The Palestinian Question

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The international community and the organs of the United Nations have grappled with the issue of the status of Palestine and its relationship to the state of Israel for as long as there has been an Israel and a Palestine. To many outside observers, the problem seems quite intractable. Regardless of the difficulty, it is the duty of the international community and the various elements of the United Nations to continue their work by attempting to move forward with solutions that address the legitimate claims and needs of both parties. It is the responsibility of the United Nations to answer the Palestinian Question. But before delegates can solve such a complicated question, a significant degree of background is necessary.

Five major influxes of Jewish settlers, or the "five Aliyahs," define modern Jewish settlement in Israel. The reasons for these emigrations range from the effects of increasing anti-Semitism in Eastern Europe in the late 19th century to the rise of Nazi Germany. During these years the notions of a Zionist State arose, leading to the Balfour Declaration of 1917. The Declaration stipulated Britain's favor of "the establishment in Palestine of a national home for Jewish people"[1]. Furthermore, the British Mandate for Palestine established by the League of Nations in 1922 authorized the British to "secure the establishment of the Jewish national home"[2]. This effectively re-affirmed the Balfour Declaration. After World War II, following years of British rule, an independent Jewish State arose from the Zionist movement. In 1947, the UN Partition Plan established the Jewish State of Israel within Palestine, dividing it from the Arab Palestinians[3]. Thus, a two state solution had been created, but not without conflict.

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[1] Balfour Declaration. (2007). Encyclopædia Britannica. August 10, 2010 from Encyclopædia Britannica Online
[2] The British Mandate For Palestine San Remo Conference, April 24, 1920. August 11, 2010. http://www.mtholyoke.edu/acad/intrel/britman.htm
[3] United Nations General Assembly 181. November, 29th 1947. The Avalon Project at Yale Law School. August 12, 2010.

After the British began exiting the region and transferring power to Israeli authorities, the Palestinians - upset by the division of their homeland - waged the 1947–1948 Civil War in the Mandate of Palestine. In addition, the Arab-Israeli War of 1948 erupted after forces of the Arab League (notably Egypt, Jordan, Syria, and Lebanon) invaded Palestine to "establish law and order"[4]. Both were subdued by Israeli forces. The 1949 Armistice Agreement set demilitarized zones, specifications of troop withdrawals, and established both temporary and permanent borders. This agreement first specified Gaza's current border, but it existed under Egyptian control.

Despite Israel's victories, the Arab League repudiated Israel's growing power and sought an end to what they considered hegemony. The most significant indication of rising Israeli power lay in the outcome of the Six Days War of 1967, which unfolded on June 5th. Tensions between regions reemerged as long-term animosities of Israeli settlement met with a growing desire to reclaim the Holy Land for Palestinians. Hostilities began as Egypt ordered UN peacekeeping troops in the Sinai Peninsula, who the UN had originally deployed to mediate potential conflicts between Israel and Egypt, to leave the region. The initial maneuvers between forces of the Arab League leaned in their favor – Egypt imposed a naval blockade upon Israel, and Jordan, Syria, and Egypt mobilized their forces on their three respective fronts. However, pre-emptive Israeli airstrikes crippled enemy air capabilities, enabling Israel to hold out against Arab combatants and end the conflict quickly.[5] Resolution of the Six Days War paved a rocky road for 20th century Israeli-Arab relations. It was not until November of 1967 that the United Nations approved Security Council Resolution 242 in order to guide peaceful negotiations throughout the

[4] "Arab League Declaration on the Invasion of Palestine, May 15, 1948." Jewish Virtual Library. August 11, 2010.
[5] "The Six Days War: Causes and Consequences." CAMERA. 2007. August 12, 2010. http://www.sixdaywar.org/index.asp

region. Nonetheless, new borders had been formed and Gaza was incorporated under Israeli control.

The Cairo Summit of 1964 established the Palestinian Liberation Organization (PLO) and designated it as the "sole legitimate representative of the Palestinian people." The summit also called for the international community to "support Arab countries as they faced continuous Israeli aggression"[6]. Initially led by Mahmoud Abbas, the organization comprised an 18-member PLO Executive Council elected by the Palestinian National Congress, which essentially served as the Palestinian people's government. However, following the Arab League's failed attempt to liberate Palestine through the Six Days War, the Fatah became the dominant party under the PLO[7]. Under the newfound leadership of Yasser Arafat, the PLO was a lightning rod for Palestinian independence. They advocated guerilla warfare and publically pronounced their desire for the destruction of the Zionist state[8]. Until 1991 Israel and the United States regarded the PLO as a terrorist organization[9]. However, the international community accepted it as a valid representation of the Palestinian people, and they gave the PLO representative status in the United Nations. Despite the PLO's designation as a terrorist organization, the United Nations General Assembly adopted documents such as A/RES/39/146 of 1984. It noted the PLO as a legitimate party to the conflict and called for an end to the Israeli occupation of "the Palestinian and other Arab territories occupied since 1967"[10].

During the last quarter of the 20th century, Yasser Arafat worked to transform the PLO into a reputable governmental organization and sought to find a settlement to Israeli-Palestinian relations. Arafat changed policy in 1988, announcing that the PLO would end their terrorist

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[6] "Summit Stops." March 24-30, 2005. Al Ahram Online. August 12, 2010.
[7] "The Nobel Prize in Peace 1994: Yasser Arafat, Shimon Peres, Yitzhak Rabin." Nobelprize.org. August 12, 2010.
[8] Palestinian Liberation Organization (PLO)." August 8, 1998. FAS. August 12, 2010. http://www.fas.org/irp/world/para/plo.htm
[9] "Palestinian Liberation Organization (PLO)." 2010. Jewish Virtual Library. August 12, 2010. http://www.jewishvirtuallibrary.org/jsource/Terrorism/plo.html
[10] UN General Assembly, *General Assembly Resolution 39/146 (1984)*, 14 December 1984, A/RES/39/146, http://www.un.org/documents/ga/res/39/a39r146.htm

activities and support "the right of all parties concerned in the Middle East conflict to live in peace and security, including the state of Palestine, Israel, and other neighbors"[11]. The tone for Israeli and Palestinian relations shifted, aside from a minor setback when the PLO supported Iraq in the Persian Gulf War of 1991. This shift led to the most significant step toward peace in the history of the two regions.

The Oslo Accords, also referred to as the Declaration of Principles on Interim Self-Government Arrangements, set the stage for future work between the two parties. Set in Oslo, Norway, delegates from Israel and Palestine worked to determine a comprehensive solution to their states' problems, a solution that not only recognized the legitimacy of the Israeli state, but granted national power to the PLO. Articles included the principle of democratic elections within Palestine, jurisdiction of authority, a transfer of power and authority, and an eventual withdrawal of Israeli troops. The Oslo Accords created a gateway, a two-state solution, for the decades old Israeli-Palestinian conflict. However, this angered not only right-wing Israelis who sought unification of Palestine within Israel, but infuriated the right-wing Palestinians who supported Hamas, which sought the destruction of the state that they considered completely illegitimate. What the international community saw as a milestone in foreign relations became more of a deadweight in the future of regional politics.

After the Oslo Accords, Israel pulled troops out of Gaza and the West Bank. They gave Palestine relative autonomy within their own borders. However, time and chance did not permit resolution without further conflict. They still needed to resolve issues not specified within the Oslo Accords. In July 2000, during the Middle East Peace Summit at Camp David, Yasar Arafat, Israeli Prime Minister Ehud Barak and US President Bill Clinton, sought to address the

[11] "The Nobel Prize in Peace 1994: Yasser Arafat, Shimon Peres, Yitzhak Rabin." Nobelprize.org. August 12, 2010. http://nobelprize.org/nobel_prizes/peace/laureates/1994/arafat-bio.html

issues of territory, the city of Jerusalem, refugees, and Israeli security concerns[12]. However, the outbreak of the Second Intifada in September 2000 further degraded relations[13]. Sparks flew after Ariel Sharon, the leader of Israel's opposition, visited a site in East Jerusalem sacred to both Jews as the Temple Mount and Muslims as Haram al-Sharif. His visit resulted in violence between locals within the city. In February of 2001, citizens elected Ariel Sharon Prime Minister of Israel. Within a few months of his election, he launched military strikes against Palestinian targets in Gaza. Relations had once again deteriorated to the point of violence.

Violence over the next five years was characterized by attacks and counterattacks on both sides. Palestinian attacks, primarily organized by Hamas, targeted Israeli civilians and were followed by Israeli military counterstrikes. On March 19th, Mahmoud Abbas agreed to serve under Yasser Arafat as the first Prime Minister of the Palestinian Authority. However, a power struggle in which Arafat hoped to undermine Abbas' authority with his own marred their relationship. This power struggle continued until September 9th, 2003, when Abbas resigned after clashing with Arafat over security reforms[14]. On November 11th, 2005, Yasser Arafat died at the age of 75. Following his death, Abbas was elected chairman of the PLO. Once again the two sides began to look toward peace.

As of early 2005, over 25 primarily Jewish settlements comprised of Israeli citizens existed within designated Palestinian territory. The Israeli government, under the leadership of Ariel Sharon, adopted a plan on June 6th, 2004 to move these citizens from occupied Palestinian territory Israel. Though the government offered citizens compensation, often up to $400,000, the

[12] "The Middle East Peace Summit at Camp David- July 2000." 11, July 2000. Israel Ministry of Foreign Affairs. August 18, 2010. http://www.mfa.gov.il/MFA/History/Modern%20History/Historic%20Events/The%20Middle%20East%20Peace%20Summit%20at%20Camp%20David-%20July%2
[13] "Al-Aqsa Intifada Timeline." 29th September, 2004. BBC News. August 19, 2010. http://news.bbc.co.uk/2/hi/middle_east/3677206.stm
[14] Ibid.

move was in many cases a political catastrophe[15]. It did nothing to halt Israeli military control within the region, the settlements remained well protected and some observers charge that the settlements amounted to colonization of the West Bank. Still more problematic was the fact that Israel still controlled access to Palestinian waterways, border crossings, and all airspace. Though many felt it a bold step towards improving Israeli-Palestinian relations, the 2006 Palestinian election dashed hopes toward a lasting agreement between the two regions.

The Palestinian Legislative Election of 2006 resulted in a victory for Hamas with 44.45% of the vote in favor of Hamas, while Fatah received 41.43% of votes[16]. Following Hamas's legislative victory, the 'Quartet' (the US, EU, UN, and Russia) threatened to impose economic sanctions on what they considered a dangerous terrorist organization. Following the election, Hamas fighters launched a coup d'état within Gaza, initiating the 2007 Battle of Gaza while simultaneously expelling the Western-backed Fatah. Immediately after the coup, Israel and Egypt sealed their borders into Gaza, beginning a controversial blockade. After Hamas organized rocket attacks aimed at Israeli citizens, Israel once again responded militarily to Palestinian attacks during Operation Cast Lead. The international community condemned the conflict, albeit in a short time frame (December 2008 to January 2009). General Assembly Resolution A/HRC/S-9/L.1, as well as Security Council SC/9567, expressed international condemnation of the Gaza occupation, with the former voicing concern for "grave human rights violations in the Occupied Palestinian Territory." The 2008 occupation led to a myriad of issues in the Palestinian territory, especially the destruction of civil necessities, which included "food supply

[15] "Jewish Settlers Receive Hundreds of Thousands in Compensation for Leaving Gaza While Palestinians Working for Them Get Nothing." 16 August, 2005. Democracy Now! August 19, 2010. http://www.democracynow.org/2005/8/16/jewish_settlers_receive_hundreds_of_thousands
[16] The Final Results for Electoral Lists. August 19, 2010 http://www.elections.ps/pdf/Final_Results_PLC_Summary_Lists_Seats_2_En.pdf

installations, water sanitation systems, concrete factories, and residential houses" along with "wells, schools, hospitals, [and] police stations"[17].

The imposition of a blockade upon the territory of Gaza by the Israeli government complicated matters. Imposed in 2007 after Hamas's coup against the Fatah, Israel allegedly designed the blockade to cripple Gaza's economy and weaken the "enemy" regime. Even after the occupation Israel continued its blockade with the hope of preventing Hamas from obtaining weapons and rockets to fire into southern Israel. Despite claims of Israeli self-defense and the desired effects it would have on the enemy regime, the people of Gaza have been the primary victims. Two years after the blockade, the amount of goods allowed into Gaza was less than one quarter of the pre-blockade flow. This allowed for only a few dozen types of humanitarian goods, including basic food and medicine. Furthermore, the embargo prohibited the importation of virtually all consumer goods, including "cleaning supplies and timber"[18]. This drove nearly all 1.5 million Gaza citizens into poverty. UN High Commissioner for Human Rights, Navi Pillay urged Israel to halt the blockade and restore autonomy within Gaza as residents had "been forcibly deprived of their most basic human rights for months"[19]. Even more troublesome, a number of Turkish flagged aid vessels attempted to run the blockade in 2010 and Israel responded with force. This greatly damaged relations between Turkey and Israel and drew further attention to the blockade[20]. This also garnered an immediate response from the Security Council, which called for investigations and condemned the acts that resulted in the deaths of several persons in the flotilla[21].

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[17] "Media Summary: Report of the United Nations Fact Finding Mission on the Gaza Conflict." Goldstone Report. August 29, 2010. http://www.goldstone-report.org/the-report/the-contents/98-media-summary-report-of-the-united-nations-fact-finding-mission-on-the-gaza-conflict

[18] "Israel Eases Gaza Blockade Restrictions, Releasing List Of Allowed Items." 5, July 2010. The Huffington Post. August 31, 2010.

[19] "Israel Condemns UN Call for End to Gaza Blockade." 18, November 2008. The Jerusalem Post. August 31, 2010.

[20] Israel's Gaza Flotilla Fiasco Max Boot. Jun 2, 2010. Wall Street Journal. August 4, 2010.

[21] Security Council SC/9940. 31, May 2010.

Furthermore, countries continually question the legality of the blockade itself. Accusations include Israeli violations of the Fourth Geneva Convention of 1949 in its imposition of the blockade through "collective punishment of a civilian population"[22]. Likewise, many parties still consider Israel an occupying power because of its control over Gaza airspace, waterways, and migration and therefore that it is obliged to adhere to the Fourth Geneva Convention of 1949. Further still, the San Remo Manual on International Law Applicable to Armed Conflicts at Sea (although it is an explanatory and not a binding document) indicated that a blockade is not legal "if the damage to the civilian population is, or may be expected to be, excessive in relation to the concrete and direct military advantage anticipated from the blockade"[23].

On the other hand, the United Nations Fact Finding Mission on the Gaza Conflict "found that the frequent Palestinian rocket attacks into Southern Israel constitute war crimes "that may amount to crimes against humanity"[24]. Investigations still remain today upon the degree to which each state is accountable for destruction. Regardless, the devastation that ensued has had a lasting effect upon the region. Israel designed the occupation and blockade to cripple Hamas' leadership within Gaza. However, the Mission found that Israel's occupation as well as blockade amounted to a "systematic policy of progressive isolation and deprivation of the Gaza Strip"[25]. The Security Council passed S/RES/1860 on January 8, 2009 which called for a ceasefire and Israeli withdrawal from Gaza, the resumption of humanitarian aid without restriction, and a commitment to a two-state solution[26]. A ceasefire was declared on January 17th and Israeli

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[22] "Israel's Gaza Blockade Breaks Law, says ICRC." 14, June 2010. The Free Gaza Movement. August 31, 2010.
[23] "San Remo Manual on International Law Applicable to Armed Conflicts at Sea." 12 June 1994. International Red Cross. http://www.icrc.org/IHL.nsf/52d68d14de6160e0c12563da005fdb1b/7694fe2016f347e1c125641f002d49ce!OpenDocument
[24] Ibid.
[25] Ibid.
[26] UN Security Council, *Security Council resolution 1860 (2009) [on a durable and fully respected ceasefire and the full withdrawal of Israeli forces from the Gaza Strip]*, 8 January 2009, S/RES/1860 (2009), http://www.unhcr.org/refworld/docid/496c51fa2.html

forces withdrew five days later. However, the 22-day occupation left over 50,000 homeless, 400,000 people without running water, and 1,100-1,400 people dead[27].

Most recently, a report from the Office of the United Nations Special Coordinator for the Middle East Peace Process indicated that the Palestinian Authority, as a set of governing institutions, was effectively ready to administer an independent state[28]. This has led to a declaration from Palestinian officials that they began their push for a vote on Palestinian statehood in the General Assembly in the Fall of 2011[29]. Naturally, Israel has opposed this idea and additionally, the United States has signaled that this solution is also not acceptable. In addressing the Palestinian question, it is important that delegates not only understand the issues leading up to today's present climate, but that they think critically on the best ways to resolve the issue, an issue that carries with it consequences both regional and global.

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[27] "Gaza 'Looks Like Earthquake Zone'" January 20, 2009. BBC News. August 29, 2010. http://news.bbc.co.uk/2/hi/middle_east/7838618.stm
[28] "Palestinian State Building: A Decisive Period." 13 April 2011. Office of the United Nations Special Coordinator for the Middle East Peace Process. http://www.unsco.org/Documents/Special/UNs%20Report%20to%20the%20AHLC%2013_April_2011.pdf
[29] [28] Bronner, Ethan. "In Israel, Time for Peace Offer May Run Out." 2 April, 2011. New York Times. http://www.nytimes.com/2011/04/03/world/middleeast/03mideast.html

Questions to Answer:

1. Does your state believe there should be an independent Palestinian state? What is your state's position on documents such as S/RES/1397, which suggest a two-state solution involving an independent Palestine?

2. What borders should an independent Palestinian state have?

3. What is your state's position on the right of return of refugees, and the associated A/RES/194 of 1948 regarding the right of return?

4. What measures does your state feel are necessary to resolve the conflict in general?

5. What is your state's position on the legitimacy of a Palestinian government that includes Hamas? What is your state's opinion of Hamas, overall?

6. What is your state's position on the Israeli blockade of Gaza? Is it a legitimate defensive measure? Does it violate international law? Does the blockade appropriately discriminate between military and civilian goods?

7. Does your state feel that any party to the conflict has committed acts in violation of international law, and if so, what steps are necessary as a remedy?

8. Does your state feel that existing institutions in Palestine allow it, currently, to govern itself effectively as an independent state? What are the implications of your answer?

9. What is your state's position on ongoing settlement activity by Israel in the West Bank?

10. What, in fact, is the legal status of Gaza and the West Bank under international law?

Addressing Rape and Other Forms of Sexual and Gender Based Violence

By Scott Ridout

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"In no other area is our collective failure to ensure effective protection for civilians more apparent…than in terms of the masses of women and girls, but also boys and men, whose lives are destroyed each year by sexual violence perpetrated in conflict."
– United Nations Secretary-General, Ban Ki-moon, 2007

As one of history's greatest silences, sexual and gender based violence is a grave breach of international humanitarian law. This is reflected in the 1998 Rome Statute of the International Criminal Court, the 1949 Geneva Conventions, and jurisprudence of the international criminal tribunals for the former Yugoslavia and Rwanda.

There are various forms of sexual violence. Rape, the most often cited form of sexual violence, is defined in many societies as sexual intercourse with another person without his/ her consent. Rape is committed when the victim's resistance is overwhelmed by force or fear or other coercive means. However, the term sexual and gender-based violence encompasses a wide variety of abuses including; sexual threats, exploitation, humiliation, assaults, molestation, domestic violence, incest, involuntary prostitution (sexual bartering), torture, insertion of objects into genital openings and attempted rape. Female genital mutilation (differentiated from female circumcision) and other harmful traditional practices (including early marriage, which substantially increases maternal morbidity and mortality) are forms of sexual and gender-based violence against women that cannot be overlooked nor justified on the grounds of tradition, culture or social conformity.

Since perpetrators of sexual and gender-based violence are often motivated by a desire for power and domination, rape is common in situations of armed conflict and internal strife. An

act of forced sexual behavior can threaten the victim's life. Like other forms of torture, it is often meant to hurt, control and humiliate, while violating a person's physical and mental integrity. Perpetrators may include fellow refugees, members of other clans, villages, religious or ethnic groups, military personnel, relief workers and members of the host population, or family members (for example, when a parent is sexually abusing a child). In many cases of sexual violence, the victim knows the perpetrator.

Because incidents of sexual and gender-based violence are under-reported, the true scale of the problem is unknown. The World Bank estimates that less than 10 % of sexual violence cases in non-refugee situations are reported. Some of the factors contributing to under-reporting are fear of retribution, shame, powerlessness, lack of support, breakdown or unreliability of public services, and the dispersion of families and communities[30]. The costs of this sexual violence not only include the direct expenses for services to treat and support abused women and their children (the cost of intimate partner violence in the United States alone exceeds $5.8 billion per year)[31] but also concern prosecuting perpetrators. Additionally, there are the untold costs that may be inflicted on families and communities across generations. Widespread and systematic sexual violence also hampers sustainable post-conflict recovery: first, it undermines social stability by destroying families and communities; second, the fear of sexual violence restrains women's mobility, leading them to retreat from economic and academic activity; third, when perpetrators of sexual violence go unpunished, efforts to establish faith in the State's ability to protect its citizens and establish the rule of law is seriously undermined[32]. By threatening the safety, freedom and autonomy of women and girls, gender-based violence

30 http://www.unfpa.org/emergencies/manual/4.htm
31 http://www.un.org/en/women/endviolence/pdf/VAW.pdf
32 http://www.un.org/wcm/webdav/site/chronicle/shared/images/2010/issue1/UN%20Chronicle%20_1,%202010.pdf

violates women's human rights and prevents their full participation in society and limits their ability to fulfill their potential as human beings.

Although this issue applies to all genders, evidence has shown that the majority of sexual and gender based violence victims are women. Violence against women and girls is a virulent form of abuse and discrimination that transcends race, class and national identity. It takes many forms and may be physical, sexual, psychological and economic, but all are usually interrelated. Other specific types of violence, such as trafficking in women and girls, often occur across national boundaries. It is estimated that annually up to 2 million people, many from the 150 and more countries constituting the "global South," are trafficked into prostitution, forced labor, slavery or servitude.[33]

The Declaration on the Elimination of Violence Against Women defines gender based abuse as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."[34] While global statistics on gender-based violence are uneven, estimates show that one in every three women has been beaten, coerced into sex, or otherwise abused in her lifetime.[iv] According to the United Nations Secretary General's Campaign to End Violence Against Women, 36 women and girls are raped every day in the Democratic Republic of the Congo alone.[35] Women are commonly subjected to violence inflicted by intimate partners or family members, through rape and defilement; via practices of female genital mutilation in parts of Africa and the Near and Middle East; by means of dowry murders in South Asia; and female infanticide, prenatal sex selection

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33 http://www.un.org/wcm/content/site/chronicle/cache/bypass/home/archive/issues2010/empoweringwomen/confrontingviolenceagainstwomen?ctnscroll_articleContainerList=1_0&ctnlistpagination_articleContainerList=true

34 http://www.un.org/rights/dpi1772e.htm

iv

35 http://www.un.org/en/women/endviolence/situation.shtml

and systematic neglect of girl children, particularly in South and East Asia, North Africa and the Middle East.[iv] Gender-based violence may also involve persons in positions of trust, such as international peacekeepers or national police officers in conflict zones, who engage in rape, sexual harassment and sexual exploitation, often as a conscious strategy to humiliate opponents, terrify individuals and destroy societies.

Long dismissed as the random acts of renegade soldiers, wartime rape has been steeped in a self-serving myth of inevitability. The issue is absent from ceasefire agreements, dismissed from disarmament programs and rarely mentioned at the peace table. Widespread impunity has kept rape off the historical record and under the security radar. Armed conflict creates a climate for sexual violence. Communities are awash with small arms and light weapons. Moral, social and legal restraints give way to a culture of sexual entitlement and many combatants treat women and girls as the "spoils of war". Children born of rape and their mothers face stigmatization and economic exclusion. Desolate villages and fallow fields bear stark witness to the terror of sexual violence in displacing populations and shredding the social fabric of communities. The wars that have ravaged Bosnia, Rwanda, Sierra Leone, the Democratic Republic of the Congo, Sudan and Timor-Leste have made the military logic of mass rape undeniable. Of some 14,200 rape cases registered in South Kivu, Democratic Republic of Congo between 2005 and 2007, just two percent of perpetrators were ever called to account.[36] Of 10,000 genocide-related trials heard by Rwandan national courts, just three percent included convictions for sexual violence.[37] Moreover, formal justice rarely means reparations or services for survivors.

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36 http://www.stoprapenow.org/uploads/images/features/pdf/UNASF_2011-12_final.pdf
37 Ibid

Rape victims who are caught up in conflict are among the world's least visible people in some of the most austere, remote regions. Sexual violence is a tactic of choice precisely because survivors are reticent to report. Known victims are stigmatized. Husbands may reject wives. Survivors may be perceived as "unmarriageable." Pregnant women may be accused of adultery or of tainting family "honour." This misplaced blame and shame has deep roots in a historical absence of accountability. Sexual violence, whether a single act or a concerted campaign, is categorically prohibited under international law.

Since the beginning of the new Arab revolution in early 2011, many of the regimes facing mass protests have vehemently repressed demonstrators. After months of turmoil, the international community is now investigating reports of rape being used as a tool of repression. Fifteen Qaddafi regime 'thugs' reportedly raped Imam al-Obeidi, a Libyan woman.[38]

> Luis Moreno-Ocampo, chief prosecutor for the International Criminal Court, stated "We are getting some information that Qaddafi himself decided to rape, and this is new...The rape is a new aspect of the repression...That is why we had doubts at the beginning, but now we are more convinced that he decided to punish using rape."[39]

Most reports of rape coming from the Arab Spring have emerged from Bahrain and Libya.

In June of 2011, at least 60 women were raped and dozens of other people beaten by suspected rebels during a two-day attack on a pair of villages in eastern Democratic Republic of Congo. According to the UN-backed Radio Okapi, the attacks have been blamed on former fighters from the Pareco rebel group, under the command of Colonel Kifaru Niragiye, all of whom deserted the Congolese army earlier this month in protest against changes in the local

38 http://www.huffingtonpost.com/2011/04/05/iman-al-obeidi-libya-woman-rape_n_845119.html
39 http://www.alarabiya.net/articles/2011/06/09/152527.html

military command. The mass rape occurred in Abala and Nyakiele, near the town of Fizi in South Kivu province – a remote area with no mobile phone coverage.[40]

However, women have not accepted these violations of their bodily and mental integrity, and they have confronted gender-based violence on a daily basis and through big and small actions, with or without the support of States and international agencies. Through the use of socially sanctioned actions, including "naming and shaming", songs and other performative acts, the use of faith-based networks, or new and transnational forms of organizing, women have made alliances, lobbied States and municipal governments, and used international human rights law and continental and regional organizations to draw attention and to seek redress from oppressive social relations and practices.

Rape and other forms of sexual and gender based violence have concerned the United Nations since the organization's founding. However, the alarming global dimensions of sexual and gender-based violence were not explicitly acknowledged by the international community until December 1993, when the United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women.[41] The Declaration on the Elimination of Violence against Women is the first international human rights instrument to exclusively address the issue of violence against women. It affirms that the phenomenon violates a woman's human rights and her exercise of fundamental freedoms. In view of the alarming growth in the number of cases of violence against women throughout the world, the Commission on Human Rights adopted resolution 1994/45 of 4 March 1994, in which it decided to appoint the Special Rapporteur on violence against women, including its causes and consequences. The Special Rapporteur has a mandate to collect and analyze comprehensive data and to recommend measures aimed at

40 http://www.guardian.co.uk/world/2011/jun/23/democratic-republic-congo-gang-rape
41 http://www.unhchr.ch/huridocda/huridoca.nsf/%28symbol%29/a.res.48.104.en

eliminating violence at the international, national and regional levels. The mandate is threefold: 1) To collect information on violence against women and its causes and consequences from sources such as Governments, treaty bodies, specialized agencies and intergovernmental and non-governmental organizations, and to respond effectively to such information; 2) To recommend measures, ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences; 3) To work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights.

In March of 2007, the United Nations Action Against Sexual Violence in Conflict (UN Action) was created in direct response to the 2006 Symposium on Sexual Violence in Conflict and Beyond in Brussels. UN Action unites efforts across the UN system with the goal of ending sexual violence in and after conflict. The UN Action network currently embraces 13 UN system entities: namely; the Department of Political Affairs, the Department for Peacekeeping Operations, the Office for the Coordination of Humanitarian Affairs, the Office of the High Commissioner for Human Rights, the Peace Building Support Office, the Joint United Nations Program on HIV/AIDS, the United Nations Development Program, the United Nations Population Fund, the United Nations Refugee Agency, the United Nations Children Fund, the United Nations Office on Drugs and Crime, UN Women and the World Health Organization. It is supported by a small coordinating Secretariat reporting to the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC). Recognizing that sexual violence requires a broad-based, multi-sectoral response, UN Action aims to: align the UN's work more effectively behind national efforts to address sexual violence; deepen partnerships with civil society actors working to address the issue; harness the comparative strengths of each

UN system entity; work alongside existing UN coordination mechanisms including the Gender Sub-Working Group of the Inter-Agency Standing Committee (IASC), the Area of Responsibility (AOR) on Gender Based Violence within the Protection Cluster, and Protection of Civilians initiatives; position responses to sexual violence in conflict more centrally within UN platforms and mechanisms including Consolidated Appeals Process's, Central Emergency Response Funds, Poverty Reduction Strategy Papers, and Common Country Assessment/United Nations Development Assistance Frameworks; and enhance the UN's response to Security Council Resolutions 1820/1888/1960, in the context of 1325/1889, 1612/1882, 1674/1894 and 1308, thereby broadening the constituency for addressing sexual violence against civilians. Not only does UN Action seek to strengthen the UN's response to survivors, but it also aims to prevent sexual violence and to take action to address impunity – recognizing that the problem is a security issue as well as a human rights, humanitarian and developmental issue.

During 2011-12, UN Action will intensify its strategic support to UN Missions selected as priority countries by the SRSG-SVC - namely the Democratic Republic of the Congo, Sudan (Darfur and South), Liberia, Côte d'Ivoire, Central African Republic, Colombia, and Bosnia and Herzogovina. UN Action will respond to requests for support from country-based Special Representative of the Secretary-Generals (SRSGs) and UN Resident and Humanitarian Coordinators (RC/HCs) on a case-by-case basis according to the specific strategic and technical needs of each UN Country Team (UNCT)/UN Mission. The principal aims will be: (i) to support the development and implementation of comprehensive strategies to combat sexual violence, as mandated by SCR1888 (OP 23) and a number of country-specific resolutions, and (ii) to encourage joint programming by the UN system, in keeping with "one UN" principles, involving peace and security, humanitarian affairs, human rights and development actors.

