

***On Politics***

Volume Three – Issue One

*Spring 2009*

## On Politics

*On Politics* is the journal of the University of Victoria Undergraduate Politics Society. It provides opportunities for undergraduate and master's scholarship. Each issue strikes a balance between international relations, comparative politics, Canadian politics and political theory. With these broad aims and inclusive features, *On Politics* desires to present an accommodating format to disseminate scholarship of political nature from those who seldom gain the opportunity. *On Politics* publishes two issues per year.

### Submissions guidelines

Submissions to *On Politics* are welcomed from students at all levels, with the exclusion of PhD candidates. Feature articles are 4,000-4,500 words, including notes and references. There are additional articles in each issue that are between 2,500-3,000 words, and shorter reviews and interviews. Citations should be made using Chicago style endnotes. Bibliographies will not be published.

Send submissions to [submissions@onpolitics.ca](mailto:submissions@onpolitics.ca) with the subject header "On Politics" and your class number, e.g., POLI 360 (if it was for a class), with the article and notes as one attached word document. Any references made to the author's name within the document shall be removed. Further inquiries to submission guidelines should be directed to [submissions@onpolitics.ca](mailto:submissions@onpolitics.ca).

### Subscriptions

Subscriptions to *On Politics* can be purchased by e-mailing [onpol@uvic.ca](mailto:onpol@uvic.ca)

### Editorial Team

Clarke Ries (Editor-in-Chief)      David Karp (Layout Editor)

#### Editorial Board

Lars Brusven  
Chelsie Luciani

#### Associate Editors

Jennifer Wizinsky  
Mark Jenkins  
Brennan Welch

## Contents

<i>Equalization and Access: Armed Conflict and the Political Economy of Civil War in Sierra Leone</i> Dana McNairn.....	1
<i>Dissecting the Englishman: Material Changes from Feudalism to Capitalism and the Transitional Philosophies of Hobbes and Locke</i> Christopher Felling.....	17
<i>Advancing Human Rights and Assessing the Future Potential of the ICC</i> Randy Moore.....	31
<i>Hizbullah, Israel, and Palestine: Ethnicity and Symbolic Politics in the Israel-Lebanon War, 2006</i> Sean Tyler.....	45

## *Equalization and Access*

Armed Conflict and the Political Economy of Civil War in  
Sierra Leone

*Dana McNairn*

The proliferation of intrastate conflict, rather than its anticipated corollary, since the end of the Cold War has prompted scholars to reconsider debates about the nature and causes of war. Demarcation between clearly defined enemies, geographical borders and perceived moral imperatives continue to blur and shift boundaries. While belligerents may fund rebel movements with illegal trade in timber, oil, narcotics, precious minerals (such as copper or gold) and gemstones (such as diamonds),<sup>1</sup> some political economy scholars argue that wars 'break out' *exactly* because a rich resource endowment is deemed a 'curse,' not a 'blessing.'<sup>2</sup> Another prominent argument explaining conflict determines that long-term resource rents adversely affect state governance, stability and security, employing a 'greed' theory to demonstrate why.<sup>3</sup> Still other academics propose 'barbarism,' 'grievance' or 'ethnicity.'<sup>4</sup> It is crucial to ascertain the cause or causes of war when one considers that between 1990 and 2000, there were nineteen major armed conflicts in Africa, the overwhelming majority of them in the sub-Saharan region.<sup>5</sup> Thus the end of the Cold War has largely not brought peace to Africa, which has been cynically used by both the United States and the former Soviet Union in political and economic gamesmanship to

court Communist and anti-Communist clients and regimes. This debate becomes further mired when northern leaders and institutions, like the 2001 G8 Summit, determine that “dealing with the scourge of war [is] a *pre-condition* for Africa’s economic revival.”<sup>6</sup> ‘Ending war first’ is precisely what this paper will demonstrate is wrongheaded about current academic debate about war.

There is no question that war is a scourge. Broadly speaking, the argument in this paper arises from the reasons typically given for post-Cold War conflict, such as ‘environmental scarcity,’ and the northern assumption that war elsewhere, especially in the south, simply ‘breaks out’ because one or two ‘conditions’ happen to be right.<sup>7</sup>

Specifically, this paper will look at Sierra Leone’s eleven-year civil war, among the first of several devastating internal conflicts in sub-Saharan Africa wherein western media and academics announced that the conditions for war were ripe: barbarism, greed, or tribalism, played out against the bloody exploitation of natural resources.<sup>8</sup> But just how prominent were those resources and why? Did Sierra Leone’s resources—namely diamonds—cause the war? This paper’s research draws on field studies conducted in Sierra Leone in 2005, as well as recent literature in geopolitics, armed conflict and natural resources to make its point, arguing expressly that Sierra Leone’s diamond wealth did not ‘cause’ its civil war, nor is there tangible evidence to conclusively support the aforementioned theories.<sup>9</sup> These explanations need to be re-evaluated because they are an oversimplification: they offer consequences of war disguised as causes. Instead, this paper offers an alternative analysis, incorporating a social and political context that situates Sierra Leone’s war at the intersection of historical and contemporary internal political antagonisms, exacerbated by the outside influence of organizations such as the Economic Community of West African States (ECOWAS), the World Bank and the International Monetary Fund (IMF). If “conditions were ripe for the anarchy that followed,”<sup>10</sup> this article will explore the events that led to that point.

The outline of the paper is as follows: Part I begins the causes for conflict sections with environmental scarcity; Part II analyses ethnicity and tribalism; Part III examines greed theory; Part IV looks at war as a failure of the social contract; Part V explains the internal actors in the geopolitics of Sierra Leone; Part VI comments on the role of external actors in the geopolitics of Sierra Leone; and lastly, Part VII forms the concluding remarks.

### **Cause for Conflict: Environmental Scarcity**

A number of recent theories explaining post-Cold War conflict have become influential. All are deeply rooted in 17<sup>th</sup> and 18<sup>th</sup> century European Enlightenment thought and therein lies a crucial problem. Can these theories realistically be applied to explain wars elsewhere in the world? The following sections will look at a number of recent explanations for war; what have been variously called the 'environmental scarcity,' 'resource curse,' 'new barbarism' and 'greed vs. grievance' debates. While each of these theories have certainly added to conflict understanding, especially in analyzing intrastate warfare and the attempts to link security and development, they remain limited in scope. Critics have noted that any of these explanations also reflect a "coalition of governments and aid agencies [imposing] on the south what could be termed 'liberal peace.'"<sup>11</sup> In other words, as this paper will demonstrate, these theories are problematic for two reasons. Firstly, while they may be well-researched and empirically 'proven,' they are undeniably based on "western economic interpretations of globalization."<sup>12</sup> Secondly, each takes a narrow, singular-cause view of war.

Thomas Homer-Dixon argues in favour of a causal connection between environmental scarcity and human conflict. He echoes Thomas Robert Malthus (1766-1834), a British political economist, who argued that population increase always outstrips a resource base until reined in by famine, disease, war or voluntary restraint. Homer-Dixon assumes, like Malthus did, that the more people on the planet, the more conflict. While it is not necessary to detail his research here, Homer-Dixon examines six types of environmental change: climate change, ozone depletion, land degradation, forest destruction, water pollution and fisheries deficiency. His analysis assumes that any resource competition (meaning violence) is the result of environmental scarcity.<sup>13</sup> Yet, his "key finding" in the end merely concludes that "scarcity of renewable resources ...can contribute to civil violence."<sup>14</sup> While few would argue this point, it is hardly conclusive proof that 'environmental scarcity' leads directly to neo-Malthusian brutishness and causes war. So, for example, after studying the Senegal River Valley, Homer-Dixon acknowledges that violence between the Haratine (descendents of the Moors) and black Peul-speaking Africans was not because of 'environmental scarcity,' but because of a struggle to control land recently made more fertile by agricultural development.<sup>15</sup> In other words, there was an underlying social or political context for this war—the same existing land had been made better, not worse, and contradicts

entirely the neo-Malthusian supposition. The Senegal violence was a consequence of perceived unequal land distribution and taxation issues, clearly concerns of a political and socioeconomic dimension.<sup>16</sup> Paul Richards notes that if the scarcity thesis is valid – if, for example, hunger causes violence – then food aid would end wars.<sup>17</sup> In fact, the opposite is true. Food aid too often prolongs war.<sup>18</sup> In the case of Sierra Leone, environmental degradation was not a cause for war. Prior to the civil war, the country did not experience widespread security issues with food or water, nor a lack of arable land.<sup>19</sup> Explanations for this civil war need to be sought elsewhere.

### **Cause for Conflict: Ethnicity and Tribalism**

The ethnicity thesis claims that the Cold War threat of nuclear catastrophe was what kept warfare to a minimum. Since the 1989 collapse of the Soviet Union, simmering ethnic resentments and hostilities accordingly resurfaced. For example, Robert D. Kaplan, whose book *Balkan Ghosts* is said to have been responsible for much of the Clinton presidency's foot-dragging on Bosnia, analyses former Yugoslavia in terms of 'ancient hatreds.'<sup>20</sup> The point for sub-Saharan Africa is that some scholars still attempt to explain conflicts in Rwanda, Burundi and Sudan in this manner. Samuel Huntington takes ethnicity or tribalism a step further, calling any war a "clash of civilizations." Huntington believes that the world's major religious 'tribes' are separated by a hostile, insurmountable gulf, so naturally conflict must ensue. The attractiveness of this new barbarism theory is understandable. Certainly in the case of sub-Saharan Africa, it justifies international non-interventionism (too complex to intervene)<sup>21</sup> and in regards to any Islamic 'clash' theorizing, a new enemy has been found to replace the Communists. Kaplan then gilded his theorizing by prophesizing primitive African wars would spill uncontrollably over borders and create anarchy and violence everywhere else.<sup>22</sup> In fact, the opposite is true. In much of sub-Saharan Africa it is the "neighbours who inflame local conflicts by venturing across borders, seeking to control what might otherwise be quite localized fighting."<sup>23</sup> Examples of this include Ethiopian and Eritrean support for opposing militias in Somalia, and the role of six neighbouring countries (including Angola, Uganda and Zimbabwe) in the conflict in the Democratic Republic of Congo. It is acknowledged that the civil war in Sierra Leone was exacerbated by neighbours and outsiders: Liberian rebels loyal to then-president Charles Taylor and the involvement of the Economic Community of West

African States (ECOWAS) and its military arm, the Nigerian-dominant Monitoring Group (ECOMOG). However, while these actors may have prolonged the war, none 'caused' the war outright.

While many conflicts have a cultural dimension, the groups that fight often use ethnicity to mobilize support. This is why ethnicity and tribalism do not adequately explain conflict, since many multicultural societies live peacefully and others the same until a conflict 'erupts.'<sup>24</sup> Critics of this theory have argued that cultural differences are not instinctive; rather they are "developed and accentuated by social and political events, by leaders and media."<sup>25</sup> In fact, Terence Ranger argues that this invention of ethnic custom dates back to the colonial period:

Almost all recent studies of nineteenth century pre-colonial Africa have emphasised that far from there being a single "tribal" identity, most Africans moved in and out of multiple identities, defining themselves at one moment as subject to this chief, at another moment as a member of that cult, at another moment as part of that clan, and at yet another moment as an initiate in that professional guild.<sup>26</sup>

Raw ethnic hatred cannot explain the emergence of "new and transformed identities" nor can it clarify the long historical periods where tribe or race was simply not a "salient political characteristic."<sup>27</sup> In other words, for every instance of so-called ethnically- or tribally-induced violence, there are also cases of successful cultural compromise; for every Bosnia, there is a Czech Republic or a post-1994 South Africa.<sup>28</sup> In the case of Sierra Leone, Paul Collier's findings explain that neither social "fractionalization" by race or religion or economic stratification increases the probability of civil conflict. Indeed, he argues that where these variables are significant, they actually make societies safer.<sup>29</sup> Sierra Leone did not have simmering ancient hatreds. Its Muslim and Christian populations have successfully intermingled and intermarried for decades, often blending native West African animism into the religious mix. Its two main tribes, Temne and Mende, have certainly experienced political grievances against one another that had roots in British colonial administration policy, but they did not wage longstanding or open warfare prior to the civil war.<sup>30</sup> In such complex settings, the ancient hatreds approach and its attendant focus on ethnic rivalry as a cause for war, rather than a consequence of war, is untenable. Instead of ancient hatreds, it is more practical to consider how factors like political economy (such as access, globalization and market liberalization) may have spurred warfare that to outsiders appeared tribal and barbaric.



