calls for significant decreases in military spending, emphasizes the importance of international law and the United Nations, and stresses the power of active nonviolence to overcome injustice. Especially during the papacy of Pope John Paul II, official Catholic teaching has articulated a nearly complete rejection of war, expressing profound skepticism that any modern war could meet the criteria for a just war. 

Throughout his papacy, John Paul II was a prominent critic of war. His condemnations of the Persian Gulf War of 1991 and of the ongoing war in Iraq are perhaps the most well-known examples of his opposition to war, though his rejection of war was expressed in many other contexts as well. One of the most striking features of John Paul’s statements on war is that he frequently sounds like a pacifist, expressing broad critiques of war and violence:

Peace never requires violence.... Especially those who come from countries whose soil is stained with blood know well that violence constantly generates violence. War throws open the doors to the abyss of evil.... This is why war should always be considered a defeat: the defeat of reason and of humanity.... War never again! I was convinced of this in October 1986 when I asked people belonging to all religions to gather side by side to invoke God for peace. I am even more convinced of it today. (John Paul II, 2004)

Recent history clearly shows the failure of recourse to violence as a means for resolving political and social problems. War destroys, it does not build up; it weakens the moral foundations of society and creates further divisions and long-lasting tensions.... How often have my Predecessors and I myself called for an end to these horrors! I shall continue to do so until it is understood that war is the failure of all true humanism. (John Paul II, 1999b)

It is essential, therefore, that religious people and communities should in the clearest and most radical way repudiate violence, all violence. (John Paul II, 2002)

When, as in Iraq in these days, war threatens the fate of humanity, it is even more urgent to proclaim with a strong and decisive voice that peace is the only path for building a society which is more just and marked by solidarity. Violence and
While, in these passages, Pope John Paul II appears to be expressing pacifist sentiments, proclaiming moral opposition to all war and violence, he did not in fact use this pacifist label in describing his own views. Instead, he considered his opposition to war to be based in a strict interpretation of just war principles as applied to our present context. For example, while acknowledging the right of self-defense by “proportionate” means, John Paul questioned whether modern warfare could meet this criterion of proportionality. For him, there are too many negatives involved, which outweigh any good a war may achieve. These negative consequences of war include especially the killing of civilians, the destruction of infrastructure, the waste of funds that could be used to meet the needs of the poor, the destruction of the environment, the psychological and spiritual impacts of killing on those who kill, and the cycles of animosity and desire for vengeance that wars fuel. Reflecting upon the Persian Gulf War of 1991, for example, John Paul stated:

I, myself, on the occasion of the recent tragic war in the Persian Gulf, repeated the cry: Never again war! No, never again war, which destroys the lives of innocent people, teaches how to kill, throws into upheaval even the lives of those who do the killing and leaves behind a trail of resentment and hatred, thus making it all the more difficult to find a just solution of the very problems which provoked the war. (John Paul II, 1991, no. 52)

Similar comments on the negative impacts of war and on the failure of war to solve problems were made in John Paul’s 1993 World Day of Peace message:

Recourse to violence, in fact, aggravates existing tensions and creates new ones. Nothing is resolved by war; on the contrary, everything is placed in jeopardy by war. The results of this scourge are the suffering and death of innumerable individuals, the disintegration of human relations and the irreparable loss of an immense artistic and environmental patrimony. War worsens the sufferings of the poor; indeed, it creates new poor by destroying means of subsistence, homes and property, and by eating away at the very fabric of the social environment…. After so many unnecessary massacres, it is in the final analysis of fundamental importance to recognize, once and for all, that war never helps the human community, that violence destroys and never builds up, that the wounds it causes remain long unhealed, and that as a result of conflicts the already grim condition of the poor deteriorates still further, and new forms of poverty appear. (John Paul II, 1993b - emphasis in original)

In addition to a strict interpretation of the just war criterion of proportionality, Pope John Paul II also highlights important issues related to the just war criterion of last resort. In particular, the pope argues that the efficacy of nonviolence in defending violated rights shows that recourse to violence is often not truly the only remaining option. This emphasis on nonviolence comes to the fore in John Paul’s thought especially after the successful nonviolent overthrow of the communist regimes of Eastern Europe, in which his own support for the Solidarity movement in Poland played an

8 This quote can be found on the U.S. Catholic bishops’ website at http://www.usccb.org/sdwp/peace/quotes.htm.
9 For more in-depth discussions of Pope John Paul II’s views on war, see Sniegocki, 2006 and Christiansen, 1999.
important role. The end of communism, John Paul states, was brought about by the nonviolent commitment of people who, while always refusing to yield to the force of power, succeeded time after time in finding effective ways of bearing witness to the truth. This disarmed the adversary, since violence always needs to justify itself through deceit, and to appear, however falsely, to be defending a right or responding to a threat posed by others. I pray that this example will prevail in other places and other circumstances. May people learn to fight for justice without violence, renouncing class struggle in their internal disputes and war in international ones. (John Paul II 1991, no. 23)

“Those who have built their lives on the value of non-violence,” John Paul declares, “have given us a luminous and prophetic example.” (John Paul II, 2000, no. 4) In addition to the success of nonviolence in Eastern Europe, the pope could also have cited numerous other cases from the past couple of decades in which mass nonviolent action has brought about the end of repressive, dictatorial regimes. Using methods such as strikes, boycotts, refusal to carry out orders, and mass nonviolent intervention, oppressive regimes have been removed from power in countries such as the Philippines, South Africa, Chile, Serbia, Uruguay, Bolivia, and numerous others. Indeed, never has the historical evidence for the power of nonviolent action been stronger.\(^\text{10}\)

While strongly rejecting “war,” it should be noted that Pope John Paul II did leave open the possibility of some use of force in the form of humanitarian intervention to prevent massive human rights abuses such as genocide. Any such use of force, however, would need to adhere to very strict guidelines (especially concerning noncombatant immunity), would need to be limited in scope, and would need to be conducted “in full respect for international law, guaranteed by an authority that is internationally recognized.” (John Paul II, 2000, no. 11) In other words, the pope seems to be envisioning some type of UN-authorized peacekeeping mission. Significantly, such an envisioned use of force never seems to be described by John Paul as “war,” but appears rather to be viewed as constituting a separate category, perhaps better thought of in terms of “international policing.” There is therefore no contradiction, in John Paul’s mind, between his strong rejection of war and his support for limited, UN-authorized multilateral use of force to prevent genocide or other massive violations of human rights.

The United Nations plays a major role overall in CST reflections on war and peace. Pope John XXIII, for example, in his landmark 1963 encyclical *Pacem in Terris* (“Peace on Earth”) emphasized the need for a democratically established “worldwide political authority” with the power to intervene to prevent war and to address the social inequities that often lie at the root of wars. (John XXIII, 1963, nos. 137-141) This emphasis on the need for a worldwide political authority continued in the thought of John Paul II. In practice this has primarily meant a call for a strengthening of the United Nations, with an expansion of capacities in areas such as peacemaking/peacekeeping, economic justice, and ecological regulation, along with a general call for increased respect for international law.\(^\text{11}\)

\(^{10}\) For several excellent books exploring the theory and history of nonviolent action, especially the history of nonviolence in the 20th century, see Sharp, 2005, Ackerman and Duvall, 2000, Asher, et al., 1999.

Recent Catholic teaching on issues of war and peace thus presents a strong challenge to empire. Catholic teaching articulates a very strong presumption against all war, firmly rejects any notion of so-called preventative war, stresses the important roles to be played by the United Nations and international law in the building of peace, and places growing emphasis on the power of active nonviolence.

In addition to emphasizing pragmatically that nonviolence can be very effective as a response to injustice, Pope John Paul II stresses that morally it is the approach most in accord with the teaching of Jesus. “Violence is a lie,” John Paul powerfully states, “for it goes against the truth of our faith, the truth of our humanity...; do not believe in violence; do not support violence. It is not the Christian way. It is not the way of the Catholic Church. Believe in peace and forgiveness and love, for they are of Christ. Yes, the Gospel of Christ is a Gospel of peace: ‘Blessed are the peacemakers; for they shall be called children of God.’” (John Paul II, 1980, no. 10)

Conclusion: CST and the Public Witness of the Catholic Church

In this paper we have seen various ways that Catholic Social Teaching presents a fundamental challenge to empire. These have included CST’s affirmations of economic rights and economic democracy, its critique of current forms of economic globalization, its profound critique of war, and its strong emphasis on the importance of international law and international organizations such as the United Nations. Numerous other issues could be added to this list, such as an increasingly strong concern for ecological issues and emphasis on the need for major lifestyle changes on the part of the world’s wealthy.

While enormous potential thus exists in the Catholic tradition for Catholics to play a leading role in opposition to empire, this potential has not yet been fully realized. Many Catholics, sadly, are not adequately aware of these teachings. While almost all Catholics and even most non-Catholics know of the Catholic Church’s official teachings in opposition to abortion and to artificial contraception, for example, only a minority are aware of the Catholic Church’s critique of capitalism, its embrace of economic democracy, and the depth of its official opposition to war. This is due, in part, to the failure of the church to stress these issues sufficiently in Catholic educational processes, something that the U.S. Catholic bishops recently acknowledged and called to be remedied. (NCCB, 1998) Accompanying this lack of

12 Some have suggested that a development similar to that which took place concerning Catholic teaching on capital punishment may be taking place on the issue of war, i.e. the legitimacy of these practices is not inherently denied, but their appropriateness in our contemporary context is rejected. Very significantly, one person who has put forth such an argument is Cardinal Joseph Ratzinger, now Pope Benedict XVI. In the context of expressing his opposition to the war in Iraq in May of 2003, Cardinal Ratzinger stated: “There were not sufficient reasons to unleash a war against Iraq. To say nothing of the fact that, given the new weapons that make possible destructions that go beyond the combatant groups, today we should be asking ourselves if it is still licit to admit the very existence of a ‘just war.’” For a transcript of the interview in which Cardinal Ratzinger made these comments, see http://www.zenit.org/english/visualizza.php?sid=34882.

13 Cardinal Ratzinger, for example, prior to becoming Pope Benedict XVI, emphasized that the notion of preventative war was not compatible with Catholic teaching. See discussion of Cardinal Ratzinger’s comments in Zwick, 2003.

14 The pope is citing here some lines from a very powerful homily that he gave in Ireland in 1979. These lines are repeated in his message for World Day of Peace 2005. For the full text of his homily in Ireland, see http://www.ireland.com/focus/papaldeath/drogheda.htm.
awareness has been a failure of church leaders at times to follow up seriously on the implications of their own teaching in these areas. For example, prior to the start of the current war in Iraq, the U.S. Catholic bishops sent a public letter to President Bush stating their belief that an initiation of war against Iraq would not meet the criteria for a just war. (Gregory, 2002) Pope John Paul II sent a personal envoy to President Bush to convey the same message. Since the war started, however, the leadership of the Catholic Church has generally not spoken out concerning the participation of Catholic soldiers in the war. If the war is unjust (as numerous church statements clearly suggest), one would expect calls by the pope and bishops for Catholics to consider refusal to participate in the war and public pledges of support by the Church for those soldiers who do refuse to take part for reasons of conscience. Such measures would seem to be necessary components of a serious application of the Church’s own teachings concerning the failure of the war to meet the criteria for justification. With rare exceptions, however, such statements have not been forthcoming. When this consistent follow-up is lacking, it is not surprising that many Catholics are either unaware of the teachings or of their importance.

Despite these weaknesses in the realm of application, the potential for the Catholic Church as an institution and for Catholic groups and individuals to play a transformative role in the quest for justice and peace is strong. There is much richness and depth of insight in the Catholic Social Teaching tradition which can be drawn upon and to which church leaders can be held accountable. Even when these leaders themselves have not been in the forefront of the struggles for justice and peace, many other Catholics, inspired in part by the CST tradition, have been. In the United States, for example, these witnesses to CST have included, among others, Dorothy Day and the Catholic Worker movement, Daniel and Philip Berrigan, Thomas Merton, Sr. Helen Prejean, Cesar Chavez, and a high percentage of participants in social movements such as the Central America solidarity movement (including the Sanctuary movement of the 1980s), the anti-nuclear Plowshares actions, farmworkers’ struggles, the struggle for immigrant rights, and the ongoing movements to close the School of the Americas and to reshape U.S. foreign policy. Helping Catholics and others to be more aware of this rich tradition and to more fully embody its values could play an important role in the quest for social justice and peace throughout the world in the years ahead, especially here in the United States at the heart of the current American empire.

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**John Sniegocki is Assistant Professor of Theology and Peace Studies at Xavier University in Cincinnati, Ohio. He received his Ph.D. in Christian Ethics from the University of Notre Dame. His main areas of academic interest include Catholic Social Teaching, globalization, world hunger, the ethics of war and nonviolence, environmental ethics, and Buddhist-Christian dialogue.**
Violence and Amoral Beliefs
By Carlo Filice

Violence and Amoral Beliefs
I will assume in this paper that there is such a thing as the moral point of view. What exactly it encompasses may be disputed. I suggest the following propositions for inclusion in the moral point of view: (A) that all humans have equal moral status; (B) that the suffering of any being, human or otherwise, is in itself a bad thing (even if it serves a good end); and (C) that any

1 An important contemporary philosopher, Thomas Nagel, observes that the intuition that “objectively no one matters more than anyone else” (equally endowed) constitutes the “basic moral insight.” Thomas Nagel, The View From Nowhere (New York: Oxford University Press, 1986), pp. 205-206. Much the same insight lies behind John Rawls’ now famous work, A Theory of Justice (Harvard University Press, 1971).

Naturally, what it means for people or, more generally, for beings to be “equally endowed” is subject to debate. Confining ourselves to humans, is there some relevant basic trait that renders us all at least initially “equally endowed” so that no one human will initially matter “objectively more than anyone else”? My best guess is that the appropriate trait is that of our fundamental human consciousness. This consciousness is that which produces the distinctive subjective quality of being human (as opposed to being a dog, a tree, or a machine). It is at the base of what makes our life desirable. If, as may be the case, the presence of such a consciousness is not subject to degree, it might provide the basis for moral equality claims.

Naturally, this position stands in need of careful argument. However, this is not the place. I concede that providing the correct account of the metaphysics of value and of personhood has proven to be philosophically difficult and controversial. This difficulty and controversy will also apply to attempts to provide metaphysical underpinnings for claims of moral equality across individuals. I am confident that these underpinnings can be provided.

fair distribution of limited resources and desirable positions must balance freedom and equality in a Rawlsian way—that is, C1, the freedom to have more wealth and better positions, on the part of some, must also help (or at least not harm) those who have less; and, C2, the attainment of more wealth and better positions must occur through an equal opportunity process.

I am confident that people of good will come to agree on some such view as this. However, as a race, we are far from adopting anything close to this moral point of view. We seem, on the contrary, to have deep commitments to what I will call amoral beliefs—value commitments that fall short of the moral point of view. I will argue that such amoral beliefs are, directly or indirectly, among the key causes of much of the mass violence in our world.

My procedure will consist of looking at each of these three constituents of the moral point of view, and show how their partial rejection is linked to massive violence.

Human Equality?
Let us begin with (A), the belief in human equal moral status. Many of us, in practice, do not really accept this equality claim (despite many noble proclamations). This failure to fully accept the equality claim leads to a

2 Additional elements may have to be included to complete the moral point of view. For instance, the Kantian intuition about the absolute inviolability of human individuals (and perhaps also of non-human individuals properly complex psychologically, as Tom Regan has argued) may have to be added. Perhaps the intuition regarding special duties to one’s loved ones may have to be added. But, for present purposes, the stated conditions will do.
number of nasty results linked to large scale violence. Four such results follow.

1) *My people versus your people*. Most humans continue to believe that our particular national, cultural, ethnic, religious, or racial group is so special as to be more deserving than other groups.\(^3\) The case of Rwanda, where the Hutu killers called the Tutsi victims “cockroaches,” is an extreme example of this tendency to dehumanize the enemy group, and thus view one’s own group as superior. However, it is hardly unique.\(^4\) Many other recent conflicts are causally influenced by strong sectarian identifications: ex-Yugoslavia, Sudan, Palestine, Iraq, India, Tibet, Indonesia, Sri Lanka, Russia.

Besides these regional conflicts, there is the violent phenomenon of Islamic “terrorism” against much of the West, countered by the American-led “war on terrorism.” This conflict can also be seen partly in this light. The religious views here involved often present humans as divided between the people of the right faith and the enemies of the faith. The “enemies of the faith” are then seen as less deserving of life.

It is hardly surprising that in virtually all these cases the group actively involved in war-making sees itself as justly responding to a wrong suffered at the hands of the enemy group.\(^5\)

2) *Men versus Women*. Widespread beliefs about the relative initial status of females vis-à-vis males are worth a separate look here. In many richer western countries, traditional beliefs about the inferiority of women are in flux, and may be on the way out. This is not so in many other parts of the world. In these other parts, shared beliefs about the higher status of males is clearly behind extreme practices like female infanticide in China, forced circumcision of millions of African women (often the same women who are later expected to do most of the farm labor that men consider demeaning), and partial house-confinement of women in the most conservative Islamic countries. Less extreme practices, like male-rule within the family and within political and economic institutions in most poorer countries are further testimony to these gender-inequality beliefs. (If more testimony is needed, we could add the prevalence, in poor and rich countries alike, of wife beating and the continued practice of female honor-killing in various countries). The gender-inequality beliefs that underlie these violent practices obviously lack moral foundations. Our continued acceptance of such beliefs shows, instead, our allegiance to amoral beliefs that are based on custom and power.

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\(^3\) While convictions about the specialness of one’s group need not strictly imply disparaging value-judgments about “other” groups, they obviously often have that consequence, particularly during times of group stress.

\(^4\) War journalist Chris Hedges in a book on recent wars writes, “Most nationalist myths, at their core, are racist. They are fed by ignorance. Those individuals who understand other cultures, speak other languages, and find richness in diversity are shunted aside.” Chris Hedges, *War Is A Force That Gives Us Meaning* (New York: Public Affairs, 2002), p. 24.

Hedges also notes, “Patriotism, often a thinly veiled form of collective self-worship, celebrates our goodness, our ideals, our mercy, and bemoans the perfidiousness of those who hate us. Never mind the murder and repression done in our name by bloody surrogates from the Shah of Iran to the Congolese dictator Joseph Desire Mobutu….” Hedges, p. 10.

\(^5\) Chris Hedges writes, “The cultivation of victimhood is essential fodder for any conflict. It is studiously crafted by the state. All cultural life is directed to broadcast the injustices carried out against us … the message that the nation is good, the cause just, and the war noble is pounded into the heads of citizens in everything from late night talk shows to morning news programs to films and popular novels. The nation is soon thrown into a trance from which it does not awake until the conflict ends.” Chris Hedges, *War Is A Force That Gives Us Meaning*, p. 64.
(3) The species versus the individual. Among human groups most allied to modern science there runs a general belief that what counts in nature is the species, not the individual. This can easily generate the view that as long as the well-being of the species or of the healthier sub-species group is assured, particularly if this latter is one’s own group, it matters little that many unlucky individuals perish. There may even be a shared sense that, for Malthusian reasons, we ought not to try very hard to ensure everyone’s well-being. It may, perhaps, be even healthier for the species if the weaker individuals fail to survive. This type of evolutionary perspective, in denying the individual human equality condition (the weak are more expendable), fits easily into the troubling set of amoral group-beliefs. At the very least this perspective can contribute to the more prosperous among us standing by while the more desperate ones suffer and die from human or natural violence.

It might be added here that many secularists view life as at bottom a meaningless struggle aimed at satisfying amoral urges—from which perspective it can become perfectly acceptable for one’s group to seek to prosper at the expense of other groups. This perspective obviously rejects the moral point of view altogether.

(4) The rich versus the poor. Our world is deeply divided along wealth lines. In the wealthy and powerful countries there is a deep reluctance to empower an impartial transnational agency, for example, a more efficient and less corrupt United Nations, to oversee and enforce basic world standards in human rights, working conditions, minimum wages, minimum health, and minimum education access. Not enforcing such standards contributes to various sorts of violence (as we will see).

The right transnational agency could consider some scheme of transnational progressive taxation to help the burden of the poor countries. A global minimum living wage, indexed to local living-costs, could be an obvious first measure to adopt. Unfortunately, one does not find these possibilities discussed in rich countries. Our silence in these areas strikes me as very significant. This silence in rich countries suggests that while democracy (and the welfare state regulations and policies that tend to come with it, to support those at the social bottom) might be warranted among one’s own group, it is not warranted on a global level where foreigners would have to be included as political equals.\(^6\) Needless to say, this attitude—if I read it correctly—fails to embody the moral point of view (both the equal worth condition and the equal opportunity condition).

**Suffering is bad?**

Take, now, the belief that suffering is a bad thing—thus that all unnecessary and avoidable suffering ought not to be caused. This belief is, in practice, also not shared by most humans. Its non-acceptance also leads to serious violence.

The most flagrant example of the failure to accept this belief is manifest in our treatment of animals—those whose capacity for suffering is virtually undeniable. It should be evident that much of the human world would be more efficiently and better fed if it did not rely on the mass-production and killing of billions of sentient animals each year. Our current technology makes this would-be outcome possible. (This point does not even mention the heavy ecological stress that a meat-based human diet inflicts on the planet, given our current numbers.) Yet we continue to rely on the massive “factory farming” of chickens, pigs, and cows, thus inevitably supporting processes of extreme chronic confinement, disease, quick-growth drugs, and violent deaths. Perhaps one could make a moral case...
for the non-abusive use of animals in small farm settings. Such a setting—and the loving interactions with animals it could facilitate—does not apply to the current treatment of mass-produced food animals.

Participating as producers or as willing consumers in such cruel and unnecessary large-scale practices is evidence of the amoral belief that only human suffering counts (or that animal suffering counts a little, but is of morally negligible value; or that it counts significantly, but only when applied to our “pets”).

The possible rejoinder that large-scale meat production is necessary to feed billions of humans is simply untenable. Plenty of humans do well without meat. The variety of soy products available, and the possibility of many other innovative foods that could become available (Quorn is one such recent example) with sufficient will, demonstrates the presence of other feasible food-options. In fact, most experts would agree that a vegetarian diet would put a lot less stress on most land and water resources—given the inefficiencies involved in meat production. It takes considerably fewer plants and other resources to produce a pound of soy protein than it takes to produce a pound of meat protein.

Would there have to be some sacrifice in human taste-enjoyments? Possibly so. However, the vital interest of sentient beings to avoid chronic abuses would seem to outweigh the peripheral interests of humans to enjoy certain unnecessary foods. We surely would not use this taste-sacrifice argument to justify the caging, drugging, and killing of deficient but sentient humans, should the latter option turn out to provide most of us with unique taste-satisfactions! (Besides, good-tasting meat and fish replacements are clearly available these days).

**Fairness in opportunity and distribution?**

Take, lastly, the more complex and controversial belief that any fair distribution of limited resources and opportunities ought to obey Rawlsian-like principles: Some people should be able to acquire more than others, but only so long as their acquiring more involves some process of equal opportunity, and so long as their acquiring and having more also helps to lift the status of the poor and less able.7

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7 For Rawls, a system that accords with this rule is the type of system any of us would choose (say, for our next life) if we were to choose among systems impartially—if we did not know who we would be in the system (this is the famous veil-of-ignorance test). Famous well-meaning thinkers have, of course, objected to this type of principle. I do not think, however, that their objections succeed.

The most famous opponents have been defenders of libertarian morality, like Robert Nozick (Robert Nozick, *Anarchy, State, and Utopia*, Basic Books, 1973). In this view, the welfare state unfairly violates the freedom of (richer) individuals by forcibly taking some of their legitimately acquired wealth through high taxation. As the term libertarianism indicates, a person’s freedom is the key value in this system. Not violating a person’s freedoms (barring cases where she is using it to violate others) is the first and foremost form of respect for that person. So, a legitimate system must not violate individuals by forcing them to share some of their wealth.

The libertarian insight which makes it appealing is that if you and I compete fairly and you win, then I have no right to demand some of the spoils of your victory. This view would apply to the real world if real world wealth (and poverty) had been attained legitimately. But if a precondition for legitimacy is some form of equal opportunity, and thus fair competition, then much of the current individual and family wealth is not legitimate. Is equal opportunity such a precondition? Undoubtedly, yes. Take the stripped down parallel of a poker game or of a monopoly game. Most winners in a poker or monopoly game will not have won fairly if they begin
with ten times the starting amounts of most losers.

Notice that if they start with roughly equal amounts, and some end up with a lot more than others, without cheating, then no one has any right to complain. That would be a case of fair outcome inequality. But any such fair outcome inequality rests on fairness of process. The latter in turn requires equal opportunity (and also not cheating). In the legitimacy game, equal opportunity is logically prior to fairness of outcome. Thus, for the rich winners to claim legitimacy of outcome-wealth, they (or the system) must initially help to produce the equal opportunity condition. This, in practice, means that I may be required to share even the wealth that I legitimately acquire, so that both your children and mine will engage in a somewhat fair competition for the next generation’s wealth, so that in turn their wealth will be legitimately acquired (or legitimately failed to be acquired).