As part of the implementation of special measures for protection from sexual exploitation and abuse, and as a response to various serious allegations about peacekeepers in several missions, former Secretary-General Kofi Annan, in November 2005, established the Conduct and Discipline Units, one at the UN Headquarters in New York and eight others at selected peacekeeping missions. Currently there are about 18 such units functioning around the world. The Conduct and Discipline (C&D) units have been set up to uphold the United Nations zero tolerance policy with regard to sexual exploitation and abuse by implementing preventive measures, receiving complaints and ensuring compliance with the UN code of conduct. Acting Chief of C&D unit at the Department of Field Support, Marie-Anne Martin stated, "When there are allegations of misconduct, then the Units receive the complaints, which are in turn passed on for investigation to the UN Office of Internal Oversight Services or other investigative entities, depending on the gravity of the offense. The investigation report would be reviewed based on whether the allegations are substantiated or not. If the case is substantiated, then the mission, the UN Secretariat or the troop-contributing countries would be responsible for taking any necessary action."[42] The C&D units have adopted a three-level strategy to address problems of sexual exploitation. This strategy includes: prevention of misconduct by making generic training on prevention of sexual exploitation and abuse mandatory for all peacekeeping personnel on arrival in a mission; enforcement measures to handle allegations and investigations of misconduct in a more consistent and professional manner; and remedial action to provide assistance and support to victims of sexual exploitation and abuse by United Nations staff or related personnel.

In 2008, the United Nations Security Council adopted Resolution 1820, which called on parties to armed conflict, including non-State actors, to protect civilians from sexual violence,

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42 http://www.un.org/wcm/content/site/chronicle/cache/bypass/home/archive/issues2008/pid/5106?ctnscroll_articleContainerList=1_0&ctnlistpagination_articleContainerList=true

enforce military discipline, uphold command responsibility, and prosecute perpetrators. It directed UN departments and specialized agencies of the UN system to ensure that peacekeeping forces are adequately equipped and trained to protect civilians from sexual violence, and called on the UN Peacebuilding Commission to analyze the impact of conflict-related sexual violence on early recovery and long-term peacebuilding. Resolution 1820 also called for a report from the Secretary-General that would outline a plan of action to address sexual violence in an integrated and systematic fashion throughout the UN system. Noting the need for senior leadership, better coordination and accountability, the Security Council unanimously adopted Resolution 1888 on 30 September 2009, calling for concrete measures to operationalize and institutionalize commitments made through Resolution 1820. This follow-up resolution strengthened the UN Action network by mandating coherent and strategic leadership in the form of a SRSG on Sexual Violence in Conflict. Margot Wallström was appointed to the position in February 2010. It further called for a team of rapidly deployable experts on the rule of law, Women Protection Advisers, the development of joint UN-Government Comprehensive Strategies to Combat Sexual Violence, improved data on trends, emerging patterns of attack and early-warning indicators of sexual violence, and annual reports from the Secretary-General on the implementation of Resolutions 1820 and 1888.

The Security Council addressed the issue further with the adoption of Resolution 1960 on 16 December 2010. Resolution 1960 called upon the Secretary-General to include information in his annual reports on parties "credibly suspected of committing or being responsible for acts of rape and other forms of sexual violence." It also called for a listing in an annex to these annual reports of the parties credibly suspected of committing or being responsible for "patterns of rape and other forms of sexual violence in situations of armed conflict that are on the Security

Council agenda" as a basis for focused engagement, including through relevant sanctions committees. In addition, it called upon the SRSG-SVC and senior UN officials to engage in dialogue with parties to armed conflict to secure specific and time-bound commitments to prevent and address sexual violence. This resolution is intended to ensure that conflict-related sexual violence will no longer go unreported, unaddressed or unpunished.

Despite the efforts of the UN, individual nations, and NGO's, sexual and gender based violence is still a major problem. What has been most difficult is bringing rape to justice. Laws that have been passed have not been fully enforced, and, in many cases, they are not accessible to those who need them because of the high costs of seeking justice. Mass rape often occurs in remote areas that are out of range of any cellular or internet communications. By the time national authorities and UN officials arrive at the scene, criminals are long gone. In addition, many national efforts are not adequately funded and are thinly spread with disproportionate presence in urban, affluent communities, to the detriment of rural and poor communities. A major challenge hampering the effective implementation of laws and policies is the lack of political will and commitment to gender equality. The Special Representative of the Secretary-General on Sexual Violence in Conflict, Margot Wallström, stated "Rapes will continue so long as consequences are negligible."[43] She also urged that future options and avenues of advancement for perpetrators be shut off, and that they be excluded from any amnesty provisions or reintegration benefits.

Questions to Consider

1. How do rape and other forms of sexual violence affect your country and region?
2. How do economic and social conditions contribute to the various problems associated with sexual and gender based violence?

43 http://www.un.org/apps/news/story.asp?NewsID=37343

3. What efforts has your country put forth in order to help combat rape and other forms of sexual violence at the national, regional, and international levels, and what difficulties has it faced in doing so?
4. How can the international community progress efforts against rape and other forms of sexual violence?
5. Can other organizations, especially NGO's, do more to help the UN and its member states concerning this issue?

Root Causes of Conflict in Africa

By Bridget McGraw
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"Africa is a vast and varied continent. African countries have different histories and geographical conditions, different stages of economic development, different sets of public policies and different patterns of internal and international interaction. The sources of conflict in Africa reflect this diversity and complexity." Kofi Annan[1]

The sources of conflict in Africa are necessarily complex and multifaceted. It would be highly inconceivable for one to expect the United Nations to find a single underlying cause, or discover a singular, one-size-fits-all solution to the vast amount of conflict on the continent. The UN still seeks to understand these conflicts in order to gain consensus on many possible actions toward conflict resolution, in accordance with one of its main missions, "to maintain international peace and security…"[2] However, in order to fulfill this mission an understanding of the background on the causes themselves is required, as well as what precedents international and organizational actors have set in place to deal with the resulting conflicts.

There are numerous factors that complicate conflict. Local, national, and international forces have all contributed, even combined in some circumstances, to fuel nearly every war or violent conflict on the continent. Often, individual causes intertwine and, when combined, they exacerbate and further intensify each other's affects, to potentially catastrophic proportions.

Often, theorists divide contributing factors of conflict into structural or root causes, and periphery or reactionary causes. The focus of this background paper is the structural causes,

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[1] *The causes of conflict and the promotion of durable peace and sustainable development in Africa Report of the Secretary-General.* (1998, April 13). Retrieved July 3 2011, from United Nations General Assembly Security Council Fifty-second session Agenda Item 10, Report of the Secretary-General on the work of the Organization: <http://www.un.org/africa/osaa/reports/A_52_871_Causes%20of%20Confict%201998.pdf>

[2] Chapter 1: Purposes and Principles- Article 1. *Charter of the United Nations.* Web. July 1 2011. < http://www.un.org/en/documents/charter/chapter1.shtml>

which usually include the broader political, economic, and social patterns.[3] The following is hardly an exhaustive list, but rather a representative sampling of the numerous root causes of conflict.

There is no doubt that many African States still suffer from both the colonization and decolonization process and retain a very strong colonial legacy. When European countries convened at the Berlin Conference in the 1870s to divide Africa among themselves, the colonial rulers created artificial boundaries that did not reflect the situation on the ground. Thus, the borders they created for African States gave no regard to cultural or ethnic diversity. This brought a wide variety of people together without time to accommodate and adapt to their differences.[4] In addition, the colonial legacy left many vacuums. The now-independent states often have to tackle nation building and the current challenges of the state simultaneously. Economically, colonialism had structured many systems to benefit the colonizing state rather than the colonies and laws and institutions were often designed to exploit local divisions rather than overcome them. This structure has persisted in many areas of Africa and trade relations and interactions remain eerily similar to those of the colonizer and colonized. Many African States continue to resemble their colonial trade economy, in that their economic activities are strongly focused on extractive industries and primary commodities for export. As Julius Nyerere, former President of Tanzania, stated so poignantly, "It seems that independence of the former colonies

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[3] Azar, E and J. Burton. (1986). *International Conflict Resolution: Theory and Practice.* Boulder, CO: Lynne Rienner, 1986.

[4] Shah, A. (May, 2010). Conflicts in Africa—Introduction. *Global Issues : Social, Political, Economic and Environmental Issues That Affect Us All.* Web. July 10 2011. <http://www.globalissues.org/article/84/conflicts-in-africa-introduction>.

has suited the interests of the industrial world for bigger profits at less cost. Independence made it cheaper for them to exploit us. We became neo-colonies."[5]

In connection with the economic perspective, poverty and globalization also have their part in contributing to conflict. A country's level of income, its rate of growth, and its economic structure can all contribute to conflict and are primary factors that influence the outbreak of civil wars. If a country is poor, in economic decline, and dependent upon natural resource exports, then it faces a substantial risk of experiencing a civil war.[6] The World Bank confirms the influence of poverty in causing conflict, noting that "politics and poverty cause civil war, not ethnic diversity."[7] Material poverty and undemocratic governance are highly prevalent root causes of conflict and strife in Africa.

However, poverty in Africa does not just exist, it is created. It is created by the manner in which Africa is integrated into the global economy. Trade and interconnectedness can assist in mitigation of conflict, under conditions of greater equality, or, conversely, exacerbate tensions in situations with great inequality.[8]

Subsequently, globalization has often played a parallel role in compounding Africa's economic challenges. International corporate activities in Africa have sometimes contributed significantly to exploitation, poverty, corruption, and consequently conflict for ordinary people

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[5] Ikaweba Bunting, The Heart of Africa. *New Internationalist Magazine,* Issue 309, January-February 1999. Web. July 12 2011. <http://www.newint.org/features/1999/01/01/anticolonialism/>.

[6] Collier, Paul. Natural Resources and Conflict in Africa. *The Beacon: Forum For International Issues*. Web. July 15 2011. <http://the-beacon.info/blog/wp-content/uploads/2011/05/Natural-Resources-and-Conflict-in-Africa.pdf>

[7] Collier, P.; Elbadawi, I.; Sambanis, N. Why are there so many civil wars in Africa?: prevention of future conflicts and promotion of inter-group cooperation. *The Economics of Crime and Violence, World Bank.* Web. June 27 2011. <http://www.eldis.org/assets/Docs/28344.html>.

[8] Tandon, Yash. "ROOT CAUSES OF PEACELESSNESS AND APPROACHES TO PEACE IN AFRICA." *Peace & Change* 25, no. 2 (April 2000): 166. Academic Search Elite, EBSCOhost (accessed August 8 2011). <http://web.ebscohost.com/ehost/detail?sid=88e50748-148b-448a-a128398ec7a545f4%40sessionmgr13&vid=2&hid=122&bdata=JnNpdGU9ZWhvc3QtbGl2ZQ%3d%3d#db=afh&AN=3007728>

while simultaneously enriching African and foreign elites, largely due to the struggle for control over natural resources.

In June 2006, the United Nations Expert Group held a meeting in Egypt regarding natural resources and conflict in Africa. In this meeting, they determined that natural resources, and their illegal exploitation, have been shown to play a key role in conflicts the last decade, both motivating and fuelling armed conflicts. This has been seen in Angola, Democratic Republic of the Congo, Sierra Leone and Liberia, where natural resources had provided major funding for the perpetuation of wars.[9] In the Gleneagles Communique, the G8 stated their intention to prevent conflicts and ensure that previous conflicts do not re-emerge by "acting effectively in the UN and in other fora to combat the role played by 'conflict resources' such as oil, diamonds and timber, and other scarce natural resources, in starting and fuelling conflicts."[10] On December 1, 2000, the UN General Assembly unanimously adopted a resolution on the role of diamonds in fuelling conflict in an attempt to break the link between the illicit transaction of rough diamonds and armed conflict (A/RES/55/56). In taking up this agenda item, the GA recognized that conflict diamonds are crucial in prolonging brutal wars in parts of Africa, while underscoring that legitimate diamonds contribute to prosperity and development elsewhere on the continent.[11]

Climate and climate change also contribute to conflict, by, for example, imposing additional pressures on water availability and accessibility. According to the fourth assessment report of the Intergovernmental Panel on Climate Change (IPCC), the African continent is the

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[9] Natural Resources and Conflict in Africa. *UN OSAA Reports*. Web. July 28 2011. <http://www.un.org/africa/osaa/reports/Natural%20Resources%20and%20Conflict%20in%20Africa_%20Cairo%20Conference%20ReportwAnnexes%20Nov%2017.pdf>.

[10] 6 The Gleneagles Communique, G8 Gleneagles 2005

[11] UN General Assembly Resolution: A/RES/55/56 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/562/75/PDF/N0056275.pdf?OpenElement>.

most vulnerable in the world.[12] The IPCC has predicted effects of climate change over the coming decades to include extreme weather events, drought, flooding, sea level rise, retreating glaciers, habitat shifts and the increased spread of life-threatening disease. The various states of Africa have already experienced all of these events and will most likely experience each in greater intensity in the future. These types of events would likely have enormous impacts on many other sectors including agriculture, health, forestry and energy. Moreover, the impacts of climate on water systems would exacerbate the impacts of other stresses, such as population growth, land use change, economic sectors, human security, settlements and infrastructure. The IPCC (2007b) projected a decline in agricultural productivity over most of Sub-Saharan Africa, including the loss of some agricultural crops such as rice, millet and sorghum, which support more than 75% of Africa's population. All of these factors will further aggravate food insecurity, leading to more displacements, cross-border movements and potential conflicts.[13]

The international community has already taken some steps in addressing these challenges. On September 25, 1997 the United Nations Security Council met to consider "the situation in Africa." At this meeting, they acknowledged that the international community should make a more concerted effort to promote peace and security in Africa. They noted that the UN has a commitment to Africa based on the Charter of the United Nations, and as the representative of Sweden, Ms. Hjelm-Wallén remarked: "Within the United Nations we should study how the instruments at our disposal could be used more effectively to prevent and resolve conflicts in

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[12] Intergovernmental Panel on Climate Change (IPCC). (2007b). *Climate Change 2007: Impacts, Adaptation and Vulnerability.* Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change, In M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (Eds.), Cambridge University Press, Cambridge, 976 pp.

[13] Osman-Elasha, Balgis and El Sanjak, Amin. Global Climate Changes: Impacts on Water Resources and Human Security in Africa. *Climate and Environmental Changes in Africa.* Web. August 12 2011. <http://www.africa.upeace.org/documents/environment_files.pdf>.

cooperation with regional organizations."[14] The Security Council also noted that, while many African States have taken significant strides towards "democratization, economic reform, and respect for and protection of human rights in order to achieve political stability, peace, and sustainable economic and social development," [14] they remain gravely concerned by the number and intensity of armed conflicts on the continent.

Understanding that the challenges in Africa demanded a more comprehensive response than previously given, the Security Council requested that the Secretary-General submit a report containing concrete recommendations to the Council "regarding the sources of conflict in Africa, ways to prevent and address these conflicts and how to lay the foundation for durable peace and economic growth following their resolution."[15] The report that Secretary-General Kofi Annan submitted (A/52/871 – S/1998/318) turned out to be highly detailed and informative regarding the various causes of conflict in an unprecedentedly frank, honest and open manner.

Annan was also able to proffer realistic, achievable actions the UN could take to further its goals of peace and security. As he mentioned, "there is no higher goal, no deeper commitment and no greater ambition than preventing armed conflict," and the prevention of conflict begins and ends with the promotion of human security and human development. The Secretary-General recommended that, in addition to the early warning mechanisms in place, early action is essential to conflict prevention. Peacemaking efforts that are coordinated and well prepared within the UN system can enhance cooperation and serve as effective tools of conflict resolution. Harmonizing the policies and actions of external actors and avoiding a proliferation of ineffective mediation

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[14] Security Council Report. "The Situation in Africa." S/PV .3819. Web. July 8 2011. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CPR%20SPV%203819.pdf>.

[15] *Statement by the President of the Security Council.* (1997, September 25). Retrieved July 2 2011, from UN Security Council Presidential Statements – 1997 Statement 46: http://daccess-dds ny.un.org/doc/UNDOC/GEN/N97/253/59/PDF/N9725359.pdf?OpenElement

prevents the continuation of conflict due to failed common approaches. In addition to actions aimed at peacemaking, the UN is also able to focus on actions for peacekeeping (which has been the UN's historical role, especially in Africa), humanitarian assistance, post-conflict peace-building, and working towards a coordinated international response. Annan also put forth the notion that improving governance within African States, such as promoting transparency and securing respect for human rights and the rule of law, would greatly promote economic growth and durable peace.[16]

Since the Secretary-General's 1998 report, there have been numerous follow-up reports and subsequent resolutions, including the Causes of Conflict Resolutions A/RES/53/92 (1998), A/RES/54/234 (1999), A/RES/55/217 (March 2001), A/RES/56/37 (Dec 2001), A/RES/57/296 (2002), and the Implementation of the Recommendation Resolutions: A/RES/59/255 (2005), A/RES/60/223 (2006), A/RES/61/230 (2007), A/RES/62/275 (2008), A/RES/63/304 (2009), A/RES/64/252 (2010), A/65/L.62/Rev.1 (2011)[17], as well as another report in 2010 (A/65/152–S/2010/526*) which revisited his original report and contributed many evolving causes and factors that have come to the forefront in the 12 years since his 1998 report. These include social exclusion, poverty and corruption, armed groups, organized crime, conflicts over natural resources, city slums and rapid urbanization.[18]

When the Secretary-General issued his initial report in 1998, 35 African countries were suffering from conflicts, 14 being full-scale wars, and 11 suffering from severe political

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[16] *The causes of conflict and the promotion of durable peace and sustainable development in Africa Report of the Secretary-General.* (1998, April 13). Retrieved July 3 2011, from United Nations General Assembly Security Council Fifty-second session Agenda Item 10, Report of the Secretary-General on the work of the Organization: http://www.un.org/africa/osaa/reports/A_52_871_Causes%20of%20Confict%201998.pdf

[17] General Assembly Resolutions. *Office of the Special Adviser on Africa (OSAA).* Web. August 15 2011. <http://www.un.org/africa/osaa/garesolutions.html>.

[18] Report of the Secretary-General A/65/152–S/2010/526. Web. August 8 2011. <http://www.un.org/africa/osaa/reports/2010_causes_conflict.pdf>.

turbulence.[19] Currently, there are seven active UN Peacekeeping missions in Africa:[20]

- United Nations Mission in the Republic of South Sudan (UNMISS): Evolved from UNMIS in 2005 to monitor the situation in South Sudan.[21]
- United Nations Interim Security Force for Abyei (UNISFA): a peacekeeping force deployed as Southern Sudan was preparing to formally declare independence.[22]
- UN Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO): Evolved from MONUC in 2010 to assist in the DRC.[23]
- African Union-UN Hybrid Operation in Darfur (UNAMID): Mandated to protect civilians, this combined effort between the AU and UN is currently the largest peacekeeping mission in the world.[24]
- UN Operation in Côte d'Ivoire (UNOCI): This replaced MINUCI in 2004, with the objective of facilitating peace agreements and ending the Ivorian civil war.[25]
- UN Mission in Liberia (UNMIL): Established after former missions of UNOMIL and UNOL in 2003 to monitor the situation in Liberia.[26]
- UN Mission for the Referendum in Western Sahara (MINURSO): Established in 1991 in order to assist in positive dialogue and development between Morocco and Mauritania regarding Western Sahara.[27]

In 2000, the Panel on United Nations Peace Operations also released the Brahimi Report.[28] The report offered a critique of past and current peacekeeping actions and methods, as well as suggestions for improvement in the future. It "reflected a growing awareness of a formula

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[19] Progress in Tackling Africa's Conflicts. *Africa Renewal*, Vol.18 #3 (October 2004), Web. August 2 2011. <http://www.un.org/ecosocdev/geninfo/afrec/vol18no3/183conflict.htm>.
[20] Current Peacekeeping Operations. *United Nations Peacekeeping.* Web. August 20 2011. <http://www.un.org/en/peacekeeping/operations/current.shtml>.
[21] UNMISS Background. *United Nations Mission in the Republic of South Sudan.* Web. August 20 2011. <http://www.un.org/en/peacekeeping/missions/unmiss/background.shtml>.
[22] S/RES/1990 (2011)* Web. August 20 2011. <http://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1990(2011)>.
[23] MONUSCO Background. Web. August 20 2011. <http://www.un.org/en/peacekeeping/missions/monusco/background.shtml>.
[24] UNAMID Background. Web. August 20 2011. <http://www.un.org/en/peacekeeping/missions/unamid/background.shtml>.
[25] UNOCI Background. Web. August 20 2011. <http://www.un.org/en/peacekeeping/missions/unoci/background.shtml>.
[26] UNMIL Background. Web. August 20 2011. <http://www.un.org/en/peacekeeping/missions/unmil/background.shtml>.
[27] MINURSO Background. Web. August 20 2011. <http://www.un.org/en/peacekeeping/missions/minurso/background.shtml>.
[28] Report of the Panel on United Nations Peace Operations. Web. August 10 2011. <http://www.un.org/peace/reports/peace_operations/>.

for successful conflict resolution and peace-building efforts,"[29] as well as the need for both parties to seek peace and compromise, rather than a temporary delay of further conflict.

United Nations organs also often undertake diplomatic, peacekeeping, humanitarian, economic development and other activities in cooperation with regional and sub-regional organizations. These regional organizations have played vital roles and deserve much credit for the improvements seen since the Secretary-General's 1998 report. The Organization of African Unity (OAU), and the subsequent forming of the African Union (AU) have been key players in conflict prevention.

The Organization of African Unity was established on May 25, 1963. One of the main goals of the OAU is the promotion of peace and solidarity among African States.[30] The OAU operated on the basis of two legal instruments since the establishment of the African Economic Community (AEC) in May 1994. On September 9, 1999, the leaders of the OAU issued the Sirte Declaration, which called for the establishment of an African Union (AU). This would transition the OAU and AEC into one unified institution, in order to accelerate the integration process and find the proper role in the global economy, while addressing social, economic and political problems compounded by globalization. The AU's objectives tend to be more comprehensive than those of the OAU, as seen in their Constitutive Act, the most relevant to this discussion being to "Promote peace, security, and stability on the continent."[31]

These organizations have established several important bodies to handle conflict. The OAU charter provides for a Mechanism for Mediation, Arbitration and Conciliation. In June

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[29] Mills, Greg. How to Intervene Africa's Wars. *Crimes of War Project*. Web. June 23 2011. <http://www.crimesofwar.org/africa-mag/afr_03_mills.html>

[30] "Organization of African Unity (OAU)/African Union (AU). *International relations & cooperation: Republic of South Africa.* Web. August 25 2011. <http://www.dfa.gov.za/foreign/Multilateral/africa/oau.htm>.

[31] The Constitutive Act. *The African Union.* Web. August 25 2011. <http://www.africa-union.org/root/au/aboutau/constitutive_act_en.htm>.

1993, they took this a step further and established the Declaration on a Mechanism for Conflict Prevention, Management, and Resolution. The Mechanism's primary objective is the anticipation and prevention of conflicts.[32] The OAU is also responsible for the African Nuclear-Weapon-Free Zone Treaty.[33] Once the OAU evolved into the African Union in 2002, they established the New Partnership for Africa's Development (NEPAD), which often takes the course of further developing African peoples as a form of conflict prevention, as well as the AU Peace and Security Council. [34]

In acknowledgement of their desire to work with the OAU, the Security Council stated that they welcome the important contributions of the Organization of African Unity (OAU) in preventing and resolving conflicts in Africa, and look forward to a stronger partnership between the United Nations and the OAU."[35]

In line with UN/AU relations, the Secretary-General announced a Millennium Development Goals Africa Steering Group in 2010. It has identified a set of key recommendations and initiatives in five strategic areas, namely, agriculture and food security; education; health; infrastructure and trade facilitation; and the national statistical system. The Steering Group has also acknowledged that, with the establishment of the African Union and its Commission in 2002, African leaders have endowed the continent with an institution much more

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[32] OAU Declaration on a Mechanism for Conflict Prevention, Management, and Resolution. *Public International Law*. Web. August 20 2011. <http://www.dipublico.com.ar/english/?p=519&upm_export=pdf>.

[33] The African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba). *Organization of African Unity.* Web. July 29 2011. <http://dosfan.lib.uic.edu/acda/treaties/afrinwfz.htm>.

[34] Protocol Relating to the Establishment of the Peace and Security Council of the African Union. <http://www.africa-union.org/rule_prot/PROTOCOL-%20PEACE%20AND%20SECURITY%20COUNCIL%20OF%20THE%20AFRICAN%20UNION.pdf>.

[35] Statement by the President of the Security Council. S/PRST/1997/46. Web. August 14 2011. <http://www.undemocracy.com/S-PRST-1997-46.pdf>.

capable of meeting the challenges of the twenty-first century and "have developed a vision of a more peaceful, better governed and more integrated continent."[36] In 2009, the UN General Assembly adopted resolution A/RES/63/310, which reiterated and solidified the cooperation between the United Nations and the African Union.

The burgeoning partnership between the United Nations Secretariat and the AU Commission crystallized in the establishment on 25 September 2010 with the Joint Task Force on Peace and Security.[37] There has also been an Ad Hoc Working Group on Conflict Prevention and Resolution in Africa. But in the final analysis, the African Union can only play an effective role in response to crises if there is sufficient political will and commitment of both its own Member States and the international community as a whole.[38] This is by far a vast improvement from interactions in 1997 when, as Richard Joseph observed, "the OAU and the UN had yet to create a mutually acceptable and shared vision of active partnership, cooperation, and coordination in responding to Africa's armed conflicts, agreeing on their overall objectives, but not on the finer detail on how to achieve them.[39]

Most of the newer missions are "multi-disciplinary and often [work] with other organizations to further their efforts." As a former Secretary-General stated, "They do not simply try to monitor and enforce signed peace agreements. They also seek to address the 'root causes' of conflict by promoting sustainable development, economic recovery, democratic pluralism,

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[36] A/65/152–S/2010/526* <http://www.un.org/africa/osaa/reports/2010_causes_conflict.pdf>.
[37] S/PRST/2010/21. Web. August 10 2011. <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/RO%20S%20PRST%202010%2021.pdf>.
[38] Statement on Peace and Security in Africa. *Permanent Mission of Nigeria to the United Nations.* (Oct. 2010). Web. August 4 2011. <http://www.nigeriaunmission.org/index.php?option=com_content&view=article&id=183:statement-on-peace-and-security-in-africa&catid=58:2010-security-council-statements&Itemid=86>.
[39] Joseph, R. "International Community and Armed Conflict In Africa; Post-Cold War Dilemmas" in Sorbo, G. and P. Vale (Eds). Out of Conflict: From War to Peace in Africa. Uppsala: Nordiska Afrikainstitutet, 1997:9-21.

transparency and respect for human rights and the rule of law."[40] This evolution of UN missions demonstrates how the UN has critically examined the root causes of conflict in the past, how it also seeks to address them in the present, and the openness to new possible viewpoints and ideas. The causes and conflicts are ever-evolving, and so too must be the ways in which the international community seeks to confront and resolve them. "Preventing such wars is no longer a matter of defending States or protecting allies. It is a matter of defending humanity itself."[41]

Questions to Answer:

1. What does your State believe is the root cause of conflict? Why?
2. How has your State contributed to resolving conflicts in Africa?
3. What is your State's stance on the efforts of organizations such as the AU toward conflict resolution?
4. How does your State think the current efforts for conflict resolution could be improved?
5. What has your State done to identify any underlying causes of conflict? How successful has it been, and why/why not?
6. What proposals does your country support or oppose for further action on these matters, and why?

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[40] Progress in Tackling Africa's Conflicts. *Africa Renewal*, Vol.18 #3 (October 2004), Web. August 2 2011. <http://www.un.org/ecosocdev/geninfo/afrec/vol18no3/183conflict.htm>.

[41] Chapter 1: Purposes and Principles- Article 1. *Charter of the United Nations.* Web. July 1 2011. < http://www.un.org/en/documents/charter/chapter1.shtml>

The Question of Western Sahara

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For more than twenty-five years, since its independence from Spain, the region of Western Sahara has been a region claimed by several states as well as the Popular Front for the Liberation of Saguia el-Hamra and Río de Oro (POLISARIO), a liberation movement that formed in Western Sahara to militarily force an end to Spanish colonization. POLISARIO now operates out of Algeria with the goals of ending Moroccan occupation of Western Sahara and creating the Sahrwai Arab Democratic Republic (SADR) as a sovereign state and the legitimate government of Western Sahara. Despite the efforts of the international community, resolution of this protracted conflict has remained elusive. The process of developing a solution has resulted in violent conflict between the involved parties and political stalemates over the issue. Nevertheless, the international community remains committed to resolving this issue. In order to understand the complexity of the question of Western Sahara, an examination of the region's history, beginning just before independence from Spain in 1974, will be necessary.

Western Sahara's independence from Spain resulted from the efforts of the POLISARIO in response to Spain's defiance of a 1965 United Nations ruling supporting self-determination in the Spanish Sahara[42]. The POLISARIO thus formed in 1973 in order to fight for independence from Spain. Shortly thereafter, in 1974, Spain finally released its colonial claim to Western Sahara. However, rather than transferring control over the former colony to the people of Western Sahara or the POLISARIO, Spain "transferred administration of the territory to Morocco and Mauritania, divided along a northwest-south east diagonal that corresponded to no

[42] Thomas, Karen. 2001. "A Future on Hold." *History Today*, August, 2011.

human or physical geographic divisions and had no place for the POLISARIO"[43]. This seemingly arbitrary divide of the former colony led to further conflict between Morocco, Mauritania, and POLISARIO.

Beginning in the autumn of 1975, the armies of Mauritania and Morocco both occupied their respective areas of Western Sahara as left to them by the departing Spanish colonizers – the northern two thirds for Morocco, and the southern one third to Mauritania[44]. As Morocco and Mauritania assumed control of the former Spanish colony of Western Sahara, the POLISARIO struggled to realize the independence for Western Sahara it had sought to establish by fighting to end the colonial rule. Having just defeated the Spanish to liberate Western Sahara only to find the region under the control of two countries, the POLISARIO immediately turned their attention to the territory controlled by Mauritania and engaged them in a battle to reclaim a portion of the former colony. As a result of their struggle, on August 5, 1979, Mauritania withdrew its troops and negotiated a settlement of hostilities with POLISARIO. However, nine days later, Morocco occupied the territories abandoned by Mauritania and claimed all of Western Sahara for itself[45]. With the withdrawal of Mauritania, the conflict over Western Sahara now centered on the competing claims of Morocco and POLISARIO.