However, even the “horrified fascination” with the ‘new barbarism’ theorizing has been surpassed by the strength and performance of northern economies; consequently the ‘greed *versus* grievance’ debates are currently making the rounds.<sup>31</sup>

### **Cause for Conflict: Greed or Grievance**

The greed *versus* grievance nexus has been applied to sub-Saharan African alluvial-diamond-producing countries, particularly Angola, the Democratic Republic of Congo and Sierra Leone. These three produce all of the world’s so-called ‘conflict’ or ‘blood’ diamonds (approximately four percent of total global output).<sup>32</sup> African alluvial diamonds are easily mined in the bush, on beaches and in and around rivers, and thus easily smuggled. It is suggested that blood diamonds in all three countries were or continue to be the ‘cause’ of war. This debate has been further stimulated by Collier’s ‘lootables’ and Michael Ross’s ‘war booty’ analogies.<sup>33</sup> Collier argues that an abundance of these lootable resources (e.g. diamonds, timber and even oil) better explain conflicts rather than grievance or resource scarcity theories.<sup>34</sup> According to him, the decision to become a rebel is the “economic opportunity cost of violence” weighed against its anticipated utility.<sup>35</sup> But perhaps both theorists fail to place war looting in its proper social context. What are the underlying causes that led to warfare (and thus spoils acquisition) in the first place? Both Collier and Ross presuppose war in developing countries as a given and begin their examination from that point. There is some merit in arguments that suggest economic rivalries complicate and prolong war, but this does not explain the ‘cause’ of war. As with Homer-Dixon’s conclusion that resource scarcity can “contribute to violence,” (and while it is difficult to disagree with these scholars’ findings), fighting a war with no resources whatsoever would be next to impossible.<sup>36</sup> But this information alone does not conclusively indicate that resources are a curse.<sup>37</sup> Collier writes that

a country that is heavily dependent upon primary commodity exports, with a quarter of its national income coming from them, has a risk of conflict four times greater than one without primary commodity exports.<sup>38</sup>

A country that derives twenty-five percent of its income on primary commodity exports has a governance issue, not a resource issue. This stems from factors such as existing low economic development experienced by the type of economies Collier is referring to (e.g. Kenya

and the former Yugoslavia) and is exacerbated by western agendas tied to foreign direct investment, existing local government instability (and the perception of using the primary commodities for the national 'good') and a nation's ability to withstand external and internal trade shocks.

Despite Secretary General Kofi Annan's terse summation of the conflict in Sierra Leone as a "poisonous mix"<sup>39</sup> of greed and diamonds that neither combatants nor peacekeepers alike could resist, diamonds are not a resource curse to that country. Diamonds played a role in the war in Sierra Leone, but they did not 'cause' the war. Resource theorists dismiss the possibility that a country's resources must also include nonmaterial, social dimensions such as access to media, political patronage, dispute resolution or voting rights.<sup>40</sup> None of these scholars address the notion that problems of a curse or scarcity or greed are, in fact, problems of justice, which in turn directly and indirectly affect resource distribution in countries experiencing economic inequality and stratification.

### **War as Failure of the Social Contract**

The north, reluctant to engage in meaningful political debate about the consequences of global economic restructuring and trade liberalization,<sup>41</sup> finds it more important to force "humanitarian" peace on a south overrun by criminals, "bandits and drug lords."<sup>42</sup> The West has shown a continued preference to marginalize developing nations with Enlightenment (and binary) suppositions, designed to reign in primitive anarchy, while refusing to acknowledge the structural inequality foisted upon these very nations. Thus what some economists might consider economic variables leading to war, others would consider political ramifications of the outbreak of war. Returning to Collier's earlier analysis of primary commodities, he argues that civil war is more likely where mineral wealth combines with poverty and high unemployment among young men with limited education, but he considers none of these issues to be political or social grounds for widespread dissent.<sup>43</sup> Still later versions of Collier's and the World Bank's analysis name and add "opportunity" as a cause for war, continuing to further neglect the social and political underpinnings of conflict in their pursuit of tidy economic agendas.<sup>44</sup> I would add that conflict needs to occur between one or more people, usually between groups. Collier and the World Bank continue to emphasize individual motivation as the fundamental cause of conflict.<sup>45</sup> Their argument centres on the desire of some to be a soldier in order to loot, profiteer from shortages and foreign aid, or trade arms

and drugs and illicit commodities. These are not ‘causes’ of war, they are consequences of war. They are consequences of social imbalances and injustices such as lack of employment, low to nonexistent wages, corruption, government appropriation of resource wealth and foreign aid, and a lack of political or social access to challenge it.

Frances Stewart calls this the “failure of the social contract.” Richards calls it “new war.” Both terms refer to the failure of the state to play its part in a society delivering the economic benefits (e.g. legal mining rights) or social services (hospitals and schools) it was put in power to do so. Both theorists argue social stability is premised on people accepting “state authority as long as the state delivers services and provides [things like] reasonable employment and incomes.”<sup>46</sup> Richards adds that

all war is long-term struggle, commonly but not always, using violence, organized for political ends, and neither the means nor the ends can be understood without reference to a specific social context...The danger of analysing war as an anarchic “bad” is that it tends to take war out of its social context. War...is organized by social agents.<sup>47</sup>

Stewart and Richards reject notions of war as an automatic response to “stimuli,” such as neo-Malthusian population control, cultural competition or environmental degradation.<sup>48</sup> Again, none of these theories adequately explain the cause of war, only consequences, and speciously normalizes violence. Further, to argue singularly that resources are a curse is to ignore the fact that wars have also occurred where there are limited to no resources and there has been peace where resources are plentiful.<sup>49</sup> War does not break out, argues Richards, because conditions are right, but rather because social agents become or are organized. With economic stagnation or decline (like lower per capita incomes or persistent lack of jobs) and evaporation of state services (such as lack of hospitals which contribute to higher infant mortality rates) the social contract breaks down.<sup>50</sup> The social agents then turn to organizing their dissent, sometimes violently.

### **The Geopolitics of Sierra Leone: Internal Actors**

It was underlying resentments inside Sierra Leone, argues David Keen, which turned a relatively small attack of Liberian-backed Revolutionary United Front (RUF) rebels into a protracted conflict that ended up displacing nearly half the population.<sup>51</sup> Keen also acknowledges

diamonds were an “incentive for war, helped fund the war and thirdly, indirectly fuelled the war,” but, again, resources—diamonds—did not start the civil war.<sup>52</sup>

Political networks dating back to the 1950’s provide the context in which resources played a role in the future conflict. The politics of this era emphasized a network of personal rule. This rule was not founded on conventional concepts of legitimacy or formal bureaucratic institutions.<sup>53</sup> Instead Sierra Leone’s presidents ruled by controlling economic markets, especially in diamonds, and deliberately limiting access to financial opportunities in order to shore up their political monopoly.<sup>54</sup> The 1955 Alluvial Diamond Mining Scheme granted legal mining rights for locals, but in practice few could afford the licenses. Elite groups were the only ones able to access both licences and the capital to mine. Siaka Stevens, who was prime minister briefly in 1967, again in 1968 and then president from 1971-1985, offered protection for illegal digging to his supporters.<sup>55</sup> In response to repeated military coups attempts against his regime, President Stevens capped the armed forces’ strength to just 1,500 men in 1971, forming his own armed militia, the Internal Security Unit (ISU), and by 1978 Sierra Leone was a one-party state.<sup>56</sup>

In this patronage-based rule, Sierra Leone’s few leaders presided over the collapse of their own state, years before any fighting broke out. Reno argues “predatory personalist rule” and state collapse destroyed what was left of any other economic opportunities, especially those dependent on state stability.<sup>57</sup> With the economy in a downward spiral, unemployment escalating and health and education spending plummeting, neoliberalism was presented as an “alternative to state-based corruption” in the 1970s and 1980s.<sup>58</sup> Keen observes that the two tended to “interact to the benefit of a small clique around the president and to the detriment of the broad mass of people.”<sup>59</sup>

Unsurprisingly, the RUF rebel group drew its key support from marginalized youth, like those in the ISU. Many of these youth were hired as petty ‘thugs’ for politicians throughout the late 1960s and 1970s.<sup>60</sup> It was not hard for the RUF to find revolutionary students and other dissidents. In the context of extreme poverty, rebels’ redistribution of stolen goods would be an attractive incentive, alongside emancipatory promises. There was widespread anger among Sierra Leonean youth, particularly males, at their perceived low status in a society that offered them few opportunities to advance or to perform a meaningful role.<sup>61</sup> Richards stresses that the RUF’s initial violence—far from being ‘mindless’ or ‘random’—was a deliberate attempt to give voice to those

men and women “floundering at the margins of an exploitative world economy” within a country with a predatory state and collapsed social services.<sup>62</sup> This is also why it would be a mistake to see this civil war as merely random, drug-fuelled anarchy.

In particular, Keen quotes a 2002 CARE International report that concluded:

Contrary to the widely-held notion that diamonds were the root cause of the war, more evidence points toward issues like corruption, poverty and bad governance, and the corresponding need for food security, justice, and the creation of democratic mechanisms capable of protecting the rights of ordinary citizens.<sup>63</sup>

Governance and justice had failed in Sierra Leone and failed badly enough to trigger a brutal civil war that killed between 50,000-200,000, produced thousands of horrific amputations as a terror tactic and forced more than 10,000 children into combat. Diamonds did not do that; a lack of bread did. Richards and Caspar Fithen note that eleven long years later when peace was finally declared in January 2002 it was “accompanied by acceptance that war had social causes.”<sup>64</sup>

### **The Geopolitics of Sierra Leone: External Actors**

The effects of neoliberalism, like devaluation and privatization, suggest that it proved to be part of the cause of conflict in Sierra Leone. The struggle to keep up with debt payments in the 1980s was a key reason for the austerity (structural adjustment) programs that fed into the war.<sup>65</sup> At the time of this writing, this system is still in place. The Sierra Leonean government itself notes that “debt service payments (excluding debt relief) are estimated at 47.8 percent of export of goods and non-factor services....The debt burden militates against a sustainable economic recovery since it crowds out investments, particularly in education and health.”<sup>66</sup>

Amy Chua agrees, further adding that war in Sierra Leone in the 1990s was the result of, among other things, hardships created by “what International Monetary Fund (IMF) negotiators called ‘bold and decisive’ free market measures,” meaning a removal of all tariffs and subsidies.<sup>67</sup> She says that IMF-created “conditions were ripe for the anarchy that followed.” The World Bank, in its Collier-led report *Breaking the Conflict Trap*, tacitly acknowledges its policies may have led to war. As the World Bank forced deindustrialisation (decline of manufacturing) and pushed

developing nations into dependence on fewer and fewer export commodities (which are cheaper than finished products), it belatedly realized that countries like Sierra Leone needed to “diversify out of dependence on primary commodity exports.”<sup>68</sup> This paper’s intent is not to single out World Bank or IMF policies as harbingers of anarchy because it remains too simplistic to identify and proclaim a single causal explanation for conflict.