If the current real world wealth is ill-gotten, because it has been achieved through an unequal opportunity process, then there exist additional reasons to redistribute some of it! The short story is that in the real world, where the starting points among children is so outrageously unequal, some redistributive and anti-libertarian demand is more than legitimate. It is mandatory for the purpose of creating a fair game. (Note that we have not even mentioned the special problem, for libertarians, of the naturally and permanently sick or disabled. Those of us who happen to be so unfortunate, and cannot compete equally with the rest, surely have a right to some public support.)

Respect for one’s freedom is a legitimate demand. But this respect is due to everyone—and we would not respect a poor child’s freedom by permitting a socially produced context where that child will face obstacles that are twenty times more difficult to overcome than are the obstacles faced by a rich child. No one would choose such an unbalanced initial-condition system if one did not in advance know that one would be a rich child—the Rawlsian veil of ignorance test comes in handy here.

It is also worthy of note that in an important and balanced recent work, Stephen Nathanson has basically sided with Rawls on the need for some redistribution in

Clearly, as a race, we are far from accepting such a principle (again, in general—let us not forget that within many long-established democratic nations a principle close to this has, in practice, become widely accepted). The equal opportunity provision is flagrantly ignored at the international or global level (sometimes at the national level also). All one needs to do is to look at the vastly disparate health and educational access between most children in the rich world and most children in less developed countries (LDCs) to see this. This fact alone is decisive in showing a rejection (on the part of either the race, or of that subset that has the power to change things) of the fairness condition.

The provision that the wealth of the few must also help the conditions of those at the bottom is also generally violated.

Before I say more here about these more controversial unfairness claims, I need to point out that, if true, these global inequities also help generate systemic types of violence. These types of violence are linked to the desperate poverty that results from an unfair global system of distribution (some may call this economic violence). Among such violent results are the following: the large-scale abandoning of children to a life in the streets where many will suffer various forms of abuse; the large-scale selling of young females for the national and international sex trade, leading to sexual and physical abuse, and to various forms of slavery; the easy recruitment of children into various armies and armed groups; the various economic-based rebellions and repressions that occur whenever the

any just society, as well as for the need for a partly free market economy. He argues for these conclusions using slightly different methods. He makes, for example, less use of Rawls’ veil of ignorance thought-experiment. Yet the outcomes, along with many key intuitions, can only be characterized as Rawlsian. See, Stephen Nathanson, Economic Justice (Prentice-Hall, 1998).
poor organize and demand better conditions; and, of course, the widespread incidence of diseases like AIDS, malaria, and tuberculosis, linked to poverty. In the case of disease, the maiming and killing are carried out by “nature,” but with humans providing the preconditions for these diseases—there is exceedingly less “natural violence” in the richer countries.

Could the defender of the current global free-market system (actually, a very “mixed” economic system) argue that a global, mainly capitalist economy generates a bigger economic pie than would be the case in alternative economic arrangements? Given the bigger pie, might there not be more pieces to share with those at the bottom?

Unfortunately, the lot of the bottom two billion people, who live on less than $3 per day, does not seem to improve much decade after decade (with the current exception for some of the poor of China and India, among others). Whether the fault lies in global arrangements being insufficiently free-market based, or whether they are insufficiently welfare-state based is the key issue here. Perhaps a global free-market system combined with some rough equality of market opportunity might indeed help fix some of these imbalances. However, the initial economic imbalances currently at work make it nearly impossible for most global poor people to compete for market rewards. Such initial disparities include the lack of access to education and health care by hundreds of millions of children at the bottom of our global society.

There need not be anything conspiratorial about this rigged global economic situation. Indeed, there may even be long-term aggregate economic incentives for raising the living standards of most global poor people, since this would increase the aggregate paying demand for food and other products. But, as is well known, market forces tend not to operate according to long-term and aggregate incentives. There is little, if any, market incentive for a private firm to invest for years, and with little or no profit, in the health, education, housing, and feeding of desperately poor people. Generally, investors and producers have other more immediately favorable market and labor options. Thus, in practice, market forces operate according to immediate and private incentives. The result is that, when left alone, the free market can perpetuate global poverty without any planned intention to do so. Vast initial imbalances make this result highly predictable.

It is noteworthy that rich nations have, in effect, figured out over the last two centuries that the naked free market is a productive and yet heartless mechanism that rewards the strong and fortunate ones and punishes the weaker and unfortunate members, even when it works as intended. Accordingly, the rich countries have mitigated the market’s more frightful side-effects by means of regulatory and welfare-state measures that provide assistance for the sick, the helpless, and the environment, and that ensure a modicum of opportunity for all, via public school systems, clean water, public health care, and the like. Free market economies, when combined with democratic political systems, cannot resist the will of vast majorities. These majorities will inevitably vote for such fair and humane (and somewhat Rawlsian) measures.

But, again, the richer countries do not insist on the same protections across national boundaries. Instead, richer democracies have a long history of support for dictatorships in poorer countries, perhaps precisely because dictators are not as likely as democratic forces to mitigate the market’s frightful side-effects and, thus, to interfere with profit-making for the global few. The daily premature death of over 30,000 young children in less developed countries (LDC’s) due to poverty-related diseases, decade after decade, does not
stir most of us into calling for an emergency multi-national coalition to find remedies. One could add that the market’s devastating global side-effects are aggravated by the use of selective and self-serving subsidies on the part of rich countries. Agriculture is a clear example of this. Without agricultural subsidies to the local farmers in North America, Europe, and Japan, farmers in less developed countries might gain significant competitive advantages in the world market.

I speculate that the pertinent amoral belief in this area—the counterpart of the Rawlsian fairness principle—seems to be the belief that each has a right to get whatever he or she can get, so long as the local laws are observed (laws which often are made to serve mostly the interest of the already privileged). The problem is that not cheating in the course of a race is not enough to legitimize the race. The starting points in the race also matter (the equal opportunity principle).

The result of adopting such an amoral property-acquisition belief is a system of global material-economic arrangements that maintains obscene imbalances. These imbalances then lead to the forms of violence previously listed.

**Alternative Explanations**

How might one object to my attempt to view our rejection of the moral point of view as causally linked to massive forms of violence? One cannot deny that the massive forms of violence take place. One could deny that amoral beliefs are its causes, or its final causes. One could, for instance, adopt a deterministic/material view of human history (as, for example, Marx), and blame material/economic forces for both our beliefs and ideologies and for the massive violence. Or one could blame our biology or psychological instinctual make-up (as, for example, Freud) for both our beliefs and for the massive violence. I do not find such deterministic kinds of explanations to be plausible. But I confess to a free will libertarian bias. The latter bias I cannot defend here.

There may also be viewpoints that accept forms of cultural determinisms. Such viewpoints will accept the causal role of amoral beliefs in producing massive violence, but argue that the culture, rather than individual participants, is responsible for beliefs. This view is formally consistent with the view I am proposing here since I have not explicitly argued for individuals being responsible for their beliefs. Again, however, if space permitted, I would argue precisely for our being at least partially responsible for our beliefs.

My intention here is merely to point out some of the options others can take on the issue at hand (short of rejecting the whole idea of the moral point of view, which many have done also).

**Not All of our Group-Beliefs about Values are Amoral**

Even if my belief-based explanation is correct, I do not mean to paint an overly dark picture of human belief-systems. I am aware, as previously indicated, that the types of amoral beliefs I have just listed are often accompanied by more moral human-equality beliefs. After all, perhaps the majority of humans adopt, with various degrees of commitment, religious views that officially sanction aspects of the moral point of view. Also, national and international political bodies, such as the United States and the UN, do espouse basic human-equality claims. Some famous declarations testify to this. I do not think that these religious commitments and political espousals are insincere. However, even if these commitments and espousals are sincere, they can still be viewed as half-hearted.

First, religions themselves are not consistently moral forces. They often help demonize those outside the given religion—a tendency, unfortunately,
that has a very ancient history. Witness how the enemies of the right
faith are portrayed in “sacred” books like the Old Testament and the Koran. Also, most religions outside Buddhism and Jainism tend to disregard the suffering of animals.

Second, international political/moral affirmations, such as the UN Declaration of Human Rights, attract, at best, surface allegiance. If a set of principles like the UN Declaration of Human Rights were taken seriously by world leaders and opinion makers, its provisions would be more commonplace in multinational discussions, and real efforts would be made to apply and enforce them. While negative human rights are often, though inconsistently, put on the global agenda, there is little clamor for global minimum wages, or global minimal educational access, or global minimal health care. There is certainly little clamor for world-government, and even less for one-person one-vote in such a government. Can we fully accept the moral equality of humans without translating this acceptance into some form of political equality among them?

Third, even though we have appropriated the language of individual rights in remarkable ways—in ways that pre-Enlightenment people could only dream of—it is possible for privileged humans to use appeals to such rights in self-serving ways, contrary to the egalitarian spirit behind their conception. For instance, one’s pursuit of legitimate interests, themselves based on individual rights to life, freedoms, and pursuit of prosperity, in a somewhat free-market global context characterized by the unfair competitive inequalities previously discussed, can yield immoral results. A richer person’s innocuous urge to have a good return on one’s investments or to have cheap luxury products (like beautiful cut roses), will outweigh a poor person’s market and political demand for affordable essential products and services, like food, schools, and hospitals. A large-scale farmer in an LDC, say, has a stronger market incentive to produce luxury items for export, like beef or roses, to rich people and to support low taxes and low-tariff trade policies in her own LDC country, than to produce rice and bean products for local poor people who can afford to spend little. Thus, one’s legitimate pursuit of rights-based prosperity can be part of the engine for deprivation and global injustice. The language of individual rights can thus be co-opted for self-serving ends.

These points may not prove the half-heartedness of our allegiance to the human-equality claims that are part of our religious, national, and international declarations, and of our common discourse on “rights.” But they surely point in that direction.

**Hopeful Signs?**

If I am right in contending that much of the violence in our world has its deepest roots in various forms of amoral mass-beliefs, then the deepest solutions are to be sought at the level of consciousness and belief. Do we have what it takes to adopt a more moral and cooperative outlook in a genuine and consistent manner? If so, what steps might

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8 Notice that even if we inject in our discussion of the moral point of view our special duty to family, this will not affect our discussion. This duty applies to both the rich individual and to the poor individual. The poor should have some real shot at providing for their families, too, and should not be precluded from doing so by unfavorable conditions they did not choose.

9 The Kantian inviolability intuition that is behind some accounts of absolute rights is at times (when applied to property rights) used by libertarians to reject Rawlsian calls for partially redistributive measures. Such libertarian appeals would have some moral legitimacy if the current global property imbalances had been acquired by current humans through a process of equal opportunity. This latter equal opportunity condition, however, is not and has not been satisfied in the real world at the global level.
increase the adoption of such an outlook? And are there hopeful signs in this direction?

I cannot hope to answer these questions in this essay. I briefly observe that there have always been moral and spiritual voices calling for beneficence, toleration, brotherhood and sisterhood. This shows that humans can adopt this outlook, though bias, greed, ignorance, and deprivation have to be conquered in the process. Steps to increase the power and reach of moral and impartial attitudes and forces in the world can be taken. The increased visibility and "soft power" of organizations like Amnesty International and Greenpeace is an encouraging trend. The increasing international legal vulnerability of ex-dictators bodes well. The spread of outward democracy in what have been undemocratic societies is another good sign. The small but growing animal-rights movement, and the accent on ecology and the protection of nature and the earth, are positive indicators of a decrease in group self-centeredness and of an increase in moral inclusiveness, even if partly out of self-interest. The partial uniting of centuries-old rivals to form a new Europe shows that past divisions across nations and cultures can be at least partially overcome. Whether these budding signs will produce in the Third Millennium the mass-belief shift I think necessary to turn humans away from all forms of violence, and from conditions conducive to violence, is still to be determined.

It is noteworthy that in pondering the most important ideas of the last millennium, Nobel Prize playwright Wole Soyinka selects as the most important idea that of universal human rights—and its growing acceptance. After affirming some of the same propositions that have been advanced in this paper (minus the cross-species concerns), he finds in the irressistible idea of equal human rights a key source of optimism for the future. He writes:

There is ... a nobler idea that has spread by its own power in this millennium and that has now begun to flourish: the idea that certain fundamental rights are inherent to all humanity....

Humankind has always struggled to assert certain values in their own right, values that the individual intuitively felt belonged to each person as part of natural existence. It is difficult to imagine a period when such values were not pursued in spasmodic acts of dissent from norms that appeared to govern society even in its most rudimentary form. Even after years of conformity to hallowed precedents, a few dissidents always arise, and they obtain their primary impulse in crucial instances from the individual's seizure of his or her subjective worth....

It took centuries for societies to influence one another to the critical extent needed to incite the philosophic mind to address the concept of the human race in general, and not simply as members of a specific race or occupants of a geographical space....

Like race and citizenship, religion was not far behind in the exclusionist philosophy of rights, formulating codes to protect the rights of the faithful but denying the same to others—the Cross against the Crescent, Buddhist versus Hindu, the believer against the infidel. Or simply, religion versus secularism....

Polarizations within various micro-worlds—us versus the inferior them—have long been armed with industrious rationalizations. Christian and Islamic theologians throughout history have quarried their scriptures for passages that stress the incontestable primacy of an unseen and unknowable Supreme Deity who has conferred
authority on them. And to what end? Largely to divide the world into us and the rest....

It took the near triumph of fascism to bring the world to its senses. The horror of the Holocaust finally took the rulers of the world back to the original question: what is the true value of humanity? ... [The] dichotomizing course of humanity..., taken to its ultimate conclusion, had just resulted in an attempted purification of the species, the systematic elimination of millions in gas chambers and a war that mired the potential of Europe in the blood of its youth. After all, the concept of the master race was not new, but it was never before so obsessively articulated and systematically pursued. ... [The idea of universal human rights] whose suppression is the main occupation of dictatorships ... is an idea that has transformed the lives of billions and remains poised to liberate billions more....10

Carlo Filice is Chair of the Department of Philosophy at SUNY Geneseo. His main interests are in ethics, philosophy of religion, and philosophy of mind. His latest publication is “The Moral Case for Reincarnation,” Religious Studies (Vol. 42, March 2006).

In the Absence of the Gods
A Meditation on Western Moral Assumptions and How to
Overcome Their Violent Legacy

By Wendy Hamblet

When heaven ceases to stand over us, both “things” and “purposes” are displaced.
—Dudley Young, Origins of the Sacred

Introduction

In their narratives, cultures and traditions express the meanings and the values that define and orient their peculiar modes of living. Their myths express these meanings and values, but they also articulate not only cultural beginnings, but the culture’s vision of species’ beginnings, the meanings of “human” existence, and the “human” connection with the supernatural. Thus, the “truths” of myth, despite the admission of falsity built into them as myth, claim universal and eternal validity for all cultures and all traditions. They express the absolute value of their particular modes of living, often in the same movement as asserting special beginnings, special powers, and special divine endowments to their particular social group.

Myths, in general, comprise tales of power, locating where are hidden the forces that govern the universe. They articulate the sources and trajectories of power, and tell how, to what extent, under what specific conditions of time and space, and under whose authority that power may be appropriated for human purposes. That is, they assert, not only the traditional understandings of power, reconfirming the status quo (thus myths are ultra-conservative in nature), but also—and of great significance for a culture’s internal patterns of normativity—the prohibitions, the taboos against its misuse.

The ancients of the Western tradition knew that the most important narratives are the ones that reveal beginnings. Beginnings tell who we really are, whence we came, with what divine sources we are connected. But tales of beginnings also communicate where we are going and where we are meant to go, because beginnings point toward endings. Myths of beginnings gesture in the direction of destinies. Furthermore, they articulate the appropriate form of the journey, the ideal how of the living experience that stretches between beginnings and endings, because myths reveal the gods’ expectations of humankind. They tell how these expectations have been disappointed in the past, and, in so doing, gesture in the direction of better modes of conduct for the future, thus revealing how the past of the species might be redeemed, saved, lifted up from its “naturally” decadent tendencies. In unfolding and revealing the structures of power in the cosmos, myths highlight and delimit human possibilities within the ontological hierarchy, addressing the boundaries of human power and reminding humankind of the warnings and commandments of the gods against overstepping those limits.

The myths of the Western tradition that explain the origins of human existence, telling us who we are in relation to the founding authorities of the cosmos, are tales of formidable power. The old myths are told by those in authority, whispered in the ears of prophets and poets by the muses and the ancestors, passed down through those media by the gods seen to have called us forth in the beginning. Throughout the tales revealing our beginnings resound a number of consistent themes. One of the most troubling of these
mythologems pictures the routine, systematic enactment of violent “ordering mechanisms” to render stable and unified a strife-torn and anarchic universe. Radical acts of might bring ordered “cosmos” out of threatening chaos. Violence is depicted as a pragmatic strategy of defense directed at alien or monstrous presences whose difference marks them as “demonic” in the eyes of the legitimate community. An absolutely and unquestionably “legitimate power” accomplishes the murder (or the metaphorical “murder” of expulsion) of the demon for the purpose of stabilizing the home site, be it the social group, the divine godhead, or the entire cosmos. Violence purifies community. Sacred murder returns the “paradise” to its original peace and unity.

Old patterns of thought and their much older origins in archaic “rituals” may still structure the way we think and act today, delimiting the modes according to which we carve out our identities in the world. This is not a claim that could ever bear the weight of firm scientific evidence. The histories of our conceptual and behavioral pasts stretch too far back in human time to be recalled and are too deeply embedded in the cultural imaginary to be accessible to critical investigation. However, if we entertain the possibility that we remain in the thrall of certain violence-legitimating mythologems (a theory, admittedly, itself perhaps but a “myth”) we might find that its “truth” is a benign one—a “noble lie”—to charm the soul of the listener and inspire her to more noble thoughts and actions in the world. I am suggesting that to entertain the possibility of our own inherent tendencies toward violence might comprise a particularly salubrious form of the philosophical task of self-examination. Moreover, the theory of violent tendencies offered here might serve a further practical function. It might offer an explanation for the uncanny persistence of radical violence throughout the history of the West, a history of a people whose bloody encounters continue to this day, despite their clear concern for justice in their interactions in the world.

The Persistence of Cultural Myth

The term “myth” signifies a traditional tale. This signification dispenses in advance with questions of origin or authenticity. A tale becomes traditional by the sacro-sanctification of time. Traditional tales are told and retold from generation to generation, often articulated verbally for centuries before becoming recorded in written form. This means that myths are, by their nature, *living* legends whose elaborations, distortions, omissions, and reinterpretations become incorporated over time into the legitimate body of the tale. Throughout all of the unfolding changes in any mythical tale, however, a consistent logic can be seen to maintain, holding the evolving whole together and permitting its endurance through the discontinuities and transformations of its images and symbols. Hence, the same tale can emerge as a myth in the ancient genealogies of Hesiod, or as a book in Homer. It can show up as a digression in Pindar or as the focus of a series of tragedies. It can be reborn as a moral analogy in a Platonic dialog, or erupt as a mere line in the poet’s verse. Yet each is unmistakably the “real” story, no matter what form the reincarnation might take.

Myth, consistent with the word’s Greek origin in the term *mythos*, signifies a deviation from the verifiable, a telling that, in advance, disclaims any responsibility to “truth.” Ancient myths were often prefaced by precisely that admission, in a disclaimer like “ouk *emos ho mythos*” (not mine the tale). Generally, a muse or a god or historical authority will be called to bear witness, transferring the responsibility for the myth’s messages beyond the immediate author, but also beyond the empirically

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1 Plato, *Gorgias* 527b, *Republic* 621c.
The irony of myth lies precisely in this feature: in its prior admission of falsity. This fact has a twofold effect. First, the listener is lured to let down her rational defenses when entertaining myths, assured in advance, by their admission of falsity, that they are mere play and morally innocuous.

Secondly, the authoritative tone of the myths, their origins in godly whisperings or siren song, seduces the listener to attend more carefully, listen more deeply, intimating that some deeper wisdom can be disinterred by the worthy and the blessed. These intimations must have been deeply convincing to the ancients, assured as they were that the gods were all about them, residing within all things. But they remain convincing to modern “enlightened” audiences who still, millennia later, assured of their lingering benefits, pore over the ancient texts, memorize their lines as incantations, scan them for still enshrouded truths, and share them with their children as riches from the past.

Modern listeners still attend faithfully to the ancient tales, either in nostalgic allegiance to the literary treasures of the past, or by religious conviction to full literal adoption of their Christian reformulations. But even where the listener feels herself freed from their seductive legacy, she may still be entirely under the sway of many of their “truths.” She may, in fact, carry fragments of that conceptual history within her as the images and symbols that form the very building blocks of her symbolic universe. Her thinking may be ordered by the ancient logic that sorts and structures those symbols and images. Thus the “deeper truths” of myth may endure in the very logical, conceptual, and linguistic parameters that comprise the horizons of the lifeworld and give the world stable form and content.

Anthropologists like Walter Burkert argue convincingly that just this happens. The images and symbols introduced and unfolded in our mythical heritage live on, Burkert explains, in the “conceptual universe” of a culture. The ancient “logic” provides inheriting cultures with convenient “containers” whereby the confusing empirical data of experience can be sorted, so that sense can be made of the chaotic. Myths’ images and symbols, asserts Burkert, may evolve into different forms and shapes, but their logic remains persistent and thus the truths of ancient tales are uncanny in their endurance. 2 Alistair MacIntyre, recognizing the logical force of narrative “truths,” alerts us to the fact that our narratives comprise “intellectual prophecies” and warns that they structure “social performance” long after they are thought to be functionally lifeless. 3 Mircea Eliade, renowned expert on myth, approaches the problem of myth’s residual effects from another angle, grounding the longevity of myth’s effects in the fact that the foremost function of myth was, historically, to provide exemplary models for human action. Myths provided the formulae for “proper” and “human” ways of performing significant human activities. 4 Mythical “exemplars” can re-clothe themselves in fresh symbolic garb and parade in the light of a new, secular day, in the guise of profane exemplars—Superman, Roy Rogers, Rambo, or the president of the United States.

Thus, we can say that, even in cultures where the myths are assumed to have “died” and the people feel themselves free of the influence of their narrative histories, it is likely that the ideologies

conveyed in myth live on in the assumptions underlying cultural formations, integrally ordering moral ideas in the community and delimiting the moral direction of the society's institutions. Violence-legitimating paradigms can become embedded in the systems themselves—violence can become institutionalized—and infect the everyday social rituals practiced within the inheriting culture. Their danger lies not simply in the paradigms of power that provide models for human emulation, but in the kinds of actions that are taken up by those paragons of moral action. Leaders in this genre can employ radical acts of violence to exile/murder an alien presence to purify the social space and return it to unity and peace.

**Violence-Legitimating Mythologems**

In many origin myths, the archaic state is chaos. This is not an empty nothingness, but a measureless, formless, wanton, anarchic fullness. In Hesiod's *Theogony*, which traces from cosmic beginnings a genealogy of gods and men, the theme of order wrought from chaos through radical acts of violence is repeated with the succession of every new generation of power. The earliest gods are monsters, and their behavior, too, is monstrous: they are continually engaged in deceiving, murdering, and torturing their kin. We see the first "father" Ouranos, in jealousy and rage, suppress his children, pushing them back again inside the mother who writhes and groans in agonized overfullness. Then we listen as the good son, Kronos, with a slash of his giant sickle, ends the violent reign of the father in a stunningly violent scene:

> And [Uranos] came, bringing on night and longing for love, and he lay about Earth [Mother Gaia] spreading himself full upon her. Then the son from his ambush stretched forth his left hand and in his right took the long sickle with jagged teeth, and swiftly lopped off his own father's members and cast them away to fall behind him. And not vainly did they fall from his hand; for all the bloody drops that gushed forth Earth received them.⁵

Kronos brings peace to a troubled cosmos by violent castration of the father, but he himself goes on to oppose the coming generations, devouring his children, each in turn, to maintain his own supremacy. Eventually, his wife Rhea, in conspiracy with the good son Zeus, by deceit and cunning, dethrones Kronos. The ascension of Zeus, Hesiod tells as a moral victory. Zeus brings social and political stability to a strife-torn heavenly community by deployment of enlightened tactics—his superior skill as a leader and negotiator, his wily alliances with the old monstrous powers. However, in the scene that depicts the ascension of the "enlightened" one to the cosmic helm, punctuating the close of ten years of brutal battle between the Titan monsters and the Olympian gods, Zeus's skills of cunning strategizing and his knack for peaceful alliance pale in comparison with the stunning materiality of his might:

> Then Zeus no longer held back his might, but straight his heart was filled with fury and he showed forth all his strength. From Heaven and from Olympus he came forthwith, hurling his lightning; his bolts flew thick and fast from his strong hand together with thunder and lightning, whirling an awesome flame. The life-giving earth crashed around in burning, and the vast wood crackled loud with fire all about. All the land seethed, and Ocean's streams and the unfruitful sea. The hot vapor lapped around the earthborn Titans; flame unspeakable rose to the bright upper air; the flashing glare of the thunderstone and lightning blinded their eyes for all that they were strong. Astounding Heat seized

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Chaos; and to see with eyes and to hear the sound with ears it seems even as if Earth and wide Heaven above came together; for such a mighty crash would have arisen if Earth were being hurled to ruin, and Heaven from on high were hurling her down; so great a crash was there while the gods were meeting in strife.\(^6\)

Once the Olympians seize the heavenly helm, we are to believe that an end is put to the hostility. The monsters are made “good” by alliance to the good Zeus, or cast far beneath the earth, subdued by Zeus’s superior might. The cosmos stabilizes, peace reigns anew, thanks to the radical violence of the new king. Intrigue, treachery, brutality, and rape still characterize the ways of divine being, but Zeus (himself perhaps the most shameless exploiter of all) periodically re-imposes order on the irascible host by routine acts of violence that remind them of his superior might.