An examination of the relationships between POLISARIO and Algeria, and Algeria and Morocco is required in order to fully understand the conflict between POLISARIO and Morocco. Many of the diplomatic successes for POLISARIO in the 1970s and 1980s were a direct result of its relationship with Algeria, which has a reputation of being revolutionary, anti-imperialist, and

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[43] Zartman, I. William. 2007. "Time for a Solution in the Western Sahara Conflict." *Middle East Policy* Vol. XIV, No. 4, Winter 2007: 180.

[44] de Cherif, T.K. Smith. 1991. "Peace in the Western Sahara?." *Africa Today* Vol. 38 Issue 4: 2.

[45] Ibid.

an advocate of socialism[46]. In contrast, Morocco is a conservative monarchy with close ties to the west. As a result of these differences, Algeria, aligned with POLISARIO, was held in higher esteem than Morocco in the Third World and this was a direct benefit to POLISARIO. This analysis illustrates the advantageous connection of the POLISARIO to Algeria, and also the tension that has existed between Morocco and Algeria. Additionally, "for most of the war, the Moroccans attempted to depict the POLISARIO as essentially an Algerian creation" and "most strategic analysts in the United States have also depicted the conflict as something of a proxy war between the two most powerful Maghrebi states"[47].

While there are no direct interests in the conflict for the United States, the unresolved diplomatic issue of Western Sahara threatens to strain relations for the United States in the region if not resolved[48]. This issue is important to the United States because "continuing conflict makes good relations with the important states of the region [Morocco and Algeria] difficult" and "should it heat up to the point where the United States would have to take clear sides, the United States position would suffer"[49]. The conflict in Western Sahara has widely been seen as a conflict between the POLISARIO and Morocco, but it cannot be truly understood without fully understanding the relationships of all the parties involved in the conflict.

Since the withdrawal of Mauritania in 1979, the conflict in Western Sahara has largely been centered on the standoff between Morocco and the POLISARIO, with each side claiming the legitimate right to the territory. However, the international community has played a significant role in working with both parties to develop a final and legitimate resolution to this

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[46] Zunes, Stephen. 1995. "Algeria, the Maghreb Union, and the Western Sahara Stalemate." *Arab Studies Quarterly* Vol. 17 Issue 3: 18.
[47] Ibid.
[48] Zartman, I. William. 2007. "Time for a Solution in the Western Sahara Conflict." *Middle East Policy* Vol. XIV, No. 4, Winter 2007: 183
[49] Ibid.

problem. "Initially, the Organization for African Unity, sought to resolve the conflict, but when the OAU admitted the SADR as a member in 1981, Morocco left the organization, and African efforts were stymied. In 1988, the OAU handed the issue to the UN, which agreed to handle it in conformity with its General Assembly Resolution 1514 (XV) on self-determination under Chapter VI of the Charter, requiring consent of the parties"[50]. Resolution 40/50, passed by the UN General Assembly in December 1985, "endorsed the broad outlines of the OAU strategy for defusing tensions in [Western Sahara] and conducting a plebiscite 'without any administrative or military constraints'"[51]. In order to facilitate the referendum in Western Sahara the UN Security Council authorized the establishment of the Mission for the Referendum in Western Sahara (MINURSO) on April 29, 1991 (Security Council resolution 690), and the General Assembly appropriated $200 million for MINURSO on May 17th, 1991 (A/45/1013)[52]. On September 6th, 1991, Morocco and the POLISARIO entered in to a cease-fire brokered by the UN, and the UN deployed some peacekeeping forces to maintain the cease-fire.

Once a cease-fire had been agreed to by both Morocco and the POLISARIO, attention was turned to holding a referendum for the Sahrawis (peoples native to the region of Western Sahara) to choose the fate of Western Sahara. The referendum will allow the Sahrawi people to choose between independence and integration with Morocco. This, however, has proven to be a very difficult task and a stumbling block for MINURSO. The MINURSO mandate has been extended 39 times since the organization was established, with the most recent extension giving them until April 30, 2012 and emphasizing the importance of improving the human rights situation in Western Sahara (S/RES/1979). The difficulty in establishing the referendum has come as a

[50] Zartman, I. William. 2007. "Time for a Solution in the Western Sahara Conflict." *Middle East Policy* Vol. XIV, No. 4, Winter 2007: 179

[51] Zoubir, Yahia H, Pazzanita, Anthony G. 1995. "The United Nations' Failure in Resolving the Western Sahara Conflict." *The Middle East Journal* Vol. 49, No. 4, Autumn 1995: 614

[52] de Cherif, T.K. Smith. 1991. "Peace in the Western Sahara?." *Africa Today* Vol. 38 Issue 4: 3.

result of the two sides, Morocco and POLISARIO, being unable to agree on how to determine who will be counted as part of the Sahrawi population, and thus who will be allowed to vote in the referendum. Getting the POLISARIO and Morocco to come to an agreement on this issue is vital to finally resolving the status of Western Sahara.

The criteria for determining eligibility to vote in the referendum centered on two primary requirements of "an age barrier of at least 18 years old by December 1993, and membership in a subfaction of one of the 10 tribes listed in the 1974 census conducted by colonial Spain"[53]. Once eligibility to participate in the referendum is established, then applicants must satisfy at least one of five additional criteria to be included on the initial voters list: "First, those included in the revised list of the 1974 census containing 72,370 names; second, those inhabiting the territory at the time of the 1974 census who were not included in the Spanish headcount (e.g.; some people lived in isolated areas that were not reached); third, the immediate family of people in the first two criteria; fourth, persons born outside the territory of a Saharan father who was born in the territory; and fifth, persons who lived in the territory for six consecutive or 12 intermittent years before the 1974 census"[54]. These requirements establishing voter eligibility are not without their controversy, as both sides have sought to alter the requirements to produce a voting group most likely to create the outcome that would further their interests. The difficulties in determining voter eligibility stem largely from a large influx of people into Western Sahara from Morocco in an attempt by Morocco to "Morroconize" Western Sahara and the displacement of many Sahrawi people during the fighting between various factions throughout Western Sahara's recent history. Determining who has a legitimate right to determine the political fate of Western Sahara has proven to be the most difficult part of the process, but is absolutely vital to resolving the issue.

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[53] A.A. 1995. "The Identification Process." *Africa Report* Vol. 40 Issue 2: 62.

[54] Ibid.

The issue of Western Sahara remains the last unresolved colonial issue in Africa for the United Nations. While it remains a complicated issue without an easy solution visible in the immediate future, it is nevertheless one that must be addressed by the international community and the parties involved in order to establish a legitimate solution that will provide the Sahrawi people with resolution to this problem.

Questions to Answer

1) Does your State believe that Western Sahara was once part of a greater Moroccan empire and should thus be returned to Morocco, or that it should exist as an autonomous nation of Sahrawi peoples?
2) What are the political, diplomatic, and economic relations between your State and the parties involved in the conflict? How does this affect your state's position on the process of resolving this issue?
3) What measures does your State propose to resolve this issue?
4) What is the position of your State on the Western Saharan refugees currently displaced and living outside of the territory of Western Sahara? What about the Moroccans moved into the territory to affect the voting registries?
5) Does your State believe that the UN intervention in Western Sahara has been useful, or are there other avenues that your State feels would be more appropriate for creating peace in Western Sahara?

The Applicability of the Geneva Conventions to Civilian Persons in a Time of War

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Despite the concerted efforts of the United Nations, conflict between and within states has been a defining feature of the twentieth and twenty-first centuries. Working through multilateral institutions like the United Nations, States have attempted to limit the impact of such conflicts, particularly on non-combatant parties, and to establish rules governing the conduct of States and their soldiers in times of war. This has been the goal of many international conferences and organizations, including the United Nations, but perhaps the most well-known example of this are the Geneva Conventions. These meetings and the subsequent agreements they originated attempt to preside over and guide our rules for war.

History of the Geneva Conventions and Related Agreements

The Geneva Conventions comprise four distinct treaties and three protocols. The first Geneva Convention, implemented in 1864, governs treatment of sick and wounded soldiers. The second convention (1906) governs the treatment of wounded, sick, and shipwrecked members of the armed forces at sea. The third convention (1929) establishes the rules governing the treatment of prisoners of war. The first three conventions were revised and expanded, and a fourth convention, dealing with the protection of civilians in time of war, was added in 1949. Collectively, these four agreements which comprise the Geneva Convention have provided the foundation for the international community's definition of acceptable conduct and ethics in times of war.

A man named Henri Dunant, who upon witnessing the horrors of war at the Battle of Solferino saw a need for change in the way in which the wounded are treated in war, started the Red Cross movement. His advocacy and writing eventually led to the creation of the

International Committee for Relief to the Wounded, the future International Committee of the Red Cross (ICRC). The meeting that negotiated the first Geneva Convention in 1864 included just twelve parties – Switzerland, Baden, Belgium, Denmark, France, Hesse, Holland, Italy, Portugal, Prussia, Spain, and Württemberg – and focused narrowly on ten articles dealing with rules governing the behavior of injured combatants, conduct regarding the wounded, the neutrality of places of treatment, and the use of the Red Cross as an identifying mark for those providing medical assistance and protection.

Internationally, both the Red Cross symbol and Red Crescent symbol had been used until the most recent protocol was added to the conventions in 2005. This was when the international community came together to change the former Red Cross or Red Crescent emblem to a Red Crystal to symbolize the same medical and protective services. This symbol is thought to be more culturally neutral and to better represent the goals of amnesty and protection that the Convention encompasses.

The first Geneva Convention was limited in scope to the conduct of soldiers in time of war. However, by the early twentieth century, the nature of warfare itself was changing. New technologies were making conflict increasingly deadly. The development of new weapons technologies, including hollow point ammunition designed to flatten and expand in the human body, the use of aircraft as platforms for bombing, and the development of chemical weapons necessitated greater discussion of the rules of proper conduct in war. To that end, the parties to the Geneva Convention convened at the first Hague Conference in 1899. After years of negotiation, the Second Geneva Convention was concluded in1907.

The Second Geneva Convention also incorporated elements from the 1906 Conference for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed

Forces at Sea, and for the first time, the convention addressed the Armed Forces at Sea, which is more fully addressed at the second 1907 Hague Convention. The conference, which was incorporated into the Second Geneva Convention in 1907, ensured that the same protections that were afforded land-based armies would be applied to ones at sea. This protection includes application of the convention during shipwreck and the use of the Red Cross symbol and protection on ships.

The Third Geneva Convention was negotiated in 1929 to govern the treatment of prisoners of war. The Convention restricted its definition of prisoners of war to individuals within a formal, recognized association with the uniformed forces of a belligerent state and civilian militias engaged in the defense of their state against other forces. The Third Geneva Convention dictates that the protection of prisoners of war is the responsibility of the state and that prisoners may only be transferred to a state which is in accordance with the Convention.

These terms were updated during the negotiation of the Fourth Geneva Convention at the end of World War II. Driven by the popular outrage at Nazi war crimes in World War II, the international community responded by strengthening various provisions of the Geneva Conventions. Perhaps the most important development in the Fourth Geneva Convention centered on the expansion of the Geneva Conventions to incorporate the protection of noncombatants under the "*Geneva Convention relative to the Protection of Civilian Persons in Time of War"*. This addition more clearly defined the basic rights of prisoners, both civilian and military, and expanded the protections afforded military personnel by the previous three Conventions to civilians, and established "protective zones" for civilians in and around a war zone.

By the beginning of the Cold War, many of the pretexts developed in earlier conventions were outdated and failed to take into consideration the new age of modern warfare. In 1977 two protocols were added to the Geneva Conventions. These protocols served to aid the victims of international (Protocol 1) and non-international (Protocol 2) wars. These protocols more effectively took into account the way in which modern warfare was fought.

In 1993 the United Nations Security Council, based on a report by the United Nations Secretary-General and a committee of experts, adopted UNSC Resolution 827 (1993), which determined that the Geneva Conventions were not merely a treaty but also a body of customary international law. This interpretation meant that the rules established by the Geneva Conventions were internationally recognized and expected to be upheld by all States, not just signatories to the Conventions.

Practical Application

Analyzing the application of the Geneva Conventions in the practice of war requires recognizing the limits of the agreement itself, and particularly what constitutes a "grave breach" of the agreement. Presently, the Convention protects both civilian and military in times of war against maltreatment as a prisoner of war. Additionally it attempts to protect civilians in an occupied zone. There are also protections for the sick and wounded during war. An interesting facet of the Convention is that while it has been agreed to by many States, non signatories are still expected to uphold its protocol in times of war.

If one wants to define the international community's view of acceptable conduct and ethics in times of war, one must first look at what constitutes a violation of acceptable conduct. The term "grave breach" is a war crime term coined out of the Geneva Convention of 1949. This

is to say that an infringement upon what is agreed to in the Convention is considered a "grave breach". This is laid out in Article 85. This section of the additional protocols of the 1949 Convention reads as follows:

a) making the civilian population or individual civilians the object of attack;
b) launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a)(iii);
c) launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, as defined in Article 57, paragraph 2 (a)(iii);
d) making non-defended localities and demilitarized zones the object of attack;
e) making a person the object of attack in the knowledge that he is hors de combat;
f) the perfidious use, in violation of Article 37, of the distinctive emblem of the red cross, red crescent or red lion and sun or of other protective signs recognized by the Conventions or this Protocol [55].

Essentially this protocol aims to minimize the impact of war on civilians who are not associated with the State at war on a military level, as well as protect the neutral units of medical care.

Though the Conventions are intended for legal protection at the international level, violations of the Conventions are generally prosecuted through national courts within specific countries. For example, when the violations of the Geneva Conventions by the Khmer Rouge were prosecuted, the government of Cambodia established the Extraordinary Chambers in the Courts of Cambodia. This body is a national court established in an agreement between the royal government of Cambodia and the United Nations to try the senior members of the Khmer Rouge for violations of Cambodian law, international humanitarian law, and conventions which Cambodia recognizes (including the Geneva Conventions).

[55] Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949. August 15, 2010 from International Humanitarian Law – Traties &
Documents online (icrc.org/inhl)

Another prominent example of national courts trying violations of international humanitarian law as laid out by the conventions is the International Criminal Tribunal for the former Yugoslavia (ICTY). This court is a body of the United Nations established by the Security Council Resolution 827, which passed unanimously on May 25, 1993. The ICTY was designed for prosecuting violations of humanitarian law in former Yugoslavia, including mass killings, systematic detention and rape of women, and ethnic cleansing. This resolution determined that the situation continued to pose a threat to international peace and security, further announcing its intention to bring an end to such crimes and bring justice to the victims. With this decision the United Nations gave power at the international level to resolve this matter in terms of judicial processes by creating an international tribunal which exists in the Netherlands. The maximum punishment the court can give is a life sentence. (Other United Resolutions which were instrumental in the development of this tribunal are 808, 764, 711, and 780.)

The practical application of the Geneva Conventions presents a unique set of challenges in terms of defining who it protects, what constitutes a breach, and to what extent breaches are to be prosecuted. For the most part, prosecutions of grave breaches have been scarce and impunity is more often result. Definitional issues surrounding of the use of militias and the role of paramilitary forces also complicate the application of the Conventions. Because the major components of the Conventions were negotiated around World Wars I and II, the Conventions themselves generally presume uniformed armies engaging other uniformed armies, and the need to protect civilians and prisoners of war.

However, the nature of warfare has gradually changed over time, such that contemporary warfare often involves non-uniformed combatants such as rebel groups, guerilla armies, and

terrorist organizations. These groups often do not associate themselves with a nation state and additionally do not recognize the Geneva Conventions. And because the Geneva Conventions were developed as agreements between states, much ambiguity surrounds the status of irregular or non-uniformed combatants.

Central to any consideration of the relevance of the laws of war is the notion that states are accountable for their actions and that their behavior is bound by rules and norms established by the international community. The changing face of war, including a shift towards "new wars" and the "war on terror," raises fundamental questions about the laws of war and the applicability of the Geneva Conventions. Most recently, this debate centered on the degree to which States should be required to adhere to or recognize the rules established by the Geneva Convention in the prosecution of irregular wars against an enemy who does not adhere or recognize these rules. This would include groups who do not identify with a nation state, but instead work outside of official governance to take military type action.

The most prominent example of war against a non-uniformed army of the era is the current War on Terror. How the Convention should be interpreted in terms of irregular armies in this war is not explicitly agreed upon within its confines and the United States has attempted to apply the Convention to this war through their own legislation. On July 20, 2007 President George W. Bush signed Executive Order 13440 – Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Agency. With this Executive Order the United States essentially articulated the distinct category of "enemy combatant" [56]. This move exempted the captured from the

[56] Executive Order 13440 - Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Age, July 20, 2007. August 20, 2010. http://www.fas.org

protections afforded by the Geneva Conventions and sparked a debate over the legality of the maneuver. Specifically, Article 3 of the Geneva Convention states that

> In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:
> (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ' hors de combat ' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.
> To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:
> (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
> (b) taking of hostages;
> (c) outrages upon personal dignity, in particular humiliating and degrading treatment;
> (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
> (2) The wounded and sick shall be collected and cared for.
> An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.
> The Parties to the conflict should further Endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.
> The application of the preceding provisions shall not affect the legal status of the Parties to the conflict [1].

This executive order outlined the United States' position at the time with respect to which rights apply to irregular combatants.

Additionally, Executive Order 13340 reinforced the United States decision from February of 2002, in which the United States determined that al-Qaeda, the Taliban and associated forces are not entitled to the protections laid out in the third convening of the Geneva Conventions because they are "unlawful enemy combatants". According to the U.S. government, the Taliban had waived its rights (and by extension the rights of its combatants) to prisoner of war status under the Third Geneva Convention because they did not meet the four prong test, which is one

of the measures to determine who is a prisoner of war. This decision was challenged in U.S. courts, resulting in the Supreme Court in *Hamdan v Rumsfeld,* in which the Court decided that "unlawful enemy combatants" were entitled to the protections laid out by the Common Article 3 even if they were not formally classified as prisoners of war[57].

This example of the War on Terror brings up an interesting question as to how we must look at terrorist organizations, parameters for prisoners of war, as well as the nature of irregular wars in general. It is clear through the Convention that non-signatory States are expected to uphold the agreements; however, ambiguity rests in terms of those individuals and groups not associated with any particular State. But as history shows, both the Convention and the United Nations recognize the ever changing nature of conflict and, with these structures in place we hope to adapt and appropriately react to unconventional war time situations.

Questions to consider

1. Are these agreements an effective method of regulating international conflict? Are they being effectively applied currently?
2. Are the current standards set by the international community towards prisoners of war being upheld?

[57] US Supreme Court Case Hamdan v. Rumsfeld (No. 05-184) June 29, 2006. September 10, 2011 Legal Information Institute, Cornell University Law School Online.

Additional sources
1- Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. Geneva, 22 August 1864.
2- The Laws of War by George H Aldrich
3- The New Core International Human Rights Treaties , Office of the United Nations High Commissioner for Human Rights, New York and Geneva 2007.
4- Ensuring Respect for the Fourth Geneva Convention: Convening a Conference of High Contracting Parties, May 2010
5- "The Prosecution of Grave Breaches in National Courts" by Ward Ferdinandusse, Journal of International Criminal Justice, Volume 7, issue 4 pp 723-741.
6- "The Applicability of the Geneva Convention to a War on Terror" by Stephanie Carvin. Research Officer, The Canadian Institute of Strategic Studies.

3. What issues would need to be addressed if there were a fifth meeting of the Geneva Convention? Is another meeting necessary? If so, what role should the United Nations have in these decisions?

4. Do the Geneva Conventions account for the ever modernizing world in terms of war? Is it possible to create legislation on the nature of war that anticipates the development of new technologies and techniques used in combat? Or does the international community need to continue to meet every decade to update this doctrine?

5. How should the international community address the issue of irregular armies in accordance with the Geneva Conventions?

6. How can the conventions be applied to this new age of war and to the war on terror? Should parties in agreement with the conventions be obligated to uphold them even if their enemy does not recognize them?

The Rule of Law at National and International Levels

The heart of the United Nations' mission is to promote the rule of law at the national and international levels. In order to achieve a durable peace in the aftermath of conflict, the effective protection of human rights, and sustainable economic progress and development, it is necessary to establish respect for the rule of law. It is a fundamental concept that drives the work of the United Nations. In order to strengthen the rule of law on the international level, it is not only necessary to ensure that the legal frameworks of individual States are being effectively implemented, but also to examine ways in which to create greater compliance and participation with the mandates of international law.

International law is the term commonly used in reference to laws that govern the conduct of independent nations in their relationships with one another. The concept of international law gained considerable attention during the 20th century when legal positivists[1] recognized that a sovereign state could limit its authority to act by consenting to an agreement according to the principle *pacta sunt servanda*[2]. This consensual view of international law was reflected in the 1920 Statute of the Permanent Court of International Justice and preserved in Article 7 of the 1946 Statute of the International Court of Justice. Since then, three main types of international law have arisen: public international law, private international law, and supranational law.

Public international law concerns the relationship between the entities or legal persons which are considered the subjects of international law, including sovereign nations, international organizations, and, in some cases, movements of national liberation and armed insurrection movements. Conflict of laws, or 'private international law' as it is known in civil jurisdiction, is

1 Positivism: set of epistemological perspectives and philosophies of science which hold that scientific method is the best approach to uncovering the processes by which both physical and human events occur.

2 Pacta sunt servanda: agreements must be kept

less international in nature than public international law. It is distinguished from public international law in the fact that it governs conflicts between private persons rather than states or other international bodies. Today, corporations are increasingly capable of shifting capital and labor supply chains across borders, as well as trading with overseas corporations. This increases the number of inter-state disputes that take place outside a unified legal framework and raises issues of the enforceability of standard practices.

Supranational law is a form of international law based on the limitation of the rights of sovereign nations between one another. It is distinguished from public international law because in supranational law, nations explicitly waive their right to make sovereign judicial decisions to a set of international institutions. It can be contrasted to the intergovernmental as a form of decision-making. Joseph H. H. Weiler, in his seminal work 'The Dual Character or Supranationalism' states that there are two main concerns to European supranationalism:

1. Normative Supranationalism: The relationships and hierarchy which exist between Community policies and legal measures on one hand and the competing policies and legal measures of the Member states on the other. (Executive Dimension)
2. Decisional Supranationalism: The institutional framework and decision-making by which such measures are initiated, debated, formulated, promulgated and finally executed. (Legislative – Judicial Dimension)

European Community Law is one such example of a regional supranational legal framework. In the EC, sovereign nations have pooled their authority through a system of courts and political institutions. The EC has the ability to enforce legal norms against and for member states and citizens in a way that public international law does not.

Additional examples of supranational law include the International Criminal Court (ICC) and the International Court of Justice (ICJ). The International Court of Justice, or the "World Court" was established in 1946 as the main judicial subsidiary body of the United Nations. Located in The Hague, Netherlands, the ICJ was established to settle legal issues between states. It has two primary functions: to settle legal disputes submitted to it by States (Contentious Cases [3]) and to give advisory opinions (Advisory Proceedings[4]) on legal questions referred to it by duly authorized United Nations organs and specialized agencies[5]. In order for a case to be filed by a state, both parties must consent to have the case reviewed by the ICJ. This is because member states that do not consent to have the case heard are unlikely to adhere to any decision the court makes. Therefore, once states consent to have the case go before the ICJ, the decision the court makes is binding, and both parties must comply. While this makes sense for practical reasons, it is also a problem, because if one state has a legitimate grievance with another state, the other state can merely refuse to go before the court, and continue to behave in whatever manner it sees fit. For example, in 1984 in Nicaragua vs The United States of America, the court ruled against the U.S.'s argument that the ICJ did not have jurisdiction and ruled in favor of Nicaraguan claims that the US's support of the contras had violated international law. The United Nations did not want the ICJ to rule on the issue, and, because of this, blocked Nicaragua from receiving the ICJ mandated compensation through a Security Council Resolution.[6]

A more recent example of supranatural law is the International Criminal Court, which was established as " the first permanent, treaty based, international criminal court."[7] The ICC was founded in 2002 based on the provisions of the Rome Statute. Unlike the ICJ (whose

[3] http://www.icj-cij.org/docket/index.php?p1=3&p2=3
[4] http://www.icj-cij.org/docket/index.php?p1=3&p2=4
[5] http://www.icj-cij.org/docket/index.php?p1=3
[6] http://www.icj-cij.org/docket/files/70/9637.pdf?PHPSESSID=436f3e1e146dba0a3054098a0652b6fe
[7] http://www.insidejustice.com/resources/un_courts.php

jurisdiction extends to all member states due to its provision in the United Nations charter), the ICC's jurisdiction primarily extends to states who are party to the Rome Statute.[8] However, there are ways to try individuals of non-member parties as well: the Security Council can refer any situation to the ICC (such was the case with Libya and Sudan), or Article 15 (called *Propprio Motu*), which allows the office of the prosecutor to open an investigation in a non-member state after getting approval from a pre-trial chamber. However, in the case of the latter situation, there must be enough evidence that the crimes meet the gravity of the focus of the ICC. The purpose of this court is to try individuals who have committed one of four crimes: genocide, crimes against humanity, war crimes, and aggression[9]. One problem with this court is that the Conference of States Parties have only recently defined "aggression," so it has been impossible to convict an alleged criminal of a crime when no legal definition of that crime exists.[10] Additionally, as there is no police branch of the ICC, it has no way to follow through with the warrants they put out, and as such, many criminals can escape prosecution. The ICC must depend on outside organizations such as Interpol, who can encounter many problems in states that are unwilling to cooperate with the ICC because they want to protect the alleged criminals in the name of national sovereignty. This is especially a problem when the ICC issues arrest warrants for heads of states, such as Omar al-Bashir of Sudan and more recently, Muammar Gaddafi of Libya.

Rule of Law

The rule of law, "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with

[8] Rome Statute Part 2 Article 13
[9] http://www.insidejustice.com/resources/un_courts.php
[10] http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Res.6-ENG.pdf

international human rights norms and standards,[11]" is applicable on both the national and international level. The United Nations support on the national level involves promoting the creation of national constitutions (or an equivalent) in each country. Additionally, the UN desires that each state have strong legal institutions and frameworks, which will promote state security and stability. These include methods to ensure a safe transitional process in government, the fair transition of government power, ways to gain legal recourse peaceably, and ways to ensure that human rights are not being violated. These institutions must be effectively structured, equipped, trained, and financed. However, in order to make sure that these goals are met, the civil society in the country must be committed to following the rule of law and holding the officials and institutions that carry it out responsible.[12] Many nations already have in place a strong national framework, but in the cases of post-conflict or judicially corrupt states, it might be necessary to assist and promote systems with the aforementioned components, while also keeping in mind issues of sovereignty.

The issue of the rule of law was brought up in several General Assembly resolutions during the 1960s, which reaffirmed the need to address the rule of law within the auspices of the UN Charter. In 1970, a special Committee met to discuss the international desire for greater international legal cooperation, and released a report detailing the group's discussion. This led to the passing of GA Resolution 2625 in the same year, which announced the "Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations"[13] This document was an important first step due to it explicitly drawing a connection on the international level between the United Nations and the rule of law. Although it advocates for deference to the Charter, sovereignty, resolving

[11] http://www.un.org/en/ruleoflaw/
[12] http://www.unrol.org/article.aspx?article_id=3
[13] http://www1.umn.edu/humanrts/instree/principles1970.html

disputes peacefully, and the principle of refraining from making threats or the actual use of force, it also recognizes that citizens of the international community have a fundamental human right to be protected from genocide, crimes against humanity, ethnic cleansing and war crimes, in addition to having equal rights and the right of self-determination. Through all this, this document outlines that these principles are mandatory for all members of the United Nations.[14]

Since then, the General Assembly and the Security Council have played essential roles in promoting the rule of law through the UN Charter. In S/RES/616 (2004), a report of the Secretary-General was released, entitled, "The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies." The report states, "it requires, as well, measure to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency." The General Assembly has considered the rule of law as an agenda item since 1992 with renewed interest since 2006 and has adopted resolutions at its last three sessions.

The Security Council has held a number of thematic debates on the rule of law, during which it has adopted resolutions emphasizing the importance of these issues in the context of "women, peace and security" (SC/RES/1960 (2010)), "children and armed conflict" (SC/RES 1998 (2011)), and the "protection of civilians" (SC/RES/1894 (2009)).

Additionally, the Action Plan of Strategy for an Era of Application of International Law was published in June 2000 through the effort of the Secretary General and his cabinet, known as the Senior Management Group. The plan was designed to identify actions that the Secretariat, Programmes, Funds and Agencies might take in order to promote an improved implementation of international law. Some of the actions, however, would require a decision by a political organ

[14] http://www.unrol. org/article.aspx?article_id=3

in order to provide either the necessary mandate or the necessary financial or human resources or both. The Plan is action oriented and is meant to be a working tool that can be used in all sectors of the Organization.[15]

To encourage participation in multilateral treaties, the Action Plan is directed towards promoting compliance by States with the treaties they have ratified. At the same time, it is beyond dispute that measures to promote wider participation in multilateral treaties will both complement and reinforce a program that is aimed at ensuring greater compliance with those same treaties. [16] The issue is that many multilateral treaties of potential global application remain unsigned by a large number of States or, though signed, not ratified. Treaties, which are one of the main types of legal documents concerning international law, are only given power if states agree to sign them, and then ratify them. One of the major problems regarding the international rule of law is that states refuse to participate or comply with the treaty framework (either due to fundamental disagreement or lack of support for the measure from groups within the state). Additionally, problems arise when countries who have ratified the treaty break the terms of the agreement. Although many treaties list safeguards to address violations, they are rarely enforced (for example, avoiding intervention in cases of genocide by claiming it is an issue of semantics through the use of the phrase "ethnic cleansing"). How to increase compliance with international law is something that should be considered when attempting to improve the rule of law on the international level.