The point in bringing it up here is to identify it and suggest for further analysis the very real possibility that these international financial institution policies might not *directly* cause conflict, but that certainly IMF conditionality (structural adjustment) programs in sub-Saharan Africa have been “statistically associated with lower growth over decades and this is one of the variables linked with conflict.”<sup>69</sup> Particularly in the case of Sierra Leone, the World Bank concedes that “ill-planned and inflexible stabilisation and adjustment programmes provoked an unnecessarily severe decline, which undermined the population’s limited confidence in the government to manage the economy.”<sup>70</sup>

## **Conclusion**

That development and security should be integrated is a vital idea, but unfortunately it has received a belated response from governments. Aid that builds up state services and infrastructure are crucial in minimizing the opportunities for violence and conflict. The way to go about this is not through punitive programs of structural adjustment. In Sierra Leone this contributed to the collapse of education, health services and political accessibility, and engendered poverty, thus directly contributing to the eleven-year civil war.<sup>71</sup>

A social contextual approach is essential for looking at what causes war in the first place. Theorists and practitioners must first determine if corruption and bad governance trigger inequality, marginalization and abuse. The creation and implementation of egalitarian mechanisms capable of protecting the rights of citizens goes further in underscoring the roots of conflict rather than ethnonationalism, tribalism or resource scarcity. Furthermore, the number of mishandled or failed peacekeeping missions and peace processes are a clear signal that practitioners do not understand the local social issues well enough.<sup>72</sup>

For example, Philippe Le Billon suggests that one key action to take in this area is to “link resource exploitation and institutional

capacity building more systematically." This would ensure that resource revenues go to the community first, serve basic needs, create stability, foster security and more importantly reintroduce legitimate state authority.<sup>73</sup> If the domestic governments cannot or will not do so, international and nongovernmental organizations should pressure governments to further undertake transparency, accountability and parity processes in the allocation of natural resource revenues such as the Diamond Development Initiative, the Kimberley Process and Global Witness.

The central argument of this paper is that single-cause theories do not adequately explain war and may even hamper meaningful analysis. In particular, this paper has argued and demonstrated that the "resource curse" theory does not work in the case of Sierra Leone. To say that diamonds caused the eleven-year civil war is an oversimplification by constructed media narratives of limited communicative literacy and academic 'cause and effect' arguments. Better governance plays a significant role in conflict prevention and termination. Through better governance comes equitable, properly taxed natural resource administration and that too feeds into conflict prevention and termination. Conflict and war are explained by underlying social and political factors and as such, can be said to be 'caused' by a lack of justice or access. As noted by an Angolan journalist jailed for denouncing corruption and war in his diamond-rich country: "It's fashionable to say that we are cursed by our mineral riches. That's not true. We are cursed by our leaders."<sup>74</sup>

## Notes

<sup>1</sup> See Paul Collier, "Doing Well Out of War: An Economic Perspective" in Mats Berdal and David Malone (eds), *Greed and Grievance: Economic Agendas in Civil Wars* (Boulder, CO: Lynne Rienner, 2000); see Patrick M. Regan and Daniel Norton, "Greed, Grievance, and Mobilization in Civil Wars," *Journal of Conflict Resolution* 49.3 (2005): 319-336; see Michael L. Ross, "How Do Natural Resources Influence Civil War? Evidence From Thirteen Cases," *International Organization* 58 (Winter 2004): 35-67.

<sup>2</sup> Richard M. Auty, *Sustaining Development in Mineral Economies: The Resource Curse Thesis* (London: Routledge, 1993).

<sup>3</sup> Collier, "Doing Well Out of War."

<sup>4</sup> Paul Richards, "New War: An Ethnographic Approach" in Paul Richards (ed), *No Peace No War: An Anthropology of Contemporary Armed Conflicts* (Oxford: James Currey Press, 2005) 4-9.

- <sup>5</sup> Tony Addison and S. Mansoob Murshed, "Post-Conflict Reconstruction in Africa: Some Analytical issues" in Augustin Kwasi Fosu and Paul Collier (eds), *Post-Conflict Economies in Africa* (Hampshire, UK: Palgrave Macmillan, 2005) 3.
- <sup>6</sup> Richards, 3 (original emphasis).
- <sup>7</sup> Richards, 4.
- <sup>8</sup> William Reno, "Political Networks in a Failing State: The Roots and Future of Violent Conflict in Sierra Leone," *Internationale Politik und Gesellschaft* 2 (2003): 44.
- <sup>9</sup> See David Keen, *The Economic Functions of Violence in Civil Wars*, *International Institute for Strategic Studies Adelphi Paper 320* (London: Oxford University Press, 1998); see William Reno, "Political Networks in a Failing State: The Roots and Future of Violent Conflict in Sierra Leone," *Internationale Politik und Gesellschaft* 2 (2003): 44-66; and see Philippe Le Billon, "The Political Ecology of War," *Natural Resources and Armed Conflicts*, *Political Geography* 20 (2001): 561-584.
- <sup>10</sup> Fabien Lefrancois, "World Bank, IMF: Helping peace or creating conditions for war?" *Bretton Woods Project*, Monday 5 April 2004, last edited: Saturday 23 October 2004 <<http://brettonwoodsproject.org/art.shtml?x=43345>> (last accessed September 17, 2006).
- <sup>11</sup> Richards, 6.
- <sup>12</sup> *Ibid.*, 6.
- <sup>13</sup> *Ibid.*, 7.
- <sup>14</sup> Thomas F. Homer-Dixon, "On the Threshold: Environmental Changes as Causes of Acute Conflict," *International Security* 16.2 (1991): 110.
- <sup>15</sup> Richards, 8.
- <sup>16</sup> *Ibid.*, 8.
- <sup>17</sup> *Ibid.*, 9.
- <sup>18</sup> See David Keen, *The Benefits of Famine: A Political Economy of Famine and Relief in Southwestern Sudan, 1983-1989* (Princeton, NJ: Princeton University Press, 1994); see Alex de Waal, *Famine that Kills: Darfur, Sudan 1984-1985* (Oxford: Clarendon Press, 1989).
- <sup>19</sup> Marilyn Silberfein, "The Geopolitics of Conflict and Diamonds in Sierra Leone," *Geopolitics* 9.1 (2004): 235.
- <sup>20</sup> Richards, 2.
- <sup>21</sup> *Ibid.*, 8.
- <sup>22</sup> Robert D. Kaplan, *The Coming Anarchy: Shattering the Dreams of the Post Cold War* (New York: Vintage, 2001).
- <sup>23</sup> Richards, 8.
- <sup>24</sup> Frances Stewart, "Development and Security," *Conflict, Security and Development* 4.3 (December 2004): 269-270.
- <sup>25</sup> Stewart, 270.
- <sup>26</sup> Terence Ranger, "The Invention of Tradition in Colonial Africa" in Eric Hobsbawm and Terence Ranger, *The Invention of Tradition* (Cambridge: Canto, 1983) 248.



- <sup>27</sup> Bruce W. Jentleson, "Preventative Diplomacy and Ethnic Conflict: Possible, Difficult, Necessary" in David A. Lake and Donald Rothchild (eds), *The International Spread of Ethnic Conflict: Fear, Diffusion, and Escalation* (Princeton, NJ: Princeton University Press, 1998) 298.
- <sup>28</sup> David A. Lake and Donald Rothchild, "Ethnic Fears and Global Engagement" in David A. Lake and Donald Rothchild (eds), *The International Spread of Ethnic Conflict: Fear, Diffusion, and Escalation* (Princeton: Princeton University Press, 1998) 342.
- <sup>29</sup> Paul Collier, "Rebellions as a Quasi-Criminal Activity." *Journal of Conflict Resolution* 44.6 (2000): 839-840.
- <sup>30</sup> "Minorities at Risk: Assessment for Mende in Sierra Leone," *The MAR Project*. December 31, 2003 <<http://www.cidcm.umd.edu/inscr/mar/assessment.asp?groupId=45103>> (last accessed August 17, 2006); author interviews.
- <sup>31</sup> Collier, "Doing Well Out of War," 95.
- <sup>32</sup> Richards, 9.
- <sup>33</sup> See Paul Collier, "Doing Well Out of War: An Economic Perspective" in Mats Berdal and David Malone (eds), *Greed and Grievance: Economic Agendas in Civil Wars* (Boulder, CO: Lynne Rienner, 2000); see Michael L. Ross, "How Do Natural Resources Influence Civil War? Evidence from Thirteen Cases," *International Organization* 58 (Winter 2004): 35-67.
- <sup>34</sup> Benedikt Korf, "Rethinking the Greed-Grievance Nexus: Property Rights and the Political Economy of War in Sri Lanka," *Journal of Peace Research* 42.2 (2005): 204.
- <sup>35</sup> Collier, "Doing Well Out of War," 102.
- <sup>36</sup> Richards, 10.
- <sup>37</sup> See Richard M. Auty, *Sustaining Development in Mineral Economies: The Resource Curse Thesis* (London: Routledge, 1993).
- <sup>38</sup> Collier, "Doing Well Out of War," 97.
- <sup>39</sup> Philippe Le Billon, "Fatal Transactions: Conflict Diamonds and the (Anti)Terrorist Consumer," *Antipode* 38.4 (September 2006): 782.
- <sup>40</sup> See Ann Jordan, "Women and conflict transformation: influences, roles, and experiences," *Development in Practice* 13.2&3 (May 2003): 239-251; see David Keen, "Greedy Elites, Dwindling Resources, Alienated Youths: The Anatomy of Protracted Violence in Sierra Leone," *Internationale Politik und Gesellschaft* 2 (2003); see Donna Pankhurst, "The 'sex-war' and other wars: towards a feminist approach to peace building," *Development in Practice* 13.2&3 (May 2003): 154-177; see Paul Richards, "New War: An Ethnographic Approach" in Paul Richards (ed), *No Peace No War: An Anthropology of Contemporary Armed Conflicts* (Oxford: James Currey Press, 2005); see Paul Richards, *Fighting for the Rain Forest: War, Youth and Resources in Sierra Leone* (Oxford: James Currey Press, 1996); see Frances Stewart, "Development and Security," *Conflict, Security and Development* 4.3 (December 2004): 259-270.

- <sup>41</sup> See Lisa H. Schwartzman, *Challenging Liberalism: Feminism as Political Critique* (Pennsylvania: The Pennsylvania State University Press, 2006); see International Labour Organization (ilo.org); see Human Rights Watch (hrw.org).
- <sup>42</sup> Richards, 10.
- <sup>43</sup> Ibid.; see Paul Collier, "Doing Well Out of War: An Economic Perspective" in Mats Berdal and David M. Malone (eds), *Greed and Grievance: Economic Agendas in Civil Wars* (Boulder, CO: Lynne Rienner, 2000).
- <sup>44</sup> Stewart, 270; see Paul Collier, V.L. Elliott, Håvard Hegre, Anke Hoeffler, Marta Reynal-Querol and Nicholas Sambanis, *Breaking the Conflict Trap: Civil War and Development Policy* (Washington: World Bank; Oxford: Oxford University Press, 2003).
- <sup>45</sup> Stewart, 272.
- <sup>46</sup> Ibid., 275; Richards 7.
- <sup>47</sup> Richards, 3.
- <sup>48</sup> Ibid., 4; Stewart 276.
- <sup>49</sup> Le Billon, "Political Ecology of War," 565.
- <sup>50</sup> Stewart, 275.
- <sup>51</sup> David Keen, "Greedy Elites, Dwindling Resources, Alienated Youths: The Anatomy of Protracted Violence in Sierra Leone," *Internationale Politik und Gesellschaft* 2 (2003): 67.
- <sup>52</sup> Ibid., 47.
- <sup>53</sup> Ibid., 68.
- <sup>54</sup> William Reno, "Political Networks in a Failing State: The Roots and Future of Violent Conflict in Sierra Leone," *Internationale Politik und Gesellschaft* 2 (2003): 45.
- <sup>55</sup> Keen, 68.
- <sup>56</sup> Ibid., 70.
- <sup>57</sup> Reno, 46-47.
- <sup>58</sup> Ibid., 47.
- <sup>59</sup> Keen, 75.
- <sup>60</sup> Ibid., 78.
- <sup>61</sup> Ibid., 77.
- <sup>62</sup> Ibid., 78.
- <sup>63</sup> Ibid., 69.
- <sup>64</sup> Caspar Fithen and Paul Richards, "Making War, Crafting Peace: Militia Solidarities & Demobilization in Sierra Leone," in Paul Richards (ed) *No Peace No War: An Anthropology of Contemporary Armed Conflicts* (Oxford: James Currey Press, 2005) 121.
- <sup>65</sup> Keen, 87.
- <sup>66</sup> Ibid., 87-88; Republic of Sierra Leone, *Interim Poverty Reduction Strategy Paper Report* (2001): 13; author interviews.
- <sup>67</sup> Lefrancois (see Note 10).
- <sup>68</sup> Ibid.
- <sup>69</sup> Ibid.