The orderings and re-orderings of the cosmos are repeated throughout the genealogy, with the new powers quelling the old powers through radical acts of violence. This pattern for imposing order on a troubled cosmos—brutal acts of violence and expulsion or murder of the monstrous members of the community—remains a distinctive feature of the myths that form the conceptual bedrock of the Judeo-Christian traditions. In the dual creation accounts of Genesis, the god, with a mighty blast of his omnipotent word, banishes dark and menacing Chaos and brings into ordered being the myriad components of the cosmic community. The good god says so, so each thing is good in itself. In the second account of the story, we are shown the first human beings, at home in a paradisal garden. However, at the first sign of disloyalty to the divine word, the wayward humans are cast out upon the harsh earth. They are left to suffer and struggle for their meager existences, to eat their fellow creatures, to murder their brothers and swindle their fathers, to enslave their neighbors and slaughter their enemies, to bear their children in pain and their fellow in resentment, and finally to die. The Heavens are ever after peaceful, the earth an alien and burdensome abode.

It has been persuasively argued that the most dangerous form of this mythologem is to be found in the Bible’s Abraham story, the bedrock myth of all three of the “World’s Great Religions.” Abraham, father of the Hebrew nation, follows blindly the god’s arbitrary command that his son, the beloved Isaac, and hope of his people, be slain. Carol Lowery Delaney has convincingly contended that the god’s cruel command, the good Abraham’s willing and unquestioned compliance to that command, and his refusal to question the rightness of the violence or to explain his actions to others set a model for human behavior that persists in the West today. If the Bible’s god remains “good” and “just” despite his cruel commandments and his savage actions, his jealous rages, his vindictive punishments, and his cruel whims, then it could be reasonably conjectured that it is equally divine for earthly powers to bring order to their subordinates and troublesome “others” by similarly violent means.

Given the terrorizing methods of Christian evangels as they brought the word of their god to heathens on both sides of the Atlantic, given the violent religious enthusiasm with which Muslim zealots “ordered” northern and eastern Africa under their god’s law, and, given the modern methods of some radical Zionists, in whose good conscience enemies are slaughtered even in their temples at prayer, there is good reason to agree with Delaney that the imagery of biblical tales comprises an endorsement of violence that comes to undergird the Western worldview, granting powerful male authority figures (fathers, priests, teachers, politicians).

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\(^6\) Ibid., Lines 688-710.
rightful recourse to unlimited violence over their subordinates.⁷

Consistent throughout the old myths that compose our conceptual heritage are the mythologems that articulate the rightness and efficacy of radical acts of violence, including murder and expulsion of the alien and inassimilable ones in their midst and in the neighboring vicinity. These violences, directed at the alien by the “legitimate” powers, depict efficacious and legitimate methods of stabilizing social unrest and purifying the communal group. They effectively set paradigms for human action, even in the contemporary world, as they depict brutal actions deployed. The bloody history of the West in its entirety comprises compelling evidence that the violent messages compressed in myths continue to be lived out in the modes of individual, communal, and inter-communal interactions that are practiced in the world. Modern Western cultures, asserts sociologist Neil Smelser, display all the telltale signs that myths sanctioning destructive behavior “enjoy a more or less universal and permanent existence” in the thought patterns of the West, and, though those patterns of thought need not materialize into overtly destructive behaviors in all aspects of human interaction, there remains a “disposition” toward violence that tends “to be activated only under certain historical conditions.”⁸

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**Traces of the Mythological Heritage**

Western societies may, in general, think themselves free of the residual effects of their mythical heritage, but their social structures and institutions display all the telltale signs of allegiance to that conceptual orientation and continued application of a “logic of domination,” ironically, even in democratic states that purport to practice egalitarian principles and place value above all in the individual and her/his freedoms. Despite these ostensible claims, Western cultures share a tradition of value-ordering that is reflected in their systems of status stratification based on time-honored social values or religious criteria connected to a particular history or justified by a special relationship with the supernatural. Social identity is still constructed on the basis of these values.

Social hierarchies related to expressive social values permeate and regulate social and political institutions, even in the present age, but, furthermore, the ordering logic conveyed in myth can also become functionally independent of political and economic circumstances. In the latter case, concerns with relative degrees of purity and contamination due to special status in the cosmos, special relationships with the supernatural, or connections with a special, often glorified, history come to be reinterpreted in terms of “natural” and “unnatural” gradations in human being. Under these “specializing”—hierarchizing—influences, others with differences are redefined as sub-human or altogether inhuman (monstrous) and, thus, are seen as incapable or undeserving of assimilation within the social unit. The alien are often “demonized,” interpreted as having strange threatening powers or superhuman strengths, and summarily expelled, before they can infect the sacred home site. They are, in some rarer cases, murdered, in the interest of preserving the purity, peace and unity of the group. My claims that we still may follow these patterns of thinking
and behaving in the modern world may sound farfetched, described in the ritualistic language I am employing here, but often these figurations of thought—the “demonizing” thinking that prefigures our violent actions—are dangerously well concealed, veiled in the most benign and convincing pseudo-scientific language and justified by pseudo-scientific notions of racial, ethnic, religious, or even national superiority.

It is not at all surprising that our hierarchizing and demonizing rituals are still at work in our individual thoughts and actions and in the patterns of interaction played out in our communities and between various communities. Institutions and systems, customs, and social rituals carry intact the “logic of domination” that has been repeated throughout their histories. Value hierarchies are remarkably conservative. They are self-perpetuating precisely because they are self-justifying. They are self-justifying because the social structure itself is founded upon myths of origins that form patterns of belief that hold the structure together, providing the justification (often transcendental, or, at the least, time-honored and historical) for fixed internal structuring, for the patterns of social, political, and economic domination and subordination within the structure, as well as the justification for wars with alien societies. Thus, hierarchical systems are powerfully self-perpetuating. Social scientists tell us that the longevity of value systems is a function of their ability to serve people’s emotional needs well, even where they exploit whole segments of the society socially, politically, and economically. This is because human beings are prone toward feelings of confusion, helplessness, and dependency in the complexity of the modern world, with its plethora of belief systems, tribalisms, racial differences, and conflicting religious and moral attitudes.

People tend to welcome any ideology that provides an established means whereby they might order the confused data of their empirical experience and establish a sense of belonging in an otherwise disorienting world. Thus, people are predisposed to adhere blindly to the logic that structures their systems and accept, without question, the given “ordering mechanisms” inherent in their systems so that their thinking can be ordered for them and the confusing sense data can readily be sorted into immediately available symbolic “containers” that make sense of the chaos of their lives. Therefore, people are prepared, in general, to internalize their differences from the given value orderings, and to sublimate ethical conflicts they may experience with regard to their systems so that they can, with minimal conflict, find their place of belonging within a stable, consistent system of meanings and values.

This general allegiance to systems explains the uncanny ability of many people to continue about their daily business with equanimity during times of the greatest social and political upheaval, under the worst economic conditions, and to accept as necessary the repressive tactics of their governments and the system-endorsed watchdogs of society (police, armed forces, national guards, priests, politicians, fathers). It explains their willingness to endorse the territorial obsessions of their leaders, especially on the argument of seeking “freedom for their homelands,” and it explains the ability of alienated persons, races, and religious groups to stay on in their homelands long after those systems have ceased to feel like “home” and to welcome them as full-fledged members of the society. It even explains why the persons confined to the lowest rank in a society tend to place themselves quite voluntarily within their particular social segment and to teach their offspring the rightness of the system’s inequalities.

9 Burkert, Creation of the Sacred. 16, 33.
without experiencing any continual sense of coercion or rebellion. People are able to accept and even embrace the most alienating aspects of their lives as long as that acceptance purchases for them the sense of purpose and belonging that they crave. Things make sense and life takes on meaning in the context of a value-ordered system, even for those on the bottommost rungs of the socio-economic ladder.

Certainly we would be better off without our particular mythological heritage, without the tales of power, and indeed without the gods and their violent “ordering mechanisms” that provide models for human action. But we cannot choose our histories, any more than we can choose new more gentle-natured gods to stand over us and incline us differently. We might say that, rather, our gods choose us, according as they are implanted in our cultural imagination by our narrative histories. We might willfully reject those myths, but, as anthropologists and other social scientists have testified, even where the tales are dismissed, their deeper truths cannot be rationally confronted or willfully extracted from the functional horizons of the “lifeworld.” They are embedded in the symbols and the logic that permit us to encounter world as world. We may consciously reject our conceptual histories, dismiss our gods and condemn their violent ordering methods, but their “truths” will remain persistent, configuring our ways of being-in-the-world.

How is it that myths have such resistance against time’s eroding effects? It is because of their own, more ancient histories, their enormously powerful beginnings. It was formerly thought, after Eliade, that myths were themselves origins, marking out the beginnings of human speculation on the nature of the world and its hidden forces, because the logic of domination and patterns of action expressed in myths could be traced into their re-enactments in patterns of social behavior. However, more recent scholarship has come to rest in the general agreement that myths are themselves only secondary figurations of older, more persistent “truths”—truths formerly communicated in ancient rituals, absorbed over time into the bodies of participants, and into the bodies (social forms, patterns of exchange, and political institutions) of their cultures. Since ancient rituals tended to be terrifying and tortuous, the bloody sacrifices, castrations, and expulsions that expelled the demonic alien and granted peace and harmony to the community carved deep into the bodies of the participants their logic of domination, communicating through the flesh the fact of violence as the underlying law that orders the cosmos and communicates the will of the gods and the ancestors.

Might is right in the cosmic order and the weak had better submit voluntarily, rather than be subjected to its brutal methods of persuasion. We know now that the violent “ordering mechanisms” that first brought community into being, in ritualized sequences of whippings, demonizations, castrations, murders, and expulsions, shaped the identities of early cultural groups and came, with time, to conceptual and linguistic expression in the myths of the ancient cultures. The reason why the mythical heritage of the West is permeated with violent paradigms is because they originate in violent rituals that date back centuries and even millennia into the beginnings of human time.

The fleshy rubble of bodily memories, pictured in our myths and embedded in the materiality of our cultures, may still hold sway in the logic that prefigures our being-in-the-world. The jagged shards of fragmented memories, stored in thought patterns and in bodies, may still structure the way we confront alien others as threatening and dangerous. Simple presences make “human” sense woven into the narratives that relate one presence to another, presences to absences, the powerful to the powerless,
and the belonging to the alien. Singular and communal identities take on their meanings and values in relation to what they are not. Our inclination toward demonizing difference may be the only way we have yet developed to give focus to our own uniquenesses, to order our communities, and to give meaning to our social worlds and purpose to our existences.

**Myth’s Dangerous Transformations**

However, despite the persistence I have noted in regard to the logic and symbolism bequeathed by our mythical and ritual histories, one crucial aspect of that history is now missing, and that absence configures applications of the embodied “truths” far more dangerous in their modern transformations. What was, in ancient practice, definitive of ritual—what made ritual ritual—was its obsessively ordered structure, the compulsive regulation that governed the time, place, order, method, and persons authorized to perform those sequences of actions. Ritual gave restricted outlet to the acts that were taboo in unregulated, unauthorized circumstances. Ritual provided a controlled stage with the firmest of borders and boundaries. Every aspect of the ritual performance was bound under the strictest compulsion of law, overseen and enforced by the gods and the ancestors. Murder, mutilation, or expulsion outside the confines of ritual decree was strictly forbidden by taboo.

If I am correct in my speculations, then the greatest danger of our histories resides not in our value-ordering tendencies, nor in the religious concealments of our violences, but in the way we re-enact the archaic rituals, now that we have dismissed the gods.

Humans of the secularized modern era are freed, not from the violent effects of their ritual histories, but from the taboos on that violence. They are free to play out their powers in a cosmos of their own dictated meanings, without the inconvenience of ancestral prohibitions, unrestrained by the divinely decreed taboos.

In the absence of the gods, the simple event of presence, the unique epiphany of every emergent being on the planet, is reduced to mere mechanical clock-tickings, the endless collision of billiard balls across the cosmic game table, between atoms with no moral identity and no calling to be other than freely in motion. The modern capitalist democracy of the West, widely accepted as the only “legitimate” political form, favors the production of these isolated, amoral atoms on every level of identity—from atomic individual selves in the race for goods and power, to religious, ethnic, racial, and tribal communities vying for their unique places and rights in the world, to global markets of consumption and exploitation. Each being pursues its goods and asserts its powers without concern for the limitations decreed by the gods, without concern for the taboos against violence outside of the traditional confines of regulation, without concern for the ill effects of their actions or the actions of their systems and communities on humans or other kinds of beings with whom they share a world.

**Conclusions**

This paper offers not a truth, not a scientifically verifiable theory, but it offers what Socrates says is “the best that we can do”—a likely story. It suggests one explanation for the fact that we in the West have shamelessly violent histories. My theory rests on the assumption of a pattern of self-formation common to our identifying sites, our “homes” in the world on the multiple and simultaneous levels of community where we carry out our existences. I am suggesting that we

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may carve out our identities according to a common performative structure, ritualized into our ways of being through millennia of practice.

In the modern “enlightened” myth-free, godless world, we no doubt think ourselves liberated from demonizing practices, because democracies, underpinned by ideals of individual freedom and dignity of the person, are self-legitimating structures that grow more self-congratulatory with each new collapse of Marxist regimes across the globe. However, our systems actually help to fashion isolated atomistic freedoms that pursue their identities in the world unfettered by moral inconveniences, unrestricted by taboo. Emmanuel Levinas asserts that the mere face of the needy other “oppresses” and “possesses” those it confronts, with guilt for their full bellies and their larders overflowing. He states: “The response to the enigma’s summons is the generosity of sacrifice outside the known and the unknown, without calculation, for going on to infinity.” However, our ideals of unqualified freedom and dignity of the individual serve as consummate justifications to ignore the enigma’s summons. We find ourselves, on a daily basis, not “oppressed” or “possessed” or “enslaved” in confrontation by the exploited, starved, homeless, marginalized others, who currently number a stunning one-ninth of the humans that inhabit the planet, but, rather, we find ourselves quite comfortably able to calculate, to measure the necessity and weigh up the appropriateness of sacrifice. Our beautiful ideals of freedom and dignity of the individual buy us time and reasons to turn away, to dodge the outstretched hand, and to avoid the compelling gaze.

The gravest despair that Nietzsche’s Zarathustra suffers issues from the fact that he cannot will time backward. We cannot alter our histories. Nor can we consciously invent new, more benign gods to dictate new, healthier taboos. Nor can we, by rational device or argument, readily dislodge the logic that configures our thinking and inclines our daily actions—or our daily refusals to act. However, there may still remain a viable way to make a difference in who we are, despite the violent histories carved into our very being. The problem of violent tendencies began before our narratives, in our ritualized (because obsessively repeated) bodily practices. This suggests that changing our bodily practices, replacing the violent sequences of actions with new, healing practices or rituals, might have an overturning effect on our histories and our inclinations, if we but practice them obsessively and persistently enough.

A higher order of ritual, one worthy of adoption and desperately needed in a world so steeped in violences, is pictured in Levinas’ notion of the “face to face.” Perhaps if we can form new habits of confronting the inequalities caused by our systems and our institutions, perhaps if we can learn to decline the temptation to turn away from the injustices and the sufferings, perhaps if we begin to take up the cause of healing the world’s victims, we can reprogram our bodies and reconfigure our dispositions in the interest of a gentler, more peaceful, more welcoming, more generous, less violent world.

12 Ibid., 72.

13 Nietzsche. Thus Spake Zarathustra. III.LV.
Bibliography


**Wendy Hamblet is Assistant Professor of Philosophy at Adelphi University in Garden City, New York.**
Forgiveness, Moral Imagination, and Social Healing
By Judith Thompson, Ph.D.

Introduction

This article was written as a presentation for a panel discussion on the role of forgiveness in social healing held at Harvard Divinity School, October 31, 2005. The occasion was the visit of Fr. Leonel Narvaez, founder of the Schools of Reconciliation and Forgiveness in Colombia, who on September 21, 2006, received the Honorable Mention Award for the UNESCO Education Peace Prize for 2006. These remarks have been edited from the original text.

Exploring the Frontiers of Social Healing

My first memory of Fr. Narvaez comes from an international dialogue I co-convened in Cyprus in 2003 entitled The Frontiers of Social Healing. He opened with a story, which I would like to share:

Just two weeks ago I was with a very famous guerilla leader in Colombia who has killed many people, I think. We are friends since years ago when I was working in that area. I was kind of challenging him with sweet eyes asking him: “What about if, instead of your gun, you start embracing people and feeling the kind of tenderness that your mother taught you?” And I remember that he just put his head on my shoulder and was kind of crying. You know, I am saying this because I think the contemporary work exploring the “ethic of care” as it has grown from women’s lived experience is a necessary dimension of investigation when approaching the topic of forgiveness in social healing. And, because I will not take more time with it at this point, I appreciate that my early memory of Leonel has given me an opening to at least refer to the feminist/humanist frame he brought forward as medicine toward healing the wounds of his patriarchal institution.

I offer that opening thought to us as we move into the topic of forgiveness because I think the contemporary work exploring the “ethic of care” as it has grown from women’s lived experience is a necessary dimension of investigation when approaching the topic of forgiveness in social healing. And, because I will not take more time with it at this point, I appreciate that my early memory of Leonel has given me an opening to at least refer to the feminist/humanist frame he brought forward as medicine toward healing the wounds of his patriarchal institution.

Twenty-three other peacebuilding practitioners from around the world also came to this gathering in Cyprus. Together we explored what we were calling “The Frontiers of Social Healing.” These frontiers are what we are sharing today. The role of forgiveness in social healing; the lessons from the South African Truth and Reconciliation Commission (TRC) and other truth commissions; psychosocial healing; approaches to reconciliation; and even epistemological premises—how do we know what we know—were all part of our dialogue together. This meeting came one year after another similar gathering I convened in Cambridge at
the Boston Research Center for the 21st Century around my own research on the role of compassion in social healing. Both of these meetings were designed as learning communities grounded in the premise that through dialogue we engage in participatory knowing, a process that supports the greater whole of our knowledge to be revealed.

In exploring the frontiers of social healing with others in a “community of practice,” the theme of forgiveness and social healing was a prominent thread. And, given the diversity of this community, the varying perspectives on how to define what forgiveness is and how one arrives at it showed up in our room just as it has during the course of Leonel’s opportune visit to our community.

**Fault lines in forgiveness discourse**

The fault lines in forgiveness discourse seem to congregate around these questions: *Is forgiveness primarily a personal act or a relational one?* And, *What is the relationship between forgiveness and reconciliation? Are these two interdependent; does one follow the other? Is reconciliation dependent on forgiveness and vice versa?*

For Father Michael Lapsley, a former chaplain for the ANC and the victim of a brutal assassination attempt which cost him both his hands and an eye, forgiveness without apology is not an option. As an ardent promoter of the TRC, and founder of the Institute for the Healing of Memories in South Africa, which invites all citizens of the new South Africa to come together in safe environments to share their stories and find healing together, he daily lives his commitment to reconciliation. And he is quite clear that forgiveness is a relational act. In a morning homily he shared with us what he calls “bicycle theology”:

> I come and I steal your bicycle. And six months later, I come back to you and I say to you, “I am the one. I am the one who stole your bicycle. I’m very sorry. Please will you forgive me?” And because you are full of compassion, you respond immediately and say, “Yes, of course I forgive you.” And I keep your bike! Many places where people speak of forgiveness, it is reduced to saying “sorry,” and the bicycle is not returned. (Ibid., p.273)

For Fr. Michael, the story of Jesus and the tax collector, Zaccheus, fits his model of forgiveness.

Jesus sees him firstly not as he was, as an oppressor, as a tax collector who didn’t just take the tax that was due to the state, but also a great deal that he put in his own pocket. Jesus treats him with compassion and dignity, invites him for dinner. And, in the context of being accepted as a human being, Zaccheus says that he will return what he has taken four times over. So, the bicycle becomes a Honda 650 when it is returned.

In my faith tradition, people speak as if forgiveness is something glib and cheap and easy. Most human beings find it costly and painful and difficult. I’ve always been fascinated that the Greek word in the New Testament for forgiveness is the same word for untying a knot. Because when it does happen, both parties are freed to go on their journey. (Ibid)

Richard Moore was blinded by rubber bullets at the age of 10 in Belfast and has gone on to work with community reconciliation efforts and create an organization called Children in the Crossfire. He says:

> For me, forgiveness, or being able to say that I have no resentment unconditionally about the soldier that shot me, gave me a freedom of my mind, which is very important. [In the case of the soldier who shot me], I totally forgive [him]. In fact,
it’s not even a case of forgiving him, because I never felt I had to forgive him to start with. Because, if my brother can join the IRA because of what happened to me, then other people can do the same thing because of their life experience as well. (Ibid., p. 272.)

Immaculee Illigabiza from Rwanda describes how she received spiritual illumination hiding from her killers in the wall of her house day after day, listening to the cries of women and children outside who were being mercilessly slaughtered. She prayed continually, struggling with a desire to forgive and a desire for revenge. She says that she heard words from God reminding her that even the Hutus were His children. In her story, we witness the grace which can touch people who are deeply attuned with their faith.

I held onto my father’s rosary and called on God to help me, and again I heard His voice, “Forgive them, Father, they know not what they do.” I took a crucial step toward forgiving the killers. My anger was draining from me; I had opened my heart to God and He had touched it with His Infinite Love. For the first time, I pitied the killers. I asked God to forgive their sins and turn their souls toward His beautiful Light. For the first time since I [had gone into hiding], I slept in peace. (Illigabiza, personal email, 2005.)

Mary Rothschild is the daughter of a Holocaust survivor and Gottfried Leich is a German man who was, as a child, a member of the Hitler Youth. They originally came together through an organization called One by One, Inc., which has a mission to transform the legacies of conflict, war, and genocide through dialogue. Gottfried described the intense fear he had in revealing his history and facing his deep sense of shame this way:

I had spoken about that before to other people, but never face to face to a Jew and a daughter of a Holocaust survivor. And it was awful for me to do. And, to be challenged to speak in front of the second generation people about the influence of the Nazi regime on my life...I was afraid that the earth would open and I would fall in. And it’s a miracle that it happens in the opposite way; that behaving this way and speaking this way and listening this way – it’s a bridge over the abyss. (Thompson, op.cit., p. 261.)

Mary refers to the encounter as the most profoundly life-changing experience of her life, saying that she experienced a deep sense of compassion coming from Gottfried. His apology was the “emotional restitution” that she never knew she was seeking. Yet, for her, forgiveness is not a part of the equation. She says,

In Judaism, it’s not my business to forgive something that wasn’t done directly to me. And it was done by I don’t know whom. I was there [in Berlin] not to forgive or forget, but just to address what happened. And something miraculous, some alchemical transformation, happened in the addressing. (Ibid., p. 273.)

Leonel speaks of forgiveness as a personal journey of “rediscovering our tenderness and compassion – the better parts of ourselves – and releasing ourselves from the poison of anger. It is a path to spirituality, holiness. It’s to be like God.” (Frontiers of Social Healing, op. cit., p.400.) I would find this way harder to believe if I did not know Leonel and see how he models that path. For him, reconciliation is dependent on forgiveness and cannot occur without it. For Fr. Michael, reconciliation can happen without forgiveness. Both of them see “getting out the poison” as a necessary step, but for each the path is different. As I see it, the bottom line is that there are many different viewpoints about
how to define and conceptualize forgiveness. These differences reflect our personal lived experience, our cultural traditions, our historic circumstances, our social location and our religious beliefs. What works will be different for different individuals and groups and attempts to universalize are always problematic.

**Moral imagination and the ground of healing**

In spite of the fault lines, “some areas of consensus” in the greater story are worth trying to identify.

In his recent book, *The Moral Imagination: The Art and Soul of Building Peace*, Lederach (2005) addresses himself to peacebuilders and reflects upon the development of the field. His hope is that we will begin to see our work more as art than technique.

I don’t see finding the art of the matter as a minor corrective to an otherwise healthy system. It requires a worldview shift. We must envision our work as a creative act, more akin to the artistic endeavor than the technical process. The wellspring lies in our moral imagination which I will define as the capacity to imagine something rooted in the challenges of the real world yet capable of giving birth to that which does not yet exist [emphasis mine]. (p. ix.)