Current United Nations Actions

One issue the Plan also addresses is how the United Nations can strengthen its training activities to adopt a better-coordinated approach. In order to avoid duplication, mixed messages

[15] http://untreaty.un.org/ola/action_planA.aspx

16 OHCHR (Office of the High Commissioner for Human Rights) has already instituted a campaign, with the Secretary-General's support, aimed at achieving universal participation in the six main human right treaties by 2003

and confusion on the relevance of the different bodies of international law, training programs must be devised, organized and run in such a way as to ensure that those involved in the application of law at the national level understand their obligations under the full range of the various domains of international law, including Human Rights Law, International Humanitarian Law and International Refugee Law. Coordination is also essential in order to assure that the particular roles of such institutions as the International Committee of the Red Cross and the High Commissioner for Refugees are respected and strengthened.

It is also important that the general public be informed about their rights at both the international and national level. It is therefore important that they have readily available to them the necessary information to be able to advocate and secure its proper implementation. Electronic communications are increasingly facilitating the realization of this objective.

Current Issues Regarding the Rule of Law

Globalization is changing the traditional Westphalian view of sovereignty. For example in the case of the Brazilian rainforest, Brazil may consider a rainforest located wholly within its property an issue solely of internal concern. However, Canada may claim that the world community has a valid claim on all limited rainforest resources, regardless of where the rainforest is located, especially in consideration of transborder issues like endangered species and air pollution. Criminal and more political issues, such as extraditions in the case of the ICC, lead to countries being more resistant to international bodies and treaties, in the name of sovereignty.

Similarly, states no longer view the treatment of citizens of one state as only the exclusive concern of that state. International human rights law is based on the idea that the entire global community is responsible for the rights of every individual. International treaties,

therefore, bind states to give their own citizens rights that are agreed on at a global level. In some cases, other countries can even monitor and attempt to enforce human rights treaties against a state to assist citizens of the offending state whose rights have been violated.

The call for positive measures to promote international cooperation to construct an 'international human rights environment' should not minimize the constant need to respond to human rights violations. While many countries struggle to meet their human rights obligations, the lack of resources cannot justify violations of fundamental human rights. States should respond to human rights violations in other countries in order to promote international compliance based on rights and values as opposed to national interests. A wide selection of measures can be resorted to in reaction to human rights violations, ranging from sanctions to public condemnation from large international organizations. The suitability of a measure in a given situation depends on the specific characteristics of the case at hand, and the potential impact of the responses. However, it should be noted that most states will strongly consider foreign policy ramifications as a reason not to 'interfere' or 'meddle' with the domestic affairs of another state.

Nuanced, holistic approaches are increasingly the most appropriate response, since the number of countries where human rights are grossly and systematically violated is in decline. In other words, the number of unquestionably repulsive situations, where simple, sometimes highly visible reactive decisions may be taken, is decreasing. Two patterns seem to emerge. On the one hand, there seems to be an increasing number of countries in which there are both in society and the government, bodies, groups and persons engaged, or prepared to engage, in the improvement of the human rights situation. On the other hand, violations may continue, sometimes despite the generally good intentions of the official authorities. The response of other states is, increasingly,

to undertake combined measures, reacting to developments in the society concerned. The increase in human rights violations by non-governmental entities such as guerrilla groups, paramilitary groups, and multi-national corporations is disturbing, and it is sometimes difficult to hold the government accountable for such violations. This element is in some cases further complicated by political instability and internal conflict. Nonetheless, such cases merit a stronger response than the mere denunciation of human rights violations.

Many international legal frameworks exist; however, whether they are being effectively implemented is a separate issue. States should decide whether their legal system could be improved, and if so, what changes should be made. On the international level, countries should consider what shortcomings exist within the established framework, and how they can be fixed. International law covers many topics, but in most situations there is very little incentive for countries to adhere to international law. This committee must decide in what situations the international rule of law should be implemented, and how to make those implementations more effective. Additionally, questions of who should enforce and oversee international law should also be considered. The purpose of this committee should be to address how we can effectively strengthen and coordinate the rule of law on the national and, more importantly, the international level.

Questions for Consideration

1) Does your own government's legal system need improvements? If so, in what areas?

2) In what areas does the international legal system have shortcomings? How can it be improved?

3) Who should enforce/oversee international law?

4) What action should occur when human rights are being violated across borders?

5) What format would be best for improving international laws (treaties, conventions, etc.)?

6) Should a country be accountable for failing to adhere to a treaty they have signed or for violating the UN Charter? If so, who should prosecute them? Where should they be punished?

7) Does a country have an obligation to extradite an international criminal?

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Addressing Non-State Actors

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A non-state actor, for purposes of this topic, can be considered any armed group that operates beyond state control[17]. There are several types of organizations that meet this definition. Terrorist groups, such as Hezbollah, are covered by this definition. Also included are various separatist, nationalist and rebel organizations, such as the POLISARIO in Western Sahara, or the FLEC in Angola. Some organizations straddle this line as well. Groups such as the PKK in the Kurdistan region, the ETA in Spain and the IRA in Ireland have nationalist motives but use tactics similar to many outright terrorist groups. Individuals and groups such as local warlords, vigilantes and militias can also be considered non-state actors, further complicating the issue[18]. Also, organized crime networks, depending on the case, fall under this classification. In short, the definition of "non-state actors" contains a very diverse and large set of organizations, and requires a similarly diverse legal framework to handle.

These groups engage in a wide variety of criminal activities. Groups such as the FARC or Brazilian *favelas*, engage in significant amounts of drug trafficking, both domestically and internationally[19]. Other groups may engage in fraud, human trafficking and other activities in order to generate revenue. Violent non-state actors present a serious problem for the international community. Whether the subject happens to be al-Qaeda, the Lord's Resistance Army, or the Albanian Mafia, all of these groups use force or the threat of force to achieve their aims. As a matter of course, most of these groups are involved in arms trafficking as well,

[17] Beytenbrod, Steve. "Note: Defining Aggression: An Opportunity to Curtail the Criminal Activities of Non-State Actors." Brooklyn Journal of International Law, 2011.
[18] Ibid.
[19] Williams, Paul. "Violent Non-State Actors and National and International Security." International Relations and Security Network, 2008.

establishing a symbiotic relationship between black markets and the militant groups they sell to[20]. Many of these groups also engage in a wide variety of political activities. These can be overt, such as in the case of the relationship between the IRA and Sinn Fein, or the influence of warlords in areas such as Somalia. These actions can also be more covert, as typified by the rampant corruption caused by organized crime in much of Southern and Eastern Europe[21].

Violent non-state actors constitute a primary threat to peace and stability within the international community. Various United Nations organs have consistently addressed issues that relate to or deal with these threats. While the international community has made progress in dealing with terrorist groups, organized crime, and nationalistic rebel groups, there are serious legal issues that the international community has yet to resolve, in terms of both law enforcement and conflict resolution. The application of various principles and legal frameworks are among the most serious legal issues surrounding non-state actors. Given the diverse activities of non-state actors, there are numerous elements of international law that apply to their activities and must be both strengthened and adapted. This is complicated due to lacking legal institutions in many areas where non-state actors operate, as well as the tendency of many organizations to ignore pre-established borders. Furthermore, states, non-governmental organizations, and other entities have disputed over the legal and humanitarian rights of members of non-state actors, the various legal frameworks that apply to their criminal activities, and a multitude of other problems. Similarly, inducing both states and non-state actors to abide by general norms, rules, and laws governing conduct in conflicts and war has been extremely problematic. Therefore, to address non-state actors from a legal perspective, the international community must consider three general international level categories. States must first compose a legal framework that

[20] Ibid.
[21] Ibid.

will cover the diverse illegal activities of non-state actors. Additionally, states must find ways to induce non-state actors to abide by rules and norms of conflict. Finally, states must come to a consensus on how humanitarian and human rights laws apply to the members of violent non-state actors.

An example of a legal framework implemented is the 1999's International Convention for the Suppression of the Financing of Terrorism, which mandated that states must take appropriate domestic legal measures[22]. Furthermore, Security Council Resolution 1373 of 2001 provides a legal basis for action against those who give "any form of support, active or passive, to entities or persons involved in terrorist acts"[23]. The General Assembly adopted the Convention on Transnational Organized Crime via A/RES/55/25 of 2000, which addresses organized crime as a whole; this is similar to the 1999 International Convention for the Suppression of the Financing of Terrorism, which addresses terrorism and its supporters. The Convention on Transnational Organized Crime includes a number of measures aimed at strengthening legal institutions, and provides anti-money laundering and anti-corruption measures as well. Several special protocols address human trafficking and arms trafficking as well[24].

Other major actions and recommendations have come from non-UN international bodies as well. The Financial Action Task Force (FATF) was founded by the G-7 in 1989[25] has recommended numerous ways to prevent money laundering and terrorist financing. Despite the numerous options available, the main issue is enforcement and cooperation at the national level, as some states lack the capability or will to implement many recommendations. In 2008, the FATF began publishing its "blacklist" of countries that fuel terrorism through financial support[x].

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[22] http://www.un.org/law/cod/finterr.htm
[23] http://www.un.org/News/Press/docs/2001/sc7158.doc.htm
[24] http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf
[25] http://www.fatf-gafi.org/pages/0,3417,en_32250379_32236836_1_1_1_1_1,00.html

The International Criminal Court (ICC) is a legal body reserved for the most serious of offences, but cannot be used to easily limit the activities of non-state actors. Established by the Rome Statute and entering force in 2002, the ICC has an official relationship agreement with the United Nations[26], and provides a court of last resort if lower jurisdictions are unable (or in some cases unwilling) to prosecute offenders.

The legal status of separatist and secessionist groups is a hotly contested topic, and one with little in the way of clear answers. The International Covenant on Civil and Political Rights[27], as well as the Charter of the United Nations itself, guarantee self-determination of peoples, which can be seen as a partial justification for nationalist and secessionist movements. Additionally, the International Court of Justice recognizes this as a universally binding norm of international law[28]. However, the use of force in order to achieve this aim – as many such organizations engage in – is questionable under international law. Furthermore, the right to secede from an existing state is also similarly questionable – it is neither specifically granted nor denied, and while it may be held as legitimate in certain circumstances, this legitimacy is implicit rather than explicit[29]. If the right does arise, it does so when the normal routes to self-determination through existing political channels have been blocked by the existing parent government[30]. In conjunction with this, if the ability to exercise the right of self-determination through non-violent channels is blocked, then the use of force seems to be at least implicitly accepted by the international community, even if it is not an explicitly defined right. For example, Eritrea's liberation movement allowed for Eritrean independence and was seen as

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[26] Beytenbrod, Steve. "Note: Defining Aggression: An Opportunity to Curtail the Criminal Activities of Non-State Actors." Brooklyn Journal of International Law, 2011.
[27] http://www2.ohchr.org/english/law/ccpr.htm
[28] Higgins, Noelle. "INTERNATIONAL HUMANITARIAN LAW AND THE PROMOTION OF HUMAN SECURITY: The Regulation of Armed Non-State Actors: Promoting the Application of the Laws of War to Conflicts Involving National Liberation Movements". Human Rights Brief, 2009.
[29] http://www.nato.int/acad/fellow/99-01/kumbaro.pdf
[30] Ibid.

legitimate, in part because the Eritrean claims of the right to self-determination through political means were denied and blocked repeatedly by the Ethiopian government[31]. The current status quo therefore seems to be that certain instances of violent non-state actors, in the case of secessionist groups, can be justified in their use of force as long as it can be characterized as a last resort. With that said, however, these justifications are often contested, leaving many such groups as having a questionable status under international law.

The legitimacy of these conflicts (or lack thereof) is not the only consideration. Also of note are the actions taken in these conflicts, and the surrounding legal realities. International humanitarian law, human rights law, and laws of war and conflict need to be respected by both states party to conflicts, and non-state actors party to conflicts. This primarily concerns rebel and secessionist movements, since terrorist networks and other non-state actors by their nature are unlikely to comply. Secessionist movements claim legitimacy, and given that their ultimate goal is statehood their situation is somewhat different than that of other non-state actors. While some such non-state actors do engage in egregious violations of the laws of conflict, others in fact have sought to accede to the terms of various treaties governing international humanitarian law.

One of the major issues is that the vast majority of instruments governing conduct in conflicts is designed with states in mind, and are not open to non-states becoming parties to them[32]. This includes the Geneva Conventions, the Ottawa Treaty regarding landmines, and scores of others. The ICC still has the ability to prosecute members of non-state actors for violating some of these norms, as evidenced by the case of the Democratic Republic of the

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[31] Ibid.

[32] Higgins, Noelle. "INTERNATIONAL HUMANITARIAN LAW AND THE PROMOTION OF HUMAN SECURITY: The Regulation of Armed Non-State Actors: Promoting the Application of the Laws of War to Conflicts Involving National Liberation Movements". Human Rights Brief, 2009.

Congo's Thomas Lubanga[33]. This is because humanitarian law is considered by some experts to be binding on all parties "regardless of ratification"[34]. Despite the universal application of these laws, allowing non-state actors to accede to and respect the terms of these treaties would go a long way to protecting combatants and non-combatants alike. There have been attempts for non-state parties – in particular unrecognized states such as the Palestine – to accede to these treaties, but these efforts have not been successful[35]. Instead, efforts have focused on ensuring voluntary cooperation on the part of non-state actors. In particular, the NGO Geneva Call specializes in outreach to non-state actors with the goal of achieving voluntary compliance with international humanitarian law[36].

However, there is also the problem of ensuring states remain compliant with these laws and norms, even if they are in conflict with a non-state actor that is not party to such agreements. This can be difficult, as the application of international humanitarian laws regarding conflict to members of a non-state actor organization can be seen as legitimizing that non-state actor[37]. States such as Indonesia and the United Kingdom have gone out of their way to designate organizations such as Free Aceh and the IRA as domestic terrorists or similar classifications. Thus, ensuring only domestic law would apply and preventing the application of international humanitarian law[38]. Still, in cases where the status and character of these organizations is recognized as allowing for the applicability of international humanitarian law, there are protections and rules that are binding on the State parties to those conflicts. Historically, some states have allowed for these protections to apply to non-state actors. Portugal's actions towards

[33] http://www.google.com/hostednews/afp/article/ALeqM5h9G0ngqaMx513TRwakptt11ZrdCQ
[34] Beytenbrod, Steve. "Note: Defining Aggression: An Opportunity to Curtail the Criminal Activities of Non-State Actors." Brooklyn Journal of International Law, 2011.
[35] Higgins, Noelle. "INTERNATIONAL HUMANITARIAN LAW AND THE PROMOTION OF HUMAN SECURITY: The Regulation of Armed Non-State Actors: Promoting the Application of the Laws of War to Conflicts Involving National Liberation Movements". Human Rights Brief, 2009.
[36] Ibid.
[37] Ibid.
[38] Ibid.

groups in its colonies, as well as France's 1956 move to apply Geneva Conventions protections to the FLN in Algeria are examples of this.[39] All of these cases, whether international humanitarian law was applied or not, are cases where the conflict is "non-international." As such, Common Article 3 of the Geneva Conventions and the Additional Protocol II are both applicable to these sorts of conflicts[40].

The inconsistent application of these otherwise binding measures is a major difficulty for the international community. Common Article 3 and the Additional Protocol II are vital protections for non-combatants in conflict zones. More importantly, they impose significant obligations on the part of states regarding those who have "ceased to take part" in the conflict, or have been detained[41]. These obligations include but are not limited to care for the wounded, a prohibition on summary judgments and the provision of safe and humane conditions for the wounded and the detained. Additionally, Article 6 of the Additional Protocol II mandates that "No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality"[42] and requires that general basic legal protections apply, including the right to a fair trial and the right to presumption of innocence. As a result of this, the application of these two measures consistently and appropriately is necessary to ensure that humanitarian and legal protections exist for members of non-state actors.

The legal issues surrounding non-state actors and their activities are both numerous and serious. States must take steps to continue the implementation of various law enforcement and legal frameworks and measures in order to combat the illegal activities of non-state actors. At

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[39] Ibid.
[40] Bellal, Annyssa et al. "International law and non-state actors in Afghanistan". International Review of the Red Cross, March, 2011.
[41] http://www.icrc.org/ihl.nsf/full/475?OpenDocument
[42] Ibid.

the same time, there needs to be engagement with non-state actors to ensure their compliance with international humanitarian and human rights law. Furthermore, states themselves need to guarantee respect for these same laws with regard to the members of non-state actors. This is essential for the protection of both parties to a conflict and to civilians in conflict zones as well. Finally, states must be mindful of the differences between secessionist or nationalist non-state actors and actual terrorist groups, given the differing levels of legal legitimacy regarding those groups. All of these steps are necessary in order for states to address non-state actors and their activities effectively and fairly.

Questions to consider:

1. What is your State's position on the effectiveness of the current legal framework for anti-terror and anti-transnational organized crime measures, such as S/RES/1373, or the FATF?

2. What additional measures does your State believe are necessary in order to improve enforcement efforts against violent non-state actors?

3. What is your State's position on the effectiveness of the ICC in dealing with non-state actors?

4. Does your State believe that the right to self-determination of peoples extends to the right to engage in the use of force for rebel, secessionist and nationalist groups?

5. Does your State make any distinction between separatist groups and other sorts of terrorist organizations? Why or why not?

6. What rules apply to the use of force *against* violent non-state actors? Do Common Article 3 and Additional Protocol II of the Geneva Conventions apply? Why or why not?

7. What does your State believe can be done to make non-state actors follow standard rules of conduct in conflicts? Are NGOs such as Geneva Call effective for this purpose?

8. What legal rights do the members of violent non-state actors have under international law? How does your State feel they should be treated?

Criminal Accountability of United Nations Officials and Experts on Missions

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Criminal conduct by UN personnel puts into question the core values of the Secretariat and directly affects the world body's activities and "essential mission"- Nicolas Michel

Introduction

Since the formation of the United Nations in 1945, peacekeeping missions have brought international peace and security to the global community through the mandate of the Charter. However, a few individuals have tainted the honorific history of the UN officials and peacekeepers who have abused their positions for personal gain. It is of the utmost importance for this committee to address the criminal behavior of United Nations personnel, so as not to tarnish the reputation of the organization and the collective bravery of those who sacrifice their lives to protect individuals around the world.

History of UN Missions and Criminal Behavior

There are two categories of UN professionals that commit crimes-administrative misconduct and peacekeepers who engage in sexual abuse. In 1995, the Security Council passed Resolution 986, which detailed the "Oil for Food" program, a humanitarian effort designed to help Iraq exchange much needed food and supplies for their oil. However, the whole initiative resulted in failure, as companies attempted to compete for contracts by bribing Saddam Hussein and other officials, which resulted in Hussein receiving over $1.7 billion through kickbacks and

surcharges and $10.9 billion through illegal oil smuggling.[43] Additionally, the head of the program, Benon Sevan was accused of engaging in unethical behavior by helping his friend receive a profitable contract in the program to sell oil.[44] In 2004, the Independent Inquiry Committee released a report, stating that the reason such behavior was allowed to occur stemmed primarily from the Security Council's failure to clearly define the practical parameters, policies, and administrative responsibilities, allowing Iraq too much leeway in designing and implementing the program. Additionally, they cited the overstretching of the administrative structure and personnel, and most notably, the absence of effective auditing and management controls.[45]

Peacekeepers themselves have also been accused of widespread sexual abuse, which has become a rampant problem in the new millennium. Following a 2004 report detailing over 150 instances of sexual abuse from UN Peacekeepers in the Democratic Republic of Congo (DRC), the Special Committee on Peacekeeping Operations asked Secretary General Kofi Anan to commission a study regarding the sexual misconduct of peacekeepers. This was done by Jordan's ambassador, Prince Zeid Ra'ad Zeid al-Hussein. This report, entitled *A Comprehensive Strategy To Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations (*A/59/710; also known as the "Zeid Report"), was released a year later and provided a very comprehensive look of instances of sexual abuse perpetrated by peacekeepers and other UN personnel in countries around the world, including Haiti, Sierra Leone, Bosnia, Cambodia, East Timor and the DRC. Many of the allegations described instances where Peacekeepers would lure young children into their tents with promises of their rations and then sexually exploit them. This report also focused on the current rules on standards of conduct, the investigative process,

[43] http://www.cfr.org/un/iraq-oil-food-scandal/p7631
[44] et. al
[45] http://www.iic-offp.org/documents/Sept05/Mgmt_V1.pdf

organizational, managerial and command responsibility and individual disciplinary, financial and criminal accountability. It noted that many of the problems occur because of the different sets of rules for different categories of UN personnel, the lack of specialized expertise required for investigations into allegations of sexual exploitation and abuse, the failure to hold the organization and its members accountable for their actions, and other jurisdictional issues (such as legal immunity and failing to adhere to local law).[46]

Following this report, the United Nations took several actions to address these issues. The "Zero-Tolerance" policy has been emphasized several times. Additionally, in 2005 the Department of Peacekeeping Operations (DPKO) established the Conduct and Discipline Unit in order to provide oversight and discipline to peacekeepers in missions around the world. They have put into place a three-tiered prevention system (which includes training and awareness raising), emphasized enforcement of UN rules and regulations and made use of remedial action.[47] Additionally, the General Assembly passed Resolution A/RES/62/214 in 2008, which launched a UN wide initiative to provide assistance to victims who have been sexually abused and exploited by UN personnel.[48]

Action from the Sixth Committee

The topic "Comprehensive review of the whole question of peacekeeping operation in all their aspects" was first referred to the Sixth Committee from the Fourth Committee (SPECPOL) at the 61st session in 2006. This was to review the report released by the Group of Legal Experts (A/60/980), which provided a detailed analysis of the Zeid Report from the legal perspective, particularly regarding issues of jurisdiction. The Group of Legal Experts recommended that the

[46] A/59/710
[47] http://cdu.unlb.org/UNStrategy/Prevention.aspx
[48] http://www.un.org/en/peacekeeping/operations/reform.shtml

United Nations take up the primary responsibility of facilitating the exercise of jurisdiction, because of the possibility of host state's being unable to do this on its own. To make these recommendations official, the Group of Legal Experts recommended that a convention be written.[49]

Additionally, in 2006, the General Assembly created an Ad-Hoc Committee to review the recommendations of the Group of Legal Experts to provide further analysis to the Sixth Committee. This committee was open to any members of the United Nations (or specialized groups). The committee convened twice, once in 2007 and once in 2008. During both sessions, it considered the following subjects: (a) the scope of *ratione personae*; (b) the crimes; (c) the bases for jurisdiction; (d) investigations; (e) cooperation among States and cooperation between States and the United Nations; and (f) the form of instrument. They asked for several points of clarification from the Group of Legal Experts, particularly questions of jurisdiction and the possibility of creating a convention regarding this topic. Additionally, they requested the creation of a Working Group to further consider the Group of Legal Expert's report, which the Sixth Committee approved both times.[50]

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[49] A/60/980 http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/471/41/PDF/N0647141.pdf?OpenElement
[50] A/62/54: http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N07/312/22/PDF/N0731222.pdf?OpenElement

offences), and in what cases should waivers of immunity be given. At the end of the 62nd Session, the 6th Committee adopted A/C.6/62/L.10, which called for greater consideration of the topic "Responsibility of States for internationally wrongful acts".[51] They also passed Resolution 62/63, which called for states to strengthen their efforts in preventing and addressing criminal accountability, in addition to increasing their coordination with the United Nations.[52]

The Working Group, as per the recommendation of the Ad-Hoc Committee, met again at the 63rd Session. The issues discussed included: the scope of the topic; criminal investigations; the provision of evidence and its assessment in administrative versus criminal procedures; strengthening cooperation and sharing of information; extradition; servicing of sentences; and other judicial assistance mechanisms. The question of criminal jurisdiction was once again debated. States disagreed whether jurisdiction should lie with the host state or the state of the accused. Prevention of criminal behavior was emphasized and the Secretariat was applauded on their coordination efforts in addressing the issue. Again, consideration of the Convention was discussed. Finally, Resolution A/C.6/63/L.10 passed, which built upon A/RES/62/63, but added elements which are aimed at enhancing international prosecutorial cooperation (between the state of the nationality of the offender, the state where the crime has occurred, and the United Nations) to ensure the criminal accountability of United Nations officials and experts on mission.[53]

This issue was discussed once more in the 64th Session, where the Working Group met again. After considering their recommendations (which were similar to 63rd session recommendations), the Sixth Committee passed A/64/446. It called for the establishment of domestic criminal law to address UN misconduct, urged for greater cooperation in sharing

[51] A/C.6/62/L.20
[52] A/RES/62/63 http://www.undemocracy.com/A-RES-62-63.pdf
[53] http://www.un.org/en/ga/sixth/63/CrimAcc.shtml

information and investigative coordination, and finally encouraged greater resources to be afforded to victims in order to assure they would not receive any backlash for reporting crimes.[54]

Conclusion

Much has been proposed and discussed through the years with regard to Criminal Accountability of United Nations Officials and Experts on Missions. Many member states are seeking a onetime "fix all"- solution, which would both be inclusive of all United Nation officials and situations, and would also be transparent and easily understood. As this is of course the end goal, the secretariat encourages the sixth committee to start with setting basic cornerstones (i.e. how the issue should be addressed, where it should be tried, diplomatic immunity, how to fund it etc.) that if not all, a overwhelming majority of the members can co-sponsor. Despite the "zero-tolerance policy" advocated by the UN, in addition to the many reforms already implemented, crimes continue to persist due to lack of coordination of these efforts. For example, as recently as September 2011, several Uruguayan peacekeepers were caught on tape raping an 18-year-old Haitian man. As long as criminal behavior continues to be perpetrated by UN experts and officials, the United Nations and the work that its organs do to help the international community remains tainted. It is up to this body to come up with comprehensive solutions that will ensure a better framework for preventing, enforcing, and persecuting crimes committed during UN-related activity.

[54] http://www.un.org/News/Press/docs/2009/ga10904.doc.htm

Questions for Consideration

1. What laws need to be addressed when considering possible breaches by UN personnel?

2. Should there be leniency for ignorance and cultural disparities, or should there be a zero-tolerance policy?

3. The Sixth Committee in Resolution A/62/448 suggests a series of steps for its member states to address the issue of criminal accountability of UN officials. Should this issue be solved in a Resolution? Should a Convention be put in place?

4. Would this be on a bilateral basis between the nation providing troops and the host country, or a general UN mandate? What issues should be considered when implementing said convention or mandate?

5. Should there be an international standard or should this be done on a case-by-case basis?

6. What can be done to make it easier for victims to come forward and lodge a complaint? Should there be a fund to deal with victims? Who should be responsible for setting up this fund?

7. Who should be responsible for the United Nations personnel's legal misconduct? The host country, the United Nations, or the country of origin of the personnel?

8. Where should UN officials be tried?

9. Should any United Nations personnel involved in the operation be covered by legislative mandate requiring United Nations personnel adhere to the laws within the host countries? Peacekeepers? Military personnel?

10. What about diplomatic immunity and protection? To what degree should UN diplomats themselves or foreign nationals be accountable for violations of the law? (For more information on this topic, please look at Resolution A/62/451).

Criminal Accountability of United Nations Officials and Experts on Missions

Marissa Rhoades
Arizona State University

Criminal conduct by UN personnel puts into question the core values of the Secretariat and directly affects the world body's activities and "essential mission"- Nicolas Michel

Introduction

Since the formation of the United Nations in 1945, peacekeeping missions have brought international peace and security to the global community through the mandate of the Charter. However, a few individuals have tainted the honorific history of the UN officials and peacekeepers who have abused their positions for personal gain. It is of the utmost importance for this committee to address the criminal behavior of United Nations personnel, so as not to tarnish the reputation of the organization and the collective bravery of those who sacrifice their lives to protect individuals around the world.

History of UN Missions and Criminal Behavior

There are two categories of UN professionals that commit crimes-administrative misconduct and peacekeepers who engage in sexual abuse. In 1995, the Security Council passed Resolution 986, which detailed the "Oil for Food" program, a humanitarian effort designed to help Iraq exchange much needed food and supplies for their oil. However, the whole initiative resulted in failure, as companies attempted to compete for contracts by bribing Saddam Hussein and other officials, which resulted in Hussein receiving over $1.7 billion through kickbacks and surcharges and $10.9 billion through illegal oil smuggling.[55] Additionally, the head of the program, Benon Sevan was accused of engaging in unethical behavior by helping his friend

[55] http://www.cfr.org/un/iraq-oil-food-scandal/p7631

receive a profitable contract in the program to sell oil.[56] In 2004, the Independent Inquiry Committee released a report, stating that the reason such behavior was allowed to occur stemmed primarily from the Security Council's failure to clearly define the practical parameters, policies, and administrative responsibilities, allowing Iraq too much leeway in designing and implementing the program. Additionally, they cited the overstretching of the administrative structure and personnel, and most notably, the absence of effective auditing and management controls.[57]

Peacekeepers themselves have also been accused of widespread sexual abuse, which has become a rampant problem in the new millennium. Following a 2004 report detailing over 150 instances of sexual abuse from UN Peacekeepers in the Democratic Republic of Congo (DRC), the Special Committee on Peacekeeping Operations asked Secretary General Kofi Anan to commission a study regarding the sexual misconduct of peacekeepers. This was done by Jordan's ambassador, Prince Zeid Ra'ad Zeid al-Hussein. This report, entitled *A Comprehensive Strategy To Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations (*A/59/710; also known as the "Zeid Report"), was released a year later and provided a very comprehensive look of instances of sexual abuse perpetrated by peacekeepers and other UN personnel in countries around the world, including Haiti, Sierra Leone, Bosnia, Cambodia, East Timor and the DRC. Many of the allegations described instances where Peacekeepers would lure young children into their tents with promises of their rations and then sexually exploit them. This report also focused on the current rules on standards of conduct, the investigative process, organizational, managerial and command responsibility and individual disciplinary, financial and criminal accountability. It noted that many of the problems occur because of the different sets of

[56] et. al
[57] http://www.iic-offp.org/documents/Sept05/Mgmt_V1.pdf

rules for different categories of UN personnel, the lack of specialized expertise required for investigations into allegations of sexual exploitation and abuse, the failure to hold the organization and its members accountable for their actions, and other jurisdictional issues (such as legal immunity and failing to adhere to local law).[58]

Following this report, the United Nations took several actions to address these issues. The "Zero-Tolerance" policy has been emphasized several times. Additionally, in 2005 the Department of Peacekeeping Operations (DPKO) established the Conduct and Discipline Unit in order to provide oversight and discipline to peacekeepers in missions around the world. They have put into place a three-tiered prevention system (which includes training and awareness raising), emphasized enforcement of UN rules and regulations and made use of remedial action.[59] Additionally, the General Assembly passed Resolution A/RES/62/214 in 2008, which launched a UN wide initiative to provide assistance to victims who have been sexually abused and exploited by UN personnel.[60]

Action from the Sixth Committee

The topic "Comprehensive review of the whole question of peacekeeping operation in all their aspects" was first referred to the Sixth Committee from the Fourth Committee (SPECPOL) at the 61st session in 2006. This was to review the report released by the Group of Legal Experts (A/60/980), which provided a detailed analysis of the Zeid Report from the legal perspective, particularly regarding issues of jurisdiction. The Group of Legal Experts recommended that the United Nations take up the primary responsibility of facilitating the exercise of jurisdiction, because of the possibility of host state's being unable to do this on its own. To make these

[58] A/59/710
[59] http://cdu.unlb.org/UNStrategy/Prevention.aspx
[60] http://www.un.org/en/peacekeeping/operations/reform.shtml

recommendations official, the Group of Legal Experts recommended that a convention be written.[61]

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[63] A/C.6/62/L.20
[64] A/RES/62/63 http://www.undemocracy.com/A-RES-62-63.pdf
[65] http://www.un.org/en/ga/sixth/63/CrimAcc.shtml
[66] http://www.un.org/News/Press/docs/2009/ga10904.doc.htm

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Addressing Ecological Terrorism

by Viktoria Vinoselova
MUNRFE

Ecological terrorism has become one of the most serious adverse consequences of the Industrial Revolution for modern society. The increasing rate of industrialization and urbanization, combined with the failure to address environmental threats, has created a new radical environmental movement. Developed in the last decades of the twentieth century, this movement is rapidly accelerating, causing numerous severe consequences such as the destruction of research facilities and farming operations, attacks on fast-food restaurants, damage to construction, timber and fishing companies, and many others.