<sup>70</sup> Lefrancois.

<sup>71</sup> David Keen, *Endless War? Hidden Functions of the "War on Terror."* (London, UK; Ann Arbor, MI: Pluto Press, 2006) 215.

<sup>72</sup> Richards, 5.

<sup>73</sup> Philippe Le Billon, *Fuelling War: Natural resources and armed conflict*, *International Institute for Strategic Studies Adelphi Paper 373* (London: Oxford University Press, 2005): 81-82.

<sup>74</sup> Le Billon, *Fuelling War*, 8.

## *Dissecting the Englishman*

Material Changes from Feudalism to Capitalism and the  
Transitional Philosophies of Hobbes and Locke

*Christopher Felling*

If the abstract to Peter Laslett's edition of John Locke's *Two Treatises of Government* can be taken at its word, Locke's work should be thought of as the architect for what would eventually become Classical Liberalism, rather than as merely excusing the Glorious Revolution. This is a fair and accurate claim to make, but is also a claim which, at the same time, ignores other significant historical innovations of the time in which Locke wrote. Positions on Thomas Hobbes's work are more varied, but, again, not quite satisfactory in terms of their sensitivity to context. He is credited (and oft dismissed) as bourgeois, or else his name will be dropped in discussions of economic game theory despite his deliberate positioning of the market beneath politics. Hobbes and Locke, though by no means reactionaries, do not square up with the contemporary world quite so cleanly. Even contrasted with each other, their political narratives differ significantly; as do their respective visions of political society, property rights and even human nature. Yet, their philosophies are in agreement that the individual is the beginning, the jumping-off point, of politics. Though their political societies take individuals in drastically different directions, Hobbes's and Locke's natural men structure political society through similar mechanisms with similarly self-centered<sup>1</sup> motivations.

So, in this sense, it's unsurprising that these intersections could influence the capitalism of the modern and post-modern world. The question, then, is "How did they do so?"

This is not merely another new site for comparative political theory to be exercised. The transitional projects in Hobbes and Locke's works should not be underestimated, as it would seem that these theoreticians had to make individuals- at least politically relevant individuals- from scratch. The political and economic structures of feudalism were profoundly disinterested in the idea that labor needed to be managed as anything more than a homogenous masses bound to particular geographical units. In the turbulent collapse of feudalism, however, the event of politically relevant individuals became a "happy accident" that the philosophies of Hobbes and Locke would first have to domesticate, and then, deploy in a changed England. This context-sensitive deployment would be the Hobbesian and Lockean contributions to liberalism and capitalism. Responding to the political and economic instabilities both during and following English feudalism Hobbes and Locke created transitional philosophies and politics. Against the background of post-plague economics, I will argue that they accomplished this by blueprinting the new phenomena of the rational, self-interested individual, by reinventing property as a natural individual right and by providing the abstract monetary and legal ideas necessary to regulate private business.

### **The End of English Feudalism**

There is more to Hobbes's and Locke's anxieties over rebellion and tyranny than merely their respective memories of the recent Civil War and Glorious Revolution. Preceding these events by centuries was Feudalism's end, a common experience for Western Europe, but one leading to unique power problems for the English. As educated men involved in government, Hobbes and Locke would certainly be familiar with the damage control policies their predecessors crafted to alleviate this economic shift.

The mortal blow for European feudalism, as argued by Richard Lachmann, was the economic upset following successive waves of bubonic plague in the 14<sup>th</sup> century. Widespread, catastrophic peasant death paradoxically improved the lot of peasants: those who survived the disease found themselves in a better position to bargain with their lords and masters for two reasons: first, the balance of land and labor was tipped in such a way that landowners were unable to extract the wealth they were accustomed to; second, this was exacerbated by peasant flight on account

of these increased demands and the threat of the plague itself. The responses of European feudal elites were ultimately reduced to the forcible reassertion the traditional system, and, depending on the geography, had mixed results. From East to West the “seigneurial offensive” was less and less successful, with peasants securing more rights against their lords and masters in the West.<sup>2</sup> Russia remained effectively feudal. Between East and West, Western peasants’ access to their own political institutions- villages, communes, etc.- proved the decisive factor in securing their interests after the plague.

Early capitalism, however, is not the result of this. As much as the Black Death can be retroactively constructed as the advent of market forces in a static system – introducing competition for suddenly scarce and commodified labor – this incomplete narrative ignores the anomaly of England, as well as the gap between the 14<sup>th</sup> and 16<sup>th</sup> centuries,<sup>3</sup> which were neither perfectly feudal, capitalist nor static. Furthermore, England’s political structures did not, at this point, coalesce into an absolutist state as occurred in France, where similar peasant organization took place. Still furthermore, absolutist states, such as those in the mold of Hobbes’, are neither built upon nor friendly to free markets. Rather, they are implicitly opposed to them because of the power without status that free markets allow and generate. A gap remains to be filled. What set the end of English Feudalism apart from the rest, and produced the circumstances that Hobbes and Locke respond to, is not found in the English peasantry but rather in its elite class. In France, for example, the absolute monarchy was built and fortified in response to the plague, eclipsing smaller landlords and nobles. England’s crown- or for that matter, any challengers to it- did not have the power necessary to solidify an absolute state. As such, post-plague England was pulled in three directions by its feudal elites: the crown, landlords and the church; their respective demands and legal institutions.<sup>4</sup>

England’s tripartite upper-class was stable insofar as peasant labor was sufficient enough to satisfy the minimum material demands of all three groups. Following the plague, this ratio would not return until the 1600s. The intensified interim feudal conflict between English elites was taken advantage of by enterprising peasants,<sup>5</sup> who secured for themselves, under common law, far greater rights of ownership and personal freedom than their continental peers. In particular, peasants sought to acquire the plots of their deceased fellows and often travelled to find superior land for rent or purchase. This unsettling of tradition and production produced a two-pronged response by landlords: either peasant demands were accommodated or suppressed. Here is where England

witnessed the dawn of Hobbes and Locke's political individual:<sup>6</sup> suppressive measures could not contain the mass dissolution of peasants throughout England. The effect was a general dismissal of the state as the final, preeminent force in English politics. Peasants secured their new rights not through organization and collective bargaining, but through personal mobility.

At this point in history the English state remained decentralized, comparatively weak, and it faced the task of taming an unorganized mass of freely moving units of labor. These arrangements would not be alleviated by Henry VIII's removal of the Catholic Church as a third elite, as lay landlords continued to challenge the crown's absolute authority.<sup>7</sup> Hobbes would be born during the crown's long systematic dismantling of landlord power, though the peasants remained as a problem for him to solve. Who the changing state would rule was clear. The question, to Hobbes, was a much more fundamental one: *what* will the state rule?

### **Hobbes: Confronting Man and Nature**

*Leviathan* finds itself on an exhaustive answer to that very question and produces a goal sympathetic to the project of the time: the consolidation of the absolute monarchy. As such, it's tempting to see Hobbes as a retreat from the capitalist future, or perhaps as an advocate of the failed policy of peasant suppression. However, it is more accurate to look at *Leviathan* as fulfilling two political functions: explaining the workings of the free individual peasant, and constructing the political structures that can confine, stabilize and exploit the peasant where feudal structures had failed. Hobbesianism, then, is designed to extract feudalism's outputs from post-feudal inputs.

Such a set of new inputs, as elaborated by Hobbes, became central to the capitalist narrative. Hobbes's concepts of the individual and the state of nature account for the English peasantry's newfound uprootedness in ways that traditional and Scholastic notions of one's natural or proper place – or of the natural order of things – cannot. The political tradition Hobbes begins discards the teleology of Aristotle and scholasticism to instead place exceptional emphasis on the negative liberties of individuals. Hobbes's infamous state of nature, the war of all against all, places no obligations or demands upon individual persons except for what obligations arise from their own desires and what demands are forced upon them coercively. In no uncertain terms, Hobbes says, "there is no *finis ultimus* (utmost aim) nor *summum bonnum* (utmost good)."<sup>8</sup> That is, until provoked, human beings have no projects to speak of. But

provoked they will be, as there is no place for contentedness in Hobbesian ontology; this description of desire itself is perhaps Hobbes's most important contribution for the capitalism to come. Immediately after scrapping the thought of any grand narrative or finite ends being present in all human beings, Hobbes instead attributes to each individual a *telos* unto oneself- the eternal progress of his or her own desires. Every action stems from some desire, great or small; each towards not only temporary satiation of appetite, but towards the promise of new and future appetites, as well as the security and leisure needed to enjoy them.<sup>9</sup> Furthermore, Hobbes suggests that the acquisitiveness and escalation of desire in humans is both the product of reason and responsible for making humanity more reasonable- a claim that will certainly resonate in Locke and in free market discourse in general. On the history of philosophy, Hobbes argues that philosophers, and by extension reason:

...were at first but few in number... It was impossible, till the erecting of the great commonwealths, it should be otherwise. *Leisure* is the mother of philosophy; and *commonwealth*, the mother of *peace* and *leisure*.<sup>10</sup>

This passage, in the oft-overlooked latter half of *Leviathan*, links wealth-even opulence- with reason and character, a significant part of early capitalist narratives.

In regards to historical context, it should be noted that this ceaseless natural acquisitiveness towards securing and maintaining goods and power was not only present in a dramatic way during the English Civil War. It was also found in the warring factions as well as the tripartite elite and the mobile peasantry they sought to control. So when critics accuse *Leviathan* of being bourgeois,<sup>11</sup> they are perhaps only partially right. Hobbes's account of ceaseless desire is not merely an account of the English rich, but also of the poor who, as discussed earlier, were able to play off of the unique internal struggles of their masters for their own material gains. Hobbes's society does not begin with castes of exploiters and exploited, but rather a mass of roughly equal exploiters and consumers.

However, such consumers and exploiters do not desire, consume and exploit towards the good of all, as Hobbes's dreary state of nature illustrates. In an exceptionally anti-capitalist move, Hobbes decries competition for wealth and power as a wound in peaceful society which will naturally fester into hatred and war.<sup>12</sup> So Hobbes introduces a limited teleology upon the state of nature: its transition into the commonwealth, where the free individual is forced, internally or externally, to obey.



Though Hobbes's individual resonates with the acquisitive, selfish motivations of the archetypal capitalist, Hobbes's state does not. The project of *Leviathan* is quite literally to unmake the individual- or at least permanently suppress it- and institute a consolidated form of feudal hierarchy, as absolutist states did elsewhere in Europe. In Mark Neocleous' words, "the person of the state ... is made in order to deny the multitude its own subjectivity. The political function of the multitude is to cancel itself."<sup>13</sup> Though acquisitiveness improves individuals, it throws them into conflict with one another over limited goods.<sup>14</sup> Rationality, as suggested by Hobbes's account of the history of philosophy, is rare outside of established political orders. In response, Hobbes forms his politics upon an observation confirmed today by experiments in game theory,<sup>15</sup> that any one person's thoughts are at the mercy of his experiences and the fallibilities of his imagination.<sup>16</sup> Hobbes's solution: rationality must be taught to or forced upon individuals. Hobbes's absolutist state explicitly regulates, standardizes and limits the experiences and interactions between subjects to enforce common modes of interaction and common interpretations of phenomena. The Sovereign is gifted power over everything except the arbitrary taking of his subject's lives, but Hobbes pays particular attention to the Sovereign's power over ideas. The Sovereign determines what ends his subjects are allowed to pursue, what they learn and worship, with whom they may assemble, what laws apply to them and what legal precedents clarify this application.<sup>17</sup> The Sovereign right to arbitrarily distribute and seize land and goods only further divorces Hobbes's politics from the liberal-democratic systems paired with early capitalism. As such, it is necessary to turn to Locke's *Treatises* to complete the transition from feudalism.