Fifteen years ago, there would not have been a forum on the role of forgiveness in social healing because forgiveness was held strictly within the province of theology, religion, and sometimes psychology. The term “social healing” was not really a legitimate expression. Rather, there was *peacemaking* or *conflict resolution* – arenas of skills building originally entrusted to diplomats, and later third-party practitioners trained in mediation. We had the development of a growing human rights language enshrined in the Universal Declaration of Human Rights, and some architecture for truth commissions as a way to address the requirements of justice in the aftermath of large-scale political violence. But it was in the South African Truth and Reconciliation process that a language of forgiveness was woven directly into a public process as part of a highly publicized and unprecedented social experiment.

There is no question that the TRC has been a watershed moment in the evolution of our social conscience. There have been legitimate critiques of the process. Some felt a pressure to forgive, that the strong religious overtones and the imprimatur of Archbishop Desmond Tutu created a sense that forgiveness was being mandated. Shortcomings in the area of reparations and restitution are also cause for concern and lessons for the future. Nonetheless, critiques notwithstanding, the TRC holds unquestionable historical significance as an act of moral imagination. It is for this reason that it has become a case study of such magnitude.

In his book, Lederach quotes a few lines from the Irish Poet Laureate Seamus Heaney’s famous poem “The Cure of Troy:”

> So hope for a great sea-change
> On the far side of revenge.
> Believe that a farther shore is reachable from here.
> Believe in miracles
> And cures and healing wells
> (Ibid., pp. 157-158.)

This yearning for a great sea-change on the far side of revenge is what I think has given birth to the forgiveness movement. It is a yearning grounded in some deeper knowing about ourselves which I believe is universal, no matter how covered up it might be by the wounds of violence in all its forms. Schools of forgiveness and
reconciliation, restorative justice practices, approaches to reconciliation, are all born from this same belief that “a far shore is reachable from here.” When Archbishop Tutu says, “There is no future without forgiveness,” he is saying there is no future if revenge and the fear and anger that fuel it are not given a means for release, if people are not supported in processes of healing from the wounds of violence – victims and perpetrators alike. To me, this is the common ground beyond the definitions debate: the ground of healing.

The term “social healing” frames justice-making as a matter of addressing and healing social wounds, not punishing human evil. This is the basic premise of restorative justice, which defines crime as a violation of people and interpersonal relationships. The restorative paradigm creates obligations (as opposed to guilt) involving victims, offenders, and community members in an effort to put things right, and focuses on victim needs and offender responsibility for repairing harm. (Zehr, 2001, 2002). The Navajo people call restorative justice “justice as healing”.

Can you imagine what such a paradigm would mean if applied to a post-9/11 U.S. political culture? Instead of revenge, justice would have searched for a means to heal. Restorative justice approaches turn Western justice on its head in ways that tread on a kind of invisible sacred ground that informs our social conscience and public attitudes.

Conrad Brunk (2001), a philosopher of law, puts it bluntly in his overview of theories about criminal punishment.

The offender’s suffering or loss is what constitutes the ‘pay back’ to societies and victims... Somehow the moral balance of the universe is restored by the suffering of the offender. Because of retributivism’s preoccupation with the infliction of harm as the means by which wrongs are made right, it simply blinds itself to the fact that the real injustice of an offense is the loss and harm suffered by the victims [emphasis in original]. This injustice is not addressed by the suffering of the offender—the loss is not restored, the suffering is not compensated, the broken relationships with victims and society are not mended. This injustice remains. (p. 38.)

In reflecting on Western justice, James Youngblood Henderson (2004), who is the research director at the Native Law Center, says: “Most aboriginal people have never understood the exotic passion of Eurocentric society for labeling people criminals and making them suffer.” To indigenous people, our approach to justice is intolerant of human frailties and justifies a theory of social control by violence.

In the Navajo justice-making tradition, when there is a dispute, the injured party approaches the perpetrator to put things right, which means not only material compensation, but more importantly, relational. A traditional peacemaker, or naat-aanii, is called in. A naata-anii is a well-respected figure in the community known for being grounded in wisdom. (Yazzi, 1998, and Braithwaite, 2002.) Family and clan relations are called in, prayers are offered to summon guidance, and a circle process proceeds, which offers first the victim and then the perpetrator the opportunity to share. The community members reflect on what they hear, often exposing the weaknesses or unacceptability of excuses offenders may try to use. A plan of reparation is drawn up using principles derived from traditional teachings, ceremonies, and rituals that guide communal understanding about harmony and human ecology as it is embedded within the natural world. (Johnstone, 2002, pp. 44-47.)

Implicit in sentencing circle processes such as the one described above, is a trust in the power of human relatedness and connection—something that is denied in traditional retributive
processes. The process and the outcome are not easily separated. As criminologist Gordon Bazemore (1998) puts it:

Following the logic of aboriginal and indigenous settlement traditions, the argument suggests that simply making connections [emphasis mine] and hearing the voices of those with an interest in the crime in a respectful way is itself a positive outcome; in an effective process, solutions or outcomes are said to take care of themselves. (p. 794.)

Not only do restorative justice practices such as victim-offender mediation programs, sentencing circles, and family conferencing help to heal victims' real needs, but many argue that offenders are more likely to take active responsibility for their crime, thus moving toward what Bazemore calls “earned redemption.” (Ibid., p. 768.) Earned redemption is a result of human, face-to-face processes—offender and victim with the community (that could consist of extended family or other members of a constructed community)—which offer the possibility for felt remorse, repentance, apology, and forgiveness.

This is not to say that these feelings and actions are required or promoted. Indeed, legal scholar John Braithwaite (op.cit) makes it clear in his list of restorative justice values that empowerment is a higher value than forgiveness, meaning that a victim’s right to deny apology, to continue to hate and even to call for punishment, is asserted as greater than forgiveness. But, he adds, the evidence points to the fact that restorative justice conferencing generally helps people to become less punitive and offenders to become more remorseful. (p. 249.)

Feminist legal scholar Karen Heimer feels that “it is the humanity of other people that inspires responsibility.”

Restorative justice . . . shares an interest in putting people in touch with the humanity of others, and therefore might also share the agenda of active responsibility... Retributivists, in contrast, are obsessed with passive responsibility because their priority is to be just in the way that hurts wrongdoers. The shift in the balance toward active responsibility is because the priority of the restorativist is to be just in the way they heal. (Heimer, as cited in Braithwaite, op.cit., p. 255.)

The restorative path is not easy, in either real terms or moral ones. Conditions of mass atrocity are always challenging, and some wrongs can seem too great to forgive. Lederach wisely uses the Biblical Psalm 85:10 as a reference point for considering the difficult job of the restorative path. “Mercy and truth have met together; Righteousness and peace have kissed each other.” Within the social healing lens, the quartet of voices, mercy, truth, justice, and peace, still aim to serve the cause of healing, not inflicting suffering for the sake of punishment. This makes moral sense to me.

**Mutual liberation**

Let us return now to Mary and Gottfried. Gottfried’s epiphany of “the bridge across the abyss” that came when he surrendered his fear and jumped into the unknown of complete truthfulness in the face of those he was sure would shun him, was met by another epiphany, this time coming through Mary as she turned to Gottfried and addressed him in a way not only respectful and compassionate, but that offered a stark contrast to the alienated otherness of Nazi and Jew. To use Martin Buber’s words, Mary experienced a moment of “I-Thou” with Gottfried. The place in-between them was pregnant with a divinely animated presence, and in the words of a Psalm familiar to us all as signifying the safety, protection, and comfort of God, Mary turned to Gottfried and said quite
spontaneously and sincerely: “Yea though I walk through the valley of the shadow of death, I shall fear no evil for Thou art with me.” (Psalm 23)

German theologian Muller-Fahrenholz (1989, 1997) approaches the subject of forgiveness from the location of German shame saying that, as a German, he must think about forgiveness, not in spite of Auschwitz, but because of it. From his vantage point, an act of forgiveness must be understood as a complex process of unlocking painful bondage; of mutual liberation. While the perpetrators must be set free from their guilt, the victims must be liberated from their hurt.

This mutual liberation implies a process of catharsis, and this is the point which scares most people. Much as they might long to be freed from their bondage, they shy away from entering into this cathartic moment. Why? What they dread is the process of dismantling and exposure. (Muller-Fahrenholz, 1997, p. 25.)

Yet, mutual liberation involves what he calls “a third force”, which he likens to Buber’s “in-between.”

The third force is characterized as the transcending and contingent element in the relationship of persons [emphasis mine], a spark of courage to open up, that moment of daring and trusting which causes the heart to jump over the fence. It is this surprising energy which lays down the dividing walls between us. (Muller-Fahrenholz, 1989, p. 131.)

My colleague, Pumla Gobodo-Madikizella (2002) from South Africa, speaks of this as truly human moments—when two people recognize each other’s pain—“the perpetrator as the author of the pain suffered by the victim, and the victim’s acknowledging the perpetrators ‘suffering’ as a result of remorse.” (p. 22.) She goes on to say, “This is not a statement about whether it ‘makes sense’ for victims to respond to evildoers with empathy. But it is an analysis of what happens at the moment when victims connect with perpetrators in a way that many may find unimaginable.” (Ibid.)

The “spark of courage” that Muller-Fahrenholz refers to births the “truly human moment.” For Gobodo-Madikizella, that moment was activated by remorse. Remorse engages history. It faces truth and offers itself to the necessary task of remembering. It involves a complete disarmament, an opening to the lived experience of that pain and hurt defenselessly, allowing our heart to lament. The white South African theologian Denise Ackermann, reflecting on her role in the healing process of a new South Africa, urges her fellow whites to move toward lament, to break the silence and face the truth, feel the pain of one’s complicity, conscious or not, and move from isolated suffering to a community of solidarity. She calls us to consider the words of the Jesuit spiritual teacher Anthony de Mello who said that “the chances that you will wake up are in direct proportion to the amount of truth you can take without running away.” (as cited in Ackermann, 1986, p. 49.)

**Imagining social healing in the United States**

I cannot help but consider what this means in the United States today. As a white American woman, I would like to call myself and others onto a narrow ridge where we might ignite a spark of courage, a spark of moral imagination, which begins with confession, remorse, and lament. The future is the past living through its unhealed wounds.

In Greensboro, North Carolina, a social experiment with truth and reconciliation completed last year could serve as a catalyst to courage. With support from the International Center for Transitional Justice and trainers from South Africa, the Greensboro Truth and Reconciliation Commission
(GTRC) was set up to bring closure to the events of November 3, 1979, when members of the Ku Klux Klan and the American Nazi party killed five people and wounded ten others as activists gathered for a statewide “Death to the Klan” rally and conference for racial, social, and economic justice. Four TV crews captured the killings on film, but the perpetrators were twice acquitted of any wrongdoing. The website of the GTRC invites our moral imagination this way:

**What if ...**

What if America’s cities—especially Southern cities—stopped ignoring the skeletons in their closets?

What if they were inspired by the potential of the truth & reconciliation model as demonstrated in South Africa, Peru, and elsewhere to help them seek life-affirming restorative justice and constructively deal with past incidents of injustice?

Greensboro, N.C., an all-American city with a proud legacy of civil rights leadership, is finding out through the GTRC’s historic effort to honestly confront its tragedy of November 3, 1979. (www.gtcrp.org)

The art of remembering would remind us that the birth of the United States as a national entity is rooted in the genocide of indigenous peoples, the enslavement of Africans, and the exploitation of immigrant labor, all of which made possible the territorial expansion and domination of the American continent and the accumulation of riches that has not stopped as we enter the era of globalization and free trade agreements.

This has never been authentically confronted, internalized, and integrated into the national psyche and narrative, let alone publicly acknowledged or redressed in a manner that honors the scope and horror of its truth and the consequences which have been perpetuated by it. Obviously, to do so would require a level of painful self-reflection and consequent action in line with the truth. But based on the experiences of others and what we hold as wisdom in our own hearts, it appears that “making right” (experiencing the culpability, shame, and remorse on the one hand and receiving the acknowledgment and reparation on the other) is a liberatory practice for all involved, leading to transformed relationships and the creation of a new space from which to birth the future.

Our society is desperate for a new political culture, informed by our understanding of forgiveness, of compassion and social healing. And what has most captivated my moral imagination in this historic moment is the challenge of creating the space for...
that culture to arise. I believe that this is our urgent task now in the United States, and I invite others whose moral imaginations may be similarly attuned to join me in the soul-searching and heart-leaping task of unlocking the bondage of denial, shame, hurt, and anger in our own country and transforming our legacy of violence into mutual liberation which will have a global impact.

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Judith Thompson, Ph.D., is a peacebuilding scholar-practitioner with a background in psychosocial healing, international dialogue, and peace education. She serves as research associate with the Karuna Center for Peacebuilding, an international peacebuilding organization devoted to the prevention and transformation of violent conflict.
The Rise of the Private Military Industry
By Ben Cash

Origins

The saying goes: “War is a dangerous business,” the operative word here being “business.” Did the one who first said that foresee that war would become this privatized? War was not always solely in the public domain, conducted by the standing armies we see today, but rather was often fought by “free companies” or individual mercenaries hired by a local authority to execute his plans.

Though this system existed for many hundreds of years, it was forced to change after the Westphalian Peace ended the Thirty Years’ War and created what was to become the modern state system. States are now recognized by being accepted as full voting members of the United Nations, making them the basic unit of official international politics, and eliminating empires as they were once known. These new sovereign states now had to develop their own militaries to defend their borders, rather than buying force off the international market. The hired military business remained alive and well, however, well into the nineteenth century, and was utilized both by states and charter companies, such as the Dutch and English East India Companies.

During the twentieth century, the state gained a near-monopoly on the use of force, except for some non-state groups such as terrorists, insurgents, rebels, and remaining mercenary elements. This all changed with the end of the Cold War, which brought major changes in the world system at every level, particularly the new reality that enormous conventional militaries were no longer needed to fight a war between superpowers. Large defense budgets had put a strain on the economy, so without an imminent threat of a large war, many countries reduced the size of their armed forces – by laying off a large percentage of the organizations’ workforces. The natural thing to do upon being laid off is to look for another job in the same field, but many military jobs, especially combat arms, do not easily transfer to the private sector.

Instability and conflict spread as the superpowers let go of the client states they no longer required, which forced these smaller states to fend for themselves and sometimes caused them to implode in the process. All these factors contributed to a chaotic international environment where a renewed private military market was able to thrive.

What many people remember most when thinking of private military firms (PMFs) is the incident in Fallujah, Iraq, on the March 31, 2004. That day, a routine resupply convoy carrying kitchen equipment was ambushed and four Blackwater security employees were killed, mutilated, burned, and two of their bodies were hung from a bridge, surrounded by cheering crowds. (“The High-Risk Contracting Business,” 2005, Pelton, pp. 132-142) This incident received a lot of attention in the media and left an impression, but many people who had not been to Iraq asked, “Who are these private security companies, and why are they fighting in a war? Isn’t that the job of the military?”

This paper will explore the roots of the private military industry, its most recent cycle of expansion, and the implications for the future.

The Rebirth

Even after the Peace of Westphalia laid the foundation for today’s state system, the corporatization of military matters intensified, most notably with the English and Dutch East India Companies. These “charter companies”
were given a monopoly trade within an area, including authority to coin money, maintain forts, armies and navies, and make war, which gave it de facto state status, though external powers (Europeans) controlled and benefited from these entities. The charter companies’ activities are similar to those of current military provider firms in that they gain financially from their military adventures. Current PMFs differ from charter companies in that PMFs focus on provision of military services, rather than increasing international trade for the benefit of their home country. These military activities were vital to the companies’ profitability, but by the nineteenth century their profits had dwindled as military expenditures ate up large portions of the budget, and the charter companies began to disappear.

In the twentieth century, the primary private force available for employment became the ex-soldier, hired on an individual basis, not in complete operational units as was prevalent in the past. These individual ex-soldiers are what we would now consider mercenaries, although this definition varies widely and is still debated. Colonial powers wanting to maintain influence during the decolonization period of the 1950s and 1960s contributed to the most pervasive use of mercenaries, but they still are a player in modern warfare. Until the end of the Cold War, mercenaries were recruited informally and secretly, since the mercenary trade was an underground business, and few organizations would want their involvement made public. (Singer, pp. 34-37)

Some patterns are common between the past and present use of private military forces. First, changes in the nature of warfare constantly alter the requirements for the type of force that is needed to fight certain types of wars. In some past wars, wartime conscripts could be just as effective as a full-time professional soldier, depending on the types of weapons and the terrain to be fought in, among all the other variables of war. When quality became more important than quantity, conscripts became less common and the need for professional soldiers increased, as did the use of hired soldiers.

Second, an increased availability of ex-soldiers increases the number of private military forces operating in weaker states. Not only is this true post-Cold War, but it can be traced globally through many post-war periods: for instance, over 80,000 German ex-soldiers served with French units in Vietnam and Algeria after their defeat in World War II. One without a job will usually look for work in a field they know.

Several factors combined to form the third pattern. Decolonization in Africa formed states that were often economically, politically, and socially unstable and weakly governed, such as Angola, Democratic Republic of Congo, Equatorial Guinea, Sierra Leone, and Somalia. The end of the Cold War and client states worsened this situation, making these states even weaker and more insecure as they still depended on external aid. In Somalia, the recent unrest and conflict between a rebel group and the internationally recognized government backed by Ethiopia demonstrates this insecurity. Private militaries have always thrived in these sorts of conditions, especially those organized as a militarized business, which brings us to the final and perhaps most revealing pattern.

Corporations either expand through developing their original venture or through acquisition, and the security business is no exception. Every business has a vested interest in protecting its assets, whether it is by hiring reliable personnel, investing wisely in resources, or actual physical protection. For many years, businesses have employed security guards in the United States, or subcontracted for such security, but how does a business protect resources overseas? In some of
the most dangerous and resource-rich areas in the Middle East and Africa, it would seem wise to employ a paramilitary firm to protect those resources from uncertainty. (Singer, p. 117) The best way to control these private militaries is to own them, and sometimes the separation between them is difficult to find, so closely are they linked (Singer, pp. 104-106), but sometimes this is replaced by an extremely detailed contract outlining each party’s responsibilities. Sometimes this subcontracting and sub-subcontracting has the added benefit of effectively removing any impression of responsibility for any events that may have an adverse effect on the business, such as replacing government forces with contracted employees with the same skills. In several cases, which will be explored later, again primarily in Africa, corporations linked with PMFs have been found to expand their business under the guise of defeating a rebel group which threatens a government. (Singer, pp. 166-167) These corporations brought a bad name to the PMF industry which has persisted through the recent boom.

Those patterns are a system-level reason for the rise of PMFs, but how about the individual level? Like a volunteer state military, a PMF needs to recruit people, but normally does not have the resources to support the whole lifecycle of a soldier, and it therefore relies on experienced retired and “ex” personnel. Many states cut down on the size of their militaries after the Cold War, but there is another factor also that has regularly been reported in the media in recent years. With the United States’ wars still ongoing in Iraq and Afghanistan, retention of experienced personnel has decreased significantly as their contracts come due for renewal, particularly in the US Army. This decrease is for several reasons, perhaps the greatest of which are that the Iraq and Afghanistan wars are the longest ongoing wars the US has fought since the inception of the all-volunteer military, and that a PMF can lure away potential career soldiers with much higher pay, shorter tours, and more freedom of action. This is one of the problems with an all-volunteer military in a country with many other economic opportunities, unlike some other countries, which have fewer opportunities for financial gain and therefore have little trouble recruiting new soldiers, or may rely on conscription. These soldiers do not need to be as technically proficient as US personnel, so their force can be filled out by personnel who may not have the formal education and training US personnel possess and require. State militaries competing with private militaries for quality personnel can create a cycle of manpower shortages which may necessitate the use of PMFs by that state to fill the gap. Current examples are the undermanned units being used even now by the US in Iraq. In an interview conducted by the author on October 11, 2005, with a recently returned US Army veteran of the Iraq War, it was disclosed that a Louisiana National Guard infantry battalion had deployed to a sector of northwest Baghdad with only 430 soldiers on hand, after being reinforced with a cavalry company from another battalion. This is far short of an infantry battalion’s normal strength.

PMFs recruit heavily among the elite forces of the US and UK: the US Army Special Forces, Rangers, Airborne, Delta, Navy SEALs, and UK or Australian SAS. After apartheid was brought to an end in South Africa and parts of that nation’s army were disbanded, nearly an entire battalion retained its structure and became one of the most well-known PMFs, Executive Outcomes, which participated in several controversial military operations in African countries before disbanding itself in 1998. Executive Outcomes drew most of its employees from the elite units of apartheid-era South Africa, such as the Parachute Brigade and 32 Battalion. (Singer, pp. 102-104) More reputable PMFs have hired the same
type of personnel for security missions in Iraq and Afghanistan, often placing personnel with the same origins in the same team to reduce time for team integration, as each unit has their own language and approach to the mission.

This competition for highly-trained soldiers places even more pressure on these elite units that are always in demand for specialized missions.

“Who are these Guys?”

This is exactly what I asked myself upon first meeting a pair of consultants from DynCorp in Iraq. From May 2003 to March 2004, I was deployed to Iraq with a civil affairs battalion whose responsibility it was to get the country back on its feet through humanitarian and reconstruction work in conjunction with infantry and MPs, who were to provide a secure environment for both us and the local population. Our unit was divided into teams according to personal skill and knowledge where possible—a soldier who was a nurse or doctor back home would work with the hospitals to make them more effective and better supplied, a soldier who was a police officer in the United States would instruct the Iraqi Police in more effective police work, in addition to getting them better equipped. The events I now write about were when my civil affairs team and I were working in the city of Mahmudiyah, a short distance south of Baghdad.

One day, a pair of DynCorp advisors came to my civil affairs team asking for our help in evaluating the local police stations. Before this, I had never heard of DynCorp, but was interested to see who they were and what they could do. DynCorp is only one of thirty listed on the U.S. State Department’s official list of security companies in Iraq. Their mission intrigued me, because they carried rifles and wore body armor just like us, and somehow seemed to be doing the same work we were but getting paid more. It turned out I was right. They were duplicating our work and getting paid several times more than many of our soldiers to do it. My impression, which by no means should be generalized to the entire industry, was that they were out for a well-paid sightseeing trip as we showed them the police stations and they interviewed the police chiefs in the area. Their job could have been accomplished by contacting us through email, which we had been using to keep in contact with U.S.-based non-governmental organizations that sent us relief supplies to distribute in Iraq. After they left, we never heard from them again. An information black hole, we called it—they got the information they wanted, but we never got anything back from it in the form of supplies or training for the police. The fact that DynCorp was there in the first place was likely a result of the lack of post-war planning for rebuilding the police force and maintaining security in the cities, and the PMF provided a quick solution. (Gordon, pp. 154-163)

The organization and operations of private military firms are often difficult to ascertain, given their secrecy, temporary nature, and the way they are sometimes tucked away as subsidiaries of other larger firms in completely different fields. Executive Outcomes was just one subsidiary of the Branch-Heritage mining consortium which benefited from EO’s actions. (Singer, pp. 104-106) In an even more layered structure, the Blackwater employees killed in Fallujah in March 2004 were subcontracted to provide security for a Kuwaiti company who was in turn subcontracted under the German company ESS, which was to provide food service to U.S. troops, under a subcontract with Kellogg, Brown, and Root (KBR), which was a main contractor in providing a wide variety of services under the Logistics Civil Augmentation Program (LOGCAP), which outsourced many support functions of the US Army. (Pelton, pp. 118-123) Luckily there have been many recent investigations into these PMFs due to a few very public incidents,
which have revealed several flaws in this structure. These events include: a surveillance plane completely staffed by contractors for the CIA allegedly directing the shoot-down of a private passenger plane carrying civilians, not drug runners (Singer, p. 213); the involvement of contracted interrogators in the U.S.’s Abu Ghraib scandal; and the arrest of sixty-four apparent mercenaries in Zimbabwe accused of attempting to overthrow the government of Equatorial Guinea (BBC, 2005, and Pelton, pp. 302-333). Unfortunately, blood was spilled before these flaws came to light, which we will now explore.

**Organization**

While organized private militaries have existed for many years, their organization is ambiguous to outsiders, as they are by nature secretive corporations, often operating on what some may consider the fringes of lawfulness or even morality. There are very few thorough studies on the industry, and current employees of military provider firms are usually tight-lipped on their operations. However, from available sources, we can put together a generalized framework of their organization and operations.