Ecological terrorism is characterized by the belief that human society is responsible for the depletion of the environment and, if it is left unchecked, it will lead to the complete degradation of the environment[1]. The key problem that complicates the issue is the absence of a clear, officially accepted definition of "ecological terrorism." Very often the term "ecological terrorism" is confused with the term "environmental terrorism." Ecological terrorism is the violent destruction of property perpetrated by the radical fringes of environmental groups in the name of preventing the exploitation of animals and saving the environment from further human encroachment and destruction[2]. The concept of environmental terrorism is defined as an action that involves the utilization of the forces of nature for hostile purposes[3]. Ecological terrorists target roads, buildings, and trucks in the name of natural resource defense; environmental terrorists target environmental resources themselves, which occasionally results in the loss of human life.

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[1] http://earthliberationfront.com/about/
[2] Chalecki, Elizabeth. A new vigilance: Identifying and Reducing the Risks of Environmental Terrorism
[3] Dalby, Simon. Terror and environmental security after September 11th

The history of truly radical environmental groups originates with the establishment of Earth First! in 1979 and the later founding of the Earth Liberation Front (ELF) in 1996. These groups were initially created in the United Kingdom, and subsequently spread to the United States. At the beginning of the twenty first century, Earth First! was the organization that first brought the agenda of ecological terrorism to the forefront public discussion. The founding members of those organizations were former mainstream environmentalists who had become disappointed by existent political systems; they believed that only radical actions could bring the desired results in resolving environmental crises.

The United States and the United Kingdom are not the only countries suffering from this modern threat; other countries have seen their fair share of ecological terrorist acts as well. Some examples include the torching of a slaughterhouse in the Netherlands, the destruction of farm equipment in France and mink at an abandoned farm in Denmark, and the vandalization of the Whistler offices of Outdoor Adventures in Canada and a fur store in Mexico.[4]

Many ecological terrorists associate themselves with the idea of anarchism, and oppose modernization and its effects on the natural environment. Some call themselves primitivists or green anarchists and contend that humans were better off thousands of years ago before the advent of farming[5]. These groups of ecological terrorists are comprised of an unknown number of members from all over the world and join together small groups of individuals who act independently from each other. To maximize the security of their movements, they do not create official management structures and members are anonymous to each other. The only source of information about these radical environmental groups is their official websites, where they publish news about their acts and provide their members

[4] http://www.furcommission.com/attack
[5] http://edition.cnn.com/2005/US/05/19/domestic.terrorism/

with necessary guidelines. This system makes dealing with ecological terrorism extremely difficult for governments.

To make things worse, a clear link can be traced between the increasing levels of ecological terrorism in recent years and the growth of its internet activity. Different chats, social networks, and e-mails connect like-minded ecological terrorists in one virtual community, regardless of their physical location. There are numerous special web-sites related to ecological terrorism. They provide inexperienced followers with all kinds of information needed to successfully complete their mission: bomb-making manuals, fire setting guidelines, and many other documents. These web-sites provide an excellent opportunity for ideological support and motivation, making ecological terrorists acts enormously effective. Any person interested in their activities is able to easily find many reports about their acts because they are widely available on the internet.

The propaganda of ecological terrorism is also circulated on the Frontline Information Service (FIS) — an e-mail-based initiative created in 1994 that offers an "uncensored clearing house for information and news about animal liberation activities and activists."[6] In 2003, it changed its name to Direct Action Frontline Information Service to reflect the "wide-range of actions that [they] support through publishing information on it."[7] Internet posts increasingly include anti-capitalist and anti-war agendas.

Usually the illegal actions of ecological terrorists targeted on property destruction are called “ecotage,” which is sabotage driven by ecological concerns. The most obvious examples of these actions are “tree spiking” (placing metal or ceramic in trees to deter logging), arsons, dumping sugar in the gas tanks of construction vehicles, pulling up survey stakes, and many other tactics. For instance, the American wing of ELF burned down a ski

[6] Sam Howe Verhovek "Radical Animal Rights Groups Step Up Protests"
[7] Sam Howe Verhovek "Radical Animal Rights Groups Step Up Protests"

lodge in Vail, Colorado in October 1998, which resulted in $12 million in property damage[8]. ELF also made headlines in January 2001, when they set fire to newly built homes on Long Island to protest what they viewed as humans' unceasing encroachment on nature. They acted again in March 2001 when they set fire to a warehouse containing transgenic cottonseed and a biogenetic research facility at the University of Washington[9]. The most expensive act in the history of ecological terrorism was the destruction of an unfinished condominium complex in San Diego in the United States by the members of ELF in 2003, which caused $50 million in damage.

The ideology of ecological terrorism is clearly outlined on the official website of ELF; the core guidelines are the following:

- To inflict economic damage on those profiting from the destruction and exploitation of the natural environment;
- To reveal and educate the public on the atrocities committed against the earth and all species that populate it;
- To take necessary precautions against harming any animal, human and non-human.[10]

According to ecological terrorists, their actions should not target or harm human beings. Nevertheless, the methods they use for achieving their mission endanger people's lives and create indirect threats to their health. Furthermore, their primary goal is the safety of our planet, while human welfare remains a secondary consideration.

The vast majority of environmental terrorism cases have taken place in North America and Europe, with 47.5% occurring in the U.S., followed by 9.8% in Great Britain[11].

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[8] www.factnet.org/cults/earth_liberation_front/vail_fire.html
[9] Chalecki, Elizabeth. A new vigilance: Identifying and Reducing the Risks of Environmental Terrorism
[10] http://earthliberationfront.com/about/
[11] Liddick, Donald. Eco-Terrorism: Radical Environmental and Animal Liberation Movements

The United States was the first country that recognized the threat of this emerging trend; the Federal Bureau of Investigation has declared these forms of violence to be the most serious domestic terrorism threat in the United States.[12] The statistics behind this statement include:

- The sheer volume of the crimes relating to ecological terror was over 2,000 since 1979;
- The huge economic impact of ecological terrorism - losses of more than $110 million since 1979;
- The wide range of victims - from international corporations to lumber companies to animal testing facilities to genetic research firms.[13]

The nature of terrorism itself has been discussed within organs of the United Nations for years, but these discussions have not manifested an effective framework. The most serious challenge is the absence of a universally agreed upon definition of terrorism fixed in international law. In November 2004, a United Nations Secretary General's report described terrorism as any act "intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act."[14] But the interpretation of the term varies mainly due to differences of opinions between various members about the use of violence in the context of conflicts over national liberation and self-determination.

In its more broad meaning, the term "terrorism" is applied not only to crimes intended to inflict mass civilian casualties directly through murder, but it is also used for labeling acts that create threats to the governments' interests. That is the way in which the term "ecological terrorism" originated. Additionally, the mass media has largely accepted the notion that radical activists who cause profit loss to industry are terrorists. The FBI has further supported

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[12] "Testimony of James F. Jarboe, Domestic Terrorism Section Chief, Counterterrorism Division, FBI"; http://www2.fbi.gov/congress/congress02/jarboe021202.htm

[13] http://www.fbi.gov/news/stories/2008/june/ecoterror_063008

[14] http://www.un.org/Docs/sc/sgrep04.html

these sentiments by defining terrorism to include "the unlawful use, or threatened use, of violence against property."[15] This definition allows the FBI to label environmental radical activists as one of the top domestic terrorist threats. But in most cases, the actual use of the term "terrorism" to describe the acts of ecological sabotage is a misnomer, as it results in no human injury or death. This diminishes the true meaning of the word, therefore making it difficult to apply the existent counter-terrorism measures to ecological terrorism.

Until recently, the issue of ecological terrorism has been addressed only on the governmental level. Governments have undertaken numerous law enforcement efforts, the most effective of which was the adoption of the Animal Enterprise Protection Act (AEPA) in the United States in 1992. This made any attack causing more than $10,000 in damage to an animal enterprise a federal offense punishable by one year in prison, and attacks causing serious bodily harm or death punishable from ten years to life. At the moment, the AEPA is the main United States federal law that deals with the issue of ecological terrorism. Additionally, between 1988 and 1992, thirty-two states enacted laws to protect animal enterprises. A rider attached to the Drug Act of 1988 adopted in the US made tree spiking a federal felony offense[16]. However, a constantly increasing number of ecological terrorism acts show us the failure of these law enforcement efforts.

Despite this, threats of physical violence against humans have not yet occurred in the United States, although they increasingly accompany radical activism as a side effect. But the situation in the United Kingdom is much worse—ecological terrorists have already committed several purposeful acts of violence. During the 1990s, members of ecological terroristic organizations injured several people using letter-bombs. In 1998, the "Animal Rights Militia" threatened to kill 10 scientists if Barry Horne (who had been sentenced to 18 years in prison for waging a 1994 firebombing campaign that caused £13 million in damage

[15] http://www.fbi.gov/news/stories/2008/june/ecoterror_063008
[16] Liddick, Donald. Eco-Terrorism: Radical Environmental and Animal Liberation Movements

to stores in England) died while on a hunger strike. In February 2009, SHAC activist David Blenkinsop and two other masked assailants severely beat HLS's managing director Brian Cass with bats in England; a passer-by who interceded was sprayed in the face with tear gas[17].

All these alarming facts are evidence of the necessity to discuss ecological terrorism on a qualitative new level, as it is becoming a great threat not only to individual countries, but to the international community as a whole. Thus, it is time to put this topic in the agenda list of the United Nations, and together with joined efforts, create new innovative approaches for coping with this problem.

Questions for Consideration:

1) What exact actions should be considered under the official definition of "ecological terrorism"?

2) What are the economic aspects of ecological terrorism?

3) What is the most appropriate platform for cooperation between governments in solving the problem of ecological terrorism?

4) Is it necessary to develop special legal framework for dealing with ecological terrorism?

5) How can the United Nations provide the assistance to governments in the problem of ecological terrorism? What United Nations agencies should be responsible for these sorts of activities?

[17] Ecoterrorism: Extremism in the Animal Rights and Environmentalist Movements

6) Is it possible to put local practices of tackling with ecological terrorism on the international level? If yes – what will be the most effective ways of doing

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Countering the Trade of Conflict Resources

By Marissa Rhoades
Arizona State University

Nearly every country is in some way involved in the trade of conflict resources, whether as a recipient of conflict commodities, or as a country where conflict is fueled by these resources. There has been limited success at addressing the issue, despite an increasing awareness of the problem at the international level and a growing amount of conflict being perpetuated by the trade of natural resources. It is therefore the responsibility of every member of the global community, including corporations, individual countries, NGO's and the United Nations itself, to halt this situation that exploits millions and incites conflict around the world.

The term "conflict resource" is defined by the NGO Global Witness as "natural resources whose systematic exploitation and trade in a context of conflict contribute to, benefit from, or result in the commission of serious violations of human rights, violations of international humanitarian law or violations amounting to crimes under international law.[18]" In other words, these are resources used to perpetuate conflict. However, the United Nations has never formally defined conflict resources, which is a step NGOs such as Global Witness believe the UN should adopt.

These resources can vary from the well known "blood diamonds" to oil, natural gas, water, timber, rubber, cotton, cocoa, and poppies (which are used to produce heroin). Often, wars over resources begin as internal conflicts, but are exacerbated by the lucrative natural resource industry. When one factors in mining and resource harvesting companies with corrupt government officials, rebel groups, smugglers, and arms dealers, it adds up to a very precarious situation. These groups have an interest in ensuring that conflict continues, so as to

[18] See Global Witness, 2007, in their proposal to the international community "Definition of conflict resources," which was retrieved from http://www.globalpolicy.org/component/content/article/198/40124.html

avoid scrutiny and public accountability. These countries are often developing nations that are victims of the "resource curse" (the idea that some resource-rich nations can be economically worse off than nations without such natural assets[19]). Although natural resources are usually not the sole cause of conflict, the exploitation of natural resources and related environmental degradation can significantly drive a conflict, increasing its severity and duration, and therefore complicating its resolution. Unless the trade of such commodities is controlled to avoid this cyclical series of violence, these countries and their people are unlikely to find peace or stability.

Forty percent of all interstate conflict in the last 60 years has been linked with natural resources, and this link also doubles the likelihood of the conflict reoccurring in five years or less. According to the United Nations Environmental Programme, since 1990, at least 18 violent conflicts have been fueled by the exploitation of natural resources, whether they are 'high-value' resources like timber, diamonds, gold, minerals and oil, or others such as fertile land or water. [20]

The idea that resources can enable conflict was brought to the United Nations' attention following the outbreak of violence involving the National Union for the Total Independence of Angola (UNITA) and the Revolutionary United Front (RUF) in Sierra Leone in the 90s. The culmination of these conflicts necessitated a meeting of Southern Africa's diamond producing states in May of 2000 in Kimberly, South Africa. The purpose of this meeting was to discuss solutions to end the trade of 'conflict diamonds' that were funding violence. This meeting laid the groundwork for the General Assembly adopting a

[19] See Global Witness website, particularly their section on "Our Campaigns," which was retrieved from http://www.globalwitness.org/our-campaigns

[20] See Brown, Jensen, & Matthew, 2009, particularly the Executive Summary, for a more detailed explanation of conflict fueled by resources

momentous resolution detailing the support of a certification process that would later become known as the Kimberly Process Certification Scheme (KPCS). [21] This resolution was also the first time the United Nations recognized the possibility that conflict resources fuel war and conflict in one part of the world, while simultaneously contributing to the wealth and prosperity in another part. The KPCS was implemented in 2003 and currently is comprised of 75 nations.[22]

In the years following, NGOs such as Global Witness and the Global Policy Forum continued to urge the United Nations Security Council and Peacebuilding Commission to take a stronger stance on the trade of conflict resources.[23] In September of 2005, the Security Council passed Resolution 1625, which further detailed the connection between conflict and natural resources and stated their "determination to take action against illegal exploitation and trafficking of natural resources and high-value commodities in areas where it contributes to the outbreak, escalation or continuation of armed conflict." This resolution was followed up in January 2006 with Security Council resolution S/RES/1653, which focused on the Great Lakes region of Africa. This resolution called specifically for this region to use transparency when exporting their natural resources to prevent the profits funding further conflict. [24]

These resolutions were also accompanied by two reports from the Council of Experts (which were called for by the Security Council) and detailed the role that conflict resources

[21] See General Assembly, 2001, A/RES/55/56

[22] See Kimberly Process website, particularly the article explaining the background of the process, which was retrieved from http://www.kimberleyprocess.com/background/index_en.html

[23] See Blondel, Paul, & Scott, 2003 in and Yearsley, 2005

[24] See Security Council, 2006, S/RES/1653

played in civil wars in Cote d'Ivoire (2005) and the Democratic Republic of Congo (2006).[25] [26] Additionally, in 2006 the United Nations Office of the Special Adviser on Africa (OSAA) convened an Expert Group Meeting on "Natural Resources and Conflict in Africa: Transforming a Peace Liability into a Peace Asset" in Cairo, Egypt. The purpose of this meeting was to discuss improving the governance of natural resource management in post-conflict countries in Africa. In 2007, this issue was again discussed by the United Nations Security Council, which once again decided that poor management of high-value resources constituted a threat to peace. This issue was also reviewed in 2009 by the United Nations Environmental Programme, which released a report detailing the link between the environment, peacebuilding, and conflict.

Although these reports have been informative, little action has actually been conducted on the matter since the early 2000s. The Security Council has imposed several sanctions on states known to trade conflict resources, including Liberia, the Democratic Republic of Congo, Sierra Leone, and Côte d'Ivoire. However, these sanctions have only been somewhat effective. Although the trade of conflict resources has been diminished within these states, the illicit nature of the trade has incited smuggling operations through criminal organizations, which then, in turn, move these goods into neighboring countries. Sanctions and other measures must be increasingly sophisticated and multifaceted to affect those who

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[25] See Security Council, 2005, Report of the Panel of Experts on Cote d'Ivoire, retrieved from http://www.globalpolicy.org/security-council/dark-side-of-natural-resources/other-articles-analysis-and-general-debate.html

[26] See Security Council, 2007, Interim Report of the Group of Experts on the Democratic Republic of the Congo, retrieved from http://www.globalpolicy.org/security-council/dark-side-of-natural resources/other-articles-analysis-and-general-debate.html

[x] See Alley, 2003.

wage, fuel, and otherwise benefit from conflict.

In order to understand how to prevent the trade of conflict resources, it is important to understand what parties are involved, and these should be analyzed from the ground up. At the bottom of the chain lies the person actually mining and harvesting these natural resources. In most cases, these are impoverished citizens who have little access to education or other public services. These individuals are therefore prime targets for local predatory rebel-groups. They are either offered very low wages with no benefits or are sometimes kidnapped and used as forced labor. Many are forced to work in unsafe environments (particularly in the case of mining) and are seen as expendable labor. According to the *Pacific Ecologist,* often, despite promises from the larger corporations that they will "give back to the community," very little is done to stimulate the local economy or to improve the living situations of these individuals [x].

Further exacerbating the situation, children are often used in the process of harvesting these resources, either as child labor or as child soldiers conscripted into either the military or local rebel groups. These children are unable to go to school and are surrounded by dangerous conditions that include health hazards, over-exhaustion, malnutrition and in the case of the rebel groups, drugs and alcohol.

On the other side of the issue are the locals that comprise local militias. Unable to find jobs through legitimate means, or coerced by the militias, these young men join the vicious cycle of resource mining. Rebel groups terrorize and intimidate the locals on behalf of corporations or governments when people begin to question the status quo. These groups are corrupt and violent, and, through the illegal arms provided to them, become the *de facto* law of the land. If sanctions have been imposed on the resource being traded within a country, the state may even seek out these groups to ensure that the state can continue to profit. In

exchange for the resources, rebel groups often use profits from smuggling to finance conflict through the trade of weapons.

Often, due to sanctions or boycotts on resources in areas where conflict is occurring, the resources from one country will be transported or smuggled to another to make it appear as if they are coming from more legitimate sources.

The problem of the trade of conflict resources is multi-faceted and involves corrupt officials, states that contain the natural resources, and developed nations that encourage the trade of such resources. Many governments are unable to monitor the behavior of their own officials and employees. Smugglers and other armed forces often persuade licensing authorities, border control agents, or other customs officers to turn a blind eye or sign paperwork in exchange for large sums of money. During Sierra Leone's civil war in the 1990s, rebels would often directly exchange diamonds for arms from the military members they were fighting against.[27]

The actions of these corrupt government officials are often enabled by the instability of the state itself. These countries are often involved in conflict or post-conflict recovery, and either lack the resources, experience, or the management skills to implement a responsible, just, and economically productive system. When states lack the means to successfully operate resource harvesting, they sometimes decide to privatize the system with the hope that private groups will operate more efficiently. The problem with this is three-fold. When natural resources get privatized, access to them often becomes limited. This means only a small group of citizens will reap the benefits of the natural resources; this increases economic inequality, and the social benefits (such as job security, access to education and healthcare, and better living environments) that would have been given to the country or local

[27] See Harsch, 2007. Retrieved from http://www.un.org/ecosocdev/geninfo/afrec/vol20no4/204-conflict-resources.html#box

community are only given to a small elite group. This problem is often compounded by corruption, which often incentivizes government officials to privatize these resources so they benefit only friends and family of the officials. There is little to no oversight, which makes it difficult to track the resources or root out the officials taking bribes. Additionally, the actions of these private groups might also undermine any environmental initiatives the government hopes to undertake in an effort to make money.[28]

Finally, the recipient states must also take into account their role in funding conflicts. Often, foreign countries will hide their geopolitical and economic agenda under the auspices of wanting to restore peace and security to a developing country. However, this often results in a relationship of mutual economic gain for local elites and foreign powers. For example, the 1997 coup in Sierra Leone was prompted by Thai corporations and British security firm interests. Additionally, in the Democratic Republic of Congo, the French supported Mobutu forces allied with Rwanda Hutu militias to oppose Lawrence Kabila before he was assassinated.[29]

Additionally, foreign states have been criticized for failing to intervene in the dealings of certain corporations that are buying conflict resources. Following the release of a report from the panel of experts set up by the UN Security Council in June 2000, which investigated how the warring factions in the DRC were plundering gold, diamonds and metallic ore Coltan, the UK received criticism. This disapproval arose from the UK's reluctance to take action on

[28] For further details on the privatization of natural resources, see: United Nations Development Programme, United Nations Environment Programme, World Bank, World Resources Institute, 2003. Particularly Box 5.3: Privitization: Can the Private Sector Deliver Public Goods?, retrieved from http://archive.wri.org/page.cfm?id=1750&z=?

[29] See Alley, 2003.

the four companies that were named in the report, citing their decision not to go after these corporations.[30]

Finally, there are the corporations or the market for the conflict resources. These corporations' transgressions vary from exploiting the resources of the local communities for their own personal gain to crimes such as torture, sexual assault, or murder.[31] These transnational businesses often escape prosecution or international condemnation through networked firms, globally complex transactions, long supply chains, and teams of lawyers. They face little accountability for their role in contributing to and/or taking advantage of the conflict in these resource rich countries.

Several ideas have been put forth to encourage corporate responsibility. The NGO Global Witness has proposed making stricter international "prohibitions" that would make it illegal to contribute to the trafficking of these conflict resources or the fighting itself. Additionally, since 2002, a broad coalition of 300 civil society groups and NGOs has been putting forth an idea called Publish What You Pay (PWYP). PWYP was created to put pressure on multinational oil companies to operate more transparently by publicly revealing the details of their oil contracts in Africa and elsewhere. In theory, this should increase transparency and prevent corruption. Similar ideas have been put forth by the UK, who launched the Extractive Industries Transparency Initiative (EITI), which hopes to improve transparency and management in the oil, gas, and mining industries. Currently, more than 20 states — 14 of them in Africa — have joined the initiative.[32] Furthermore, the Kimberly Process Certification Scheme imposes strict requirements on its members to allow them to classify their diamonds as 'conflict-free' in addition to preventing conflict diamonds from

[30] See Redfern, 2004

[31] See Global Witness report "Simply Criminal," particularly the Executive Summary and Part 1

[32] See Endnote 15

entering the legitimate trade.

However, these ideas have been met with only limited success. For example, Sierra Leone managed to increase their diamond exports by $39.8 million from 1999 to 2005 due to an increase in miners engaging in the trade through legal and certified dealers. However, an estimated $30-160 million worth of diamonds are still smuggled out of Sierra Leone annually[33]. The other two initiatives share the same flaw, in that they are voluntary. Unfortunately, not all corporations are willing to become more transparent or to stop activities that may contribute to conflict, and thus the trade of conflict resources persists.

In addition to the human victims of the conflict resource trade, the unspoken victim is the environment. In order to profit from the conflict, various groups, the state, or corporations fail to take into account the harmful practices that occur when harvesting these materials, such as pollution of the air and water, destruction of crops, deforestation, and soil degradation. The UNEP details three types of impacts conflict can have on the environment—direct, indirect, and institutional.[34]

Direct impacts are those that are the result of wartime activity, such as the debris and chemicals emitted from bombs and landmines or the proliferation and disposal of arms during conflict. Sometimes, resources such as oil wells, water, and forests are direct targets of destruction. These actions may cause the physical destruction of ecosystems and wildlife or the release of hazardous substances into the natural environment during conflict.

Indirect effects involve the coping mechanisms of local and displaced people trying to deal with the socio-economic impact of conflict. These people often lack access to food and water, which causes them to destroy or use up natural resources in order to ensure their

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[33] See Endnote 15

[34] See Brown, Jensen, & Matthew, 2009, especially Section 3, "Impacts of conflict on natural resources and the environment"

immediate survival. Examples of this include people fleeing to refugee camps or a surplus of refugees moving into a neighboring area.

Conflict may also that interfere with state institutions, initiatives, and mechanisms of environmental policy coordination. This can then create situations in which poor management, lack of environmental investment, the collapse of positive environmental practices, illegal behavior, and corruption may occur. Investments that could have gone to protecting the environment are often diverted to fund the military, and the cheapest form of harvesting resources may be encouraged to raise money for the military instead of practices that might help the environment in the long run.

Additionally, conflict might erupt because of already occurring environmental problems, such as global warming, natural disasters, and resource scarcity. In the coming years, many experts speculate that resource wars will continue to compound the rate of conflict.[35] Safer and more sustainable environmental practices must be introduced to the peacebuilding and harvesting process if the global community is to prevent further conflict from breaking out in the future.

Questions for Consideration:

1) What definition should be used when determining what a "conflict resource" is? Does the UN need an official definition?
2) How can Member States more effectively implement changes to the sanctioning process in order to ensure a strategy that actually limits the trade of conflict resources?
3) How can the international community promote fair and legitimate trade while reducing the illicit trade of resources that fuel conflict? How do we create more stable governments that are better equipped to manage the trade of natural resources?
4) How can developed nations and developing nations work together to create a trade system that does not fuel conflict? How do we encourage more nations and corporations to participate in such initiatives?
5) How should the international community ensure an equitable distribution of wealth to all stakeholders, in particular local communities?
6) What degree of transparency should be given to the trade of resources in conflict areas?
7) How can the international community encourage transparency for all the participants in the chain of the trade of natural resources?

[35] See Klare, 2006

8) How big of a role should rooting out government corruption and promoting stable governments play in attempting to halt the trade of conflict resources?
9) What role should corporations play in stopping the trade of conflict resources?
10) How can we promote resource harvesting and trading that is more sustainable and environmentally friendly?

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INCORPORATING SUSTAINABLE DEVELOPMENT IN CREATING EFFECTIVE PEACEBUILDING STRATEGIES

By David Perry
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The journey toward developing an effective mechanism for ensuring global peace has been an arduous one. The Peacebuilding Commission (PBC) is the latest in a series of United Nations efforts to institutionalize the peace process before, during, and after the eruption of violent conflict. A common misconception about this process is the difference between peacekeeping and peacebuilding. While many use these terms synonymously, each describes a very different aspect of the United Nations' holistic approach to achieving lasting peace in war torn and post-conflict societies.

The first peacekeeping mission occurred in 1948, only three years after the founding of the United Nations. The concept of peacekeeping missions remains simple: the burden of maintaining international peace and security falls upon all Member States, thus, the contribution of both money and manpower must be collective. While it is the United Nations Security Council that establishes peacekeeping missions in various states, it is the DPKO that administers and coordinates these missions. Typically, these missions take place in states that have recently arranged a peace agreement, such as a cease-fire, in order to act as a buffer between the disputing parties and to ensure that conflict does not reoccur. Three principles guide all UN peacekeeping missions: consent of the involved parties, impartiality on behalf of the peacekeepers, and the non-use of force, except in self-defense and defense of the mandate that established the mission.

Peacebuilding and its strategies, not even a decade in use, represent the cutting edge of international stability management. Peacebuilding is the much longer process of aiding states to develop the infrastructure and institutions necessary to support themselves. Peacebuilders assist in the transition from conflict to peace in fragile states emerging from

conflict after they no longer need peacekeeping forces. The PBC coordinates the actions of actors relevant to the peace process, including international donors, international financial institutions, national governments and troop-contributing countries. The PBC also oversees the allocation of resources, as well as the collection, distribution, advisement and proposal of integrated strategies for post-conflict peacebuilding. It also oversees integrated strategies for recovery and isolating gaps which threaten to undermine peace in mission states. The Commission currently hosts operations in eight countries, including Burundi, Central African Republic, Comoros, Côte d'Ivoire, Guinea, Guinea Bissau, Liberia, and Nepal.[36]

The Peacebuilding Fund comprises another integral part of peacebuilding. General Assembly Resolution A/60/180 and Security Council Resolution S/Res/1645 2005 established the Peacebuilding Fund (PBF) in 2006. The resolutions designed the PBF to support several country situations simultaneously. The architecture of the PBF combines the scope of a global fund with the country-specific focus of a multi-donor trust fund. The allocation of the Peacebuilding Fund resources occurs on two levels. First, they disburse PBF funds to countries that meet the specific criteria for PBF support. Second, at the country level, a review by the recipient government and the ranking UN representative of program and project objectives approves the disbursal of funds to the mission.