### **Locke: Domesticating Man and Nature**

Locke, unlike Hobbes, is willing to accommodate England's newly uprooted peasants, due, in part, to his significantly sunnier conclusions on the commands of reason. Most importantly, as Locke states, his, "state of liberty ... is not a state of license" as it is in Hobbes. Imperatives to respect the rights of others and to be concerned for their well-being, which are secondary and externally enforced in *Leviathan*, are commands as intrinsic to an individual as self-preservation in Locke's *Second Treatise*.<sup>18</sup> The acquisitive nature of humanity also differs significantly. There is an absence, in Locke, of Hobbes's explicit and all-consuming drive to acquire and dominate. Individuals are more interested in protecting what property and freedom they have than they are

in consuming more.<sup>19</sup> Locke also adds a third option to human interaction where Hobbes does not: individuals can choose not to interact with one another, which, as proven in dilemma-with-exit games in game theory,<sup>20</sup> drastically reduces the attractiveness and necessity of conflict. Furthermore rights to property and power are not secured through force, but rather, through particular labor, practically by accident. The mere gathering of something ownerless- or held in common- secures an individual the exclusive right to it.<sup>21</sup> Furthermore, Locke, unlike Hobbes, does not view this as a site for contention. The brutal state of war is not a descriptive truth or a command of reason in Locke's state of nature as it is in Hobbes.<sup>22</sup> Rather, a state of war in Locke stems from a violation of the commands of reason, where one attempts to appropriate from another that which cannot rationally be made theirs- which is to say, it occurs where one attempts to appropriate another as a slave.<sup>23</sup> Natural conflict in Locke is particular, rather than general. It is the violators, rather than the adherents, of natural law that make political society attractive. This more optimistic view of humanity, unregulated, will create the conditions for Locke's liberalism. Also, due to conflict's particular character, Locke's philosophy is more individualistic in scope than Hobbes's.

Locke's liberalism is more willing to accommodate the new material arrangements- and support the change in legal rights- between peasant and landlord in post-plague England. Political society in Locke protects the ends of rational individuals while allowing them the freedom to labor and enjoy their property as they wish, as opposed to Hobbes's commonwealth which forms a barricade against the inevitable war caused by acquisition of goods which Hobbes's ontology predicts. For Locke, natural processes can be trusted and humans left to their own devices, "join hands with nature", and improve nature and themselves,<sup>24</sup> rather than consuming and destroying. In an English context, where plague has left plots of land unworked, Locke's treatises argue that whatever peasants wish to work them deserve them, and landlords are obliged by divine command to see their plots worked, rather than wasted.<sup>25</sup> Though both land and property originally initially belong to no particular individual in both philosophers' work, land and property are not the state's to distribute in Locke, but rather, distribute themselves naturally, with governments obliged to protect that distribution in law. Locke's philosophy, unlike Hobbes', separates economic rights from political rights- and both from royal blood- and embraces the rights won by the peasantry, as well as the new opportunities presented to non-nobles to become property owners.<sup>26</sup> This is his most significant break from the absolutism Hobbes endorses. In essence, he is domesticating Hobbes's

acquisitive man into one whom will be more decent in a free society- and free market.

Yet Locke's theory of value does not cleanly square with those of economists to come, and his stress on ownership and practicality as the source of value will be problematic to a capitalist economy built on the values of exchange and demand. What Locke actually values can initially seem unclear. Though prototypical market forces of "quantity" and "usefulness" are present in his works, and the *Treatises* in particular place great emphasis on labor improving the value of the natural world, the value of goods are attributed to their utility, rather than the labor necessary to make it or its value in exchanges.<sup>27</sup> In fact, Locke views means-of-exchange as a sort of absurdity; money is not created by order of natural law, but rather by accident: people simply find precious metal, gems or other tokens fanciful<sup>28</sup> and exchange useful goods for them in an error in judgment;<sup>29</sup> their widespread use in exchange being not a so much a rational convenience but instead, despite it's usefulness and necessity, a collective insanity easily victimized by counterfeiters and coin-clippers,<sup>30</sup> or, in Lockean terms, individuals who irrationally violate the rights of others. This is an arena where Locke's liberal government is obliged to get involved by regulating the symbolic components of free-market commerce.

### **Economic Blood in the Body Politic**

Given that the legal regulatory structure Locke will use is a tradition inaugurated by Hobbes, it makes sense to return to the philosophy of the latter to discuss it. Upon returning to Hobbes, we find that his absolutism belies a seemingly odd respect for money, given that he does not accept the decoupling of economic rights from political authority as Locke does.<sup>31</sup> A glimmer of capitalism is shown in Hobbes's use of blood as metaphor for money:<sup>32</sup> money must continually circulate, must continually return to the heart- that is, the public coffer- and that the repeated exchange of money nourishes a state. Money, for Hobbes, is not a disease of the mind but instead a natural function of the body politic.<sup>33</sup> Although it would be too forward to read a full-fledged exchange theory of value into Hobbes's limited forays into economics, it should be clear that Hobbes does not share Locke's suspicion about the nature and usefulness of exchange. This is likely due to his accepting of intrinsic value in precious metals,<sup>34</sup> if only because of the tacit agreement amongst existing states that such metals should be valued. Hobbes characteristically goes a step further and finds, unsurprisingly, another opportunity for

the Sovereign to exercise his power through the standardization of currency, whereas Locke regulates out of reluctant necessity to uphold natural law. However, Hobbes's regulations in regards to money are very limited, admitting that "money cannot easily be enhanced or abased."<sup>35</sup> Though sovereign governments are, of course, empowered to weigh and stamp and standardize, the value of the means-of-exchange itself is taken by Hobbes to be mostly untouchable by the state, except by inflicting upon the national coins a "prejudice."

This attitude towards gold, of course, would go on to play a significant role in the colonial period, but it is also a rare moment in Hobbes where a value exists somewhat independently of arbitrary sovereign power, and the "sovereignty of currency," so to speak, lends itself more to the division between state and civil society in liberalism than Hobbes's absolutism. More importantly, this element of robust commerce as crucial to the state, more emphatic than Locke's more thorough discourse on property, builds upon Hobbes's earlier notions of exchange of right and its emphasis on the surrendering of a right as the basis of exchange; thus the seller becomes the more significant party of the contract.<sup>36</sup> Also note that Hobbes declares the worth of an individual as his or her price, which raises the unresolved debate over whether Hobbes takes labor to be a commodity, as Locke does.<sup>37</sup> Regardless, insofar as a right to property exists- or is allowed- Hobbes's concepts of money, right and legal exchange form a proto-capitalist concept of commerce: a regulated exchange between private individuals on their terms, rather than feudalism's traditional economic obligations in which one social caste owed another.

### **Hobbes and the Future of Capitalism**

Hobbesian legal philosophy also sets incredibly important precedents for the way businesses form, and are allowed to form. Though both Hobbes and Locke start with dissociated individuals who alienate a portion of their natural rights through contract to form the commonwealth, only Locke's government is of its subjects and itself subject to the law. Hobbes's Sovereign is, by its contractual nature, above and outside the civil law.<sup>38</sup> Though Hobbes's severed Sovereign is, as far as business and commerce are concerned, innocuous enough in Hobbes's time, the later expansion of capital during industrialization would tap Hobbes's political foundations to form the basis of corporate law. The process that creates the Sovereign sets a precedent which allows natural persons to represent and act in the name of abstract powers.<sup>39</sup> Most importantly, these

representatives are absolved of the usual responsibilities of natural persons, as the abstract power they represent is responsible for the actions they undertake.<sup>40</sup> As capitalism progressed in England, private property rights enumerated and secured by Locke's philosophy would be alienated in a Hobbesian manner to form companies and corporations. Hobbesian legal precedents about impersonation and representation provided a framework for a battery of legislation throughout the 1800s<sup>41</sup> which created the legal fiction of the private company, or "enterprise," and enshrined it as the standard holder of capital in the marketplace. The 1862 Companies Act in particular echoes Hobbes's Sovereign, as it first established the idea of a corporation as a unique legal entity. By changing the terms of reference from "they" to "it", the Act wholly severs private business from the actual persons who invest in and staff them.<sup>42</sup> It is also of note that if Hobbes's work did originally commodify labor, the later corporate application of his legalism it demands it.<sup>43</sup>

Alienation and representation in corporate law imbues corporate business, which like Hobbes's Sovereign power, is a collection of rights with similar immunity in violating the civil rights of others. Collections of rights, "can have no mind, and therefore can have no malice" and can not be held liable for "malicious prosecution, which involves a mental state."<sup>44</sup> This immunity carries on the Hobbesian tradition of working in ways "far more accommodating to corporate persons than humans ones,"<sup>45</sup> with the express intent of accumulating power, though with a distinctly Lockean and capitalist alteration. Hobbes's Sovereign accumulates political freedoms and is privileged in dominating politics, whereas the corporate form, built in the wake of Locke's emphasis on property and ownership, accumulates capital and is privileged towards dominating the marketplace. Once feudal economics were decisively over, English lawmakers repurposed the legalism of *Leviathan* towards making a new mortal god, the corporate entity, which, at present, rivals nation-states in exercise of power. There is a warning here against the idea that private business is democracy's great bulwark against authoritarian power, ideas expressed by Friedman and Hayek, for example. The private businesses of capitalism appropriate Lockean notions of labor, exchange and private property rights, but are ultimately built upon the dictatorial, unchallengeable, all-consuming Sovereign power of Hobbes'. It should also be noted that Hobbes saw the marketplace as neither "an equilibrium generating mechanism" nor as "an institution where people exercise their freedom."<sup>46</sup>

## Settling Down

The tumultuous centuries before the lives of Hobbes and Locke uprooted the embedded feudal political and economic traditions, leaving these two philosophers and their contemporaries to stabilize the country. Without a consolidated elite like those present in continental Europe, Hobbes and Locke were forced to imbue mobile individuals with motivations and freedoms independent of authority. With this, they were then able to blueprint new political systems built upon the exchange and alienation of natural rights that existed independent of hereditary status. Political society was thus rebuilt, Lockean and particularly Hobbesian legalism would go on to provide the foundations for a new center of power: corporate business.

If this study may be allowed some poetry to close it, then it will come from the Machiavellian uncertainty in the previous point, which runs counter to the finality which Locke and Hobbes both see in their philosophies. Despite themselves, Locke and Hobbes were writing in the context of a tumultuous world and, as the continued evolution of economics should demonstrate, the material conditions human beings respond to are still tumultuous and changing. As the fall of Soviet communism is still somewhat fresh in our memory as we suffer alongside dying neoliberal policy, the notion of economic and political contingency ought to be kept in mind when reflecting on the origins of the ideas taken for granted.

## Notes

<sup>1</sup> I use "self-centered" in a very literal sense. That is, I mean "egocentric" rather than "egoistic," which is an important distinction when Locke's ontology is to be discussed in relation to Hobbes. The Lockean individual has a personal interest in the well-being of others which is independent of his or her own personal needs but nonetheless an internal command of reason, rather than an external command of necessity or God. Contrast the Hobbesian individual whose internal command to care for others is epiphenomenal of self-preservation and, moreover, a contract which ensures self-preservation.