A PMF can be categorized into three levels of operation much like the US Army is set up: military provider firms (infantry, armor, artillery), military consultant firms (intelligence, trainers), and military support firms (logistics, administration). Also important is how we classify individual contractors, as one day they may be advisors, but the next day convoy security or Personal Security Detail (PSD) under a different contract. Combat forces are the ones intended to make contact with the enemy and destroy them; they are the tip of the spear and all other forces are to support this effort, even though they also may engage in combat, particularly in today’s battlefield that does not have traditional front lines. Although it is easy to categorize EO, Sandline, and the like as military providers, many PMFs do not fit into just one category; for instance, they may support military activities by transporting supplies to government troops engaged in combat operations, but also advise and train those troops—a consultant activity. In this paper, we will focus on the military provider firm, as their personnel are closer to the classic definition of mercenaries and are much more controversial for that same reason, as they exist to engage in direct operations. Whether it is labeled offensive or defensive is a matter for debate in most cases. While clearly not a traditional military force, PMFs are run by ex-military leaders and retain a military-like organization and command structure, frequently hiring through contacts developed during military service. Since military provider firm contracts are not usually long-term, but rather for a specific mission, a PMF will usually only keep a skeleton staff of full-time personnel. PMFs maintain on-hand databases of qualified personnel they can call on at short notice if a contract is agreed upon, and using this technique can quickly expand and mobilize to execute the mission. This is a reversal of what the military does: in the military, the mission is given to an established force; in a PMF, a contract is agreed on, and only after that is the force recruited, organized, and deployed.

During the genocide in Rwanda, very few countries volunteered to send troops to contribute to the peacekeeping force, and the UN Security Council considered alternate options, including privatizing the entire force. Although the Council dismissed the option because they could not agree who would pay the bill, EO had developed plans for a 1,500-member force that it claimed could have an advance team on the ground in fourteen days, and be fully deployed in-country within six weeks. If this force had been deployed, instead of the critically undermanned, underequipped, undertrained, toothless UN force, perhaps hundreds of thousands of lives
could have been saved—that is, if the EO force was as effective in peacekeeping as it was in the very different mission of direct combat operations. The price for a six-month deployment of this force was estimated by EO at $150 million. It included security and reconstruction elements, and had motorized and mechanized ground forces that were supported by air cover. This force is drastically different from the one that was actually deployed to Rwanda (UN Assistance Mission for Rwanda, UNAMIR), which had few vehicles, no air support, and was made up of several countries’ forces—giving it a language barrier in addition to interoperability problems. Because of this, and a weak UN mandate, UNAMIR was severely overworked to the point that they were unable to accomplish the mission, no matter how hard they tried. (Dallaire, p. 137) According to figures from the UN Department of Public Information, the cost for UNAMIR from beginning to end totaled about $197.5 million, including the post-genocide rush to deploy troops (and air support) from many countries. Also, UN peacekeeping missions are arranged in a manner that overloads staff and decision-makers. In traditional military structures, only three to five subordinate units are assigned to each leader at any level, e.g., four squads to a platoon, five companies to a battalion, or four brigades to a division. In UN peacekeeping, this is not the case, as force commander and staff often have direct control of all (diverse, international, non-standardized, and unfamiliar) battalions with no intermediate commander between them. Executive Outcomes’ proposed deployment force structure was quite ambitious and very smartly put-together, and would not have required waiting for contributor countries to send troops once a mandate was approved, as they already had a pool of proven personnel they could draw on. The objection to using these types of personnel because of their lack of training in peacekeeping does not apply, as very few countries actually train their own state forces in peacekeeping techniques.

**Operations**

States on every continent face internal dissent and rebellion, and each deals with them differently than others, but nowhere else is it as widespread and severe as in Africa. During the Cold War, the United States and the USSR each supported client states and rebel groups to offset the other, notably in Angola and other resource-rich states. This support included money, arms, and political support, among other things, but all of it dried up as the Soviet Union fell apart and the value of keeping these client states faded. These client states sometimes fell apart when their benefactor withdrew, and were often left with little security as their indigenous armies were usually undertrained, underequipped, and underpaid without outside help. This exacerbated their problems with rebel groups, which they could no longer successfully suppress as they were frequently supported, at least in part, by neighboring governments. Where could they turn for assistance?

Rebel groups were an imminent threat to the governments’ hold on power, so training up their military to defend against them would be a long and expensive process and probably be too unreliable in the first place. The governments needed an immediate solution, and PMFs seemed the best choice to many. The actions of the now-defunct firms Executive Outcomes and Sandline in such countries as Angola, Sierra Leone, Equatorial Guinea, and Papua New Guinea are well documented (Singer, pp. 107-115, 192-196, Pelton, pp. 302-333, 265-269), but there is more recent activity on another continent, in Iraq.

As already stated, the past decade and a half have brought many changes to militaries and how people think about them. Beginning with their
participation in Vietnam, where they built 85 percent of military infrastructure (Pelton, p. 101) and continuing through many conflicts (Kosovo, Afghanistan, Iraq), the United States has outsourced progressively more support functions to a company called Brown & Root, now known as Kellogg, Brown and Root (KBR), a subsidiary of Halliburton, which is one of the world’s leading vertically-integrated companies in the oil & gas industry. This was due to the changing nature of the U.S. military, as it was ever more difficult to keep large support structures in a downsizing military.

KBR seemed a useful solution, and with this foothold in the government, the privatization of what were traditionally military jobs only expanded from there. To staff its commitment to providing civilian police in Kosovo, the United States relied on a private contractor, DynCorp, to recruit and deploy these personnel. Several major U.S. bases, both overseas and stateside, are guarded under contract with security companies, including Camp Bondsteel in Kosovo and several camps in Kuwait. The police force is much like the military in that it is an armed force that acts under state authority, leaving the appearance of a contradiction in outsourcing jobs that give the authority of the state to a corporation.

There are some problems with this convenient solution. The U.S. military had grown to rely on these corporations for many of its tasks, including maintenance for the complete lifecycle of numerous armored vehicles, aircraft, and weapons systems. Even some training of military personnel had been outsourced to civilian contractors. The United States would not switch back to a pure military system in time for the invasion of Iraq, and relied on KBR to build large portions of its bases there. Soon after ground troops entered Kosovo, the security situation stabilized, but this was a vastly different situation than we have now in Iraq, where there is an active and well-armed insurgency.

In keeping with the administration’s strategy, only a certain number of soldiers, marines, sailors, and airmen would be involved in the invasion and occupation. But what about the fuel, food, water, and other supplies that would be needed to sustain a force of around 150,000? Civilian convoys would deliver them, but there just weren’t many troops to spare to protect them. The United States and these companies would have to turn to private security firms, and rely on them to be as proficient and dedicated as the state military was.

While the US military had the firepower to protect itself, it did need assistance to protect all those civilian supply convoys. Most supply convoys come up the highway from Kuwait, but now that Baghdad International Airport (BIAP) is functioning and relatively safe, military and civilian personnel can fly in, if they have the money and can endure the corkscrew descent to the airfield.

Civilian personnel still need protection during travel off-camp ("outside the wire") though, and this is provided by Personal Security Details (PSDs) from several PMFs and occasionally the military. Certainly the most famous PMF working in Iraq today is Blackwater, which employs security workers in various details: PSDs, convoy security (such as on the notoriously dangerous airport road from BIAP to the Green Zone – known as Route Irish or IED Alley), training, airlift services, and many other jobs formerly exclusive to the military. After Hurricane Katrina, elements of the 82nd Airborne Division and National Guard units from many states deployed to New Orleans to provide security, rescue and evacuation services, and humanitarian assistance. Blackwater was also deployed there on contracts to provide the same services that the military was providing, but some unconfirmed reports stated they also provided direct law enforcement. If professional military personnel are deployed in an American city, why do PMFs need to be there?
Besides Blackwater, many other PMFs operate in Iraq, totaling 30 by the official count on the U.S. State Department website, which includes a disclaimer that the U.S. government claims “no responsibility for the professional ability or integrity” of the PMFs it employs in Iraq. Unlike the first years of the war, security companies have become much more integrated into military operations. They operate under the “Rules for Use of Force by Contracted Security in Iraq,” which are Rules of Engagement (ROE) formally laid out in the same manner as they are for military personnel, receive daily intelligence summaries (particularly important when planning convoy routes), and follow current military procedures in-country. The last is very important to note when considering reports of contractors firing on civilian vehicles. One of the largest threats to coalition forces today is the improvised explosive device (IED, roadside bomb) and the vehicle-borne IED (VBIED, car bomb). In addition to attacking gates at military bases, a method of VBIED attack is to speed quickly up behind a convoy or stop directly in front of it and detonate the explosive; this is extremely difficult to defend against, especially in heavy traffic. The ROE are explicit in escalation of force, from firing warning shots, to shooting out the tires or engine block, to firing directly at the driver—all of which can happen in seconds, and it must be remembered that conventional military forces follow this same ROE. Also stated in the contractor ROE, in item 7d, is the phrase, “You may not join Coalition Forces in combat operations.” What defines a contractor joining in combat operations? It would be hard not to describe defending your convoy or base from small arms fire or IEDs as combat, but what they are really trying to avoid is the perception that contractors engage in offensive operations. The line between offense and defense remains blurred, especially when every convoy outside established bases is through the “Red Zone,” another term for unfriendly territory.

Recalling the clearly offensive operations conducted by Executive Outcomes and Sandline in the 1990’s, it could be asked to what end these operations were undertaken. Sierra Leone, who Sandline was working for in 1997, could not pay them in cash for ridding the country of their rebel problem, so instead Sierra Leone paid in long-term diamond concessions to the Branch-Heritage Group, a company associated with Sandline. The state paid $200 million in resources for an estimated $10 million in military services (Singer, p. 167). This payment further restricted the state from capitalizing on its newfound security because so much funding was lost through the concessions it granted to the Branch-Heritage Group, whose “security-led” approach to business in Africa soon allowed it to gain a considerable advantage over its competitor DeBeers. (Singer, p. 117) This type of uneven exchange may help keep the government in power for the short-term, but it also makes its economy unsustainable, impeding it from implementing development programs which would pre-empt the formation of the same rebel groups that this foreign corporation put down.

Repercussions

There are many conflicts of interest that evolve out of using private security instead of state-owned force, not the least of which is the root motive for executing these tasks. The state has three basic choices: use its own military force, arrange for help from an ally’s military, or contract out to a corporate force. All have separate motives, which do not often intersect. State military personnel, whether they are volunteers or conscripts, are tied to a long-term bond of service, and are committed to finishing their contract to the best of their ability, regardless of what they are directed to do during that time. Corporate militaries do not keep
standing forces, but gain and lose employees much like other companies. They are bound to short-term contracts, primarily using personnel with experience in state militaries. Once these contracts are completed, their forces are again reduced. Therefore, it is in both the company’s and the employees’ interest to renew their contract; otherwise, they are forced to search for another one. PMFs erode the state’s monopoly on violence, and their interests can collide, as what benefits a corporation need not benefit the country they operate in. PMFs exist to profit from wars and other conflicts, and without this, they are out of a job. This is fundamentally different from a state military’s motive during a war: to win, as quickly and effectively as possible, because their continued existence is already assured, barring another major upheaval such as a change in government, or one on the scale of the Cold War ending. This, of course, assumes this state’s military is actually under the control of the state, and is not out for its own profit.

When considering whether to outsource military force, a state needs to consider several factors: Are they cost-effective? Can they survive? What if they decide the risks are not worth completing the contract? To illustrate this, we turn first to the ever-troubled country of Sierra Leone. The Gurkha Security Group originally took the contract, but soon took heavy casualties in a rebel ambush, including its commander. GSG wasted no time in breaking the contract and leaving the country, and Executive Outcomes later came in to rescue the troubled government from the rebels. (Singer, p. 160)

There is a more recent example in the personal security detail (PSD) of President Hamid Karzai in Afghanistan. US Navy SEALs were initially assigned to protect Karzai’s life for a six-month period in 2002 until a permanent PSD could be put together, but after an unfortunate incident during an assassination attempt on Karzai in which two nearby civilians who attempted to stop the attacker were killed by the SEALs, it became immediately vital to replace the SEALs with a permanent and specialized PSD. The State Department hired former Delta operator Craig Maxim to field an experienced PSD in a short time. His team’s contract was added to an existing DynCorp contract, effectively making them employees and subcontractors for DynCorp. This added a degree of separation between the U.S. military and Karzai, who was viewed more as an American puppet when protected overtly by active U.S. military, even though the new PSD was mainly composed of Americans with many years of field experience in the elite units of the U.S. military. This highly experienced team now worked for a company who, among other things, ran security details in Bosnia and Jerusalem, but a conflict between the team and the company came up over their pay and benefits. They were on a ninety-day renewable contract, but Maxim and his team disputed with the company, mostly over holiday pay, and the entire team decided not to renew their contracts, which DynCorp was unprepared for. Delivering on every contract, in full, is what keeps a security business alive: the value of knowing who to trust overshadows the value of money lost in a failed contract. DynCorp may have lost the State Department contract if they failed to deliver, but their overall business would also suffer, as their reputation further crumbled. This is life-and-death for all parties: for Karzai, who risked being fully exposed to assassination, for the U.S. government, which had a vested interest in keeping Karzai alive and a U.S. ally, and for a company with 95 percent of its business and 23,000 employees tied to U.S. government contracts. DynCorp quickly found another team to replace Maxim’s, but now much of its PSD business is subcontracted out to other companies such as Blackwater. (Pelton, pp. 70-76)
If the security of a president and essential U.S. ally can be entrusted to a corporation, but his security can be jeopardized by a pay dispute, how far can we take this privatization? How far should we take it? PMFs have been used to engage in combat before, yes, but not in a prolonged war situation. They are used in Iraq mainly as defensive security and trainers, not to engage and destroy the enemy, as that is the mission of the combat forces of the state militaries there. A main attraction to PMFs is the high pay, but is that enough to keep them on the battlefield, especially in unconventional wars, where the front line is everywhere? Precedents exist where contracted forces walked out on the job, resulting in many deaths—as happened during World War I off the coast of Gallipoli, Turkey. At that time, civilian minesweepers were used instead of naval vessels as it was seen to be a non-combat support task at the time. However, when these ships came under fire, they completely withdrew before clearing the mines. Three Allied battleships sank, with three more severely damaged, and over seven hundred sailors lost their lives. This tragedy must be seen as an example of the potential consequences of using unreliable forces. (Singer, p. 162) Even now, individual PMF employees have the freedoms any other non-military employee might: they can quit, at any time, without consequences beyond breaking contract and no longer receiving their $500-650/day paycheck, the going rate for security in Iraq. (Pelton, pp. 90-95)

Another very serious question about the reliability of troops goes even further: would these private soldiers turn on their client, or other PMFs? It has happened before—in Sierra Leone, after EO saved the government from being overthrown, the company remained quiet about an imminent coup attempt, even though its contract obligated them to protect the government from all threats. The coup attempt was successful, and EO went to work for the new regime. In other cases, PMFs have worked for multiple sides of a conflict, such as in Angola and Zaire, where EO and several other firms worked for both warring sides. The firm selling the service decides who to sell to, and, in effect, decides who the “good guy” is, as they are responsible only to themselves and not to governments. (Singer, pp. 222-226)

There are fundamental differences between the motivations of state militaries and private ones. A member of a state military is loyal for many reasons: patriotism, steady employment, learning skills for a future career, college money (in the United States), unit loyalty, and fear of punishment for desertion. A member of a PMF, however, has different reasons, and foremost among them is getting paid. There is little loyalty to the firm, due to the temporary method of employment, and also little loyalty to the client as the work is normally not in the employee’s home country. PMF forces also do not take an oath to defend the Constitution as state forces do in the United States. (Singer, p. 213) There is sometimes friction between PMFs and state forces when they come in contact with each other. In Chechnya, Russian soldiers and private troops were traveling in a convoy until the Russian infantry unit attacked and killed the contract troops, in coordination with Russian helicopters. Although this is unconfirmed, from Chechen sources, it must be noted that Russia is extremely tight-lipped on Chechnya and certainly would not willingly admit this incident. The friction has consequences for both forces.

There have been situations in the Iraq war where security contractors worked directly with military forces in the defense of their base. Although it is technically no longer allowed, as the ROE now forbid working directly together, it was necessary at the time. The spring of 2004 saw a large Shi’ā uprising in southern Iraq and the Sadr
City district of Baghdad. In the cities of Najaf and Kut, civilian-dominated compounds run by the Coalition Provisional Authority (CPA), which at the time had absolute decision-making authority in Iraq, came under fire from attackers hiding among demonstrators gathered outside the compounds. Demonstrations had occurred regularly at coalition bases for some time as a result of CPA’s decree dissolving the army and security forces, putting many people out of a job. When some demonstrators began to attack, the U.S. military at the time was busy defending their own bases and operations from the uprising and could not offer the CPA compounds any support, so they had to rely on contracted security and whatever military personnel happened to be there at the time. In the end, eight Blackwater contractors and a handful of U.S. military personnel defended the Najaf compound, with ammunition resupply provided by a Blackwater helicopter that flew down from Baghdad, whose pilot also evacuated a wounded Marine. The pilot was reprimanded for breaking contract—he was supposed to fly support only for CPA head Paul Bremer. In Kut, soon after, a diverse group of security contractors, Ukrainian and Polish soldiers, and civilians endured RPGs (rocket-propelled grenades), mortars, and small arms fire. Urgent requests for support sent to the Green Zone were denied, and support was not forthcoming from the nearby Ukrainian base until two days later, even though they had the resources to conduct an extraction. In the news and press briefings, the role of contractors in these engagements was persistently underplayed nearly to the point of denial. (Pelton, pp. 147-165)

There are several other dangers with using contracted forces alongside uniformed state forces, besides the aforementioned perception that they engage in offensive combat operations, rather than merely defending what is attacked. There is no prescribed uniform for the companies doing security work in Iraq and Afghanistan, making friend-or-foe identification much more difficult, especially in a civilian-saturated urban battlefield. PMFs originating from the United States typically dress in a similar fashion to U.S. military forces, except the armor, weapons, and gear is more likely to be strapped on over a polo shirt and khakis than a conventional combat uniform. PMFs with mainly UK SAS or South African personnel are more likely to attempt to go under the radar with less obvious armor and weapons, and possibly in local attire, which has made them accidental targets in the past. PMF personnel are also labeled mercenaries or CIA by the enemy in Iraq and Afghanistan, and are easy targets for their propaganda machine.

PMFs have been turned to recently by the U.S. government to replace state troops in gray areas that certain accountability agencies might disagree with (Congress, GAO), such as interrogation (in official and unofficial detention facilities) and counter-drug and counter-insurgency operations in South America. In Colombia, U.S. military activities are restricted to training and advisory positions, but in the fulfilling of this task troops may get themselves into a combat situation in which they are not officially allowed to participate. A PMF is a useful way around restrictions on use of state forces. It also keeps operations more secret, because there can be several more layers of deception between the operation and the U.S. government than in a conventional military operation. This is apart from special operations forces, of course, which are designed to operate clandestinely. Questions arise about how much control elected civilian leaders in Congress really have over military forces and the application of force when it can be bypassed so easily and possibly abused, as some have alleged in the past few years.

Finally and perhaps most important in the list of the repercussions of the use of private military firms is the big
question of accountability. Although there have been many U.S. military personnel court-martialed for illegal actions, including murder, there is no known case of any security contractor in Iraq having been charged with a crime. It is hard to comprehend such a well-behaved armed force tens of thousands strong—some estimate up to 70,000 privately armed men (foreigners and local) in Iraq. This does not count insurgents, militias, criminals, or death squads, which for all the lack of accountability could quite possibly be the same people legitimately employed as private contractors. Common practice upon discovery of unacceptable behavior is to either fire or expel the contractor from the country. No entity outside the corporation controls these armed men—not the coalition, not the government. (Pelton, pp. 336-341)

Tim Spicer, a former British officer that had been involved in EO and Sandline, including the attempted coup in Equatorial Guinea (and managed to avoid prosecution, unlike the men now in prison for that failed operation), now heads Aegis Defence Services, which has one of the largest security contracts in Iraq. (Pelton, p. 254) Who is keeping track of these civilians with firepower? Once a contract is signed and they are deployed, PMFs are on their own to complete the mission, and they do not necessarily have reporting requirements to a higher authority. PMFs do not take orders from anyone except their client in accordance with their contract and the ROE (violation of which has never been punished in Iraq). (Pelton, pp. 339-342) The contract officially defines how they operate, and several outside groups attempt to track the industry, but is anyone really tracking what they do?

How do you prosecute a PMF employee if they commit a war crime? And is it technically a war crime if they are not a card-carrying member of the military, or is it just a crime, punishable under local law? If a member of the military murders a local civilian, he is prosecuted under the UCMJ and if guilty may be put in prison or put to death. The actions of a foreign power in a host country are magnified intensely if they get publicized. If any foreigner, be they PMF or military, murders or mistreats a civilian, it has strategic-level consequences. Is a PMF employee even a legal combatant? Are they really combatants or just civilians authorized to carry a weapon?

There is no governmental review mechanism for the conduct of PMFs in theater, while there are several layers of review for military personnel. PMF employees need not take any oath, and the codes of conduct developed by and applied to state military forces can be ignored by corporate forces, as they can apply force outside the law, which can be a very dangerous thing for a corporation motivated by and profiting from the continuation of war.

The PMF employee could be seen by the cold-hearted as disposable soldiers, as they do not have the benefits of regular U.S. military personnel (except the higher pay), such as school benefits, retirement, low-cost life insurance, and health care if wounded. The family of a dead U.S. PMF employee is entitled to only $64,000 under the Defense Base Act, a miniscule amount considering the dangers of the job. (Pelton, pp. 137-139)

**Conclusion**

Private militaries have existed for centuries, but at no time before has so much power been concentrated with such a relatively small group of people. With technological advancement has come the ability to purchase weapons that can kill hundreds or thousands at the push of a button. The president of Blackwater himself has declared intent to develop a private army, and this is quite possible in the near future. (Pelton, pp. 285-6) If a corporation can buy an army, an air force, and a navy, what is to prevent them from becoming more powerful than a state? As many corporations can already avoid national
laws and taxes, what country would be able to control them?

Private militaries formerly were the standard for the projection of force, and perhaps that will be the pattern for future wars. Could the authority of the state as the main player in international relations be diminishing? Quite possibly, but that does not mean that multinational corporations will replace the state. We are still far off from that situation, even though MNCs do effectively control pieces of state territory and some of their leaders through their massive economic influence and other methods. MNCs with their own military forces could very probably become a ‘third force’ in international relations, directing their influence to areas that are in their interest, as states do now.

This paper has only begun to look at the private military industry, and to go deeper would require a great expansion of scope. This topic requires a great deal more in-depth exploration, with increased intensity, for it has far-reaching consequences to every country, weak and strong. As for the near future, states will remain the main force in conducting warfare, because, for all their advantages, modern private militaries are still not dependable enough to be trusted as the main force in the harsh and uncertain environment of a prolonged war sanctioned by a government. In the event that corporate military forces become capable of defeating competent state armies in battle, action must be taken to take away that power and keep it in the hands of the state.

Notes

1 PMF personnel come from a variety of backgrounds. While the overwhelming majority of military provider firm contractors are former or retired military personnel, and some are former mercenaries in the classic sense, at least one had a short career in television. Former Navy SEAL Scott Helvenston, one of the Blackwater contractors killed in the Fallujah convoy, was a prominent player in the reality show Combat Missions, which had a one-season run on the USA network. He was in debt at the time and joined Blackwater for its $600/day pay.

2 A standard US Army infantry battalion includes five companies totaling about 650 soldiers at full strength. These are three (A, B, C) companies of riflemen, one heavy weapons company (D), and a headquarters company (HHC). This Louisiana National Guard battalion was created by carving soldiers out of other battalions, and as a result was very undermanned. The battalion sent its C Company to be with another battalion and received an undermanned cavalry company in exchange. The headquarters for most of its deployment was platoon-size instead of company-size. While there are supposed to be 30 forward observers in a battalion, in this one there were only three, with only one of them doing nearly all of the artillery missions. Its area of operations was the Khadamiyah neighborhood of Baghdad.


At the top of the webpage is a disclaimer: “The U.S. government assumes no responsibility for the professional ability or integrity of the persons or firms whose names appear on the list.” This is even though many of these companies are under U.S. government contract.

4 In fact, if they had asked, we could have given the DynCorp team the information they were seeking, as my team and I had already been working with the Iraqi police for months, and their interviews with the police chiefs contained only very simple questions that we had already answered.

5 Four were found guilty and sentenced to several years in prison in Zimbabwe. One was Simon Mann, who had high-level
connections with Executive Outcomes and Sandline, which closed up shop a month after they were arrested. Their aircraft had landed in Harare, Zimbabwe, with £100,000 of weapons and military equipment. Eight other suspected mercenaries were also arrested in Equatorial Guinea, one of whom later died in prison.

As a side note, there is a disparity between what a PMF calls itself and what operations it actually undertakes. As PMFs seek to avoid the public eye, they often label themselves as “consultants,” or if they say they do partake in security operations they deem them all “defensive” in nature. An example of this is one of Executive Outcomes’ most public operations in Angola, where many nations’ and companies’ interests have repeatedly collided. EO was contracted to retake oil facilities, and the companies owning the fields publicly stated that they were merely security guards to protect the site against rebel attack, even though the rebels had already seized it. EO retook the site from UNITA rebels with a raiding party of about 80 personnel. What UNITA did not know is that these private soldiers formerly belonged to the South African Defense Forces, who had fought alongside UNITA earlier in the war. PMFs based in a country do not necessarily act in that country’s interest. In this case, EO was acting in its parent company’s (Branch-Heritage) interest, which owned those same oil facilities, and also in the interest of the Angolan government, which did not have the capability to retake the facilities without causing undue damage to them.