The objective of the PBF is to accommodate the immediate needs of countries emerging from conflict at a time when sufficient resources are not available from other funding mechanisms. Additionally, the PBF supports interventions of direct and immediate relevance to the peacebuilding process and contributes toward addressing critical gaps in that process. The Fund helps to provide needed services in the very early stages of a peacebuilding process, before alternative funding mechanisms such as country-specific multi-

[36] The United Nations Peacebuilding Commission (www.un.org/peace/peacebuilding)

donor trust funds have been set up.[37]

Resource-based regional conflict has become more prevalent in recent years. One of the main sources of regional conflict, both today and in the past, is the scarcity of resources and their proximity to human populations intending to use them. The most common resources involved in these conflicts include water, arable land, and oil. When two or more actors claim the source of these commodities, or dispute the territory from which they are produced, conflict often arises between the actors to secure control of the resources. Additionally, resources that are vital to the national interest of a state in conflict may become the target of a neighboring aggressor state. The former, however, provides the clearest example of resource-related conflict as the aggression centers around procurement. On the other land, the latter utilizes a state's natural resources as a weapon in an otherwise unrelated conflict. However, when resources are targeted by an aggressor state, ownership of their source is not usually in question.[38]

Natural resources can often undermine the peace process. History has demonstrated how economic incentives related to the presence of valuable natural resources can hinder the resolution of conflict and complicate peace efforts. As the prospect of a peace agreement nears, individuals or splinter groups that stand to lose access to the revenues gained from resource exploitation can act to spoil peacemaking efforts. At the same time, natural resources can also undermine genuine political reintegration and reconciliation even after a peace agreement is in place, by providing economic incentives that reinforce political divisions.

Conflict can occur over the direct use of scarce resources including land, forests,

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[37] The United Nations Peacebuilding Fund (http://www.unpbf.org/index.shtml)

[38] From Conflict to Peacebuilding: The Role of Natural Resources and the Environment[38] (www.unep.org/pdf/pcdmb_policy_01.pdf)

water, and wildlife. These engagements ensue when the local demand for resources exceed the available supply or when one form of resource use places pressure on other uses. This results either from physical scarcity, or from governance and distribution factors. Demographic pressures and disasters such as drought and flooding often compound such situations. Unless local institutions or practices mitigate competing interests, these tensions can lead to forced migration or violent conflict at the local level.

Conflict over natural resources and the environment is largely the reflection of a failure of governance or a lack of capacity to manage resources within a country's political borders. As the demand for these resources continues to grow, the need for more effective investment in environmental and natural resource governance increases. Similarly, nations need the development and proliferation of technologies that increase the efficiency of resource gathering and use. They also must begin to include these technologies in development measures such as peacebuilding. [39]

Sustainable development comprises an important element of peacebuilding. Sustainable development is the practice of incorporating new strategies and technologies into the field of resource gathering and use. It aims to increase resource use efficiency in the present and foster long term sustainability of those resources. Sustainable development focuses on the nexus between environmental systems' carrying capacity and the multiple social challenges faced by humanity. Finding a balance between the needs of the present and those of the future can be difficult. However, the development of new technologies and the establishment of institutions that monitor resource collection help to provide much needed equilibrium in the area of resource procurement.[40]

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[39] From Conflict to Peacebuilding: The Role of Natural Resources and the Environment[39] (www.unep.org/pdf/pcdmb_policy_01.pdf)

[40] From Conflict to Peacebuilding: The Role of Natural Resources and the Environment[40]

The manner in which a society emerging from conflict utilizes the environment and resource base plays a vital role in supporting the livelihoods of its citizens, especially urban populations. Proper resource collection that factors in future use is essential to economic development and the eventual formation of civil society necessary to a stable democratic state. In nations emerging from conflict, access to clean water, sanitation, shelter, food and energy supplies represent the obstacles in need of the most immediate attention. If governments fail to respond to the environmental and natural resource needs of their citizens, or are unable to provide necessities such as potable water, waste elimination and energy, their ability to maintain peace and stability is severely compromised. However, overlooking the effect that providing these services has on the long term availability of states' natural resources can cause the factors initially responsible for conflict in the region to reemerge.

The United Nations Environment Program (UNEP), alongside the Security Council and the office of the Secretary-General, has spearheaded the push to incorporate the tenets and practices of sustainable development into peacebuilding strategies. The General Assembly established the Commission on Sustainable Development (CSD) in 1992 to ensure effective follow-up of the United Nations Conference on Environment and Development (UNCED), also known as the Earth Summit. The Division for Sustainable Development promotes sustainable development as the substantive secretariat to the CSD through technical cooperation and capacity-building at the international, regional, and national levels.[41]

In an attempt to reduce the undermining effects that natural resources can have on the peacebuilding process, UNEP conducts environmental assessments in fragile and post-conflict states. UNEP works directly with the PBC to analyze current and potential risk

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(www.unep.org/pdf/pcdmb_policy_01.pdf)

[41] Division for Sustainable Development[41]
(www.un.org/esa/dsd/index.shtml)

factors and to strengthen the environmental management capacity of national governments. This work is essential to relieving the stress caused by natural resources and environmental stressors, which can lead to conflict, while also using the environment "as a platform for dialogue, cooperation and confidence-building." Despite the best efforts of the organizations involved, they need additional funding and dynamic solutions to fully and effectively incorporate sustainable development practices and technologies into the existing peacebuilding framework.[42]

The Security Council passed several key documents on the topic of sustainable development and its vital relationship with the peace process. Among these documents is S/PRST/2007/22, titled "Maintenance of International Peace and Security: Natural Resources and Conflict." The document specifically acknowledges the crucial role that the Peacebuilding Commission plays in post-conflict situations and in assisting governments in ensuring that natural resources become an engine for sustainable development. S/PRST/2007/1, "Threats to International Peace and Security," references the importance of post-conflict peacebuilding to assist countries emerging from conflict in laying the foundation for sustainable peace and development.[43]

The office of the Secretary-General also released a number of statements and reports promoting further discussion and research into the relationship between sustainable development and peacebuilding. Two such examples are the Statement of the Secretary-General on the International Day for Preventing the Exploitation of the Environment in War and Armed Conflict (2008)and A/61/583,"Report of the Secretary-General's High-Level Panel on System-Wide Coherence: Delivering as One." [44]

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[42] The United Nations Environment Programme[42]
(www.unep.org/)

[43] United Nations Security Council
(http://www.un.org/Docs/sc/)

[44] Office of the UN Secretary General

One can find a case study[45] in the Democratic Republic of the Congo. Many call the forests of the Democratic Republic of the Congo the "world's second lung." In addition to logging, they provide many livelihood opportunities, including ecotourism, conservation, agriculture, and non-timber forest products such as foodstuffs, medicine, and cosmetics. If logging is not carried out in a manner that is sustainable and ensures that local populations benefit from the trade, deforestation and degradation could undermine these other livelihood options. In addition, soil erosion, increasing flood risk, and declining yields could lead to competition between groups with different livelihood strategies. The risk that armed groups will become involved in the timber and mineral trades, that revenues will be misappropriated, or that forest-dependent communities will be pushed off their land also present considerable threats to the peacebuilding process. The unrest in the Kivus, for example – the region that has been the epicenter of instability in the DRC for a decade – has been closely linked to land and livelihood conflicts between communities.

People often cite the absence of clear regulations, transparent systems, and law enforcement as important reasons for the lack of investment in the private forestry sector. Continuing insecurity and issues of infrastructure also hinder the development of an ecotourism industry. The government of the DRC and the international community have already taken measures to begin reforming the forest sector. In 2002, they announced a review of the logging concessions issued in the 1990s. The process began in 2005, and by 2007, 163 of 285 reviewed concessions (covering a total of 25.5 million hectares) had been rescinded. The conversion process suffered numerous delays and other problems, however, and has yet to be completed.

In addition, while a new forest code was adopted in 2002, they are not properly

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(http://www.un.org/sg/)

[45] From Conflict to Peacebuilding: The Role of Natural Resources and the Environment[45] (www.unep.org/pdf/pcdmb_policy_01.pdf)

implementing it. Only a handful of the accompanying decrees have officially been adopted. Major information gaps remain regarding the actual quality and current usage of forests, as well as other ecosystems, in the country. The authorities do not have the means or the capacity to exercise oversight of the sector, and this lack of control has left the door open to abuse, fraud, and illegal exploitation. The government will hence need continued support from the international community to monitor the environment, control natural resource extraction, and build governance and enforcement capacity.

Questions

1. What actors, groups, or organizations are needed to develop sustainable development strategies specific to the peace process? What mechanisms can they use to achieve their goals?
2. What tools can ECOSOC use to promote sustainable development in peacebuilding? What are some of the ECOSOC's limitations in this area?
3. What are some of the obstacles to the promotion of sustainable development practices? What are some of the solutions?
4. What conditions are necessary before sustainable development practices can take hold in a post-conflict state?

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(www.unep.org/)

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(www.un.org/esa/dsd/index.shtml)

From Conflict to Peacebuilding: The Role of Natural Resources and the Environment[48]
(www.unep.org/pdf/pcdmb_policy_01.pdf)

[46] See section on Resource Efficiency
[47] Also includes valuable information about the Commission for Sustainable Development (CSD)
[48] Look here for important documents as well as case studies

Determining the Best Practices for the Disposal of Nuclear Waste

By Pierre Anton B. Pecson
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The increased energy consumption, alongside its rising costs and the environmental consequences brought about by traditional sources, have propelled States to consider switching to alternative sources which, among others, include nuclear energy. Every year, 200,000 m^3 of low-level and intermediate-level waste, as well as 10,000 m^3 of high-level waste are generated from the production of nuclear energy. In its production, a little amount of uranium can generate an enormous amount of power; that said, there are relatively less wastes generated than the traditional sources, such as coal energy and other fossil fuel-based energy. Nonetheless, problems still arise regarding the proper storage and disposal of the residues due to its radioactive nature. In managing nuclear wastes, two interrelated concepts are often confounded: disposal and storage. In the IAEA Safety Standards on the Disposal of Nuclear Wastes, the differences between the two were delineated. Disposal is the emplacement of the wastes into an isolated location with natural barriers to ensure safety from possible hazard. In this method, the retrieval of the waste is not intended. Storage, on the other hand, is the placement of wastes in a facility that can be accessed in the future for its retrieval; hence, making the latter a temporary stage that will be eventually lead to disposal.

In addition to storage and disposal, pre-disposal management is a key process for the preparation of the wastes before undergoing final disposal. In this stage, various procedures conducted include waste characterization, reduction of the waste volume, form stabilization and proper conditioning for safe transportation. Since the IAEA views State's needs as a factor in developing Safety Standards, States have engaged in bilateral and multilateral capacity building

and technology sharing procedures, as not all countries have the adequate resources to improve their operations. By enhancing these technological capabilities, waste minimization is more achievable. For the final disposal stage, the waste management procedure depends on its classification of how much radioactivity the waste contains. The IAEA has established standards on every type of radioactive waste material. The Agency recommends near-surface disposal for low-level waste and geological disposal at varying depths with natural barriers for intermediate and high-level wastes. In spite of these preferred methods that are applied in several countries, further development must be done to attain full safety and security.

In addition to waste generated by nuclear energy, practices on the storage and disposal of nuclear warheads should not be ignored. Especially now that the New Strategic Arms Reduction Treaty (START) between the United States and the Russian Federation has been enforced, the problem with plutonium disposal has been a concern as warheads wait to be dismantled. For these weapons containing massive amounts of radioactivity, establishing suitable facilities for storage and disposal would be time-consuming and expensive. One of the dilemmas brought by weapons-grade plutonium disposal, aside from the effects on humans and the environment, is the pre-disposal and storage facilities that can be susceptible to terrorist attacks – a problem highlighted in Security Council resolution 1540 and IAEA's GOV/2006/46-GC(50)/13. Terrorist attacks are possible, seeing that terrorist networks have shown interest in acquiring highly-enriched plutonium. Since necessary disposal facilities for the nuclear warheads are still yet to be completed, nuclear waste is currently stored underwater or placed in secured containers, which are stored in concrete facilities that minimize potential radiation exposure. If not isolated, and without proper protection, such exposure can be detrimental to human beings and the environment. Furthermore, nuclear waste accumulation in storage facilities can also pose threats

to living organisms. If wastes remain stored for a long period of time, sites can be vulnerable due to possible degradation. Although storage can be safe as long as proper maintenance and surveillance is carried out, time and resources are needed that may be unavailable in some States. Without proper surveillance over these sites, these facilities are far more susceptible to terrorist attacks. Aside from the dangers associated with these wastes, a direct assault on the nuclear waste facility itself would be extremely disastrous.

Four types of nuclear wastes have been identified that correspond to different levels of radioactivity: exempt wastes (EW), low-level wastes (LLW), intermediate-level wastes (ILW), and high-level wastes (HLW). Exempt wastes have the least amount of radioactive materials, making it harmless for living organisms. In fact, the IAEA does not necessarily consider exempt wastes as radioactive. Wastes that are considered under this type commonly include debris from dismantled nuclear industrial sites, as well as chemicals and metals made of minerals that are naturally radioactive. The World Nuclear Organization expounded that these harmless wastes are disposed in domestic refuse, although States have been developing disposal facilities for this kind of residue. Accordingly, the IAEA claimed that the radioactive nature of exempt wastes is often disregarded in its disposal. On the other hand, materials with a little amount of radioactivity fall under low-level and intermediate-level wastes. The IAEA delineated the differences between the two; whereas low-level wastes do not require shielding in handling and transport, intermediate-level wastes may require shielding, although heat dissipation is sometimes not required. Wastes with this amount of radioactivity include those from nuclear fuel cycles, hospitals and industries, and other materials such as fabrics, filters and paper products. Low-level wastes constitute 90% of radioactive waste, although its radioactive content aggregates to only 1%. Nonetheless, to reduce its large volume, pre-disposal management for

this type includes compaction and incineration. The third type of nuclear waste is the intermediate-level waste containing higher amounts of radioactivity. It comprises a total of 7% of the entire radioactive wastes and contains 4% radioactivity. Hence, it requires nuclear shielding in certain cases. Intermediate-level wastes include contaminated materials generated from reactor decommissioning, metal fuel cladding, chemical sludge and resins. Materials small in size, as well as those that are non-solids, are sometimes solidified in concrete or bitumen before disposal. The IAEA usually considers low-level and intermediate-level wastes (LILW) as one despite their minute differences. It categorized two classifications under these types of wastes: the short-lived and the long-lived wastes. Short-lived LILW are disposed of in near-surface sites or geological disposal facilities, while long-lived LILW are disposed of in geological disposal facilities.

Ultimately, high-level wastes accumulate to approximately 95% of the radioactivity of the entire nuclear waste. This type of waste is generated from the burning of uranium fuels in nuclear reactors. It contains atomic fragments and transuranic elements from nuclear fission. High-level wastes need to undergo cooling processes, since it generates heat from radioactive decay, and continues to do so for a long period of time. Due to the immense amount of radioactivity, shielding is necessary in handling high-level wastes. Moreover, two specific sub-types of high-level wastes are distinguished: used fuel and separated waste from reprocessing the used fuel. The disposal of high-level wastes depends on its components, which are made up of both long-lived and short-lived radioactivity; however, the IAEA recommends disposal in geological disposal facilities.

As prescribed by the Agency, geological repositories are commonly utilized which ensure isolation of the radioactive residues from humans and other living organisms. As stated

previously, surface and near-surface disposal of wastes are usually used for low-level and immediate-level wastes. High-level wastes, on the other hand, are isolated and buried in deep underground facilities in order to allow radioactive decay. Currently, there are few repository facilities intended for the disposal of high-level wastes, one of which is the Waste Isolation Pilot Plant in the United States. For several States in the process of providing their own facilities for high-level wastes, a constant challenge encountered is the lack of public acceptance due to the dubious protection from the risks from this type of waste. Seeing the various treatments for the different types of nuclear wastes, some analysts have argued that this practice is, to some extent, impractical. That being said, there have been discussions and plans to consider alternative methods. In addition to deep sea and deep geological storage and disposal, nuclear waste recycling is another alternative. However, this is not currently feasible, as many countries do not have the facilities that are said to be expensive. Furthermore, a more farfetched idea has emerged – space disposal facilities, but in terms of practicality and economics, this proposal does not meet both standards.

The dangers of radioactive wastes were realized by the outcome of the Chernobyl incident in Pripyat, Ukraine. Despite promises of funding support and assistance from government officials, the problem of nuclear wastes from the disaster still persists today. After more than two decades, radioactive waste is still present in the area, causing health and environmental issues to nearby communities. After the explosion, approximately 5,000 people died due to the effects of radiation, whereas hundreds of thousands were indirectly affected. An immense amount of radioactive materials, including fission products and transuranic elements, were released into the air and into neighboring communities as the reactor of the Unit 4 of Chernobyl nuclear power station was destroyed. Because of the presence of radioactivity in the

atmosphere, a 30-kilometer radius around the plant was closed. Inhabitants from nearby communities had to immediately evacuate the contaminated vicinity to avoid exposure to the radioactive particles. The accident entailed crucial social and economic ramifications.

The IAEA has identified three major impacts brought about by the Chernobyl accident: physical impacts (health and environment), social impacts, and the influence on the international nuclear industry. As for physical impacts, the cloud of radionuclide released in the environment caused a significant increase in cases of thyroid cancer not only in Ukraine, but also in nearby countries such as Russia and Belarus. Furthermore, arable lands, forests, and bodies of water were heavily contaminated. The environmental effects were immense in Europe. Even now, large areas of land are still contaminated, and constant monitoring and treatment have been requied. On the other hand, mental health problems were also identified in members of populations that had first-hand experience with the widespread turmoil. Lastly, the severe damages caused by the accident raised doubts regarding the viability of nuclear safety, imperiling the reputation of the nuclear power industry.

The widespread effects of the explosion in Chernobyl have propelled the international community to further their efforts in the field of nuclear safety. The IAEA Safety Standards espouse a cooperative effort by the global community in safeguarding the people and the environment from the harmful effects of radiation. The mishap in Chernobyl elucidated the discrepancies of individual notions of safety standards and nuclear design, as well as the trans-boundary harms of nuclear accidents. Despite the highly undesirable challenges posed by this event, a positive effect still emerged – the international nuclear safety regime. Safety conventions, principles, standards, codes of conduct, assistance efforts, and peer reviews, among many others, have been catalyzed as a result of this disastrous incident. The importance of

international consensus was highlighted by the negative impacts caused by the lack of a global response to the effects of the tragedy. Despite assistance from other nations and international organizations, which did help alleviate the tragic situation, dissenting views caused many disruptions in creating a cohesive and immediate response from the international community.

The Radioactive Waste and Spent Fuel Management group within the International Atomic Energy Agency (IAEA) is the main body assigned to carry out tasks relating to the formulation of safety standards for the predisposal and disposal processes of nuclear wastes, and for the provision of guidance to Member States in implementing these standards. To ensure the participation and the commitment of the international community in dealing, the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management was created, which catalyzed the succeeding developments in nuclear waste management at the international level. In addition, several other international instruments were created on this topic. The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters of June 1974 aimed to control marine pollution from dumping wastes, including the ban on low-level radioactive wastes into the ocean. The 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter was later established. On the other hand, the Code of Practice on the International Trans-boundary Movement of Radioactive Waste of November 1990 reinforced the safety and security of trans-boundary transportation of nuclear wastes to ensure human and environmental protection. Furthermore, the Measures to Strengthen International Co-operation in Nuclear, Radiation and Waste Safety conference of August 2000 presented a variety of measures to strengthen international cooperation in nuclear waste management.

The Agency's action plans were progressed through a series of conferences; among these are the International Conference on Issues and Trends in Radioactive Waste Management in Vienna in December 2002; the International Conference on the Disposal of Low Activity Radioactive Waste in Cordoba on December 2004; the International Conference on the Safety of Radioactive Waste Disposal in Japan on October 2005; and the most recent, the International Conference on Management of Spent Fuel from Nuclear Power Reactors in June 2010. Furthermore, to standardize these practices, the Agency provides globally recognized IAEA Safety Standards Series comprised of Safety Fundamentals, Safety Requirements and Safety Guidelines to establish specific measures for protection against radioactive materials, including radioactive wastes. On the IAEA Safety Standards on the Disposal of Nuclear Wastes, different options are available to cater to the respective needs of the State. Since the Agency accounts for every Member State's need, the Radiation and Waste Safety Infrastructure Profiles (RaWaSips) was created specifically for a State-focused effort to analyze a country's safety regime and assess its conformity with the Agency's Safety Standards.

Various United Nations instruments have been created on the subject of waste management, including those of existing UN resolutions. Among these resolutions is A/RES/S-19/2 of the General Assembly, for the further implementation of Agenda 21. In this resolution, several recommendations were made. Among these are (1) the disposal of radioactive wastes must adhere to the principles espoused in the Rio Declaration on Environment and Development, and Agenda 21; (2) technical assistance should be provided for developing countries to allow them to develop mechanisms for disposal of radioactive wastes; (3) radioactive wastes should be disposed of in the territory of the State responsible for their generation while conforming to the safety management of such waste; (4) the international community should prohibit the transport

of radioactive wastes to countries with inadequate facilities for the management of such waste, among others. Through A/RES/62/34, the General Assembly elucidated on the issue on the prohibition of the dumping of nuclear wastes, with the provision calling upon states "to take appropriate measures with a view to preventing any dumping of nuclear or radioactive wastes that would infringe upon the sovereignty of States". In addition, the issue of waste management was recently brought up in E/CN.17/2010/14 by the UN Department for Sustainable Development in February 2010.

The Bamako Convention, the Waigani Convention and the Fourth ACP-EEC Convention (Lome Convention) also tackled the problem of radioactive wastes by prohibiting the import of radioactive wastes in their respective regions and the illegalization of waste dumping, especially in bodies of water. Furthermore, Chapters 1 and 2 of the United Nations Environment Programme's Agenda 21 also includes the sound management of radioactive wastes. In addition, UNEP expressed its support for the IAEA in formulating radioactive waste safety guidelines and codes of practice in accordance with environmental protection. Seeing these various initiatives aimed to enhance the management and safety measures of the disposal of radioactive wastes, additional restrictions have been established as these should conform to the safety and protection standards.

In the development of the disposal for nuclear wastes, the IAEA has established a set of principles that should be taken into consideration in waste management: (1) protection of human health, (2) protection of the environment, (3) protection beyond national borders, (4) protection of future generations, (5) burdens on future generations, (6) national legal framework, (7) control of radioactive waste generation, (8) radioactive waste generation and management interdependencies and (9) safety of facilities. Accordingly, the Joint Convention on the Safety of

Spent Fuel Management and the Safety of Radioactive Waste Management mentioned a series of steps that states must observe to ascertain the safety from radiological hazards:

(i) ensure that criticality and removal of residual heat generated during spent fuel management are adequately addressed;

(ii) ensure that the generation of radioactive waste associated with spent fuel management is kept to the minimum practicable, consistent with the type of fuel cycle policy adopted;

(iii) take into account interdependencies among the different steps in spent fuel management;

(iv) provide for effective protection of individuals, society and the environment, by applying at the national level suitable protective methods as approved by the regulatory body, in the framework of its national legislation which has due regard to internationally endorsed criteria and standards;

(v) take into account the biological, chemical and other hazards that may be associated with spent fuel management;

(vi) strive to avoid actions that impose reasonably predictable impacts on future generations greater than those permitted for the current generation;

(vii) aim to avoid imposing undue burdens on future generations.

These abovementioned requirements are merely some of the Agency's fundamental requirements on radioactive waste disposal. In the document "Disposal of Radioactive Waste: Specific Safety Requirements", the Agency laid out several other criteria for the proper management of radioactive wastes.

Currently, all actions on the disposal of radioactive wastes remain national, as there is no international market for spent fuel disposal services. For countries that are operating multiple nuclear power plants, their own national solutions are given priority, whereas States that have smaller programs must be open for national, regional and international approaches. However, the need for a multinational approach in the disposal of nuclear wastes is given emphasis by the former Director-General of the IAEA Dr. Mohamed El-Baradei during his speech to the UN General Assembly, stating that:

> We should ... consider multinational approaches to the management and disposal of spent fuel and radioactive waste. Over 50 countries currently have spent fuel stored in temporary locations, awaiting reprocessing or disposal. Not all countries have the appropriate geological conditions for such disposal - and, for many countries with small nuclear programs, the financial and human resources required for the construction and operation of a geological disposal facility are daunting.

This multinational approach catalyzed the emergence of proposals and bodies dedicated for international nuclear waste repository sites, some of which have received mixed reception from the international community. Some of these are the Pangea proposal, the SAPIERR Pilot Project for European Regional Repositories and the creation of the Association for Regional and International Underground Storage and the European Repository Development Organisation. There have been claims that such international repository facilities pose several disadvantages with regards to the reduction of proliferation, the environmental protection and safeguarding waste from terrorist strikes. On the other hand, the article of Dr. El-Baradei[i], as well as the waste

[i] Available at http://www.economist.com/node/2137602

management and disposal report of the IAEA-sponsored International Nuclear Fuel Cycle Evaluation (INFCE), elucidated the advantages of multinational approaches to this issue, as they explained that these international repository sites will be more economical, safer, more secure and will have non-proliferation benefits.

Questions to Consider:

In determining the best method for nuclear waste management, consider these questions:

1. Does nuclear waste management secure an acceptable level of protection against affects to human health and the environment?
2. How does your country manage the disposal, not only of nuclear energy, but also of nuclear warheads? How should the international community monitor this disposal?
3. How does the practice mitigate the potential release of radionuclides across national borders?
4. Does the time-scale of this practice ensure the protection of future generations? How?
5. Do waste management procedures take overall national radioactive waste management strategies into account?
6. How can each generation of radioactive wastes be kept to a minimum?
7. Will the best practices be applicable to developing states? If not, in what ways can they be assisted so that their participation in nuclear waste management is ensured?

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Countering the Illicit Trade of Nuclear Materials

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Since the early 1990s, there have been numerous reports of illicit trade and trafficking in many types of nuclear materials worldwide. The illicit trade of nuclear materials poses a very serious threat to the safety and security of the international community as it allows not only states, but also terrorist organizations to acquire nuclear materials that permit them to create underground operations to develop nuclear weapons. These include nuclear source material, such as natural uranium, depleted uranium, plutonium, thorium, and uranium enriched in the isotopes U-233 and U-235. The international community considers plutonium and highly enriched uranium (HEU) as the greatest proliferation risks because they are used to produce nuclear weapons or weapons of mass destruction.[1]

The case of illicit trade of such materials is a crucial issue because it is associated with numerous aspects from actual deals to physical movement or trafficking. From 1993 up to 2006, the Illicit Trafficking Database (ITDB) of the United Nations (UN) under the facility of the International Atomic Energy Agency (IAEA) reported that there were already 1005 cases involving illicit trafficking, illegal possession, and movement of nuclear materials, as well as illegal attempts to trade these materials.[2] In December of 2009, these figures grew immensely as the ITDB reported 1721 incidents and cases. Three-hundred and fifty-one of these cases are incidents of criminal activity related to the unauthorized possession of nuclear material, fifteen of which involved highly enriched uranium and plutonium, 500 incidents were reported involving theft or loss of nuclear and other radioactive materials and an additional 870 incidents include other unauthorized activities such as the improper disposal of nuclear or radioactive material and the discovery of uncontrolled sources.[3]

The ITDB also reported these increasingly disturbing details to the international community to draw attention to the fact that these nuclear and radioactive materials are readily available from rogue states, corporations that engage in the trade of these materials, nuclear scientists, and other underground vendors looking to make extra profits. On the other hand, keeping in mind that the illicit trafficking of radioactive materials can be a further threat to the security of nations, states must impose strategies that safeguard these materials. They need to apply counterterrorism strategies to mitigate the chances of terrorist groups and other illicit organizations from acquiring and utilizing these materials.

In 1968, the international community created the Non-Proliferation Treaty (NPT) of Nuclear Weapons, which laid out security measures as well as inducements to limit proliferation. This treaty proscribed the transfer of nuclear weapons technology from a Nuclear Weapon State (NWS) - namely China, France, Russia, United States and United Kingdom - to a Non-Nuclear Weapon State (NNWS)[4] as stated under Articles I and II. Furthermore, it limits proliferation by requiring all NNWS to undergo mandatory inspections of their nuclear facilities and submit reports to the IAEA to ensure transparency in all nuclear activities specified under Article III.[5] Under Article VI, the NPT calls for the state parties to work towards a cessation of the nuclear arms race and disarmament.[6] Although the treaty has banned the transfer of nuclear weapons, it also guaranteed any states the right to develop, research, and use nuclear energy for "peaceful purposes" under Article IV.[7] The NPT also has periodic reviews of its implementation every five years by the UN General Assembly (First Committee), the body to which the IAEA reports yearly, that regularly assesses the development made towards the fulfilment of the results of review conferences of the NPT.[8] The NPT generally assures and affirms the principle of non-

proliferation, thus reducing occurrences of illegal trade and trafficking of nuclear and other radioactive materials.

Aside from the NPT, another body that works to bring the illicit trade of nuclear materials to an end is the IAEA, which the UN General Assembly established in 1957 through the 1954 resolution [810 A (IX)].[9] The overarching goal of the IAEA is to ensure that atomic energy is used for peaceful purposes. It guarantees the administration of safeguard arrangements to provide assurance to the international community that individual countries' commitments are met under the treaty, and most especially the NPT. The IAEA operates under three main principles: safety and security, science and technology, and safeguards and verification. The IAEA is directly involved in the protection of nuclear materials from illicit trafficking, the protection of nuclear facilities, and the implementation of safeguards agreements.

In 1980, the IAEA created the Convention on the Physical Protection of Nuclear Materials.[10] This convention was the first and only legally binding convention that provided a set of standards to protect nuclear material while being stored, utilized, or transported. Furthermore, it established measures to prevent, detect, and punish offenses relating to the exploitation of nuclear material. In 2005, however, they amended it to strengthen its provisions; the present convention makes it mandatory for parties to the agreement to protect nuclear facilities and material during its utilization, storage and transport.[11] It also encouraged cooperation among its parties to locate and recover stolen or smuggled radioactive materials and prevent and combat related cases.

In addition to the Convention on the Physical Protection of Nuclear Materials, the IAEA also created the Convention on Nuclear Safety in 1994, which set benchmarks for safety standards for land-based nuclear power plants.[12] The goal of this is to ensure that nuclear power

plants operate with the utmost safety by making parties comply with the principles of "Safety of Nuclear Installations." This involves standards in sitting, design, construction, operation, the availability of adequate financial and human resources, the assessment and verification of safety, quality assurance, and emergency preparedness. In 1987, for the proper handling and disposal of nuclear and radioactive materials, they established the Waste Management Advisory Program (WAMAP). It formulated the standards and regulations of movement of nuclear and radioactive waste, including its safe storage and disposal.[13] In 1997, the IAEA adopted the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, which was the first international Convention that established norms for the safe storage and disposal of nuclear and radioactive waste during the construction, operation, and closure of a nuclear facility.[14]

Aside from adopting conventions and making sure that provisions of the NPT and other treaties are met by the states, the IAEA is obliged to inspect and monitor the activities of the parties of the NPT to determine if nuclear materials and technologies are utilized for peaceful ends, as stated under Article III of the NPT. Thus, the IAEA relies on safeguards or safeguard agreements. These safeguards are activities by which the IAEA can verify that a state is living up to its international commitments and will not use nuclear programs for nuclear-weapons purposes. The IAEA's safeguards system functions as a confidence-building measure, an early warning mechanism, and the trigger that sets in motion other responses by the international community if and when the need arises. These measures aim to increase the likelihood of detecting a surreptitious nuclear weapons program and to build confidence that states are abiding by their international commitments.