<sup>2</sup> Richard Lachmann, "Feudal Elite Conflict and the Origins of English Capitalism. *Politics and Society*," *Politics and Society* vol.14 no.3 (1985): 352-354.

<sup>3</sup> *Ibid.*, 361.

<sup>4</sup> *Ibid.*, 355-357.

<sup>5</sup> *Ibid.*, 358.

<sup>6</sup> *Ibid.*, 359-360

<sup>7</sup> Ibid., 366-368.

<sup>8</sup> Thomas Hobbes, *Leviathan*, ed. A.P. Martinich (Peterborough, Ontario: Broadview Press, 2002), 75.

<sup>9</sup> Ibid., 40-41.

<sup>10</sup> Ibid., 495.

<sup>11</sup> C. B. Macpherson's work is cited as an example of this in Harman, John and Vanderbilt, Deborah. "Agendas, Arguments and Political Theory," *PS: Political Science & Politics* vol.39 no.4 (2006): 907-910.

<sup>12</sup> Hobbes, 76.

<sup>13</sup> Mark Neocleous, "Staging Power: Marx, Hobbes and the Personification of Capital," *Law and Critique* vol.14 no.2 (2003): 152.

<sup>14</sup> Hobbes, 93-95.

<sup>15</sup> Ken Binmore, "Why Do People Cooperate?" *Politics, Philosophy & Economics* vol.5 no.1 (2006): p.87.

<sup>16</sup> Hobbes, 76-80, 82-83.

<sup>17</sup> Ibid., 133-135, 170-171.

<sup>18</sup> John Locke, *Two Treatises on Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 2003), 270-271.

<sup>19</sup> The purpose of political society itself is to preserve life, liberty and property — as elaborated in Locke, *Two Treatises on Government*, as a teleological endpoint, as opposed to the subversion of desire in Hobbes or the further development of power (property potentially included) in other philosophers such as Spinoza.

<sup>20</sup> Peter Kurrild-Kiltgaard, "Opting-Out: The Constitutional Economics of Exit," *The American Journal of Economics and Sociology* vol.61 no.1 (2002): 138-140.

<sup>21</sup> Locke, 288-289.

<sup>22</sup> This is to say that, in Hobbes, the use of reason in the state of nature necessarily produces the state of war, as each individual is aware of and understands the natural freedom and arbitrary powers of others, as well as the first law of nature (self-preservation). From these, agents understand the constant threat of the arbitrary power of others. However, this same understanding also defuses the state of nature progressively via all laws of nature subsequent to the first.

<sup>23</sup> Locke, 279.

<sup>24</sup> William O. Coleman, "The Significance of John Locke's Medical Studies for His Economic Thought," *History of Political Economy* vol.32 no.4 (2000): 719, 722.

<sup>25</sup> Locke, 291. It should also be noted that, by the argument of this passage, that whichever peasants are unwilling to work additional plots *do not* deserve to benefit from them.

<sup>26</sup> Lachmann, 367.

<sup>27</sup> Coleman, 712.

<sup>28</sup> Locke, 294, 300

<sup>29</sup> C. George Caffentzis, "Medical Metaphors and Monetary Strategies in the Political Economy of Locke and Berkeley," *History of Political Economy* vol.35 supplement (2003): 209-210.

<sup>30</sup> Ibid., 216-218.

<sup>31</sup> Hobbes, 247.

<sup>32</sup> Ibid., 187-188.

<sup>33</sup> Caffentzis, 206.

<sup>34</sup> Hobbes, 188

<sup>35</sup> Ibid.

<sup>36</sup> Neocleous, 153.

<sup>37</sup> Amit Ron, "The 'Market' and the 'Forum' in Hobbes's Political Philosophy," *Polity* vol.38 no.2 (2006): 237.

<sup>38</sup> Hobbes, 352-353

<sup>39</sup> Neocleous, 121.

<sup>40</sup> Hobbes, 121, 133

<sup>41</sup> Neocleous, 155

<sup>42</sup> Ibid., 156-157.

<sup>43</sup> Ibid., 159.

<sup>44</sup> Ibid., 160.

<sup>45</sup> Ibid., 163

<sup>46</sup> Ron, 246.





# *Advancing Human Rights and Assessing the Future Potential of the ICC*

*Randy Moore*

The issue of maintaining and advancing human rights in the world is one of great importance to most nations of the world. The human rights violations that occurred in the 1990s, most notably the Rwandan and Bosnian genocides, led to an intense examination of how to best prosecute and prevent such crimes from occurring again. Nations of the world took note of the extremity of the crimes of which had occurred in the 1990s and realized that an International Criminal Court (ICC) needed to be established in order to best maintain peace and order within the international community. The idea of having an international court to prosecute criminals who committed heinous international crimes first came up following the Nuremberg Trials in 1948.<sup>1</sup> However, it was not until the genocides in Rwanda and former Yugoslavia that the international community, in particular the UN Security Council, took serious steps towards creating the ICC.<sup>2</sup> The court finally came into being in 2002 after a period of four years where it was intensely debated and worked on in order to make it fit to serve its purpose.

This creation of the ICC did not, however, go over well with every nation. The prominent nations who chose not to join the ICC,

China, Israel, Russia and the United States, have all made it clear that they have issues with the court and the way in which it is structured and functions.<sup>3</sup> The United States in particular has been very vocal in its opposition to the ICC under the Bush Administration.<sup>45</sup> This opposition, it can be argued, has been a serious impediment towards the advancing of human rights and accountability in the world, as the absence of the US in an international body, such as the ICC, has the potential to lead to its downfall, as evidenced by the League of Nations.

This essay will examine the ICC's potential for advancing human rights and accountability in the world while focusing on, among other things, the United States' refusal to sign onto the Rome Statute and join the Court. This essay will start by looking at the Rome Statute and examine both the offences that it deals with as well as the powers that it gives the Court to enable the prosecution of said offences. The essay will then examine the four court cases that the ICC has brought to trial so far since its inception in 2002. These include situations in Uganda, the Democratic Republic of Congo, the Central African Republic, and Darfur. It will be determined just how well the court has done its job by looking at how the aforementioned cases have been dealt with and how many prosecutions have been successful with respect to these cases. It will then be determined why the United States did not sign onto the Rome Statute and what problems this has and will continue to pose for both the ICC and the international community. Finally, it will be determined what contributions the ICC has made, is making and will make in the future. By the end of the essay, a thorough examination of the ICC will be given and it is hoped that the answer of whether the ICC has potential to advance human rights and accountability in the world, and how much potential, will be reached.

### **The Rome Statute**

The Rome Statute was the document that declared the creation of the ICC. It was adopted in July 17, 1998 with "120 votes in favor, 7 against and 21 abstentions."<sup>6</sup> It became a legally binding document and officially established the ICC on July 1, 2002.<sup>7</sup> In order to ensure that the Court is not wasting its time on the many minor and less serious offences that states commit, which would lead to the Court taking up thousands of cases, the Rome Statute specifically stated the four crimes that are in the jurisdiction of the Court. In Article 5(1) of the Rome Statute, it says that Court will only deal with the "most serious crimes of concern to the international community" and lists the most serious crimes as genocide;

crimes against humanity; war crimes; and crimes of aggression.<sup>8</sup> For all crimes listed, with the exception of crimes of aggression, there are set definitions of each with examples of what actions must have occurred in order for a crime to be legally recognized. As per the aforementioned crimes of aggression, the Statute explicitly states that the ICC will not prosecute or handle crimes of aggression until all state parties who ratified the Statute agree on the definition of the crime and the methods of which the court will prosecute offenders.<sup>9</sup>

Two offences that are notably missing from the list and which have been brought up by other states are that of terrorism and drug trafficking.<sup>10</sup> Terrorism is now seriously being considered to be added at the 2009 review conference, especially with the aftermath of the September 11<sup>th</sup> attacks.<sup>11</sup> Drug trafficking will also be considered for addition in 2009; however, it has been deemed as having too broad a scope for the ICC to focus on as it would take up too much of the Court's resources and time.<sup>12</sup> While this argument should be taken into consideration, it should also be noted that drug trafficking leads into and funds many other international crimes and a well planned crackdown on the international drug trade could prove beneficial towards shutting down and preventing other international crimes.

The Rome Statute also gives special powers to the ICC that enable it to take action against nations who commit those crimes. These special powers include having jurisdiction over individuals rather than states, the ability to investigate a criminal situation which has been brought to the prosecutor's attention by a state party, the ability to follow up on a state party's investigation of the situation within its jurisdiction when the state party claims that they are pursuing said investigation, the ability to punish persons who commit crimes in accordance with the Statute, and the ability to try any person who commits those crimes listed, regardless of immunities or special procedural rules that a person may have.<sup>13</sup> The three main powers, however, are the powers of referral, deferral and the ability to determine what constitutes a crime of aggression.<sup>14</sup>

However, for the most part these are "complementary powers" which rely on the consent of states. This can lead to many procedural problems and has led to some scholars to note that "the ICC depends upon the compliance of states at virtually every stage of its legal procedure."<sup>15</sup> The ICC can only take action against crimes that are committed after the Statute has entered into force.<sup>16</sup> The ICC's jurisdiction and power are also limited because they only have jurisdiction "over violations within its subject jurisdiction in cases where the perpetrator is a

national of a state party or when the crime was committed on the territory of a state party" unless the case has been referred to the prosecutor by the UN Security Council (UNSC).<sup>17</sup> The ICC is limited by its ability to only deal with cases that cannot be handled by the state party's national judicial system.<sup>18</sup> The ICC is not binding, as it was not based on a UN Chapter VII decision, which means that states that did not sign and ratify the Rome Statute are not bound by it.<sup>19</sup> This is yet another limitation on the powers of the ICC and its ability to prosecute crimes on an international scale. If a state is not a party of the Rome Statute and the ICC wants to investigate the events that are occurring within that state, the only way this is allowed is with the authorization of the UNSC.<sup>20</sup> There have also been cases where the war criminal has been indicted by the court, but who is never brought in front of the court because the nation's own authorities refuse to arrest the criminal and transfer him or her to the ICC.<sup>21</sup> This is the case in Darfur, where two war criminals have been issued arrest warrants by the ICC, but whose national police force claims that the ICC has no jurisdiction with regards to the situation in Darfur and has thus refused to hand over the two criminals to the ICC.

### **ICC Cases**

As of the time this paper is being written, there have only been four cases taken up by the ICC: the case against Northern Uganda, the case against the Democratic Republic of Congo (DRC), the case against Darfur, and the case against the Central African Republic (CAR).<sup>22</sup>

#### *Uganda*

The case against Uganda occurred on December 16, 2003, when Uganda made a referral to the prosecutor regarding the Lord's Resistance Army (LRA) and their atrocities against the Acholi people.<sup>23</sup> By 2005, the five LRA leaders, Joseph Kony being the most senior leader, were indicted by the ICC and charged with crimes against humanity and war crimes.<sup>24</sup> An arrest warrant was issued for Kony and the other leaders; however, Kony stated that "he would not surrender unless granted immunity from prosecution."<sup>25</sup> With the lack of cooperation from Kony to turn himself in to the Ugandan authorities until the ICC indictments are dropped and no way for the ICC to force the local Ugandans to turn him over,<sup>26</sup> the case against the LRA in Uganda is one example of the problems facing the ICC since its inception. Kony will not turn himself in until he knows that he will not be prosecuted by the ICC and there are some who argue that

if Kony was prosecuted and charged under the ICC, that he will be living the good life in jail compared to those in Uganda who he persecuted for many years.<sup>27</sup> Therefore, some argue that the reason why Kony will not turn himself in is because he knows that once he gives himself up to the Ugandan authorities that they will have mob rule justice against him and he will not make it out alive.<sup>28</sup>

The Ugandan case also brings up a quandary with regards to how to interpret Article 17 of the Rome Statute. Article 17 outlines the criteria that needs to be present for the ICC's jurisdiction to be irrelevant and the case to be inadmissible.<sup>29</sup> Article 17 states that if the state in question is unwilling or unable to implement jurisdiction, that the ICC can step in and prosecute the criminals; however, if the state is willing and able to prosecute the criminals under their own national legal system, then the ICC does not have jurisdiction over the matter.<sup>30</sup> Payam Akhavan's article brings up the dilemma of what happens when, as with the case of Uganda, the state is both willing and able to prosecute the criminals, but they have decided to postpone their own investigations and prosecutions and hand the situation over to the ICC?<sup>31</sup> It can be argued that this transfer of responsibility towards the LRA case stems from the fact that the Ugandan authorities had been attempting to stop the LRA's crimes for years offering blanket amnesty towards the leaders, but had failed to make any real progress. However, with the creation of the ICC, Uganda finally saw the chance to use an international court that was built to deal with situations like theirs and felt that if they handed the situation over to the ICC that they would have more success with their powers to capture Kony and bring him to trial. So far Kony has not been brought to justice and his fugitive status looms over the ICC.