Roméo Dallaire. *Shake Hands with the Devil: the Failure of Humanity in Rwanda.* (New York: Carroll & Graf, 2003). This book was written by the Force Commander of UNAMIR. One of the many problems Dallaire wrote about in the book was the refusal of countries to lend air support to the mission to prevent arms from flowing across the border into Rwanda. Other troubles with relying on contributor countries were the uncertain quality of the troops, the toothless nature of their mandate, and the appalling fact that very few countries contributed significant forces until after the massacres. It’s like closing the door to the house after the family has already been murdered. Not for lack of capacity to deploy troops to protect Rwandans from the impending slaughter—European countries deployed a special short-term rescue mission for foreign nationals. This negated their oft-repeated excuse of “we’re too busy in Bosnia.”


The services Brown & Root Services provide in Kosovo are wide ranging and include: base camp construction, operations, and maintenance; engineering; transportation; road repair; railhead operation; water production, purification, and distribution; food service; laundry; power generation; refueling; hazardous materials; fire fighting; and mail delivery.

Personal interview. The instructors at the U.S. Army’s advanced individual training (AIT) “pipeline” school for flight operations specialists (not to be confused with air traffic control) are now all contracted civilians. There is another school, which I attended, for recent transfers to that job field that takes half the time and is taught by military instructors. My estimate is that since these civilian instructors are very likely paid more and the course is twice as long (with the exact same proficiency requirements), the Army could save some money by switching to the model of the school I attended.


Executive Outcomes had possession of some awesome firepower, including napalm, cluster bombs, fuel-air bombs (Singer, p. 116) and the means to deliver them. Fuel-air bombs are the most destructive explosive weapons before going nuclear. They use the oxygen in the surrounding air to create a massive fireball that kills every living thing in a one mile radius. The international arms market must be pretty wide open for a corporation to get their hands on one of those, which is very disturbing.

The name “Blackwater” refers to the Great Dismal Swamp headquarters and training area for the company, in Moyock, North Carolina, which happens to contain a large population of black bears, which Blackwater draws upon for its logo, a bear paw through a sniper scope. (Pelton, p. 7)
Some news stories misreported that the Louisiana National Guard’s 256th Brigade was coming home sooner because of Hurricane Katrina. The Louisiana Guard was already scheduled to end their tour at that time, and flight schedules had already been set up to get them home. That it was soon after Katrina is coincidence, although a very few whose homes were destroyed were lucky enough to be demobilized early.

From multiple discussions with several Iraq veterans (belonging to the U.S. Army or Marine Corps’ uniformed forces), and personal experience. These actions included:

- Preference for contractors over soldiers in chow lines (posted on a sign outside a chow hall on a camp in Baghdad, to the effect of: “Contractors may move to the head of the line”)
- Interfering in military convoys by trying to force their way in, even while outside the wire on highways—one of the most dangerous parts of Iraq
- Generally not fitting in with soldiers, and being able to drive brand-new SUVs with air-conditioning, a rare resource in the long summers. This contributes to a feeling of separation between the two forces, as state forces are predicated upon the uniformity of personnel and their actions

Sources


Ben Cash is a senior at the University of Wisconsin – Oshkosh majoring in International Studies. In Iraq, he served in a U.S. Army Civil Affairs battalion where he conducted humanitarian and reconstruction operations, particularly rebuilding the Iraqi police force.
Human Rights in the International Societies
By Justin Van Ness

In International Relations (IR), anarchy usually means that there is no supranational authority that can control the international political order. In the human rights debate, this implies that there are no neutral powers to enforce human rights agreements and that many humanitarian decisions are made based on political calculations. Thus, the status of human rights has reached a nadir over the last sixty years because the regime designed to protect it was based on the need for an international Leviathan that does not exist. However, the relative success of the European and Inter-American rights regimes and several bilateral experiences indicate that international enforcement per se is not the problem. Rather, the problem of the international human rights regime is one of timing. It set out to deal with international political anarchy before the question of international moral anarchy had been addressed. That is, it incorrectly assumed a universal consensus on such social ideas as the meaning of “the good life,” right and wrong, rights ontology, and the means of interpreting and ordering rights. Meeting these assumptions is necessary before any enforcement mechanism is possible, and such agreements do exist at the international level, but only between particular societies of states, not between all states together. Therefore, this paper proposes looking at supranational rights on two levels. First, there are “international rights,” which are those rights that are only protected among the members of particular international societies; and second, there are human rights, which are those rights that the society of states as a whole can agree on.

A human rights regime will inevitably begin weak and grow over time. This is because the world’s diverse conditions, varying levels and methods of development, and rich variety of cultures make it unreasonable to assume that all communities everywhere should have arrived at uniform systems of values. Rather, the only things that these systems should share in isolation are values that are helpful in securing purely human needs, not needs that stem from pre-existing conditions such as one’s environment or established culture. The rights in that system (Henry Shue convincingly argues that it includes rights to security, subsistence, and liberty; see Donnelly 1989, p. 39) are human rights in the purest sense— they are the rights that we have because we are human. However, cross-cultural interaction, relatively similar conceptions of the good life stemming from our common point of departure (our common humanity), technological progress, and shared environmental constraints are together increasing the number and complexity of the rights to which all humans are entitled. That is, human rights as an idea has the same definition, but the content of those rights is continually changing for four reasons: increasing capacity for all, more frequent interactions, shared scarcities and threats, and a shared point of departure for the development of societies. The latter three points ensure that increased capacities do not drive us further towards truly opposite definitions of progress while the first means that we all have the ability to secure more rights now than we did a century ago. This is obvious but important because the limits of the current human rights regime are based not on levels of capacity, but on types of threats. It is more realistic, however, to base the limits of any regime that seeks to be universal on capacity because no individual or group can possibly do more than they are capable of, whereas most threats are situational and culture-bound. Therefore, the task of any global human rights regime is to
homogenize what is considered desirable by all with what all are capable of achieving, thus deepening the content of human rights. In this view, human rights are a function of global cultural integration, economic development, and the development and diffusion of new technologies and ideas about society and politics.

The current regime, however, is based on the codification of what was desirable and possible for one segment of international society at a particular moment in history. As a result, it is based on the false premise that a given set of rights is universal, exogenous to society, and uniform across all relationships. Instead, rights are socially constructed, vary by relationship, and vary in depth according to the level of society—high levels of social integration imply deep (i.e., complex) rights and low levels, shallow (i.e., basic) rights. This means that human rights exist, but only by virtue of living in society with humanity broadly speaking; thus, human rights are currently shallow and unimportant except in rare cases where individuals or their proxies (including states) encounter each other in states of anarchy. This is because most of us live in families, neighborhoods, cities, etc., where we are highly integrated with our fellows.

In modern society, the state often represents the highest level of social integration. Therefore, international levels and sets of rights vary according to the relationship between two or more international actors, usually states. A constructivist theory of IR applied to the human rights discourse takes account of these variables and allows for a theory of socially constructed human rights at the level of particular international societies. It also suggests an approach to human rights promotion that is centered on domestic politico-economic development and on improving transnational relationships at all levels, from the interpersonal to the interstate.

In order to defend these arguments this paper examines rights as social constructs that are generally codified by the anthropomorphic state. Then it applies a constructivist theory of IR to human rights in order to argue that rights must be understood as relational, even at the international level. Finally, it discusses the implications of this view for the human rights discourse.

**Rights as Social Constructs**

There are both principled and pragmatic reasons to believe that rights are and should be seen as socially grounded, not universal. First, there are political challenges to fixing an ontological source for human rights, as “[f]oundational claims [that rely on metaphysical arguments] divide, and these divisions cannot be resolved in the way that humans usually resolve their arguments, by means of discussion and compromise.” (Ignatieff, p. 54) Such grounds are based on indefensible absolute values; they are not clear because they falsely idealize human potential, and they do not strengthen, but rather fragment governments’ practical responsibilities to human rights regimes. (Ibid.) According to Neil Stammers, seeing rights as social constructs diminishes this problem:

> To say that human rights are socially constructed is to say that ideas and practices in respect of human rights are created, re-created, and instantiated by human actors in particular socio-historical settings and conditions. It is a way of understanding human rights which does not require them to have any metaphysical existence (for example, through nature or God), nor does it rely on abstract reasoning or logic to ground them. (p. 981)

This view avoids the irresolvable debates that draw charges of cultural imperialism and relativism by allowing for ontological pluralism and it makes
human rights discourse and practice more universally palatable.

But what prevents “oppressive practices defended by leaders of a culture” from becoming “little more than the current self-interested preferences of a power elite?” (Franck, p. 225) The related definitions of culture as a “survival strategy” and of chaos as the greatest threat go far in resolving this problem and provide the second justification for the social grounding of human rights.

The current sociological consensus posits that humans must “learn to live” and that “learning in humans is a social process of interaction and socialization whereby culture is transmitted.” (Griswold, p. 20) Clifford Geertz writes that

undirected by culture patterns—organized systems of significant symbols—man’s behavior would be virtually ungovernable, a mere chaos of pointless acts and exploding emotions, his experiences virtually shapeless. Culture, the accumulated totality of such patterns, is not just an ornament of human existence ... but an essential condition for it. (Quoted in ibid.)

Underlying this statement is the assumption that chaos is objectively worse than evil, that human existence per se would be impossible without some form of guidance. Many scholars claim that John Locke argues the reverse—that tyranny is a greater threat than anarchy. However, this logic wilts in light of Locke’s own prerogative, power. Locke concedes that exclusive and final authority must rest with the executive during the most vital moments to the existence of the nation, when anarchy is about to be imposed from without. Indeed, according to Carl Schmitt—a defender of dictatorships—sovereignty means the power to declare a state of exception because “that moment of supreme political importance [occurs] in a legal vacuum” and is thus free from any external control. (Bobbitt, p. 600) This is a tacit admission by Locke that, in the final instance, tyranny is preferable to anarchy provided that it secures life and order. Extrapolating from this principle, it is usually preferable to endure the likes of a subjectively imperfect cultural system until local conditions indicate the necessity and preparation for change than to have cultural anarchy imposed by an international intervention, however well-intentioned.

Third, rights require mechanisms for resolving the concordant problems of enforcement and conflict resolution. Particular cultures serve both purposes while claims to universal knowledge serve neither, amount to imperialism, and rely purely on force. Political regimes, including the rights that a government is charged to secure, are founded on two sources of power: culture—“internalized sets of norms that justify compliance”—and coercion. (Ignatieff, p. 53) But no society can endure based on coercion alone; cultural, political, and economic systems must be mutually supportive or they will collapse. (Inglehart, p. 11) This is where culture as a mode of authority enters the argument. Michel Foucault writes that “power is inherently relational and ‘circulates’ throughout social relations” and “those subjected to power are […] constructed as subjects of that power.” (Quoted in Stammers, p. 982) This is to say that the power to enforce rights is not merely governmental; it more commonly relies on emotional pull, family ties, love, expected behavioral patterns, etc.—the often invisible modes of authority that permeate societies. In turn, the exercise of power shapes the social system, including the government, and advances society to the point where the community’s most immediate needs (or rights) are perceived and met. When this happens, society can evolve to fulfill deeper sets of rights. This process is at different stages between, for example, the United States and China, or the United States and Great Britain, and within the United States per se, as the
coercive effects of culture only extend as deep and as far as society itself, whether it is transnational, domestic, or local in scope. Otherwise human rights must rely on force alone, a situation which is manifestly unprincipled and unsustainable.

Conflicts between specific rights must also be resolved by culture. This requires an authoritative decision that can be based either on power or legitimacy and, again, for the reasons given above, they should usually be based on the latter.

Finally, several landmark critiques of globalization, including Benjamin Barber's *Jihad vs. McWorld* and Samuel Huntington's "Clash of Civilizations," highlight the perverse consequences of rights universalism. The former argues that globalization paradoxically intensifies a people's sense of uniqueness because the erosion of national sovereignty causes crises of identity. And just as Bismarck forged the Prussian national identity in "blood and iron," religious, ethnic, and other cliques are seeking to rescue their identities through wars as ends in themselves; these wars, exemplified by the former Yugoslavia and Rwanda, have been human rights disasters. In a different vein, Huntington argues that porous borders weaken the nation-state causing individuals to identify with the "civilization" and that "more frequent and intense interactions" intensify awareness of difference. Moreover, the differences between people at the civilizational level are real and basic, and are less mutable because they are not conflicts of interest, but of passion. This has pernicious implications for human rights because, when civilizations wage war, the weapon is often genocide. This was embodied by the "crossroads genocides" in the former Yugoslavia, Nigeria (1968), and Sudan. Deliberately disseminating Western values via claims to universal knowledge merely provokes embittered counterhegemonic balancing, not only in military terms but in economic and cultural terms as well. Military reactions are ubiquitous, while the revival of Latin American populism and the Third World's increasing rejection of "tied aid" and "good governance" as requirements for economic interaction with the United States in favor of China's unqualified market and investment opportunities exemplify the latter modes of balancing.

Thus, universalism and legalism are impracticable and unprincipled bases on which to found a human rights regime. While there may be universal rights, they are minimal because they only exist through individuals' social relationships with an amorphous "humanity." More important rights are found at deeper levels of interaction. The next section demonstrates how these deeper rights are transferred to the international societies (IS) and how and when they manifest themselves at that level.

**Human Rights in Theoretical Perspective**

In modern society, rights often reach their highest level of aggregation—the point of maximum coincidence between the depth of rights and the population size—in the state. Social contract theory and the principle of subsidiary together provide the clearest explanation of why.

Social contract theory simply states that individuals agree to enter into civil society with one-another to preserve their property and impartially judge and punish lawbreakers. (Locke, pp. 58-60) However, Locke limits the scope of a civil government's lawmaking power. He argues that, to maximize individual rights, only those laws that are necessary for self-preservation, including the preservation of property, are legitimate, as individuals are capable of completing more complex functions at lower levels of social aggregation. (p. 92) This is why, often, only the most basic sets of rights are secured by the national government and
why the international community often cannot legitimately claim to protect any rights that are not already protected somewhere within the state.

In this lies a principal criticism of the current human rights regime. While “idealists” maintain that a global human rights regime is emerging to supplement the principle of state sovereignty, the long list of uncontested postwar genocides, America’s “war on terror” alliances with blatant rights violators, and the like, demonstrate that sovereignty is still the dominant norm of international relations. No prudent repressed Burmese journalist, therefore, will wait for the international community to enforce her right to a free press. The subsidiary principle, the basis of Thomas Jefferson’s theory of democracy, goes far in explaining why this both is and should be so.

Jefferson maintained that democracy is best practiced and preserved where the most local levels of government have the most authority that they can effectively exercise, and where all remaining powers are conferred to the next level of social aggregation, and so on, until a final unit of government is left with the basic powers of securing the existence of the anterior communities. Where this process stops depends on the particular society’s level of political and economic development. For example, the Banjul (African) Charter on Human and Peoples’ Rights emphasizes the duty of individuals to protect their families because in developing countries a large portion of one’s rights are secured at that level. Individuals in these societies will have a smaller universe of rights due to politico-economic underdevelopment. They will, therefore, be concerned with more local levels of governance; indeed, some African states lack the finances to even establish embassies abroad. On the other hand, Europe’s human rights regime guarantees broad and deep sets of rights and, maybe more importantly, has mechanisms to enforce them.

Political and economic development along with positive international relationships within Europe have allowed these states to transfer many basic human rights protections to supranational levels of society so that the states and sub-state units (including individuals) can focus on fulfilling more complex sets of rights. Indeed, this clarifies the idea that rights should be based on capacity rather than on “threat,” as Europeans do not have more rights because they face more or more pernicious threats, but because they can legitimately demand more entitlements from their governmental institutions. (See Inglehart, pp. 36-37)

The principle of subsidiary is both prudent, as it allows for vast contextual variations in policy and rights ontology, and essential for socio-political development, as it promotes the creation and accumulation of social capital in the form of civic organizations, active citizens, cross-cutting cleavages, and organizational skills. It is only logical, therefore, that international actors—states and Intergovernmental Organizations (IGOs)—conform to this ideal of political development; and where such actors have overstepped this mandate they have been justifiably met with local resistance and international scrutiny (e.g., the female circumcision debate). Otherwise, whatever rights are conferred upon individuals internationally are granted based on the benevolence of the great powers. This is why Raphael Lemkin—one of history’s most dedicated human rights lawyers—condemned the Universal Declaration. He argued, “[i]f every abuse were to become a subject of international concern states would not respond to the greatest crimes of all,” which are those falling under the principle of universal jurisdiction; these are the crimes that merit global attention because they directly affect the viability of states, their social organizations, and thus the source of their citizens’ rights. (Quoted in Power, pp. 74-75)
Therefore, if rights are socially constructed and the state is the anthropomorphic expression of the aggregated social life of its citizens, most internationally-protected rights do not exist through humanity as a social unit, but through the social integration of two or more states or their citizens. These are not precisely human rights, but they are the next closest thing and they are often given that misnomer. (Lacking a better term, this paper has referred to them as “international rights.”) In order to understand international rights in this context, one must employ theories of IR. Indeed, it is inane to define an ontological source for internationally protected rights, what rights exist, or how to best protect them without IR theory because each paradigm offers different answers to each of these questions. By ignoring IR theory, many scholars are simply talking past each other—some are correct in some cases, others in different cases. But rather than looking at each theory of IR individually, this paper proposes a constructivist perspective of human rights.

Constructivism rejects “the tendency in [IR] scholarship to view power and institutions [i.e., realism and liberalism] as two opposing explanations of foreign policy” because it embraces the social construction of international relations. (Wendt, 1992, p. 401) That is to say, it recognizes the potential for states to view each other through different theoretical lenses depending on the class of society that they establish. (ibid., pp. 396-99) It also recognizes the potential for change in state identities and interests and for international societies to influence states’ domestic policies. This helps explain states’ various postures to human rights law depending on the states involved, inconsistent reactions to even massive rights violations, and the inability of the society of states to convincingly define the content of human rights. Finally, it supplies a ray of hope, as it implies that the current rights pedigree is not endemic to the international societies.

**Constructivism and its Implications**

Constructivism posits that the international societies (IS) are made of anarchy, capabilities distribution, and social relationships among states—components which, by themselves, predict nothing about how specific states will inter-relate. Anarchy is merely the absence of a central authority and capability distribution is meaningless absent information about a state’s identities and interests. (Wendt, 1994, p. 388) In fact, according to Alexander Wendt, the fatal flaw of neorealism and neoliberalism is that they treat the “identities and interests of agents as exogenously given” (1992, p. 391). If, as these schools maintain, states are immutably concerned with security in self-interested terms, then the IS may appear largely as they predict.

However, constructivism maintains that states’ identities and interests are flexible; states “act toward objects, including other actors, on the basis of the meanings that objects have for them. States act differently toward enemies than they do towards friends because enemies are threatening and friends are not.” (ibid., pp. 396-97) This is because identities are relational; for example, the United States is now a sovereign relative to China, an imperialist to Iran, and an ally to Great Britain. And these identities imply the use of different analytical frameworks through which to interpret the actions of the other state and develop appropriate responses.

Furthermore, different identities imply different interests and thus, different theoretical perspectives. Depending on the relationship developed, these identities and interests can be institutionalized in “a standard continuum of security systems” ranging from “competitive” to “cooperative.” (ibid., p. 400) The former system corresponds to a relationship characterized by degrees of traditionally realist tenets of action and the latter, by
liberal tenets. This has important implications for the human rights discourse because different theories of IR imply different perspectives on the source of rights for foreign citizens, what rights exist for them, and how to protect those rights.

In this view, there is no one way to analyze the status of human rights in the IS or to define the best way to protect the rights of a particular oppressed group. Rather, one must examine the relationship that exists between two or more states in order to understand why a humanitarian intervention took place or did not, why aid was welcomed or not, or why a state changed its behavior towards its citizens as a result of outside pressure or not. What actors were involved? What is the history of their relationship? What norms govern their relationship? Do their citizens have strong transnational or commercial ties? These are among the most important questions, not: What do the international laws governing this situation stipulate? Or, What did a particular IGO mandate? Or even, What is just? Protecting human rights at the international level depends more on diplomacy than on moral imperatives, more on economics than on international law, more on transnational relationships than on the Security Council. And to understand or predict the human rights status between two or more states, observers must determine what “security system” they exist in—what theoretical paradigm they use to analyze their own relationship. Finally, this means that improving the status of human rights depends primarily on two things: promoting politico-economic development (capacity building) and improving the intergovernmental and transnational relationships between states and groups of states.

While it is beyond the scope of this paper to describe how these security systems are institutionalized between any particular set of states, as this is the complex stuff of daily international relations, the next section briefly describes how human rights appear in each of these worlds.

**International Rights in “Realist” and “Liberalist” Worlds**

In line with realist theories of IR, two or more states engaged in a competitive security system will view their particular international society as anarchic and consisting of unitary, rational, and self-interested states in pursuit of relative gains in terms of power for the purpose of security and survival. This will be based on lessons learned as a result of past experiences wherein these states defined their relationship in these terms, whether by design or by accident. In order to avoid suffering again, these states will ignore national ideologies, domestic regime types, transnational actors, and international norms as major influences on their behavior towards each other. In these conditions, human rights are rooted only in these states’ respective domestic laws. The use of international law, IGOs, and humanitarian interventions to justify violations of sovereignty by a “realist-defined state” is itself a human rights violation. From a constructivist vantage, there simply is no internationally located set of rights between citizens of hostile nations because their relations are predatory; any direct or indirect action towards one nation, even for ostensibly humanitarian purposes, will be interpreted as a hostile act. Lastly, if all states defined their relationships in these terms the only existing international rights would be the most basic human rights; all state actions against its citizens would be legitimate; and no international intervention for humanitarian purposes could be considered valid.

On the other hand, in cooperative security systems, members have the two necessary requisites for the “internationalization” of human rights, namely, positive international relations
and politico-economic development. Both of these elements must exist for their citizens' rights to move beyond the scope of the state; explanations of why loosely coincide with ideas found in sociological and economic liberalism.

Sociological liberalism adduces many of the systemic changes of the modern world as vehicles for the transnational broadening and accretion of societies at the interpersonal and inter-group levels. Ann-Marie Slaughter writes that “communication paves the way to international cooperation by increasing each people’s knowledge of others and their ways, customs, practices, and concerns.” (p. 184) It promotes a global society based on the faith, common in human rights literature, that “we’re all pretty much alike.” In addition, it creates “cross-cutting external ties such as religious affiliations, business partners, labor groups, and even shared ideologies” that both prevent conflict and encourage aid in the case of a humanitarian emergency. (Jackson and Sorensen, p. 112) Finally, bridging the gap between people and their governments, Slaughter identifies the “disaggregation of the state into separate and functionally distinct parts that are each networking with their counterparts abroad and creating a dense web of relations.” (p. 190) These transnational networks “span and integrate civilizations,” support democracy (and thus many deep rights), and facilitate the resolution of global problems. (ibid.) Each of these factors, including many others not mentioned (e.g., nongovernmental organizations), are conspiring to create a global society of individuals and states, which is one of the two major foundations for global human rights.

Positive intergovernmental relationships (not included in sociological liberalism) are also important to the promotion of human rights because, as argued above, states are the anthropomorphic reflections of their sub-state units. And as amalgamations of their component parts, states project unique identities and have the sole right to communicate the values they incorporate—they are independent actors in addition to their citizens, civil society, and the like. Because sovereignty is currently the organizing principle of the IS, states set the tone and make many of the rules regarding transnational relationships. They also control many of the means of human rights protection, including a formal monopoly on the use of violence, a voice in the IGOs that organize humanitarian actions and pro-human rights pressures, political influence vis-à-vis the actions of foreign governments, and the distribution of foreign aid. Most importantly, the class and tenor of the relations between all states helps determine what theoretical world we live in together—whether “liberal” or “realist.” While positive interstate relations alone are not sufficient to create a society in which deep rights are universalized, they are important to its first prerequisite—positive international relationships generally speaking.

The second set of prerequisites is economic capacity and political stability. As defended earlier, “human rights” are meaningless unless a society has advanced to the point where higher levels of political organization—provinces, national governments, etc.—are taking on responsibility for more rights than they can effectively secure in order to allow sub-state units to focus on increasingly complex sets of rights. As we have seen, the principled argument for this rests on social contract theory and the principle of subsidiary: governing authority should be concentrated at the most local levels possible so that individuals can retain the largest set of rights possible. However, development is a key requisite for more than principled reasons: While socialization requires communication, the global digital and economic divides mortally limit the developing world’s capacity to participate in this process, and this is
both a cause and consequence of economic underdevelopment. Thus, there are practical reasons as well.