Today, the IAEA has agreements with over 140 countries worldwide. There are three main types of safeguard agreements. [15] The first type is the comprehensive safeguard agreements, which gives authority to IAEA to inspect and monitor parties to the NPT. It also mandates states to declare all of their nuclear-related activities, and to aid the IAEA in verifying that these reports are credible. They have developed the Additional Protocol which expands the rights of the IAEA to access information and sites. The second type of safeguard is the item-specific safeguards; this safeguard covers only definite areas of nuclear activities of a state. Currently, the IAEA has item-specific safeguard agreements with three states: India, Israel and Pakistan, all of which are States that have not signed on to the NPT. The third type of safeguard agreement is called a voluntary offer agreement. The IAEA and NWS execute these agreements.

In addition to the NPT and the IAEA, there are other international legal instruments and arrangements that are relevant for the detection of criminal or unauthorized acts involving nuclear and other radioactive material. One example is the Zangger Committee Guidelines that developed a list of material and equipment that would 'trigger' the application of IAEA safeguards[16] if materials on the list were ever transferred without proper authorization. Another mechanism is the Nuclear Suppliers' Group Guidelines, the purpose of which was to encompass some supplier states not party to the NPT and to adopt controls going beyond the scope of material and items covered under Article III of the NPT.[17] The Guidelines require formal government assurances from recipients that exported material will not be diverted to an unsafeguarded nuclear fuel cycle or explosive activities. Furthermore, it also establishes requirements on the physical protection and transfer of nuclear technologies. Some regions also set nuclear non-proliferation agreements and arms control treaties, which include the Tlatelolco Treaty (1968), Rarotonga Treaty (1986), Bangkok Treaty (1992) and Pelindaba Treaty (1996).[18]

In 2004, the UN Security Council adopted Resolution 1540 pursuant of Chapter VII of the United Nations Charter. This resolution imposes binding obligations on all states to establish domestic controls to prevent the proliferation of nuclear, chemical, biological weapons, and their means of delivery, including establishing appropriate controls over related materials as well as establishing a committee for the implementation of the resolution (the 1540 Committee).[19] After two years, it established Resolution 1673 which reiterates the objectives of the previous resolution. In 2008, the UN Security Council adopted Resolution 1810 that urged the 1540 Committee to continue strengthening its role in facilitating technical assistance, including engaging actively in matching offers and requests for assistance, thereby confirming its clearinghouse function. It also requested the 1540 Committee to do a comprehensive review on the implementation of the resolutions.

One of the most serious threats the international community faces today is nuclear terrorism. The International Convention for the Suppression of Acts of Nuclear Terrorism of 2005 defines an act of nuclear terrorism as an offense in which a person unlawfully possesses radioactive material with the intent of causing either bodily harm or substantial physical damage.[20] It can also be categorized as nuclear terrorism if a person uses any device or material to attack a nuclear facility with the intention of acquiring radioactive materials for the purpose of causing bodily harm or physical damage. While there are existing measures on states' nuclear related activities, another problem that arises is the acquisition of nuclear or radioactive materials by third parties such as terrorist organizations. These materials that might have been acquired through various illicit trades, trafficking of nuclear resources, and equipment cartels can be used in various nuclear attacks. Aside from creating ways to properly handle, transport, dispose of, and implement safeguards, it is imperative to secure nuclear materials and technologies from

terrorists by increasing defense and security systems and law enforcement. During the 62nd Session of the UN-GA First Committee, A/RES/62/33 encouraged states to strengthen national efforts to prevent terrorists from acquiring weapons of mass destruction and their delivery systems and called for ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism.[21] Likewise, A/RES/62/46 also encouraged states to improve domestic security measures, including securing nuclear facilities and the physical protection of nuclear materials through implementation and adherence to the standards previously set.[22]

Addressing nuclear terrorism is not just addressing terrorism alone but also includes illicit trafficking, trade, and proliferation of nuclear materials. The illicit trade of nuclear materials has occurred in numerous situations. As long as nuclear materials go unaccounted for, the threat that these destructive and dangerous forces poses to civilian life is immense. The international community must therefore take immediate action before further proliferation and before terrorist organizations advance their interests.

Questions for Consideration:

1. In what ways can the IAEA strengthen its safeguard agreements with states to combat the illicit trade of nuclear materials and diminish the growing number of cases reported by the ITDB?
2. How can safeguard agreements of the IAEA be improved to increase transparency of states' nuclear supply and ensure that these are used in "peaceful means"?
3. Should the international community focus on the capacity to use and develop states with nuclear materials that may serve as a threat to states that do not have nuclear power? Or should it focus on the tracking down of terrorist organizations and their illicit nuclear operations?
4. How can states improve their security and intelligence systems to combat the underground market of radioactive materials?
5. What local actions does your state want to introduce to the international community to resolve the problem of trade of nuclear materials and nuclear terrorism?
6. In what ways can the recent conclusions of the 2010 review of the NPT be useful in combating the illicit trade of nuclear materials?

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[11] Inventory of International Non-proliferation Organizations and Regimes- Center for Non-proliferation Studies. (2011). **Convention on the Physical Protection of Nuclear Materials**. Retrieved August 17, 2011 from http://www.nti.org/e_research/official_docs/inventory/pdfs/cppnm.pdf

[12] Inventory of International Non-proliferation Organizations and Regimes- Center for Non-proliferation Studies. (2011). **Convention on Nuclear Safety**. Retrieved August 17, 2011 from http://www.nti.org/e_research/official_docs/inventory/pdfs/safety.pdf

[13] Thomas, K. T. (1990). **Waste Management Advisory Missions to Developing States**. IAEA Bulletin, 4/1990. Retrieved August 17, 2011 from http://www.iaea.org/Publications/Magazines/Bulletin/Bull324/32402643234.pdf

[14] Inventory of International Non-proliferation Organizations and Regimes- Center for Non-proliferation Studies. (2011). **The Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management**. Retrieved August 23, 2011 from http://www.nti.org/e_research/official_docs/inventory/pdfs/sptfuel.pdf

[15] Bunn, G. (2007). **Nuclear Safeguards: How Far Can Inspectors Go?** IAEA Bulletin, 48/2. Retrieved August 23, 2011 from http://www.iaea.org/OurWork/SV/Safeguards/documents/safeg_system.pdf

[16] IAEA. (2007). **Combating Illicit Trafficking in Nuclear and other Radioactive Material.** Retrieved September 20, 2011 from http://www-pub.iaea.org/MTCD/publications/PDF/pub1309_web.pdf

[17] IAEA. (2007). **Combating Illicit Trafficking in Nuclear and other Radioactive Material.** Retrieved September 20, 2011 from http://www-pub.iaea.org/MTCD/publications/PDF/pub1309_web.pdf

[18] IAEA. (2007). **Combating Illicit Trafficking in Nuclear and other Radioactive Material.** Retrieved September 20, 2011 from http://www-pub.iaea.org/MTCD/publications/PDF/pub1309_web.pdf

[19] **United Nations 1540 Committee Online Portal**. (2007). Date Accessed September 27, 2011 http://www.un.org/sc/1540/

[20] United Nations General Assembly 60th Session. (2005). **International Convention for the Suppression of Acts of Nuclear Terrorism**, Article 2. Retrieved August 24, 2011 from http://treaties.un.org/doc/db/Terrorism/english-18-15.pdf

[21] United Nations General Assembly 62nd Session. (2008). **Measures to Prevent Terrorist from Acquiring Weapons of Mass Destruction (A/Res/62/33)**. Retrieved August 24, 2011 from http://daccess-ddsny.un.org/doc/UNDOC/GEN/N07/465/75/PDF/N0746575.pdf?OpenElement

[22] United Nations General Assembly 62nd Session. (2008). **Preventing the Acquisition by Terrorist of Radioactive Materials and Sources (A/Res/62/46)**. Retrieved August 24, 2011from http://daccessddsny.un.org/doc/UNDOC/GEN/N07/465/75/PDF/N0746575.pdf?OpenElement

Water and Nuclear Technologies
The International Atomic Energy Agency
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The United Nations General Assembly adopted Resolution 64/292 in July of 2010 in recognition of "the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights." Furthermore, this resolution urged the international community to "scale up efforts to provide safe, clean, accessible and affordable drinking water and sanitation for all." Covering 71 percent of the Earth's surface, water is the most precious resource available, essential for all known forms of life.[ii] While merely 2.5 percent of this resource is fresh water, an estimated 98.7 percent of this can be found in underground aquifers, glaciers, and ice caps,[iii] leaving a small amount of easily accessible surface water. Even this has been limited in recent years due to environmental degradation and climate change. Furthermore, groundwater pollution and melting ice shelves, among other issues, have and continue to limit fresh water resources. Without adequate access to this resource, the international community is likely to face exorbitant humanitarian disasters, from widespread dehydration or diseases from unsanitary water to international conflicts over the limited water resources themselves.

As populations continue to grow, the demand for fresh water grows with it. As stated by former International Atomic Energy Agency Director General Mohamed ElBaradei, "There is a dwindling amount of surface water. One billion people have no access to safe drinking water." [iv] This issue is further compounded by water sources that lie between or through multiple nation states, threatening the stability of water availability for future generations; as stated in an IAEA

[ii] https://www.cia.gov/library/publications/the-world-factbook/geos/xx.html#Geo
[iii] http://ga.water.usgs.gov/edu/earthwherewater.html
[iv] http://www.iaea.org/newscenter/multimedia/videos/isotopehydrology/index.html

report on isotope hydrology, "Given that fresh water sources are very often shared by more than one country within a region, international and national action at all levels will be needed to improve access in those regions lacking water and to improve the efficient use in those regions that have water today…"[4] North Africa, South America, and Asia are three regions in particular that are experiencing this scarcity, an issue that has been taken into great consideration by the IAEA.[v] The IAEA, through the use of nuclear technologies, has been diligently working to manage this precious resource in order to maintain environmental stability and regional peace. Among the techniques employed by the IAEA are water desalination using nuclear energy and isotope hydrology, a technique measuring radioactive isotopes to analyze groundwater safety, recharge, and sustainability.

The Hydrologic Cycle

Any effort to manage water resources relies on a firm understanding of the Earth's hydrologic cycle, otherwise known as the water cycle. Liquid water (from oceans, lakes, rivers, plants, etc.) evaporates and condenses into the Earth's atmosphere. From there, the water vapor precipitates, forming rain or snow. Rain and snow runoff proceeds to form rivers, streams, lakes, and aquifers. From there, the water either evaporates again or finds its way back to the ocean to renew the process. Surface water reservoirs (rivers, streams, lakes), though common, only amount to approximately 1.3 percent of known freshwater resources. The water runoff that descends beneath the Earth's surface into underground aquifers is referred to as groundwater (amounting to 30.1 percent of freshwater resources). The rest (approximately 68.8 percent) is locked in glaciers and ice caps.[vi] Because such a substantial amount of water is unavailable for human consumption, groundwater is an increasingly important source of water resources around

[v] Managing Water Resources using Isotope Hydrology. IAEA. http://www.iaea.org/Publications/Factsheets/English/water.pdf
[vi] The Water Cycle-Water Science for Schools. 2011. *USGS,* http://ga.water.usgs.gov/edu/watercycle.html

the world. Groundwater remains in aquifers until it finds its way back to the surface after being pumped out through wells or traveling (underground) to oceans, lakes, or streams. Cycling beneath the Earth, most groundwater sources recharge as water finds its way back underground. [5]

Nuclear Desalination

As the demand for potable water increases by the day, new developments are being explored to increase the availability of fresh water for human consumption. Projections made by the IAEA indicate substantial increases in worldwide demand for water resources, demand that must be met with alternative means.[vii] Thus, desalination techniques have been explored throughout the years. In 1997, the IAEA launched The International Desalination Advisory Group to guide the agency towards the best practices in expanding the use of nuclear technologies with desalination plants.[viii] Under this guidance, nuclear desalination has gained significant traction in recent years as a cost-effective and environmentally sustainable system that can rival fossil fueled reverse osmosis and water desalination.[ix] As the use of nuclear technologies expands throughout the world, the possibility for widespread access to fresh water by using small and medium sized nuclear reactors has become a tenable solution to the issue of freshwater accessibility.

There are two major forms of water desalination available for practical application: membrane based processes that require only electricity and distillation processes that require both electricity and heat.[x] Reverse osmosis involves filtering water through a semi-permeable membrane, separating the salt from the water molecules.[xi] Distillation, also known as the

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[vii] Economics of Nuclear Desalination. 2007. *IAEA* http://www-pub.iaea.org/MTCD/publications/PDF/te_1561_web.pdf.

[viii] Environmental Impact Assessment of Nuclear Desalination. IAEA. http://www-pub.iaea.org/MTCD/publications/PDF/te_1642_web.pdf

[ix] http://www.sciencedaily.com/releases/2011/05/110512082949.htm

[x] http://www.iaea.org/About/Policy/GC/GC48/Documents/gc48inf-4_ftn10.pdf

[xi] Dove, Laurie L.. "How Desalination Works" 30 June 2010. HowStuffWorks.com. <http://science.howstuffworks.com/environmental/earth/oceanography/desalination.htm> 02 January 2012.

"multistage flash" method, involves heating water to a boil in order to separate it from the salt molecules.[8] This process requires substantial external energy to heat and boil the water, energy that was traditionally supplied by fossil fuels. However, wary of the growing impact that fossil fuels have upon climate change, the international community has begun to use nuclear power to fuel these reactors. As noted by the IAEA, "There are no specific nuclear reactors for desalination…Any reactors capable of providing electrical and/or thermal energy can be coupled to an appropriate desalination process." Furthermore, "Many developing countries may face both power and water shortages. In this case, IAEA studies have shown that the small and medium sized reactors (SMRs)…could be the most appropriate nuclear desalination systems."[xii] Furthermore, as noted by Misra and Kupitz, (2004), nuclear power plants themselves have the capacity to both provide electricity and desalinate seawater.[xiii] These recent developments highlight the important role that nuclear technologies can play in water resource management.

Despite the many benefits associated with water desalination using nuclear power, there exist many issues surrounding its application. Nuclear desalination has been used to meet freshwater demand in large metropolitan areas ranging from California (San Luis Opispo), Kazakhstan (Aktu), and India (Kalpakkam, Trombay), to Japan (Fukui, and Fukuoko).[7]

However, many issues surround the widespread application of this nuclear technology. Aside from necessary public acceptance, the costs of infrastructures, and the dangers associated with nuclear accidents—highlighted by the March 2011 nuclear incident of Fukushima, Japan—there exist numerous challenges in widespread application of nuclear technologies in water

[xii] "Status of Nuclear Desalination in IAEA Member States." 2007. *IAEA*. http://www-pub.iaea.org/mtcd/publications/pdf/te_1524_web.pdf

[xiii] Misra, B. M., Kupitz, J. 2004. "The role of nuclear desalination in meeting the potable water needs in water scarce areas in the next decades." *International Atomic Energy Agency.*

desalination.[7] Nonetheless, nuclear desalination remains a credible and applicable solution to water desalination.

Isotope Hydrology

Since the IAEA's founding in 1958, isotope hydrology has been a major part of the body's research and coordination, and stands as a prime example of a peaceful use of atomic energy.[xiv] As stated by former IAEA Director General Mohamed ElBaradei, "Climate change and global warming has a negative impact on the availability of surface water…Through isotope hydrology, we are trying to understand the processes of interaction between water and climate change." [3]Each year, the IAEA allocates approximately $3 million to its Water Resource Program and an additional $30 million to the 150 projects in 60 countries that use isotope hydrology, training and working with local scientists to determine the most appropriate water resource management techniques for a given region. Isotope hydrology involves measuring radioactive isotopes within a body of water—typically groundwater—for hydrologic analysis.

Water undergoes changes in its composition throughout its period of evaporation, leaving behind a unique fingerprint that can be observed with sophisticated technology.[xv] This unique fingerprint, the particular concentration of isotopes, is central to the process of isotope hydrology. Isotopes are versions of elements that have a different number of neutrons within their nucleus. For instance, water contains both hydrogen and oxygen (H_20). Hydrogen normally contains one proton within its nucleus (^1H). However, sometimes a hydrogen isotope with *one proton* and *one neutron* will also form, creating a *stable* Deuterium (2H). Isotopes of oxygen are also observed. However, a hydrogen isotope containing *one proton* and *two neutrons* will create Tritium (^3T), an unstable isotope or radioactive isotope, as it does not contain equal

[xiv]Klaus, F. Isotope Hydrology at IAEA: History and Activities. *The Basis of Civilization: Water Science.* Rome, 2003, 125-132.
[xv] http://www.iaea.org/Publications/Booklets/Isotopes/one.html

numbers of protons and neutrons (*one proton to two neutrons*).[xvi] The most common oxygen isotope is (^{16}O), containing eight protons and eight neutrons. This, along with the extremely rare (^{18}O), does not produce radioactive energy, as it is stable. Through isotope hydrology, the IAEA focuses its efforts on radioactive isotopes found within water sources. Radioactive isotopes play an important role in the identification of groundwater recharge and the sources of groundwater pollution (discussed below).

Because different isotopes contain different numbers of neutrons in their nucleus, some isotopes are heavier than others. For example, we know that H_2O_{16} is lighter than H_20_{18} as the former contains fewer neutrons than the latter. Using *mass spectronomy*, nuclear scientists are able to determine the differences between these chemically similar but physically different isotopes. Thus, researchers can track a given sequence of isotopes to its source to determine the safety, sustainability, age, and origin of that body of water. The IAEA has found through its Water Mapping Project "…that aquifer systems are often linked to daily rainwater." [3] Moving within the water cycle, these isotopes are separated during evaporation, and precipitation.

The IAEA works to understand the composition of isotopes within a body of water, particularly groundwater. As water moves through the hydrologic cycle, these radioactive isotopes find their way into aquifers, and thus underground aquifers. The concentration of radioactive isotopes in a given body of water indicates the degree to which it has been circulating throughout the water cycle. This information can also be used to determine the age of water within an aquifer—whether that source has been recently replenished by rainwater or whether it is old, fossil water. The difference between the two is significant. A region that pumps groundwater from a replenishing aquifer can, through water resource management, have a long-

[xvi] http://www.isgs.uiuc.edu/research/geochemistry/isotope-topic-what.shtml

lasting sustainable source of water that will naturally recharge. However, a region that pumps groundwater from an aquifer containing fossil water may find that the water will run out, as it is not replenished by rain or snow runoff. By measuring the chemical makeup of each water source and analyzing the concentration of radioactive to non-radioactive isotopes, the IAEA can inform local policymakers about the groundwater resources available, and encourage its sustainability.

Because radioactive isotopes decay over time, the naturally replenishing aquifers will indicate a higher concentration of radioactive isotopes than fossil water, which does not replenish. Among the many radioactive isotopes that hydrologists use to determine the age of groundwater is Tritium (discussed above). Tritium is a natural radioactive hydrogen isotope that is formed in the Earth's upper atmosphere.[xvii,xviii] Widespread testing of hydrogen bombs in the 1950's and 60's produced substantial concentrations of tritium within the atmosphere, which then permeated into the water cycle. With a half-life of 12.43 years, tritium is an isotope that decays relatively quickly. Because of tritium's relatively short life span, isotope hydrologists rarely see large concentrations of Tritium. Instead, the decayed tritium leaves behind remnants of helium.[16, 17] It is this helium concentration that indicates water previously inhabited by radioactive isotopes. Isotope hydrologists can therefore observe the transit rate of a body of water by analyzing the ratio of radioactive isotopes (or at least their remnant helium) to non-radioactive ones;[xix] in other words, the presence of these radioactive isotopes (or helium) "immediately indicates that the aquifer is being recharged with water that originated within the last 40-50 years."[16] This line of work is currently being conducted throughout the world. Recent

[xvii] http://www-naweb.iaea.org/napc/ih/documents/other/BGD_Report.pdf
[xviii] http://ethomas.web.wesleyan.edu/ees123/isotope.htm
[xix] Dubinchuk, V., Frohlich, K., and Gonfiantini, R. Isotope Hydrology: Investigating Groundwater Contamination. *IAEA* http://www.iaea.org/Publications/Magazines/Bulletin/Bull311/31105982427.pdf

successful projects that worked to build regional capacity were conducted throughout Africa and Latin America. For a detailed description of current projects, see the links appended.

The IAEA also uses isotope hydrology to determine the source of and levels of pollution within underground aquifers. Overdevelopment in coastal regions often causes seawater to intrude into the aquifer, leading to saltwater intrusion. In addition, the indiscriminant disposal of harmful materials like herbicides, pesticides, and fertilizers often results in contamination of underground aquifers and damage that is difficult if not impossible to undo. This pollution is particularly harmful in urban areas that rely heavily on groundwater for human consumption.[18] Isotope hydrology can analyze the makeup of a given pollutant to determine its source. For instance, NO_3 is a common pollutant containing two isotopes: N-14 and N-15. As stated by Saha Henriques of the IAEA Division of Public Information, "The ratio of these two isotopes is different in human waste as opposed to fertilizers." [xx] Thus, isotope hydrologists are able to determine whether the pollution is a result of fertilizer dumping or poor human waste disposal. From there, local policy advisors can make the appropriate waste management decisions to avoid further pollution.

In 1993, the nation of Bangladesh discovered that shallow wells throughout the country are laced with arsenic, contaminating the water and leading to arsenic poisoning of over 21 million people. In an effort to understand the extent to which this pollutant damaged water sources, the IAEA and the World Health Organization analyzed the aquifers of Bangladesh using isotope hydrology. While shallow aquifers naturally replenished due to frequent rainwater, arsenic that originated in the Earth naturally pollutes these sources. Isotope hydrologists did find

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[xx] Henriques, S. 2010. Water Pollution: Find It Stop It Solve It - Isotope Hydrology Tracks Pollutants in Water. *Sci Guru Science News, http://www.sciguru.com/newsitem/2067/water-pollution-find-it-stop-it-solve-it-isotope-hydrology-tracks-pollutants-in-water*

that deeper groundwater sources were free from arsenic contamination.[xxi] These sources, however, contain fossil water that does not naturally replenish itself.[16] So while Bangladesh has been granted a source of clean, arsenic-free drinking water, its availability is not necessarily sustainable over the long term. Thus, Bangladesh must seek alternative sources for long-term water resource management.

Conclusion and Questions for Consideration

Focusing on the peaceful application of nuclear technologies, the IAEA, through water desalination using nuclear power and isotope hydrology, has turned significant attention to the role that nuclear technologies can play in water resource management. Delegates should have a firm understanding of the IAEA's role in water desalination and isotope hydrology and explore ways to develop these developing practices. Delegates should also consider the following questions:

1. What has the United Nations and the IAEA done to address the issues discussed above?

2. What role, if any, should nuclear technologies play in water resource management?

3. What has your country done in regards to nuclear technologies in water resource management?

4. How can the international community address the issues associated with rising populations and the demand for fresh water? Water contamination? Can these issues be mitigated with nuclear technologies?

5. What are the benefits, environmental and humanitarian, to the application of nuclear technologies to water resource management?

Helpful Links:

Videos:

[xxi] http://www.iaea.org/newscenter/multimedia/videos/water/190911/bangladesh/index.html

http://www.iaea.org/newscenter/multimedia/videos/isotopehydrology/index.html

http://www.iaea.org/newscenter/multimedia/videos/water/190911/bangladesh/index.html

Atlas of Isotope Hydrology locations

http://www-naweb.iaea.org/napc/ih/documents/other/STI%201302%20Atlas%20of%20Isotope%20Hydrology%20-%20Africa%202007.pdf

http://www-naweb.iaea.org/napc/ih/documents/other/ATLAS%20Americas.pdf

http://www-naweb.iaea.org/napc/ih/documents/other/ATLAS%20Morocco%20WEB.pdf

http://www-naweb.iaea.org/napc/ih/documents/other/STI%201364%20Isotope%20Hydrology%20Asia%20and%20the%20Pacific.pdf

Ensuring the Safety of International Shipping Lanes

By Casey Gallagher
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International shipping lanes are a vital part of the international trade network. Without sea trade and travel, many countries and companies would be significantly disadvantaged. An international shipping lane is defined as a regularly used sea route for trade taking place between two or more states. Because of the high levels of global trade, these sea routes are among the busiest parts of the sea. International shipping lanes cover large expanses of the Earth's oceans, and include waters that are considered high seas as well as territorial waters of a specific state. High seas, also known as international waters, are outside of national jurisdiction while territorial water, defined in the Law of the Sea Treaty (see below), is the formal description for an area of water in which a state has jurisdiction. These classifications come with their own rules and regulations, as well as disputes over exactly which areas fit into either category. In short, the task of ensuring cargo and passenger ship safety becomes a monumental one which requires effort on the part of many national and transnational entities to secure.

One of the most important conventions in regards to issues of safety at sea is the United Nations Convention on the Law of the Sea (UNCLOS). UNCLOS is a comprehensive treaty on the law of the sea, consisting of 320 articles along with 9 annexes. This treaty covers such a large number of issues that its importance cannot be understated. A few examples of the items covered in the treaty are issues of sovereignty, rights of usage in maritime zones, and navigational rights. This convention also covers issues of conservation and protection of living resources in the sea. The International Maritime Organization (IMO) has a supportive role in the administration of the convention. Importantly, not every member state of the IMO has signed and/or ratified UNCLOS, including notably, the United States of America. Finally, UNCLOS also provides a dispute

resolution framework for states which have signed or ratified it. States have an option of several methods of dispute resolution, ranging from the International Court of Justice to UNCLOS' International Tribunal. The IMO is not currently directly involved in any of these measures of dispute resolution.

The member states of the International Maritime Organization are involved in fostering a cooperative community in the interests of keeping international trade by the sea profitable and safe on the international level. To date the International Maritime Organization has proven to be an effective forum in which all of these member states can discuss problems and generate possible solutions on maritime issues. Together, member states in the IMO have developed a system of international standards to regulate shipping and work to create and administer six-year action plans which are reviewed biannually.

The IMO and International Shipping Lane Safety

The International Maritime Organization has several roles that pertain to international shipping lane safety. One of the main roles is in setting international standards through the use of conventions and guidelines. The main three IMO conventions are the International Convention for the Safety of Life at Sea (SOLAS), the Standards of Training, Certification and Watchkeeping Convention (STCW), and the International Convention for the Prevention of Pollution from Ships (MARPOL). As a whole, the IMO's mission is: safe, secure and efficient shipping on clean oceans. The main convention in the case of ensuring the safety of international shipping lanes is SOLAS as it covers safety at sea. Some of the major provisions of SOLAS include provisions about potential dangers due to weather, tidal predictions, the competence of the crew, and the carriage of cargo.

However, none of these conventions specifically include piracy or armed robbery. To combat the issue of piracy, the IMO began a long term anti-piracy project. The first part of the plan, starting in 1998, included regional seminars and workshops for government officials in areas particularly prone to piracy. These educational measures were then followed by evaluation and assessment missions to troubled regions. In 2009, the Djibouti Code of Conduct was created in order to recognize the extent of the problem and encourage cooperation in accordance with international law. These were the beginning steps in a battle against piracy and armed robbery which has barely begun.

Another activity of the IMO is scrutinizing transit proposals put forth by strait states. A strait is defined as a narrow, navigable channel of water that connects two larger navigable bodies of water. The Strait of Malacca is one of the best examples of this as it is a major shipping lane as well as the world's longest strait (about 500 miles). This strait exists between Malaysia and Sumatra, connecting the Indian Ocean with the South China Sea, and had been one of the major locations of attacks by pirates as recently as 2005. The main criterion for transit proposals is whether they are necessary to promote safety of navigation. After this, the proposal must be examined to ensure that it complies with "generally accepted international regulations." However, the IMO cannot approve measures that do not have the support of the state(s) involved, which can limit its power to reach consensus amongst the majority of the international community at times.[1] This is because the International Maritime Organization cannot infringe on the sovereignty of any states. The applicable state(s) must voluntarily accept the measure before it can be approved.

[1] Harrison, James. *Making the Law of the Sea: a Study in the Development of International Law*. Cambridge: Cambridge UP, 2011. Print.

Current Problems

One of the major problems affecting international shipping lanes today is attacks on ships by pirates. Particular regions such as the Gulf of Aden have been extremely dangerous to traverse, and pirate attacks have been devastating to those who make a living traveling through these areas. It is clear that these attacks must be combated in order to keep legitimate seafarers and their livelihoods safe.

However, eliminating piracy is a daunting task. Expecting coastal states themselves to solve the problem of piracy off of their coastlines is unrealistic in cases where there may be a lack of resources or the lack of a government with legitimacy. One of the primary reasons why there is so much piracy in these regions is due to the desperation of the impoverished people living there. Many believe that solving this issue does not begin out at sea, but on shore in the countries themselves. The IMO has encouraged governments to increase efforts to prevent and suppress pirate attacks such as in A 26/Res.1026, which strongly urges states to increase their efforts to prevent and suppress acts of piracy and armed robbery, within the provisions of international law. Furthermore, this resolution also strongly urges governments to issue specific advice and guidance about safety measures to take and dangerous waters to avoid.

However for governments in problem regions this is not always such a simple task. One of the primary examples of why poverty spurs naval piracy and where the government has been severely lacking in legitimacy can be seen in Somalia. Pirate attacks in the Gulf of Aden launched from Somalia account for roughly thirty-eight percent of all global attacks. This region is followed distantly by the regions around Nigeria and Indonesia.[2] For over twenty years,

[2] Madden, Mike. "Trading the Shield of Sovereignty for the Scales of Justice: A Proposal for Reform of International Sea Piracy Laws." *U.S.F. Maritime Law Journal* 21, no. 2 (September 2009): 139-165.