### *Democratic Republic of Congo*

The case against the DRC was brought forth on March 3, 2004 with regards to the grave situation in the Ituri region of the DRC.<sup>32</sup> The situation regarded a Thomas Lubanga Dyilo, who was issued an arrest warrant for recruiting child soldiers under the age of fifteen via abducting them from their homes, schools and on the road and then threatening their families with death if they refused to give up their children as soldiers.<sup>33</sup> While child soldiers are the main focus point of the warrant issued, Congo has been an area of absolute calamity with regards to humanitarian crises, with "reports of mass killings, rapes, cannibalism, and other gross violations of human rights."<sup>34</sup> The complete lack of any judicial system in the DRC was also one of the main reasons why the Congo situation was im-

mediately pertinent to the ICC's jurisdiction under Article 17, as there was no way that the DRC could legally handle the situation within its own domestic jurisdiction.<sup>35</sup> It is for this reason that the initial ICC plan to arrest and prosecute each and every offender of war crimes individually in the DRC had to be redrawn as a plan to only arrest and prosecute the top leaders of the offenses, because if the ICC chose to prosecute every single individual offender in the DRC, it would have to do so by itself as the DRC has no workable judicial system.<sup>36</sup> The result of this would be the ICC using up years of its time and resources taking hundreds or even thousands of Congolese to court.

However, the DRC case under the ICC has turned into its most successful case so far. Three of the four offenders, including Lubanga, who have arrest warrants issued against them have been captured and transferred to ICC custody.<sup>37</sup> They are now awaiting trial. While some may argue that the trial proceedings and formalities that are leading up to their convictions are taking too long, (eg. Lubanga has been at the ICC since 17 March 2006), it can also be argued that the ability of the ICC to catch the top war criminals in the state using the international mechanisms available to them shows promise for the Court and displays that the Court is learning as it goes along. The real lack of any judicial system in the DRC enabled the ICC to take full control over the methods and manner in which they were able to go after their top criminals without having to deal with any need for any domestic approval from the DRC in order to satisfy Article 17 conditions.

### *Darfur*

The referral on the situation in Darfur was put forward on 31 March 2005 by the UNSC via Chapter VII of the UN Charter.<sup>38</sup> The decision was near unanimous, with four nations abstaining from voting and none against.<sup>39</sup> The decision came at the behest of the UN after a UN Commission of Inquiry conducted an investigation into the Darfur situation and created a report outlining the atrocities that had been taking place in the region since 1 July 2002.<sup>40</sup> This led to the ICC Prosecutor, Luis Moreno-Ocampo, to open an investigation into the Darfur situation on 6 June, 2005.<sup>41</sup> The crimes that had been committed were crimes of murder, torture, rape, forced displacement, and the pillage and destruction of villages.<sup>42</sup> These constituted war crimes and crimes against humanity; however, it had been determined by the Commission of Inquiry that the Sudanese government "had not pursued a policy of genocide."<sup>43</sup> The ICC took action against the Sudanese humanitarian affairs minister Ahmad Muhammad

Harun, and against the Sudanese militia known as the Janjaweed, led by Ali Kushayb.<sup>44</sup> Recently they have also issued an arrest warrant against the President of Sudan Omar al-Bashir charging him with crimes of genocide, crimes against humanity and war crimes in Darfur.<sup>45</sup>

Problems, however, have arisen with regards to the case. While the arrest warrants have been handed out and several investigations have been made, with sufficient evidence having been collected to prove the crimes have been committed, the Sudanese authorities have made announcements that they refuse to arrest the indicted persons involved<sup>46</sup>, proving a flaw within the ICC's capabilities. It has been suggested that in order for situations like Darfur to be remedied, the parties of the ICC who want the criminals brought to justice need to help the ICC to capture the indicted war criminals by taking direct action.<sup>47</sup> It also has to be noted that while the UN has issued peace missions to be undertaken in the Darfur region, the goals of these peace missions are not to capture war criminals.<sup>48</sup> This means that any UN support that the ICC has been able to get within the Darfur region has not been focused towards achieving the same goal. It is a lack of cooperation with the ICC by the UN and other states that has led to the inability to secure the capture of the indicted war criminals in Darfur. It also does not help the ICC's situation when three of the permanent members of the UNSC, China, Russia, and the US, of whose involvement in peace missions is essential, are not members of the ICC.<sup>49</sup>

### *Central African Republic*

The situation in the CAR was brought to the ICC's attention on December 2004 under referral from a representative of President Bozizé with an investigation being initiated on 7 January, 2005.<sup>50</sup> A mission was sent to the country in late 2005 to decide whether to proceed with an investigation, with initial reports pointing towards waiting to see whether the domestic justice system could handle the problems.<sup>51</sup> However, after the Pre-Trial Chamber progress report arrived, it was decided by the Prosecutor to move forward with the case as quickly as possible.<sup>52</sup> However, it was not until 22 May, 2007 that the Prosecutor of the ICC opened up a formal investigation of the CAR.<sup>53</sup> The investigation cited crimes that occurred in CAR, mainly during the 2002-03 armed conflict. The crimes included murder, looting, and rape.<sup>54</sup> The rape in particular was the most prevalent crime, as it was reported to have occurred on a mass scale with "at least 600 victims identified in...5 months."<sup>55</sup>



An arrest warrant was issued for Jean-Pierre Bemba under the charges of crimes against humanity and war crimes. He was arrested on 24 May, 2008 in Brussels, Belgium<sup>56</sup> and subsequently transferred to the ICC after requests were made to the Kingdom of Belgium.<sup>57</sup> He is currently standing trial at The Hague and will eventually either be convicted or released if he is found innocent. This can be viewed as another success story of the ICC, where the accused war criminal Bemba was issued an arrest warrant, was arrested by Belgian forces who decided to transfer him to The Hague, and now is currently in the midst of a trial to determine his fate and hopefully find justice for all the victims of the atrocities that occurred under his reign.

### **United States and the Rome Statute**

As mentioned in the section on the Rome Statute, the creation of the ICC did not come without its detractors and skeptics. The most notably outspoken and vocal opponent of the ICC has arguably been the United States under the Bush administration. When the Rome Statute was created in 1998, it was done so under the Clinton administration. While Clinton did not vote for the creation of the ICC, as NGOs had transformed the Court into something not in line with the US vision, he worked prominently over the two years remaining in office in order to make the Court the best that it could possibly be.<sup>58</sup> This all changed when the Bush administration came into power, as they unsigned the Rome Statute and notified the UN that it no longer would be part of the ICC.<sup>59</sup> According to the US Policy regarding the ICC, the main objection that the US has to the ICC is the ability for the ICC to prosecute a citizen of the US without the US Government's consent as well as the claim that the ICC "lacks necessary safeguards to ensure against politically motivated investigations and prosecutions."<sup>60</sup> The US also objected to the inclusion of crimes of aggression in the Rome Statute, the principle of complementarity with regards to who the Court could prosecute even without State Party consent, and the Chief Prosecutor's power of *proprio motu*.<sup>61</sup>

It can be argued that under the Bush administration there are serious fears that with the lack of international support for the US and its foreign policy that signing onto the ICC would enable numerous states to bring cases against the US, harming the Bush doctrine and Bush's plans to unilaterally rid the world of terrorism. The Bush administration has taken measures to ensure that the US military forces will not have chance of being prosecuted by the ICC. Included in these measures is the

barring of US military assistance to states who have signed onto the Rome Statute, unless those states are NATO allies, major non-NATO allies, or Taiwan.<sup>62</sup> The Bush administration also pushed for immunity for any US troops that were working with a UN peacekeeping force arguing that even ICC supporters agree that some countries may waver with regards to participating in UN peacekeeping missions if their personnel have the chance of being prosecuted under the ICC.<sup>63</sup> While UN General Secretary Kofi Annan assured the US that the ICC would only be prosecuting those who commit the most heinous crimes, as outlined in the Statute, and to the best of his knowledge, these crimes come nowhere near anything the UN peacekeepers have done in any mission, the US holds firm that it does not trust the ICC and its abilities to infringe on state sovereignty.<sup>64</sup>

In a counter argument to the US's position on the ICC, one can argue that the infringement of state sovereignty for the purposes of maintaining peace and human rights is exactly what the US did with regards to the invasion of Iraq in 2003. The objection of the US to the ICC on the grounds of infringement of state sovereignty is "not available to the US, which has shown a willingness to sacrifice state sovereignty for the sake of defending certain fundamental rights."<sup>65</sup> The Bush administration acts as a rogue state on the international stage. While they want to advance human rights and peace in the world, they want to do so using whatever means necessary and the ICC has the potential to intervene in their missions if word gets out that they are committing war crimes and atrocities against the enemy. This reluctance of the US to cooperate with the ICC on humanitarian cases has been a huge impediment on the effectiveness of the ICC as the US is one of the most powerful nations in the world and a permanent member of the UNSC. As the ICC needs UNSC approval in order to engage in investigating cases of states not part of the Statute, US refusal to help the ICC on these matters has led to many procedural issues that make arresting and prosecuting war criminals more difficult. However, there is hope for future cooperation of the US with regards to the ICC, as President-elect Barack Obama has stated that the US should ratify the Rome Statute and "cooperate with ICC investigations in a way that reflects American sovereignty and promotes our national security interests."<sup>66</sup>

### **ICC Contributions and Future Potential**

While it has not achieved all of the goals that it set out to achieve so far, the ICC has managed to make some contributions towards advancing

human rights and accountability in the world. It has undertaken four of the gravest situations occurring in the world right now and initiated investigations which have led to the issuance of twelve arrest warrants. Of these arrest warrants, four have been taken into custody, six maintain their fugitive status, and two have been confirmed as dead. It has yet to be seen how long the trials will last before convictions and sentences are handed out; however, the mere fact that the ICC has been able to take four war criminals into custody should be seen as an accomplishment. With the arrests of those involved in war crimes in the DRC and the CAR, the accountability of state leaders and rebel groups has increased. Those who commit the crimes stated by the Rome Statute will need to be wary of their possible arrest and conviction in order to atone for the crimes that they have committed. With many states of the world having signed onto the Rome Statute, it can be argued that the ability for the ICC to arrest criminals in the world has been made easier, as long as the crimes have taken place within a state that ratified the Statute.

However, with every positive outcome of the ICC, there are negative outcomes as well. Those war criminals in the areas of Darfur and Uganda have, for the most part, been able to escape justice. The constant reliance on cooperation from signatory and, occasionally, non-signatory states has caused problems with regards to the ICC's ability to arrest war criminals, as not all states are willing to give up their war criminals and not all states are willing to work within the ICC in order to catch said criminals. The cases which have been tied to the UNSC have given the ICC more jurisdiction over the states that are harboring the war criminals and not cooperating with ICC orders; however, the fact that the US is a permanent UNSC member and also an outspoken critic of the ICC, has led to roadblocks for the ICC even when UN involvement has been a factor.