Several principles of economic liberalism also help explain why development is necessary to universalize deep rights. First, globalization generally increases Gross National Products, standards of living, wages, and employment opportunities, thus improving the capacity of sub-state groups to participate in transnational societies. Second, economic liberalism fosters peaceful relations among states themselves by altering the locus of power from territory to movable wealth and making trade a more efficient means of increasing power. (McMillan, p. 37) Expanding interdependence fosters economic prosperity and decreases the likelihood for conflict, both of which help establish a pacific framework in which to conduct international relations.

Finally, economic globalization homogenizes cultures, furthering the emergence of a real global society, which facilitates the creation of globally-accepted values on which we can base truly universal human rights. Ronald Inglehart shows that levels of economic and political development tend to be congruent with defined sets of cultural values. Advanced capitalist societies like Scandinavia and Western Europe value postmaterialist variables—cultural diversity, job satisfaction, self-realization—and devalue traditional institutions like family, marriage, and religion. Developing countries, on the other hand, value materialist variables and traditional institutions. (pp. 51-107) These different values reflect the functional priorities of the people, and when they collide in the human rights debate, the developing world cries “cultural relativism” and the developed world, “universalism.” However, Inglehart shows that nineteenth-century Europe, when it was at the same stage of economic development as today’s materialist societies, prioritized the same sets of values and committed the same “rights violations” as today’s developing societies are often accused of committing. (chap. 3) This is because culture is a “survival strategy”; given a set of circumstances, societies are forced to make difficult decisions that may appear to be human rights violations in order to maximize their chances for survival and prosperity. Thus, the solution is not to draw up more human rights documents, but to promote development, as economic, political, and cultural changes are congruent and causally linked. Therefore, economic globalization is not a nostrum, but a silver bullet in the human rights debate—it is the process by which societies are stretched beyond their national borders, and, as we have seen, this is the process by which human rights are made international.

In conclusion, there are two major prerequisites for the internationalization of human rights: sufficient levels of political stability and economic development, and positive international relationships. States must reach a level of development where they feel the need to transfer the burden of some rights protections to a self-defined international society and they must have a positive relationship with the members of that society.

**Conclusion**

This paper has attempted to undermine the universalist assumptions of the current human rights regime by limning a human rights perspective that takes account of the social construction of rights. It has argued that rights are deepest at the most intimate levels of society and that they become shallower as we examine progressively broader social levels. Eventually there is a point, most often reached at the level of the state, where the most basic rights, especially those associated with the right to live, are located and protected. No rights are located or protected beyond this point except purely human rights, which are only meaningful in rare cases of anarchy. However, as
Foucault helped explain, progress within societies is perpetual because the power exercised to fulfill a set of needs or rights helps shape actors’ preferences and abilities, readying them for the fulfillment of deeper sets of rights. Securing one set of rights creates new expectations as well as greater capacity in the form of skills and knowledge. Thus, with greater frequency in today’s global, highly developed world, the rights that sub-state societies can secure are becoming so complex that the state can no longer fulfill its obligations. In this case, developed states seek out other similarly-situated states with which they can share the burden.

This is not an argument for the teleology of progress, however. The overburdening of the state could just as easily lead to international conflicts for resources, “living space,” or other means of fulfilling state duties. In addition, a developed state’s refusal to accept global integration with its allies actually has regressive implications for its citizens, as the state and sub-state units will become overburdened and the progress of human rights development will be inhibited. This is the dark side of globalization, and this is the reason that positive international relations make up the second requirement for the internationalization of rights.

This paper has so far accepted the tacit assumption that any type of state can have internationally-located human rights, whether democratic, authoritarian, or theocratic. This is probably true, but, as has been argued, positive relations depend on transnational communications at all levels, intense economic interactions, political stability, positive intergovernmental relations, and a high level of economic development. Without entering into a detailed analysis, one can accept fairly easily that these characteristics are more likely to be concentrated in democracies. In any case, the primary goals of this paper have been to present rights as social constructs rather than as universal givens, to outline the implications of this for the human rights debate, to place these conclusions in the context of IR theory, and to argue that politico-economic development and good international relations are the key elements of a positive rights-protection strategy.

In this sense, this paper provides a ray of hope and a caution. International relations and diplomacy conducted with acuity and with the intent to secure cooperative security systems have the potential to truly universalize deep levels of rights and, hopefully, turn them into human rights. Alternatively, short-sighted, cynical, and disingenuous international relations in a globalized, developed world will perpetuate the current human rights pedigree and could precipitate large-scale wars as advanced states attempt to fulfill the progressively more complex demands of their citizenries using finite resources in the absence of international cooperation. Thus, simply put, development and diplomacy are the keys to advancing and protecting human rights.

Bibliography


Justin Van Ness graduated from the University of Wisconsin–Eau Claire. He will begin a master’s program in conflict resolution at Georgetown University in the fall of 2007. He completed the research for this article while on a Fulbright scholarship in Spain.
There may be no educational problem more pressing than questions of how to cope with violence: how to prevent it in schools, how to help children contend with its effects on the larger society, how to understand the roots of violence, and how to change conditions so that fewer people will use violence to achieve their ends. (Noddings, 2002, p. 241)

Ronnie Casella, a professor of education at Central Connecticut State University, has written two valuable books, *At Zero Tolerance* (New York: Peter Lang, 2001) and *Being Down* (New York: Teachers College Press, 2001), that describe in depth the problems of violence that are plaguing particularly urban schools. These books shed light on these troubling phenomena by explaining the types of violence that occur in urban schools, by describing coercive peacekeeping policies meant to reduce levels of violence, and by criticizing the shortcomings of these policies. Peacekeeping approaches to violence prevention rely upon threatening children. They can be contrasted with peacemaking and/or peacebuilding approaches to school violence that attempt to give children an understanding of the complex origins of violent behavior and skills for managing conflict (Berlowitz, 1994; Harris, 2000; DiGiulio, 2001).

Schools in the United States face many different forms of violence that vary in degree from school shootings to bullying. The latest statistics kept by the United States Department of Education indicate two million students aged 12–18 have been the victim of a crime in school. Most of these (62 percent) have been thefts. During the 2001-2002 school year, there were 32 school-associated violent deaths, of which 24 were homicides and 8 were suicides. Six percent of students in the United States have threatened the use of a gun. Three percent of sixth- through twelfth-graders, approximately 800,000 students, carried a gun to school in the last year. (National Center for Educational Statistics, 2003) In 1998, more than 250,000 students experienced such serious crimes as rape, sexual assault, or aggravated assault. In that same year 31 of every 1,000 teachers were victims of violent crimes. (Miller, 2003)

These statistics indicate the more serious violent crimes reported to the U.S. Department of Justice. Other forms of violence in school include bullying that affects over five million elementary and junior high students a year and has played a role in most school shootings. (Bulach and Penland, 2003) In a recent national study, 81 percent of students reported being sexually harassed by a peer. (Fineran, 2002) These more subtle forms of violence create a hostile climate in schools that has a severe impact upon students’ participation in school activities. On any given day, one of twelve students who stays home does so because of fear. (National Center for Education Statistics, 1998) These two books by Casella explain how educators in urban schools have responded to these complex forms of violence with harsh measures that are plaguing attempts to improve academic performance in schools in the United States.

In addition to the above-mentioned more visible forms of violence, Ronnie Casella is also concerned with what he calls "systemic violence" that "is not intentional harm visited on the unlucky
individuals. Rather, it is the unintentional consequences of procedures implemented by well-meaning authorities.” (Casella, 2001a, pp. 34-35) He worries about how surveillance devices and “get tough” measures create a disheartening climate in schools that discourages academic achievement and prepares some students for prison. In these two books, he chronicles how demeaning coercive peace-through-strength policies are for students in an urban high school.

In gathering data for these studies, Casella describes himself as a participant observer in a large urban high school in the Northeast, fictitiously named “Brandon High School” in Brandon city, a midsize city described as a “smaller Pittsburgh” that is undergoing de-industrialization with the loss of blue-collar jobs. Half the students are African American, while 41 percent are eligible for federal free lunch programs. Although he claims this methodology for both books, each study reflects a different perspective. **Being Down** is more of an ethnographic case study where the author, under the auspices of a grant from the Office of Juvenile Justice and Delinquency Protection, documents in detail his observations of violence prevention policies at this high school. He interviews students, teachers, and support staff, and uses transcriptions of those interviews as well as examination of school and central office documents to provide the reader with a glimpse at how punitive violence prevention programs operate in an urban high school.

**At Zero Tolerance** takes a wider scope, examining the genesis and impact of zero tolerance policies that were implemented in the 1990s in response to fears about rising crime rates and youth delinquency. In this book, Casella has more of a policy orientation where he critically reviews practices in schools in the United States that mandate automatic suspension and/or expulsion from school for offences perceived to be a threat to children, employees, or the school itself. Zero tolerance policies, according to Casella, get tough with “kids who already have it tough.” (2001a, p. 20) A major thesis of both of these books is that educators should not “blame the victim,” in these cases the students, but rather change the culture and rules of schools in ways that promote nonviolence.

Peacekeeping approaches to school violence reflect national defense policies. Schools escalate punishment to deter young people from engaging in risky behaviors—assaults, drug abuse, alcohol consumption, gang membership, and promiscuous sexual activity. Getting tough with kids has increased suspensions, added security aids and/or police to patrol the corridors of urban schools, and relies upon technological strategies to provide security—metal detectors, X-ray machines to screen book bags, identity cards, surveillance cameras, magnetic door locks, lighting policies, closed circuit television, personal security systems, and telephones in classrooms. (Firestone, 1999)

Educators employ such peacekeeping efforts to try to protect students from the violent behavior of a few deviant students. Estimates are that approximately 40 percent of student discipline referrals are given to 5 percent of students. (Sugai, Sprague, Horner, and Walker, 2000) Professor Casella documents how educators, like many citizens who clamor for increased police protection and more prisons to “clamp down” on urban crime, are responding to alarm about school shootings by engaging in Draconian measures that stigmatize and marginalize children.

**Zero Tolerance Policies**

Ronnie Casella provides a useful introduction to the origins of these policies that date back as far as 1938, when a federal law determined that
Youths under the age of eighteen were not permitted to acquire guns. Three decades later, the Federal Gun Control Act of 1968 raised the minimum age of gun ownership to twenty-one. In more recent years, the Gun-Free School Zones Act of 1990 made it unlawful to possess a firearm within 1,000 feet of a school or municipal playground. The Gun-Free Schools Act of 1994 inaugurated zero tolerance policies in schools and reflected a “get tough on crime” mentality that swept through the nation during the last decade of the twentieth century encouraging school authorities to support more severe penalties for unruly students and initiate more militant forms of discipline, including school policing and greater use of suspension and expulsion.

In response to these federal acts, school districts throughout the United States have adopted zero tolerance policies for weapons, drugs, and alcohol. Zero tolerance is defined as “a school or district policy that mandates predetermined consequences or punishments for specific offenses.” (National Center for Educational Statistics, 1998, p. 18) In 1996-97, 94 percent of schools had zero tolerance policies for firearms, 91 percent for weapons less than firearms, 87 percent for alcohol, 88 percent for drugs, and 79 percent for violence and tobacco. (Brooks, Shiraldi, and Ziedenberg, 2000)

Children who carry weapons to school are expelled, but because the state has to provide education for them, they are often located in “alternative facilities” that can vary from juvenile detention centers to alternative schools for at-risk students. (Cox, Davidson, Bynum, 1995; Gottfredson, 2001):

Alternative schools, social interventionist programs, and a “transformed” juvenile justice system were developed to deal with delinquency by breaking what was considered a cycle of antisocial behavior that reproduced itself through strained and dysfunctional family arrangements in primarily black urban areas. (Casella, 2001a, p. 12)

Professor Casella points out how zero tolerance policies are part of a well-promulgated campaign targeted at an exaggerated juvenile crime problem by politicians eager to calm the fears of voting Americans. Zero tolerance policies are a political and not an educational solution to violence in schools. They have failed to demonstrate effectiveness in reducing school violence or improving school discipline. (Skiba and Noam, 2001) The “three-strikes-you-are-out” phenomenon has been popularized, especially when politicians want to win elections. Casella provides a useful sociological account of these policies.

A recent article in The New York Times described how a 19-year-old in Toledo, Ohio, was booked on a misdemeanor charge, handcuffed, and placed in a holding cell for violating her school’s dress code. (Rimer, 2004) These policies are turning learning environments into police campuses. Deviant behavior in schools is being remanded to a judicial system that addresses social problems through the police, courts, and prison systems—permanently labeling young people with criminal records that make it hard for them to vote, acquire decent jobs, and participate fully as citizens within American society.

In these books Casella points out how peacekeeping policies in schools promote hostilities between adults and youth, encourage a low-level war against students, demonstrate a lack of sensitivity to the challenges young people face, and create feelings of mistrust that make it very difficult for even the best-intentioned teachers and administrators to be understanding and respectful of their pupils. The case studies in these books document how these get tough policies can ultimately lead to a lack of caring, respect, and compassion:
When discussing suicide or other forms of violence, it is important to see beyond the aggressive individual, to recognize how society causes unnecessary frustration, how institutions can be violent themselves, and how violence is often both a cause and an outcome of pain. According to students, adults put too much pressure on them. (Casella, 2001b, p. 48)

From Dr. Casella’s perspective, school violence is an understandable but not justifiable response to broader forms of violence in society. Schools legitimize the persecution of young people who themselves are the victims of violence, such as street violence, violence in media, corporal punishment and neglect at home, and various forms of cultural violence that abound in postmodern American entertainment—videos, movies, popular television, music videos, and video games. Studies show that 25-35 percent of youth experience some violent events in their lives. (Gladden, 2002; Frymier and Gansneder, 1989)

Children who are abused or neglected can be depressed and have significantly high rates of behavioral problems in schools. Fourteen of one hundred children in the United States between the ages of three and seventeen experience family violence. (Craig, 1992) Children from these homes are at greater risk of academic failure and dropping out of school. (Eckenrode, Laird, and Doris, 1993; Obiakor, Campbell-Whatley, Schwenn and Dooley, 1998) Children exposed to high levels of violence can be isolated from peers and inattentive in class. They are often underachieving in school, aggressive, and engage in provocative acts. They can suffer low esteem that causes them to drop out of school and engage in criminal behavior. Continued exposure to violence can limit young children’s cognitive development and affect their ability to form attachments. (Barhal, Waterman, and Smith, 1981) Such traumas make the jobs of educators extremely difficult. At the beginning of the twenty-first century, problems associated with violence can no longer be ignored because of the urgency associated with successful school performance. Those youth who fail at school are relegated to the dust bins of society.

Zero tolerance policies are a response on the part of educators and politicians to inappropriate behaviors that stressed out youth are exhibiting in schools. “Students with substantiated reports of abuse or neglect are significantly more likely to be referred for school discipline and somewhat more likely to be suspended, especially at the middle and high school levels.” (Skiba and Knesting, 2001, p. 29) Exclusion from school is the wrong approach for these children, who developmentally need strong and trusting relationships with adults in order to form positive attitudes about fairness and justice. Expelling a child from school will alienate him or her further from education. Casella explains how coercive disciplinary measures implemented by school officials contribute to antisocial behavior in youth. Students with behavior problems who have been suspended or expelled are at greater risk for committing delinquent acts and have higher dropout rates. (Mayer, 1995) Removing troubled youth from school can create a downward spiral that leads to dropping out of school entirely.

Exclusion remains the intervention of choice for students who violate school rules even though recent research has suggested that the zero tolerance approach to behavior management may not be effective and may actually be detrimental. (Curwin and Mendler, 1999) Skiba and Peterson (1999) cite a study that found that, after four years, schools with zero tolerance policies experience more violence. Casella, in these books, shows how the blind enforcement of rules without regard to individual circumstances makes students even less likely to respect
schooling institutions and adhere to school rules.

**Being Down**

The title of one of these books reflects slang jargon, where youth talk about “being down” with their friends, but it also refers to students who are the subjects of this study. These pupils are not on the honor roll. Many come from dysfunctional homes. They are also down emotionally because of overwhelming problems in their lives and their perceptions of diminished life chances. They occupy the lowest rungs of the school hierarchy. “Being down for them was more than a state of mind, it was their place in a carefully crafted institutional niche set up for the young, the poor, and the delinquent.” (Casella, 2001b, p. 78) The young people described in this book experience a variety of risk factors that can contribute to violent behavior: low school achievement or attachment to school, poor problem-solving skills, aggressive parenting behaviors, a history of abuse or neglect, and exposure to violence. (Lockwood, 1997)

When their opportunities are blocked, they often lash out violently at authorities who restrict their dreams.

In *At Zero Tolerance* Dr. Casella reserves his harshest criticism for self-contained classrooms where students receive differential treatment and do not get to participate in valued school programs. In a chapter entitled, “Prison Model of Schooling,” he points out how schools make their own ghettos, and students who are isolated behave in hostile ways to authority figures. Casella provides examples of how well-meaning adults in disciplinary hearings who, by following the rules, often disrespect their students who have many complex needs that aren’t being met, either by their teachers or their parents. In *Being Down* he refers to these students as being on ‘the prison track.’ Another commentator about repressive measures to make schools safe has stated, “When students view schools as prisons and teachers and administrators as guards and wardens, they will begin to behave more like prisoners than like students, and violence in the schools will become its own self-fulfilling prophecy.” (McClean, 1995, p. 19)

*Being Down* provides a discouraging look at the role of police in schools, a practice that began in the United States in 1958 in Flint, Michigan. Policing in schools gained Congressional support with a 1998 amendment to the Omnibus Crime Control and Safe Streets Act of 1968. At the end of the twentieth century, 6 percent of schools have police stationed in them. (National Center for Educational Statistics, 1998)

Police take a legal approach to the problems of school violence and often involve young children in court systems that forever brand them as criminals. Such an emphasis upon violence prevention uses a war paradigm to solve the problems of youth violence—capture and defeat the enemy, who in this case are children in inner city neighborhoods.

Casella points out that these law enforcement officers play complex roles where their reputation in urban communities makes it hard for them to relate in any meaningful way with pupils in schools. He follows a policeman, Detective O’Hara, reflecting upon how effectively this “peace officer” is able to keep the peace at Brandon High. “For teachers and administrators who wished to make their own hectic jobs easier, who were sometimes fearful of violence and generally in need of reassurances that the school was under control, the presence of the detective was a welcome relief.” (Casella, 2001b, p. 112) He regrets that police officers are becoming a regular part of the school day. They are estranged both from the police departments that hire them (because they aren’t part of the precinct beat like the other police officers) and the schools where they work (where they are seen as repressive enforcers of unjust laws). Casella...
quotes one student who says, “police were about arresting, not helping.” (Casella, 2001b, p. 92) Placing police in schools may calm the fears of parents who hear on the nightly news about crimes and acts of brutality committed in inner city neighborhoods, but it does little to make schools attractive for marginal students. Students recommended for expulsion perform well below average in terms of grades and achievement scores. (Morrison, Anthony, Storino, Cheng, Furlong, Morrison, 2001, p. 61) One of the main problems presented by the presence of this outside force is that teachers who have a more meaningful relationship with pupils tend to stay inside their rooms and not to monitor the halls outside their classrooms. Thus, the presence of police can reduce the involvement of the instructional staff in actively creating a safe learning environment:

The result of zero tolerance policies has been a distancing between students and teachers as staff rely on guards for matters that could be resolved through talk and persistent care and attention. What happens in these cases is that schools attempt to create conditions for bonding and peacefulness at the same time as they condone alienation and the distancing of teachers from students. (Casella, 2001a, p. 131)

In addition to policing schools, police also participate in Drug Abuse Resistance Education (DARE) programs where they take on the role of teacher. Casella’s evaluation of the DARE program at Brandon High is that, if carried out by an effective instructor, it gives students an opportunity to talk about difficult issues in their lives that may not be broached in more traditional classes. He expresses doubt that police officers, because of their training, can become effective teachers. He also laments that so much time is given to all these different forms of violence prevention, when students who are so far behind academically should be focusing more on the acquisition of academic skills.

This points to a difficult dilemma faced by educators in urban schools. Without some measures of control, schools can be so chaotic that no learning can take place. When too much time and resources are devoted to violence prevention programs to create safe schools, instructional staff may not have the resources, time, and energy left over to teach the academic skills students need to succeed in contemporary society. Furthermore, repressive policies may alienate those youth who most badly need to advance in schools in order to fulfill productive roles in adult society. (Noguero, 1995). Punishment alone is unlikely to improve behavior and is likely to increase misbehavior.

Ironically, Casella fails to mention the good news about violence prevention efforts that have contributed to schools being a safe place for the young people who remain in them. According to one study, “The most current data on school violence and youth and victimization in the United States indicate, however, that schools are the safest places for children and that serious acts of violence have decreased since 1993.” (Gagnon and Leone, 2001, p. 101) Instances of school crimes have been going down over the past ten years that these policies have been enforced. (National Center for Educational Statistics, 2003)

These coercive programs may simply be removing troublemakers from schools. They are not resulting in increased academic performance. Dropout rates remain outrageously high in urban areas, and suspensions and expulsions have increased. (Brooks, Shiraldi, and Ziedenberg, 2001; Skiba and Noam, 2001) There was a time when schools steered children into factory jobs. Now, Casella demonstrates that they are being tracked into alternative schools and prisons.
School officials and politicians who encourage hard peacekeeping approaches described in these books are not advocating to address the structural sources of school violence—a crumbling public infrastructure, a withdrawal of support from the public schools, declining levels of social support for families, high levels of childhood abuse and neglect, and growing gaps between the rich and poor. Instead of attempting to redress structural sources of school violence, the educators discussed in these books are focusing on youth behavior in their attempts to make schools safe. By focusing only on students, schools neglect how the school environment inhibits or exacerbates the chance of violence and leads to ‘blaming the victim.’ As Casella points out, minority youth disproportionately suffer from these policies. They are represented in greater rates of suspension and expulsions. (McFadden, Marsh, Price, and Hwang, 1992; Browne, Losen, and Wald, 2001) Advocates of violence prevention policies in schools see deviant youth as the source of the problem and seek to redress problems of school violence by changing the behavior and attitudes of the most vulnerable sector of the population.

At Zero Tolerance frames the social forces that lead to violence in urban schools. Casella clearly places the blame, and hence the responsibility, upon the adult society that profits from and glorifies violence:

Violence in schools is one formation of a larger street, sexual, racial, and political violence in the United States. At Brandon High it involved actions that were expressed through a context made up of urban poverty, cultural prejudice and misunderstandings, emotion and fear, policy and discipline, and historical relationships involving police officers, youth, and the criminal justice system. School violence is not just about ‘out-of-control kids’ or ‘dangerous cops,’ or ‘oppressive schools.’ It also is a part of a political establishment that has historically condoned violence and the mass proliferation of weapons, of a society that naturalizes violence for youth but does not listen to them, of individuals who have dealt poorly with prejudice and conflicts, and of policies that aim to punish those with problems. (Casella, 2001a, p. 145)

Casella indicates that effective violence prevention means removing the sources of violence in students’ lives, a complicated task that most commentators on school violence ignore. He also states that schools should be used as community meeting places to address problems of violence.

Discussion

These two books by Ronnie Casella do not answer the pressing challenge posed by Nel Noddings in the quotation at the beginning of this paper: How to resolve the educational problems posed by violence? A shortcoming of these books is that the author places too much attention on negative peace strategies. (Harris, 2000) “Negative peace” refers to stopping the violence. It does not suggest how to create peace. These books describe how negative peacekeeping strategies in urban schools create a climate of distrust and alienation for young people. Neither of these books provides a guideline for useful practices to lower rates of violence in schools.

Ronnie Casella makes an important contribution to the literature on school violence by pointing out the shortcomings of hard approaches to the problems of school violence in urban settings. It would be a disaster if a reader of these two books did not know about softer approaches to peace. Without that knowledge, a reader could draw the mistaken assumption that positive peace strategies exist only in the suburbs, that all urban schools resemble prisons. Urban schools are
full of creative educators teaching pupils valuable peacemaking skills in spite of the violence of the surrounding societies.

Professor Casella shows clearly the futility of hard approaches but does not describe softer peacemaking approaches to school violence that teach children communication skills so they manage their own conflicts nonviolently. Nor does he discuss peacebuilding strategies (Berlowitz, 1994) that address the sources of violence in children's lives and help young people recover from the devastating effects of violence. Such strategies include helping children develop emotional intelligence (Goleman, 1995), and making schools more caring (Martin, 1994), with teachers who nurture children suffering from post-traumatic stress disorders.

Instructional alternatives to the use of zero tolerance have been demonstrated as effective in reducing school violence. “The data consistently show that the best, perhaps the only, way to solve the complex problems of violence and disruption in schools is not to put certain children out of sight or out of mind, but to make the commitment of time and resources necessary to help all children succeed.” (Skiba and Noam, 2001, p. 5) Preventing school violence requires that children be taught systematically about the many ways they can achieve peace both in school and in their lives outside school.