Somalia has been in a constant state of civil war. There is no effective or legitimate Somali government and thus there is no domestic authority that pirates must answer to. The average annual income for the Somali people is only $650. This causes piracy to become a very tempting endeavor, as a successful pirate attack can net $10,000 per person.[3] The risk-to-reward factor is so high for pirates in Somalia that robust measures must be put into place by other states to ensure the safety of shipping in this area.

Possible Solutions

The establishment of naval bases by other states in these problem areas is one possible solution in theory; however, in practice naval bases would be very expensive to establish and this strategy still leaves the problem of requiring the full support of the international community. In addition, it does not address the root causes that lead to piracy. There has been success in fighting piracy in some former piracy hotspots however. The Strait of Malacca is a prime example of this. This area, located between Malaysia and Indonesia. While, the rest of the world's piracy problem was becoming worse in 2008-2009, the Strait of Malacca saw a tremendous decrease in the amount of pirate attacks. 2008 saw only two such attacks. The source of success in this region was the unification of efforts of the states in the area and the fostering of a new sense of cooperation and mutual gain. This was done through an agreement called ReCAAP, which stands for Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia. This agreement was finalized in November of 2004 and entered into force in September of 2006, with certain key aspects being implemented earlier. In 2004, coordinated sea patrols involving Singapore, Malaysia, and Indonesia began. Each state's patrols

[3] *Middleton, Roger. "Piracy Symptom of Bigger Problem." BBC News. Last modified April 15, 2009. http://news.bbc.co.uk/2/hi/africa/8001183.stm.*

stayed in its own territorial waters, but reported all signs of potential pirate activity to the patrols from other states. Then in 2005 these nations also added air patrols to look out for suspicious activities and shared this information as well. At the same time, the source of desperation driving many of these pirates into action was resolved. This desperation arose from a thirty-year civil war taking place in the Indonesian territory of Aceh. The war badly damaged economic opportunities in the region. When the two sides finally reached a peace agreement, many of the people who had previously turned to piracy now had more economic opportunities that could be pursued, within the law.[4]

What also must be accounted for is how to create international cooperation to secure international shipping lanes when states have concerns over sovereignty and jurisdiction issues related to apprehending and bringing to justice those who commit acts of piracy when the action is taken in territorial waters of another state. As stated by Eugene Kontorovich, of the American Society of International Law, international law alone cannot be used to deal with this problem. "Universal jurisdiction can have dangerous consequences… [because it] is not premised on notions of sovereignty or state consent. Rather, it is intended to override them."[5] Many pirates will target the portions of international shipping lanes that are within the territory of a weak state rather than in international waters in order to avoid capture and prosecution.[6]

Also, states may be reluctant as well to provide a military presence in the territorial waters of another state. One example of this is the stipulation in the Japanese constitution that

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[4] Schuman, Michael. "How to Defeat Pirates: Success in the Strait." *Time*. 22 Apr. 2009. Web. 1 Aug. 2011.

[5] Kontorovich, *supra* note 4

[6] Dubner, Barry Hart. Human Rights and Environmental Disaster—Two Problems that Defy the "Norms" of the International Law of Sea Piracy, 23 SYRACUSE J. INT'L L. & COM. 7, 34 (1997)

they cannot have a military presence in other states.[7] This makes helping to secure shipping routes in dangerous areas an exceedingly difficult problem, especially as it leads to a conflict of interest for the Japanese people who greatly rely on shipments over the sea. However, other states, such as the United Kingdom have begun sending soldiers to defend their ships as they travel through dangerous waters. The approach of sending military forces to ensure ship safety brings new problems with it, but may be an important step in shutting down pirate attacks on a more permanent basis.

Another problem lies in the matter of "hot pursuit". Article 111 of the UNCLOS states that, "Hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of the State." However, if the pursuit begins in the territorial waters of one state but then passes into the territorial waters of a different state, then the chase must be terminated unless explicit permission is granted by the state in which the chase ends up in. Removing this stipulation would help the responsiveness of security forces but would present a very large affront to state sovereignty.

Fighting piracy and armed robbery is one of the most challenging and complex issues involved in ensuring the safety of international shipping lanes. The International Maritime Organization has a large role to play in finding out whether or not this problem can truly be solved and in deciding the best way to go about it.

Questions for Thought and Discussion

[7] Chaikin, Greg. 2005, Piracy in Asia: International Cooperation and Japan's Role. *Piracy in Southeast Asia: Status, Issues and Responses*, ed. Mark Valencia, Institute of Southeast Asian Studies, Singapore: 122-142.

1. What role should the International Maritime Organization take in encouraging cooperation between member states?
2. How do the concerns over state sovereignty impede progress on solving piracy, and is there a way to put an effective plan into place without infringing on sovereignty?
3. Does the IMO have any capability to help states like Somalia develop a better capacity to fight piracy?
4. How does terrorism factor into piracy and international shipping lane safety? How should the approach for dealing with terrorism issues differ from piracy issues?
5. Is there a way to get more states to sign onto UNCLOS or to otherwise agree to a cohesive set of rules for shipping by sea?

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Addressing Pollution from International Shipping

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[9]The International Maritime Organization (IMO) was adopted in 1948 as the United Nation's specialized agency for the regulation of international shipping. Its original objectives were to provide for the safety and security of the shipping industry; however, since the 1950s, this organization has shifted much of its focus towards marine environmental protection. Recently, due to increased pollution and impending climate change, the IMO has turned its attention to the role that international shipping plays in air contamination, as well as marine pollution. The international community began to regulate land based travel and industrial air pollution starting in the 1970s. Yet, a large part of the shipping industry has managed to avoid many of these regulations. The threat of climate change is an issue that cannot be ignored, and must be addressed in all forms of transportation. In debating this issue, it is important to understand the impact that pollution derived from international shipping—be it emissions, oil, etc.—has upon marine and atmospheric environments.

Air pollution from ships is an issue that is often ignored. According to Sweden's Air Pollution and Climate Secretariat, despite the fact that land-based transportation emissions were reduced by over 30% between 1980 and 2000, this benefit was partially offset by the growth of international shipping, which all but doubled during the same period.[10] The growing shipping industry is of great concern as we consider that international shipping greatly contributes to the problem of air pollution. Furthermore, the 4th Assessment of the Intergovernmental Panel asserts

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10 "Eutrophication", Airclim.org. Air Pollution & Climate Secretariat. 21 December 2005. Accessed 04 October 2011. http://www.airclim.org/acidEutrophications/sub3_2.php

that gases greatly contribute to climate change.[11] As of 2007, international shipping was responsible for 2.7% of CO_2 emissions. While these current statistics may appear low, should the growth in international shipping levels remain constant, by 2050 shipping will contribute upwards of 12% to 18% of CO_2 emissions.[12] Furthermore, it is expected that sulfur and nitrogen oxide emissions will, by 2020, rise by upwards of 40 percent.[13] Efforts must be taken to reduce these emissions in order to mitigate the impact of climate change and global warming.

Sulfur dioxide results from the combustion of heavy fuel oils. In addition, sulfur dioxide causes acid rain and air pollution. It was recently discovered that sulfur dioxide contributes to the creation of secondary inorganic aerosol gases, fine particles that are dangerous to human health.[14] Currently international shipping is responsible for approximately 4% of the world's total sulfur dioxide emissions.[15] Similar to sulfur dioxide, nitrogen oxide emissions cause not only air pollution, but acid rain, damaging vegetation and contributing to the acidification of the world's oceans.[xviii] Nitrogen oxide is also environmentally harmful as it contributes to eutrophication, the increase in plant biomass in a body of water caused by increased nitrates and phosphates. Eutrophication decreases oxygen levels in water and reduces both fish and animal populations. Nitrogen oxide, when combined with Volatile Organic Compounds (VOCs), which are also the byproduct of burning heavy fuels, creates ground level ozone, or smog.[16]

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[11] "Climate Change 2007: Working Group I: The Physical Science Basis", Intergovernmental Panel on Climate Change. IPCC 4th Assessment Report on Climate Change. 2007, June. Accessed 26 October 2011. http://www.ipcc.ch/publications_and_data/ar4/wg1/en/ch1s1-3.html#1-3-1

[12] "Greenhouse Gas Emissions", IMO.org. International Maritime Organization (2011). Accessed 30 Sept. 2011. http://www.imo.org/ourwork/environment/pollutionprevention/ airpollution/pages/ghg-emissions.aspx

[13] "Air Pollution from Ships", Airclim.org. Air Pollution & Climate Secretariat. 26 October 2010. Accessed 23 September 2011. http://www.airclim.org/policy/sub6_2.php

[14] "Sulphur Content of Certain Liquid Fuels", Summaries of EU Legislation. Europa. (27 March 2007) Accessed 23 September 2011. http://europa.eu/legislation_summaries/environment/ air_pollution/l21050_en.htm

[15] "IMO Begins Work on Air Pollution", IMO.org. International Maritime Organization (2011). Accessed 28 Sept. 2011. http://www.imo.org/ourwork/environment/pollutionprevention/ airpollution/pages/imo-begins-work-on-air-pollution.aspx

[16] Pollution Prevention and Abatement Handbook. "Ground-Level Ozone." International Finance Corporation (July 1998). Accessed 23 September 2011. http://www.ifc.org/ ifcext/enviro.nsf/AttachmentsByTitle/p_ppah_pguiGroundLevelOzone/$FILE/ HandbookGroundLevelOzone.pdf

According to the United States Environmental Protection Agency (EPA), exposure to ground level ozone can cause respiratory problems and is also responsible for an estimated $500 million loss in crop production every year.[17] However, while ground level ozone is dangerous to both human health and the environment as a whole, ozone in the upper atmosphere is vital to our existence. The ozone layer blocks the Earth, and all living matter, from harmful UV-B rays. Halon, a gas commonly used to refrigerate perishables during transportation, is known to deplete the stratospheric ozone layer. Despite efforts to eliminate this harmful gas from the transportation industry, the shipping industry has managed to evade the regulations placed on Halon emissions.

Gaseous emissions do not constitute the only significant threat to marine environments. Recent oil spills around the world, in addition to requiring arduous cleanup efforts, highlight the importance of protecting the oceans from oil pollutants. Oil spills in marine environments are incredibly difficult to manage, spreading over vast areas, and resulting in vast ecological damage.[XXI] The Exxon Valdez Oil Spill on March 24th 1989 draws attention to the specific danger that international shipping can have upon marine and shoreline environments.[XX] After running aground on a reef in Prince William Sound, Alaska, the vessel spilled over 10.9 million gallons of crude oil and damaged over 1,100 miles of coastline. While oil spills are not purely isolated to transport vessels (note the BP Deepwater Horizon Spill of April 2010), it is important to recognize the impact that international shipping has upon marine environments so as to prevent such issues from occurring again.

Attempts to Limit Pollution from International Shipping

[17] "Ground Level Ozone", EPA.gov. United States Environmental Protection Agency. (6 July 2011). Accessed 24 September 2011. http://www.epa.gov/glo/basic.html

Many countries have attempted to regulate emissions within specific regions to protect air quality. The European Union is currently working on directive 2006/339/EC that will require ports to use electrical hookups to minimize engine usage during the time a ship is docked. They also passed directives, including 2005/33/EC, to limit the sulfur content of fuels that are used in these ships. These directives also verify a fuel's sulfur content through sampling and analysis.[18] However, while the International Convention for the Prevention of Pollution from Ships (MARPOL) was created by the IMO and adopted in 1973, it included no articles to address air pollution until the Regulations for Prevention of Air Pollution from Ships (Annex VI) came into effect in May of 2005. This was later revised in 2008. Annex VI works to minimize air pollution and its environmental impact generated from international shipping.[19]

Although the current version of Annex VI puts stringent regulations on emission output, it was still deemed inadequate by many IMO Member States who consider the addition an insufficient response to the growing threat of climate change. Annex VI was again addressed in the 62nd session of the Marine Environment Protection Committee (MEPC) of the IMO. Held in July 2011 in London, this summit was the first committee to mandate energy efficiency requirements for shipping.[20] The newly implemented Chapter 4, added during this London session, mandates the Energy Efficiency Design Index (EEDI) for new ships, as well as the Ship Energy Efficiency Management Plan (SEEMP) for all ships. The new amendments also specify survey and certification procedures. The new regulations are expected to become effective in

[18] "Sulphur Content of Certain Liquid Fuels", Summaries of EU Legislation. Europa. (27 March 2007) Accessed 23 September 2011. http://europa.eu/legislation_summaries/environment/ air_pollution/l21050_en.htm

[19] "Mandatory Energy Efficiency Measures for International Shipping Adopted at IMO Environment Meeting: 62nd Session 11 to 15 July 2011." IMO.org. International Maritime Association: Marine Environment Protection Committee (MEPC) (15 July 2011) http://www.imo.org/ MediaCentre/ PressBriefings/Pages/42-mepc-ghg.aspx

[20] "Mandatory Energy Efficiency Measures for International Shipping Adopted at IMO Environment Meeting: 62nd Session 11 to 15 July 2011." IMO.org. International Maritime Association: Marine Environment Protection Committee (MEPC) (15 July 2011) http://www.imo.org/ MediaCentre/ PressBriefings/Pages/42-mepc-ghg.aspx

January of 2013.[21] The recent development of Annex VI coincides with many of the expectations laid out in the United Nations Kyoto Protocol which calls for reductions in greenhouse gas emissions from industrialized countries.[22]

In addressing marine contamination from oil spills, the IMO added Annex I to MARPOL: Regulations for Prevention of Pollution by Oil (October, 1983). The annex addresses safeguards to prevent accidental oil discharges into the ocean. A revision in 1992 required, among other regulatory measures, that ships have double hulls to prevent such spills. Furthermore, the International Convention for the Safety of Life at Sea (SOLAS), initially established in 1974, was designed to ensure that international shipping would not harm marine environments, addressing such issues as safe construction, fire protection, and cargo regulatory measures. An added amendment in 2010 required that ships be constructed with "adequate strength, integrity and stability to minimize the risk of loss of the ship or pollution to the marine environment due to structural failure." [xix] Despite recent efforts, atmospheric and marine pollution remain credible threats to the environmental stability of the world.

Future Problems to be Addressed

Global warming, as a result of greenhouse gas emissions, has already begun to reshape the boundaries of international shipping. An example of such an occurrence was the opening of the Panama Canal allowing East Asian exporters to ship their goods to the Eastern coast of the United States. Some people argue that whenever shipping is made more cost effective or easier it entices more shipping. For example, under U.S. control in 1995 the Panama Canal saw only 200,000 containers go through due to financial regulations imposed by the U.S. Once the U.S.

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[21] "Mandatory Energy Efficiency Measures for International Shipping Adopted at IMO Environment Meeting: 62nd Session 11 to 15 July 2011." IMO.org. International Maritime Association: Marine Environment Protection Committee (MEPC) (15 July 2011) http://www.imo.org/ MediaCentre/ PressBriefings/Pages/42-mepc-ghg.aspx

[22] "Strategy to Reduce Atmospheric Emissions from Seagoing Ships", Summaries of EU Legislation. Europa. (19 June 2006) Accessed 23 September 2011. http://europa.eu /legislation_summaries/environment/tackling_climate_change/I28131_en.htm

gave control to Panama, tolls were adjusted depending on the cargo transported, which sped up transit times. These changes brought an increase to the tune of 4.6 million containers in 2009, and an increase of shipping from East Asia to the U.S. East Coast from 11% to 40%.[23] More recently, due to climate change, the Arctic has opened up new pathways for shipping. Although these new pathways would seem to decrease pollution from shipping, they may actually increase shipping by encouraging growth in the industry and decreasing costs associated with shipping. Despite the evident advantages for the industry, including the possibility of decreased shipping times and/or distances, a newfound demand for shipping can subsequently increase carbon emissions.

Another issue that the IMO must address is the practice in which ship operators, hoping to decrease costs and avoid regulations, flag their ships as belonging to a different State that has weaker regulations. This practice of registry, otherwise known as a "flag of convenience," would not be a problem if all States were parties to international conventions and enforced international regulations. Unfortunately, this is not the case as many States do not have the will, means, or legislative and regulatory staff to enforce these regulations.[24] Efforts to universally enforce regulations for all ships are issues that should be discussed in this conference.

As delegates, it is your task to determine the best solutions to solve pollution, both air and marine, resulting from international shipping while still encouraging industrial and economic growth. How can the IMO enforce current industry regulations so as to protect both the marine and atmospheric environments? Your ideas must be feasible, end inaction, decrease pollution, and limit the possibility of climate change. According to Dr Z Oya Özcayir, a maritime law

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[23] "The Panama Canal: A Plan to Unlock Prosperity", Economist.com. The Economist. (3 December, 2009). Accessed 1st October 2011. http://www.economist.com/node/ 15014282

[24] Ozcayir, Z Oya. "Flags of Convenience and the Need for International Co-operation." International Maritime Law. Vol.7, Issue 4, pp. 111-117. May 2000. Web. Accessed 1 October 2011. http://www.lawofthesea.co.uk/publications/foc.pdf

consultant and member of the IMO Roster of Experts and Consultants, "Shipping is not failing in ratifying new conventions [and] the international community is not failing in adopting necessary litigation, but shipping is failing in application and enforcement of international regulations[,] especially the ones on safety, pollution and crew welfare."[25] Our task will be to generate practices that reduce air pollution and ensure international efforts are not in vain.

[25] Ozcayir, Z Oya. "Flags of Convenience and the Need for International Co-operation." International Maritime Law. Vol.7, Issue 4, pp. 111-117. May 2000. Web. Accessed 1 October 2011. http://www.lawofthesea.co.uk/publications/foc.pdf

[xviii] Tainter, Joseph. "The Jevons Paradox." Our Energy Futures. Web. Accessed 11 November, 2011. http://ourenergyfutures.org/page-cid-25.html

[xviii] "The First Intersessional Meeting of the Working Group on Greenhouse Gas Emissions from Ships." Iom.org. Web. Accessed 14 November, 2011. http://www.imo.org/blast/mainframe.asp?topic_id=1696&doc_id=9770

[XIX] "International Convention for the Safety of Life at Sea (SOLAS), 1974." Iom.org. Web. Accessed 14 November, 2011. http://www.imo.org/about/conventions/listofconventions/pages/international-convention-for-the-safety-of-life-at-sea-%28solas%29,-1974.aspx

[XX] Cleveland, Cutler. "Exxon Valdez Oil Spill." Encyclopedia of the Earth. Web. Accessed 14 November, 2011. http://www.eoearth.org/article/Exxon_Valdez_oil_spill?topic=58075

[XXI] Patin, Stanislav. "Oil Spill." Encyclopedia of the Earth. Web. Accessed 14 November, 2011. http://www.eoearth.org/article/Oil_spill

Questions for Consideration:

1. What has your country done to limit pollution caused by international shipping?
2. How can the IMO help states implement the measures outlined in the revised Annex VI?
3. How can we ensure that merchant ships operating under flags of convenience abide by international shipping standards?
4. Can the IMO develop mechanisms to ensure compliance without infringing on state sovereignty?
5. What can be done to assist countries that do not have the financial means to come into compliance with the new laws regulating shipping emissions?
6. Who will be responsible for monitoring compliance with shipping standards?
7. Should the IMO pursue a regulation requiring ports to provide shore-side power supply?

Shipping and Transportation of Hazardous Materials
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Seaborne transport of hazardous materials is an issue of major concern. Spills of potential polluting chemicals, radioactive materials, or other dangerous goods present a significant environmental hazard, and need to be mitigated as much as is feasible, since they are dangerous to both sea life and the general public as a whole. The shipping and transport of explosive or otherwise volatile substances can also present a significant danger to ships' crews, and to other vessels. All of these related matters fall in part under the purview of the International Maritime Organization. The IMO, various UN organs, and the international community as a whole have taken various actions to resolve all of these issues and standardize procedures, but some matters of concern remain.

Since 1956, the Economic and Social Council has maintained the UN Recommendations on the Transport of Dangerous Goods, a particularly in-depth document detailing suggested standards and practices for transporting hazardous materials[26]. In 1996, these recommendations integrated a set of model regulations as well[27]. Subsequent to the original UN Recommendations, the International Maritime Organization created the International Maritime Dangerous Goods (IMDG) Code, which it then adopted in 1965[28]. This code divides dangerous goods into nine classes, which include but are not limited to explosives, toxic or infectious substances, and radioactive materials. The code further delineates proper storage, transport, and handling of such materials, in order to prevent accidents and to mitigate the damage caused by any accidents that do occur. In 2002, the IMO revised the IMDG Code via amendment in order

[26] http://www.unece.org/fileadmin/DAM/trans/danger/publi/unrec/rev13/English/00E_Intro.pdf
[27] Ibid.
[28] http://www.imo.org/blast/mainframe.asp?topic_id=158

to make some provisions mandatory[29]. This further contributed to the enhancement of maritime safety by ensuring that IMO members, and ships originating from those member states, would be bound to follow the IMDG Code.

In addition to these two exhaustive sets of regulations and recommendations, there are several primary treaties which deal with the topic of hazardous materials. The first is the International Convention for the Safety of Life at Sea, or SOLAS, which was adopted in 1974 and entered force in 1980[30]. SOLAS Chapter VII in particular contains requirements for labeling, packaging or containment, stowage, documentation, and other necessary considerations, and provides special provisions for radioactive materials as well. Additionally, SOLAS integrates many elements of the aforementioned IMDG code as well, making them mandatory for signatories, and also implements the International Ship and Port Facility Security (ISPS) Code as well, proscribing measures on that front to ensure the safety of ships, their crews, and their cargoes while in port. Second is the International Convention for the Prevention of Pollution from Ships (MARPOL), which entered force in 1983[31]. MARPOL covers not only pollution from spills and accidents, but also sewage and garbage from ships, air pollution caused by ships, and "pollution by oil from operational measures," *inter alia*. Lastly, 1982's United Nations Convention on the Law of the Sea (UNCLOS) codified numerous issues relating to international maritime law[32]. There are several points of particular importance for the topic at hand, and of these the most important is most likely Article 94. Article 94 of UNCLOS places responsibility on the state under whose flag a ship is sailing (the "flag state") to ensure observation of "applicable international regulations concerning the safety of life at sea, the

[29] http://www.imo.org/blast/mainframe.asp?topic_id=158
[30] http://www.imo.org/About/Conventions/ListOfConventions/Pages/International-Convention-for-the-Safety-of-Life-at-Sea-%28SOLAS%29,-1974.aspx
[31] http://www.imo.org/about/conventions/listofconventions/pages/international-convention-for-the-prevention-of-pollution-from-ships-%28marpol%29.aspx
[32] http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm

prevention of collisions, [and] the prevention, reduction and control of marine pollution" among other measures[33]. This is the primary provision governing what parties are responsible for resolving incidents that violate the other treaties.

The existence of all of these measures may cause some questions as to how issues could remain, as the above conventions and recommendations are extensive. However, several of the above agreements – specifically UNCLOS and MARPOL – have not been signed or ratified by numerous states. In particular, Turkey and Venezuela – two key coastal states that are very much involved in international shipping – remain as non-signatories to UNCLOS, and states such as Iran, Colombia and the United States have not ratified the Convention. Given that UNCLOS is responsible for delineating many of the responsibilities of flag states, the decision on the part of some states to remain apart from the Convention is an issue of concern. SOLAS also lacks some signatories of coastal states, including Micronesia, Costa Rica, El Salvador, and Somalia. MARPOL, as well, faces similar challenges with regard to international commitment. In particular, a number of states bordering the Red Sea and its vital shipping lanes, including Saudi Arabia, Yemen, Somalia and Eritrea, are non-parties. Some of MARPOL's annexes have not been fully ratified as well, as for example Annex IV has not been ratified by the United States[34]. This lack of cooperation on the part of states poses a significant problem in terms of ensuring the effectiveness of the maritime anti-pollution regime.

Furthermore, with respect to MARPOL, responsibility for dealing with violations reverts to the flag state (based on the above provisions of UNCLOS), if the violation does not take place in another state's jurisdiction, or if jurisdiction is unclear. This can reduce the incentive to deal with such cases properly in some cases, if handling the case would prove to be a burden or

[33] Ibid.
[34] http://www.cep.unep.org/publications-and-resources/databases/document-database/other/cruise-ship-pollution-background-laws-and-regulations-and-key-issues.pdf

embarrassment to the flag state. In 2000, a U.S. General Accounting Office (GAO) studied the 17 cases of pollution relating to cruise ships (a subset of the 166 referred of all pollution cases during that time) that had been referred to flag states by the U.S. since 1993[35]. The GAO report noted a steep decline in the number of referrals in the latter part of that period, and indicated that changes on the bureaucratic side may have inhibited the Coast Guard's ability to ensure referrals were made. Additionally, the GAO noted a significant lack of data on the resolution of cases that were made, saying that the files "contained no information from the flag states on how 11 of the 17 cases were resolved"[36]. It seems evident that lack of resources and communication as demonstrated by this report are a significant hindrance to resolving violations of MARPOL, and undermines the effectiveness of that particular treaty.

The report also noted that in several cases, the flag state outright indicated that "…it would take no action because it had reasonable doubt or insufficient evidence or believed that the charge was not proved"[37]. These findings, according to the GAO report, mirror earlier findings from similar studies; for example, an earlier 1992 study by the U.S. Department of State found that of 111 referred MARPOL V violations from the three previous years, 99 of those cases resulted in no action from the flag states[38]. Given that the aforementioned report details only MARPOL violations logged by one nation, it is difficult to determine the full scope of violations internationally. However, it is reasonable to presume that proportional numbers of violations ought to also be found outside the jurisdiction of the United States, in the absence of any compelling explanation as to why rates of violations should significantly differ between states.

[35] http://www.gao.gov/new.items/rc00048.pdf
[36] Ibid.
[37] Ibid.
[38] Ibid.

This underscores the severe enforcement issues surrounding the pillars of international law relating to hazardous materials.

Unfortunately, while MARPOL is exhaustive, potential loopholes exist particularly with respect to the dumping of waste. While corporations responsible for shipping operations are required to offload waste at designated ports, some of these ports are not capable of actually safely dumping that waste. This was the problem at the centerpiece of the case against the oil trading company Trafigura, which was convicted of illegal dumping in a Dutch court in 2010[39]. Trafigura offloaded large amounts of waste at Abidjan in the Ivory Coast, despite the fact that the facilities could not handle the waste; the result was significant ecological damage to the surrounding areas. Trafigura appealed, but the verdict was upheld in late 2011[40]. While Trafigura was successfully prosecuted in this case, it raises questions as to whether MARPOL is successfully deterring unwanted behavior on the part of multinational firms.

Additionally, despite the existence of all the above regulations and recommendations, maritime accidents such as oil spills and other pollution hazards still occur and can cause millions or even billions of dollars in environmental damage. Such incidents are and have been numerous, even in the decades since MARPOL and SOLAS began to enter force. While oil spills such as those involving the *Exxon Valdez* or *Deepwater Horizon* are perhaps the highest profile spills in recent memory, oil is not the only substance of concern. For example, the 1984 explosion on board the *Puerto Rican* off the coast of California was due to a sealing failure, allowing the cargo (a caustic soda solution) to react with zinc in the bulkheads, causing a severe incident[41]. A 1992 accident that contaminated Louisiana waterways with Styrene was caused by

[39] http://www.bbc.co.uk/news/world-africa-10735255
[40] http://www.amnesty.org/en/news/trafigura-guilty-verdict-upheld-toxic-waste-dumping-case1-2011-12-23
[41] http://www.helcom.fi/stc/files/ResponseManual/ResponseManualVol_2.pdf

a simple collision between barges[42]. These incidents and numerous others like them underscore the constant danger of hazardous materials causing danger to ships, their crews, the general public, and the environment. Furthermore, the response and cleanup process for many of these incidents has been at times disorganized and incomplete, with ship and facility owners (such as in the case of the *Exxon Valdez* and *Deepwater Horizon*) creating significant obstacles for both cleanup workers and in the legal process.

It is also possible that issues with implementing the IMDG code have played a significant role in many accidents in recent memory. A 2010 study in the journal *Safety Science* attempted to determine the most common cause of accidents involving shipping of dangerous goods. In both the United States and the United Kingdom, the study found that in over 90% of all releases of dangerous goods, "faults that occurred during activities such as preparation of the goods for transport, packaging, stuffing containers, and loading the ship were main factors contributing to the release of the dangerous goods on board the ship"[43]. These faults included failure to seal containers and valves, improper bracing and securing of containers, and human error during loading and unloading. Issues with containers and packaging, according to the report, are by far the largest category of errors contributing to release of hazardous materials[44]. Some accidents were also due to undeclared materials being stored improperly. For example, a 2006 accident aboard the *Hyundai Fortune* was due to high temperatures in the hold igniting fireworks, injuring a crewmember; the same year, the *Hanjin London* experienced a release of dangerous vapors from a titanium tetrachloride reaction, which occurred due to the high humidity in the container[45]. While it is not entirely conceivable that all such mistakes can be eliminated, these

[42] Ibid.
[43] http://www.sciencedirect.com.ezproxy1.lib.asu.edu/science/article/pii/S0925753511000877#sec3.1
[44] Ibid.
[45] Ibid.

findings call into question the implementation of the IMDG code by many member states. The above incidents, such as the *Hyundai Fortune* and *Hanjin London* were entirely avoidable, and could possibly be remedied by ensuring better compliance with international standards.

In general, amendments to MARPOL and SOLAS, in particular the implementation of the IMDG and ISPS Codes, have strengthened the international treaty framework regarding dangerous goods. However, accidents and violations are still too frequent, and the response to violations by flag states is often not effective, or even non-existent, which undermines the effectiveness of SOLAS, MARPOL, and UNCLOS. Additionally, as the Trafigura case demonstrates, the above treaties may have loopholes or otherwise be unable to deter the unwanted behavior. The main issue, then, is to determine whether these issues are due to problems with the treaty framework, or with states' implementation thereof. Once that can be determined, it becomes possible to then develop specific fixes to address either or both of those options through consensus.

Questions to Consider:

1. What is your State's position on existing standards for the shipping and handling of hazardous materials such as potential pollutants, radioactive materials, and their efficiency?
2. Is your State party to existing agreements, such as UNCLOS and MARPOL, and what is its position regarding non-parties?
3. What flaws and loopholes exist in these agreements? What are your State's proposals?
4. What does your state feel should be done regarding lack of response from flag states in the case of MARPOL and SOLAS violations?

5. Who does your state feel should be responsible for cleanup of waste? What about cases where domestic cleanup capacity is lacking?

6. How can states improve standards for packaging, storage, and preparation of dangerous goods? Has the implementation of the IMDG code been effective?