Casella also completely ignores attempts to teach students to be peacemakers and to create a cooperative context in schools that encourages disputants to reach mutually acceptable compromises where they do not dominate each other. (Johnson and Johnson, 1996) Children in conflict resolution programs learn valuable skills—anger management, social perspective taking, decision making, social problem solving, peer negotiation, conflict management, valuing diversity, social resistance, active listening, and effective communication—that have been shown to reduce levels of school violence. (Gottfredson, Gottfredson, Czeh, Cantor, Crosse and Hantmann, 2000)

**Peace Education Strategies**

In the 1980s, peace educators began to use their educational skills to address problems of violence in the postmodern world. Drawing from peace theory, they tried to relieve the stress of young children growing up in a world dominated by super-power rivalry, domestic strife, civil crime, and media violence by teaching youth about the causes of violence and strategies for peace. The goals of peace education are to appreciate the richness of the concept of “peace,” to address fears, to provide information about security systems, to understand violent behavior, to develop intercultural understanding, to provide for a future orientation, to teach peace as a process, to promote a concept of peace accompanied by social justice, to stimulate a respect for life, and to end violence. (Harris, 1988; Harris and Morrison, 2003) Peace educators also use a peaceful pedagogy that includes cooperative learning, democratic community, moral sensitivity, and critical thinking.

In contrast to the violence prevention efforts described by Ronnie Casella in these two books, peace educators teach about alternatives to violence. Casella presents no strategies for changing the structures that exist outside the school walls. When he does offer a few solutions outside the schoolhouse, his ideas are not developed. For example, although he states that changes in the culture will only come "through actions, advocacy, and protest" (Casella, 2001a, p. 171), he does not enlighten the reader about how comprehensive peace strategies can solve problems of structural violence.

Professor Casella fails to discuss in either of these books peace education strategies, like conflict resolution education and multicultural sensitivity
training, that are also being implemented in schools to reduce violent behavior. (Sheley and Wright, 1998) Approximately 20 percent of schools in the United States have some sort of socio-emotional program to boost their “EQ—their emotional intelligence, or how a person works with peers, deals with stress and anger.” (Wax, 2000) Educators using these peacemaking strategies attempt to teach a variety of socio-emotional skills that enable young people to manage their anger and respond to others in ways that don’t provoke confrontations. Social-emotional programs in schools promote children’s capacity to understand, process, express, and manage social and emotional aspects of their lives. In contrast to the hard approaches described by Professor Casella, “soft” approaches seek to avoid violence in schools by teaching pro-social skills and giving children some understanding of what they can do to achieve peace. “Experts agree that skills training is an effective alternative to suspension and sends an appropriate message to students that they are wanted in school. In addition to teaching skills for negotiating nonviolent outcomes to conflict, youth are instructed in interpreting social cues and taking the perspective of others.” (Gagnon and Leone, 2001, p. 109)

Ronnie Casella’s discussion of school disciplinary procedures is limited by his neglect of peer mediation programs, classroom approaches to peace education, and school-wide attempts to create a peaceable school where students can learn and teachers can teach in a warm and welcoming environment, free of intimidation and fear of violence. “In other words, creating a peaceable school, like creating a peaceable world, requires that all persons are treated as though they matter, that all persons are viewed as unique people with their own gifts, talents, and contributions.” (Caulfield, 2000, p. 174) Peaceable schools are based upon conflict resolution principles that are learned and used by all members of a school community. Researchers have demonstrated that a whole school approach to violence prevention is more advantageous than teachers willy-nilly adopting programs within their own classrooms. (Burstyn & Stevens, 2001)

In Being Down, Casella gives a slight indication that he is aware that there is a peer mediation program at Brandon High in a small section labeled “A Glimpse at Peer Mediation.” He gives that program short shrift, and he fails to mention peer mediation as a strategy to reduce school violence in At Zero Tolerance. This is in spite of the rapid growth of peer mediation programs in schools around the United States that have been shown to resolve conflicts between parties that may not be overtly violent. Approximately 10 percent of the 86,000 K-12 schools throughout the country have such programs. (Sandy, Bailey, and Sloane-Akwara, 2000, p. 15) Mediation provides a vehicle for de-escalating violent behavior in schools. One study showed that fights were reduced as much as 50 percent in a school that adopted mediation. (Lantieri and Patti, 1996) Conflict resolution and mediation of conflicts by peers or adults become an important part of a school-based strategy to defuse petty disagreements that can, if ignored, evolve into larger acts of aggression. Students in conflict with each other will not be able to focus on academics. A recent meta-analysis of research on peer mediation outcomes indicates that after the implementation of a peer mediation program, school climate improves, teachers and administrators perceive a reduction in conflict, expulsions, suspensions, and disciplinary actions are decreased, and students’ knowledge and understanding about interpersonal conflict increased. (Burrell, Zirbel, and Allen, 2003)

Furthermore, this same study indicates valuable benefits for those students trained as mediators: They experience a substantial increase in academic performance and self-esteem. (Burrell, Zirbel, and Allen, 2003, pp. 19-20) In
other words, these programs, by providing youth an opportunity to engage in peacemaking efforts, can provide some relief to the very problems that Ronnie Casella deplores.

In another text, Casella provides some insights into why he is not enamored with peer mediation programs:

Unfortunately, in mediations, conflict is construed in psychological terms of individual difference, and hence, behavioral models of conflict resolution are recommended and followed. In their place, however, a more global (perhaps sociological) model might enable mediators to recognize that conflict is sometimes best addressed through advocacy, by taking seriously people’s words and stories, and helping them through a conflict, not as neutral mediators but as strong advocates and friends. (Casella, 2001c: 176)

Ronnie Casella sees that peer mediation programs are part of a “behaviorist” approach to the problems of school violence that attempt to address these complex issues by focusing solely on the behavior of young people. He fails to situate peer mediation within more holistic approaches to school violence that incorporate peacekeeping, peacemaking, and peacebuilding strategies to address the problems pointed out by Nel Noddings at the beginning of this essay. Unfortunately, Professor Casella’s experiences at Brandon High did not provide him insights into the more positive aspects of peace education.

A Lack of Peace Education Perspectives

An interesting question is: Why does Professor Casella ignore various aspects of peace education that rely upon peacemaking and peacebuilding strategies to reduce school violence? These strategies were operating in schools during the times he was writing these books. It could be that he did not observe positive approaches to youth violence at Brandon High. In this sense, he might be reflecting common wisdom about these problems. As Harris has pointed out, educators, both in their beliefs and their practices, replicate broader social norms that promote peace through strength. (Harris, 2003) Universities and colleges teach a military history of the world that glorifies the use of physical force to promote national goals. More federal money goes into the defense budget than goes for the education budget. A citizenry trained on television crime shows and cowboy movies urges politicians to build more prisons to lock up social deviants. War images dominate the news and popular entertainment, legitimizing the use of violence. At the institutional level, school administrators are developing peace through strength strategies that mirror criminal justice policies designed to put away people who don’t obey the rules. At every level, people receive social scripts that promote the use of violence. Casella is aware of this when he says, “The United States has yet to view violence as an outcome of a national history that has been violent, of an economic system that creates the social isolation and hopelessness that causes some violence, and a culture that has come to accept and even prosper from everyday forms of aggression against the less powerful in the world.” (Casella, 2000a, p. 38)

Ronnie Casella’s books may describe accurately how many urban educators are responding to the frightening and confusing events they confront daily in poor inner city neighborhoods. Casella’s observations reflect the depressing norms that govern research about urban education, which often operates on a deficit model, where social commentators upon the desolate lives of people in the inner city see only the negative. Bringing their own prejudices into the classrooms they observe, they see only those things they are trained to see, like the crime shows they watch at night in the privacy of their homes.
They see home girls and bad guys, and fail to observe the positive peacemaking efforts that are taking place in these schools placed in violent neighborhoods.

More likely, Ronnie Casella described accurately the fortress mentality that exists in most urban schools. He saw well-meaning teachers using the wrong paradigm in approaching the troubling phenomenon of young people run amok. He records in great depth and with considerable sympathy the lives of children and staff caught in these complex networks.

“Security” has two meanings. Reporting upon his observations, Casella only presents the hard sense of security that relies upon the use of force to deter youth from violence. “They [violent students] reproduce the violence seen in their own neighborhoods since there is nothing in the school that indicates that the place is different.” (Casella, 2001a, p. 112) These zero tolerance policies tend to push away from school those students who are themselves victims of violence.

Security has a softer image of warm places and compassionate adults. This requires nurturing behavior on the part of teachers and school administrators. High levels of security in schools are associated with a prevailing sense among students that teachers care about their pupils. In school, students need to learn to care and to be cared for. (Noddings, 1996) Such caring behavior on the part of the teachers helps children who have experienced the devastating effects of violence. Caring interventions by teachers are essential components in the prevention of antisocial and violent behavior. Unfortunately, Casella does not in either of these books present portraits of this compassionate behavior in his rendition of life in urban schools.

**Conclusion**

These two books by Ronnie Casella reflect a larger problem in the discussions of school violence that rage within education discourse: a unique focus upon creating safe schools. Hard peacekeeping approaches to school violence described in *Being Down* and *At Zero Tolerance* do not address the larger questions of why so much conflict exists in the broader society and what can be done to address the roots of violence. (Forcey and Harris, 1999) His books neither mention peace strategies to address problems of violence nor emphasize nonviolent traditions. These books are not peace education texts. Ronnie Casella shows no understanding of the field of peace studies that offers many valuable insights into how nonviolence can mediate problems of violence. “Peace educators use their skills to teach about peaceful conditions and the process of creating them.” (Harris & Morrison, 2003, pp. 25-26) He does not describe how teachers can teach about peace. Casella, in describing in painful detail the reactive set of criminal justice policies that focus on increased punitive sanctions, reproduces a mistake pointed out by other researchers interested in school violence. “Too little attention has been paid to violence prevention efforts or to redirecting troubled, at-risk youth toward nonviolent coping strategies, pro-social activities, and acquiring the skills and competencies needed for a successful transition into adult roles.” (Elliot, Hamburg, and Williams, 1998, p. 24)

A peace education approach to school violence sees that the problems of school violence are a reflection of a violent culture. All children are susceptible to violent behavior unless they are taught the ways of peace. It assumes that young people make decisions about how to behave and will choose to be peaceful if they know about alternatives to violence. In this violent culture, teachers have a key role to play in teaching young people about how to behave peacefully, in addressing the sources of violence in children’s lives, and in helping young people recover from violence.
Developing a peace consciousness is a sophisticated task. Students who are peaceful know about alternatives to violence and are cooperative and tolerant. They challenge their own prejudices and are respectful of others. They are open-minded and empathetic. They have a concern for justice and an understanding of universal human rights. These complex skills require a comprehensive curriculum. A drawback to this peace education strategy is that it takes a long time. Education is never a quick fix, nor do educative measures appear to be as tough as expulsion, suspension, and incarceration—measures promoted by politicians seeking to calm the fears of an anxious citizenry alarmed by headlines about school shootings.

Lasting and sustainable peace in a school requires the rearrangement of hierarchical relationships into democratic decision-making structures. School administrators need to model peaceful behavior if it is to be endorsed by staff. Drill sergeants may be necessary in the army, but why should educators assume they are also necessary in schools? After all, an army depends upon blind obedience to authority. Is this what we want with our schools? More comprehensive approaches to the problems of school violence seek to create not only safe schools but empower young people with strategies they can use to resolve conflicts without the use of force.

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**Ian M. Harris** is Professor Emeritus of the Department of Educational Policy and Community Studies in the School of Education at the University of Wisconsin–Milwaukee. He also serves as the president of the International Peace Research Association.

There is a lot to like about Roger Fisher and Daniel Shapiro’s book Beyond Reason: Using Emotions as You Negotiate. This book is the latest offering from Harvard Law School’s respected Program on Negotiation (PON), a center devoted to bringing together scholarship and practice about negotiation and conflict resolution. Beyond Reason addresses how emotions affect the negotiation process. Fisher, a renowned negotiator, and Shapiro, a trained psychologist, come together to show how negotiators can handle emotions in settings that range from interpersonal confrontations to complex international incidents. The authors present a practical “core concerns framework” to replace negative emotions with positive emotions.

Readers familiar with other titles from the PON such as the classic Getting to Yes: Negotiating Agreement Without Giving In (1981) and the more recent Difficult Conversations: How to Discuss What Matters Most (1999) will be pleased with the familiar format of the book. The chapters are organized neatly with helpful negotiation tips in bold font. For example, tactics for “connecting at a personal level” are numbered and illustrated succinctly. In fact, these examples, drawn from Fisher and Shapiro’s impressive work as negotiators in diverse locations like the Middle East and corporate workplaces, are among the most interesting passages of the book. The authors also include useful tables for quick reference on a number of negotiation issues like conversational starters for creating affiliation or maintaining emotional distance. An analytical table of contents, provided at the end of the book, is a comprehensive index of the entire text and has come to be a regular feature of the PON books. Additionally, the “works consulted” section points readers to other resources for more in-depth information on topics addressed in the book.

Despite the user-friendly features of the book, however, the authors seem to miss the underlying point of their thesis. Although the book is presumably aimed at dealing with emotions in negotiation, Fisher and Shapiro curiously suggest in Chapter Two that rather than deal with all the emotions that might come up negotiation, strategic negotiators should focus on core human concerns like appreciation or affiliation that may generate strong emotions. Only if negative emotions threaten to overwhelm the interaction are negotiators urged to “have an emergency plan ready” to deal directly with emotions, and the advice offered in Chapter Eight proves to be most beneficial for those interested in the issues suggested by the title of the book.

Beyond Reason is sure to be included on syllabi for upper-level undergraduate and introductory graduate level courses on negotiation. The examples serve as good case studies for classroom discussion, especially Chapter Ten contributed by Jamil Mahuad who was the former President of Ecuador. It would also be interesting to have students reflect on the feasibility of Fisher and Shapiro’s approach in their own lives. In addition, elements of the core concerns framework will be appreciated by negotiators working in highly charged conflict environments. In sum, Beyond Reason offers a starting place for thinking about how to use emotions in the negotiation process.

Susan Szmania
University of Wisconsin–Milwaukee
When, in the summer of 2000, I decided to move to Portland, Oregon, I immediately reached for the sixth edition of this directory. I found six programs within commuting distance of where I was headed to live, and I sent each a letter. I have taught for four of them as adjunct before settling into one of them full-time and one part-time. The directory was my entire teaching employment program, and it worked exceedingly well.

At the PJSA conference this year at Manhattan College, I bought the new edition. Before I had a chance to see it, a student had taken it home for a week; he is now on his way to the Ph.D. program of his dreams.

This directory, with some 450 programs spanning some 40 nation-states, has something for everyone. I wish there were funding to print and distribute both the hard copy book and the online interactive directories to every high school guidance office and every college library in the world. It is time for peace studies and conflict resolution to undergo a dramatic surge in enrollment, and this tool is the way to encourage it. It facilitates the process by gathering and making available the comprehensive listing of all programs, with descriptions, and then indexes them in eight ways (e.g., country, religion, research, undergraduate, U.S. state). I never use the word slick, but that describes this highly utilitarian directory.

Wisconsin’s own Ian M. Harris, peace education scholar, co-edited this volume, along with Princeton’s Amy L. Shuster. Harris’s Introduction is one of the best histories of peace studies available. The editors are thorough and have also graced the pages with poetry and timeless quotations from known and previously unknown writers. Barbara Deming’s brilliance is preserved, and young student poets have voice as well. Harris and Shuster take us around the world in a comforting visit to the Abo Akademi University in Finland, dedicated to human rights, and finish at the Youngstown State University in Ohio, where the aspiring undergraduate can seek a Peace and Conflict Studies major or minor. Along the way, we learn about the University of Saints Cyril & Methodius in Macedonia, the first Peace Studies program in the Balkans, established in 1993. And we are intrigued to find the Centre for Peace and Conflict Studies at the University of Ibadan, in Nigeria.

This is the kind of directory that peace and conflict studies students and professors—and those who wish to be either—will need. The online version will likely never go out of date, and the hard copy will point the way for several years.

Tom H. Hastings
Portland State University
Portland, Oregon
Harriet Martin’s knowledge of conflict resolution grew out of her attendance at annual gatherings of international mediators at the Centre for Humanitarian Dialogue in Geneva for some “jolly group therapy.” Martin subsequently met with six mediators and their staff to explore the complex process of mediating recent high profile disputes. The book is a window into the personalities of mediators and parties as well as the styles of mediation with which some of the best approach their difficult work. I will mention only three of the six who are profiled: two U.N. sponsored mediators, Lakhdar Brahimi and Alvaro de Soto, and retired Kenyan Army General Lazaro Sumbeiywo.

Lakhdar Brahimi was part of the Algerian insurgency against the French, served as Algeria’s Foreign Minister, and is the UN’s most senior mediator. A Sunni Muslim, he has mediated in Haiti, Zaire, Yemen, Nigeria, and the Sudan. In 2004 he finally acquiesced to pleas from the Bush Administration to mediate the appointment of an Interim Iraq Government. Within weeks the U.S. government undermined his efforts, appointing its own choices and claiming that the choices were those of Brahimi’s office. At that point we get a glimpse of the Brahimi’s character, as he reflects: “You see, sitting on the outside it is easy to say why don’t you throw everything in and just go home? But it is not that easy—just think of the consequences if we had said that this government is no bloody good and we don’t want anything to do with it. ... So for your personal comfort, there is a price.” Brahimi has checked his ego at the door many times. He has mediated six years in Afghanistan. He is known for his intense fact gathering and consultation with hundreds of actors. Even then, he is quick to admit, “I don’t yet know enough about the situation.” Brahimi is a master at using leverage—

not in the form of threats, but by assurances that the concessions sought are acceptable. He will not manipulate parties; nor does he allow disputants to make speeches. His concern to halt bloody conflicts makes him willing to talk with anyone who can help—regardless of the blood on their hands. Finally, like all good mediators he is a realist who knows that producing lasting peace means negotiating not just a framework but every detail of a new political landscape.

Peruvian Alvaro de Soto is a world class listener with patience well beyond what most people could endure. A recent test was five years of mediation between Greek and Turkish Cypriots—an assignment that others called the “graveyard for mediators.” De Soto is committed to workable agreements—not just “signable” ones—laboring over every detail. Despite his efforts in Cyprus, the parties have yet to agree to share the island.

Lazaro Sumbeiywo is the son of a Kenyan chief experienced in resolving intra-tribal disputes. He presided over the Kenyan military at the time a Declaration of Principles was signed in neighboring Sudan between the government and warring parties in the south. Unlike Brahimi and de Soto, Sumbeiywo has a temper which he displays equally to all parties when he is irritated. He will not force the parties, but he will put them in a locked room to move beyond what they want to what they are willing to live with. He brings a religious motivation to his work, saying that despite the frustrations involved in directing peace talks, it is God’s work getting done in helping to stop the Sudanese fighting.

Readers will learn much about recent hot spots and the workings of the mediation processes to cool them. But
what is most interesting is the
closest, strategies, and tactics of
those who dedicate themselves to the
slow and often disappointing work of
resolving conflicts.

Michael K. Duffey
Marquette University
Milwaukee, Wisconsin
Nel Noddings is among our wisest educators/elders. This emerita Stanford University professor of education has taught high school math, developed curricula, and prepared future teachers. Her other recent books include Starting at Home: Caring and Social Policy and Educating Moral People.

Critical Lessons argues that high school teachers need to take up controversial topics in order to help prepare students to deal with critical life issues. With extraordinary insight, Noddings addresses in successive chapters self-understanding; the psychology of war; home life; other people; parenting; animals and nature; advertising and propaganda; making a living, gender; and religion. These opening lines of the Introduction caught my attention: "When the United States invaded Iraq in 2003, many public school teachers were forbidden to discuss the war in their classrooms. ...although free debate is rarely so directly forbidden, the suppression of discussion and critical thinking in our educational system is widespread." (1)

Noddings addresses critical thinking about war in the first chapter. "Social studies and history texts are often organized around the topic of war.... However, despite the fact that few students who enter the military have even a smattering of college education, we seldom ask whether these youngsters can be given opportunities ...to learn something about the psychological aspects of war. If we claim to educate, we must encourage young people to reflect on what war does and might do to the human beings engaged in it." (36) She addresses the attractiveness of war, especially to young males, the neglect of peace studies, the phenomenon of group think, and the frequent disconnect between treatment of enemy detainees and American ideals of justice. A crucial issue she addresses is the prospect of the loss of moral identity by the men and women sent to fight: "Can we claim to educate if we do not prepare them for the psychological upheaval of war and violence?" (63)

The topics of the subsequent chapters are certainly related to war. Noddings raises questions of socialization, the acquiring of empathy, response to authority, and the roots of interpersonal violence. "Advertising and Propaganda" addresses the challenges to critical thinking when words are used to conceal rather than reveal truth and discussion of public policy is prevented.

College teachers will find a wealth of insights to help them challenge students to think critically. The book is also rich in references to literature and social research.

Michael K. Duffey  
Marquette University  
Milwaukee, Wisconsin

Our lenses are out of focus, diplomat Harold H. Saunders contends, our institutions incapable of solving humanity’s problems: “Our way of conducting politics is not working effectively for the public good.” As his title asserts, Saunders is calling for a shift in paradigms from politics-as-power to politics-as-relationship, a politics shaped and driven by ordinary citizens in full voice, in dialogue and in active collaboration across many different kinds of borders. He proclaims our existing “argument culture” (he borrows Deborah Tannen’s phrase), dominated by linear processes of action/reaction, to be entirely inadequate for solving the challenges facing humanity in the twenty-first century. These distinct but all-encompassing challenges are breathtaking: (1) co-existence itself (will we live and work together or in segregated enclaves?), (2) the increasing gap between rich and poor, (3) widening ideological gulls within and between societies (manifest most plainly in terrorism), (4) environmental crisis—“we are taxing the earth beyond its ability to sustain us,” and (5) the inadequacy of governance to address the first four challenges. He aligns himself at the outset with Václav Havel’s 1992 declaration in the New York Times: “we should fundamentally change how we behave.”

Saunders argues that this change can come through dialogue, which he dubs “the citizens’ instrument.” He describes it as both a diagnostic and operational tool. His four initial chapters, plus an introduction and prefatory personal essay, build a conceptually rich foundation for his relational paradigm. The paradigm is then exemplified in five case study chapters (slightly more than half the book) covering South Africa, Tajikistan, West Virginia, Russia, and China, with a final analytic chapter tying these examples back to the paradigm. In whole or in part, chapters of both types are rich with possibilities for classroom discussion because they provide a valuable conceptual framework as well as vivid illustration of the complexity and sensitivity of dialogue processes.

In the conceptual chapters, at times heady in their pace and breadth, Saunders quotes extensively from a host of theorists and practitioners ranging from Charles Darwin to Thomas Kuhn to Dee Hock, the man who organized the VISA network and invented the term chaord (combining chaos and order, it has come to refer to self-organizing systems in which no one, or everyone, is in charge). Chaordic dynamism is an essential element of Saunders’s relational paradigm, the definition of which defies concision. The paradigm describes citizens coming into relationship to solve public problems through a process that is “cumulative, multilevel, and open-ended,” that involves “continuous interaction over time with whole bodies politic,” and that operates “across permeable borders, either within or between communities or countries.” This is, as Saunders says in the title of Chapter Five, “A Different Way of Thinking.” It is a way of thinking that is entirely captivating during the reading, after which it can be difficult to take in the daily news about wars, insurgencies, global warming, mid-term elections, and the price of oil.

Director of international affairs for the Kettering Foundation, Saunders is founder and president of its offshoot, the International Institute for Sustained Dialogue, which includes among its projects an active Sustained Dialogue Campus Network (www.sdcampusnetwork.org). His previous government service focused on the Middle East. Saunders, who had a
major hand in drafting the 1978 Camp David accords, flew on the 1974–75 Kissinger shuttles, the place, he points out, where the concept of a peace process originated—a process built through relationships. When he left government in 1981, he began developing and implementing the Sustained Dialogue process.

Politics Is About Relationship fills out an “unintended trilogy” about dialogue and peace processes, each volume enlarging the scope of Saunders’ proposals, from The Other Walls: The Politics of the Arab-Israeli Peace Process (1985) to A Public Peace Process: Sustained Dialogue to Transform Racial and Ethnic Conflicts (1999) to the current volume. As he forwards “new conceptual lenses” for addressing the challenges he lays out, Saunders explicitly seeks academic allies, acknowledging the riskiness of his scientific analogies and sidestepping controversies among experts (e.g., whether changes in scientific paradigms are revolutionary or evolutionary). In fact, he says academia itself is in crisis and charges that social and political research “contributes inadequately to public life and ignores critical resources for meeting public challenges.”

Fretting that his portrayal of a Citizens’ Political Process might seem idealized, Saunders stresses that he is conceptualizing a process, not asserting a norm. Nevertheless, much of the book’s excitement does come from his fearless abstractions celebrating our capacity to address problems by engaging others on what Martin Buber called the between, “the narrow ridge where I and Thou meet.” If politics is about relationship, then politics depends upon what Saunders, in one of his most engaging turns of phrase, calls citizens’ capacity to concert—our capacity “to act together or in complementary ways that reinforce each other and can produce change.” Imbued with faith in that capacity, this book offers a compelling starting point for study of how social capital can be

Virginia A. Chappell
Marquette University
Milwaukee, Wisconsin