The actions and accomplishments of the ICC so far show that its future potential is immense. This argument stems from the fact that the incoming Obama administration is an outspoken supporter of the ICC and the Rome Statute, indicating a complete reversal of the less enthusiastic Bush administration. The trials of the arrested war criminals that are under way can only serve as learning experiences so the ICC is better learned for the next time they decide to take on a case; the same can be said of the failed cases against Darfur and Uganda. While some argue that the ICC and its mandate "will require justice at the expense of peace"<sup>67</sup>, meaning that governments which grant amnesty to war criminals as part of peace deals will not be given a free pass by the ICC, it can also be argued that the governments who make peace deals with war

criminals have no way to ensure that the war criminals abide by their peace deals. The other problems arise from the fact that many war criminals who are committing crimes are the governments themselves, thus creating the impossibility of a government granting itself amnesty in return for peace within its nation. It is situations like these when the ICC is most needed and can become most effective, especially with support of the UN and the newly pro-ICC US government.

## **Conclusion**

In conclusion, it has been shown that the ICC has had a rough start and has been criticized from a few sides with regards to how effective and legal the Court actually is. Its lack of jurisdiction in states which are not signatories of the Rome Statute and the lack of cooperation from all states with regards to capturing criminals has led to some undeniable setbacks, most notably in the Darfur region. However, the cases of the DRC and the CAR have given hope to those who believe in the power of an international court. The UN is continuing to help the ICC when it can and authorizing it to investigate cases that are not solely within the ICC's jurisdiction. This gives the ICC more power and ability to investigate and prosecute those who believed that they could get away with their crimes. The major turning point in the ICC has recently come with the election of Obama and his support for the ICC and his call for the US to ratify the Rome Statute. This signals the turning of the page in the history of cooperation with the ICC, as its most powerful and outspoken opponent under the Bush administration has the potential to turn into its biggest ally. With the support of the US within the UNSC, getting UNSC approval for investigating cases normally outside ICC jurisdiction becomes much easier and has the potential to make the world much safer.

## **Notes**

<sup>1</sup> United Nations Department of Public Information, "The International Criminal Court," *United Nations*, December 2002, <<http://www.un.org/News/facts/iccfact.htm>> (21 November 2008).

<sup>2</sup> *Ibid.*

<sup>3</sup> Allison Marston Danner, "Enhancing the Legitimacy and Accountability of Prosecutorial Discretion at the International Criminal Court," *The American Journal of International Law* Vol. 97, No. 3 (July 2003): 525.

<sup>4</sup> Author Unknown, "Efforts to Obtain Immunity from ICC for U.S. Peacekeepers," *The American Journal of International Law* Vol. 96, No. 3 (July 2002): 725.

<sup>5</sup> John R. Bolton, "The United States and the International Criminal Court," *U.S. Department of States*, November 14, 2002, <<http://www.state.gov/t/us/rm/15158.htm>> (21 November 2008).

<sup>6</sup> Mahnoush H. Arsanjani, "The Rome Statute of the International Criminal Court," *The American Journal of International Law* Vol. 93, No. 1 (January 1999): 22.

<sup>7</sup> W. Chadwick Austin and Antony Barone Kolenck, "Who's afraid of the Big Bad Wolf? The International Criminal Court as a weapon of asymmetric warfare," *Vanderbilt Journal of Transnational Law* Vol. 39, No. 2 (March 2006): 295.

<sup>8</sup> International Criminal Court, *The Rome Statute*, 17 July 1998, 3.

<sup>9</sup> *Ibid.*

<sup>10</sup> United Nations Department of Public Information, *The International Criminal Court*.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Joanna Harrington, Michael Milde and Richard Vernon, "Introduction," in *Bringing Power to Justice?: The Prospects of the International Criminal Court*, eds. Joanna Harrington et al. (Montreal: McGill-Queen's University Press, 2006), 6, and International Criminal Court, *The Rome Statute*, 11-18.

<sup>14</sup> Vera Gowlland-Debbas, "Functions of the UN Security Council," in *The Role of Law in International Politics*, ed. Michael Byers (New York: Oxford University Press, 2001), 296.

<sup>15</sup> Majbritt Lyck, *Peace Operations and International Criminal Justice: Building Peace After Mass Atrocities* (New York: Routledge Publishing, 2009), 91, and Danner, *Enhancing the Legitimacy*, 527.

<sup>16</sup> International Criminal Court, *The Rome Statute*, 10.

<sup>17</sup> Lyck, 30.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> Author Unknown, "U.S. Proposes New Regional Court to Hear Charges Involving Darfur, Others Urge ICC," *The American Journal of International Law* Vol. 99, No. 2 (April 2005): 501.

<sup>21</sup> Lyck, 32.

<sup>22</sup> Author unknown, "International Criminal Court: Situations and cases," *International Criminal Court*, 3 October 2008, <<http://www.icc-cpi.int/cases.html>> (22 November 2008).

<sup>23</sup> Payam Akhavan, "The Lord's Resistance Army Case: Uganda's Submission of the First State Referral to the International Criminal Court," *The American Journal of International Law* Vol. 99 No. 2 (April 2005): 403-404.

<sup>24</sup> Paul Jeffrey, "Hope for Uganda," *America* Vol. 199 No.4 (August 2008): 11.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*, 12.

<sup>28</sup> *Ibid.*

<sup>29</sup> Akhavan, 413.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> William A. Schabas, *An Introduction to the International Criminal Court*, (New York: Cambridge University Press, 2007), 42.

<sup>33</sup> Ibid, 44.

<sup>34</sup> Mahnoush H. Arsanjani and W. Michael Reisman, "The Law-in-Action of the International Criminal Court," *The American Journal of International Law* Vol. 99, No. 2 (April 2005): 397.

<sup>35</sup> Ibid, 398.

<sup>36</sup> Ibid, 399.

<sup>37</sup> Anonymous, "Statement by the Office of the Prosecutor following the transfer to The Hague of Mathieu Ngudjolo Chui," from *The International Criminal Court*, February 7, 2008. <[http://www.icc-cpi.int/pressrelease\\_details&id=330&l=en.html](http://www.icc-cpi.int/pressrelease_details&id=330&l=en.html)> (23 November 2008).

<sup>38</sup> Ralph Henham, Paul Chalfont and Paul Behrens, *The Criminal Law of Genocide* (Surrey, UK: Ashgate Publishing, 2007), 50.

<sup>39</sup> Ibid.

<sup>40</sup> Author Unknown, *U.S. Proposes New Regional Court*, 501.

<sup>41</sup> International Criminal Court, "ICC-PIDS-PR-20070502-214A\_En," from *International Criminal Court*, May 2, 2007. <[http://www.icc-cpi.int/library/press/pressreleases/ICC-PIDS-PR-20070502-214A\\_En.pdf](http://www.icc-cpi.int/library/press/pressreleases/ICC-PIDS-PR-20070502-214A_En.pdf)> (23 November 2008).

<sup>42</sup> Matthew Happold, "Darfur, the Security Council, and the International Criminal Court," *International and Comparative Law Quarterly* Vol. 55, No. 1 (January 2006): 228.

<sup>43</sup> Ibid.

<sup>44</sup> International Criminal Court, *ICC-PIDS-PR-20070502-214A\_En*.

<sup>45</sup> Anonymous, "ICC Prosecutor presents case against Sudanese President, Hassan Ahmad AL BASHIR, for genocide, crimes against humanity and war crimes in Darfur," from *The International Criminal Court*, July 14, 2008. <<http://www.icc-cpi.int/press/pressreleases/406.html>> (23 November 2008).

<sup>46</sup> Lyck, 32.

<sup>47</sup> Ibid, 221.

<sup>48</sup> Ibid, 222.

<sup>49</sup> Ibid.

<sup>50</sup> Schabas, 52.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> International Criminal Court, "ICC-OTP-BN-20070522-220-A\_En," from *International Criminal Court*, May 22, 2007. <[http://www.icc-cpi.int/library/press/pressreleases/ICC-OTP-BN-20070522-220\\_A\\_EN.pdf](http://www.icc-cpi.int/library/press/pressreleases/ICC-OTP-BN-20070522-220_A_EN.pdf)> (23 November 2008).

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> International Criminal Court, "ICC Arrest Jean-Pierre Bemba - massive sexual crimes in Central African Republic will not go unpunished," from *International Criminal Court*, May 24, 2008. <[http://www.icc-cpi.int/pressrelease\\_details&id=371.html](http://www.icc-cpi.int/pressrelease_details&id=371.html)> (23 November 2008).

<sup>57</sup> International Criminal Court, "Request to the Kingdom of Belgium for the arrest and surrender of Bemba," from *International Criminal Court*, June 11, 2008. <[http://www.icc-cpi.int/pressrelease\\_details&id=380.html](http://www.icc-cpi.int/pressrelease_details&id=380.html)> (23 November 2008).

<sup>58</sup> Austin and Kolenck, *Who's Afraid*, 297.

<sup>59</sup> *Ibid.*

<sup>60</sup> Bureau of Political-Military Affairs, "Frequently Asked Questions About the U.S. Government's Policy Regarding the International Criminal Court (ICC)," *U.S. Department of State*, 30 July 2003, <<http://www.state.gov/t/pm/rls/fs/23428.htm>> (23 November 2008).

<sup>61</sup> Austin and Kolenck, *Who's Afraid*, 298-299.

<sup>62</sup> Author Unknown, "U.S. Bilateral Agreements Relating to ICC," *The American Journal of International Law*, Vol. 97, No. 1 (January 2003): 201.

<sup>63</sup> Author Unknown, *Efforts to Obtain Immunity*, 725.

<sup>64</sup> *Ibid.*, 727.

<sup>65</sup> Harrington et al., *Introduction*, 14.

<sup>66</sup> Barack Obama, "Candidate Questionnaire Response: Responses from Barack Obama," *Citizens for Global Solutions*, n.d., <[http://globalsolutions.org/politics/elections\\_and\\_candidates/questionnaire/2004?id=20](http://globalsolutions.org/politics/elections_and_candidates/questionnaire/2004?id=20)> (23 November 2008).

<sup>67</sup> Michael P. Scharf, "The Amnesty Exception to the Jurisdiction of the International Criminal Court," in *The International Criminal Court*, eds. Olympia Bekou and Robert Cryer (Burlington: Ashgate Publishing, 2004), 437.

# *Hizbullah, Israel, and Palestine*

Ethnicity and Symbolic Politics in the Israel-Lebanon War,  
2006

*Sean Tyler*

In the summer of 2006 Israel undertook a weeks-long invasion of Lebanon in an effort to clamp down on Hizbullah, set off specifically by a cross-border raid in which two Israeli soldiers were taken prisoner. The Hizbullah raid occurred on 12 July, with the Israeli invasion following immediately after. The Israeli forces hit targets throughout Lebanon, causing massive infrastructural damage and population displacements. The United Nations Security Council passed no formal resolution on the conflict until 11 August, when it adopted UNSC 1701 (2006), which called for a cease-fire and established the conditions for post-conflict security. The United States, as a veto-holding Permanent Five member state and Israel's closest ally, was instrumental in charting the course of the Council both in delaying a cease-fire and in shaping the terms of the resolution.<sup>1</sup>

The actions of both Israel and the US were to many observers drastic. Israel had responded to attacks from a militant group within Lebanon by invading an entire country. The European Union and leading Western European states issued statements in the early days of the Israeli campaign condemning the Hizbullah attacks and cautioning against the "disproportionate" Israeli response.<sup>2</sup> As the conflict contin-



ued and the humanitarian and economic costs of the conflict grew, the US increasingly faced significant international pressure to expedite the imposition of a cease-fire. Yet they maintained that any ceasefire agreement must be on terms agreeable primarily to Israel and the US, allowing the conflict to continue for weeks.<sup>3</sup> This essay will explore questions of why Israel responded with such asymmetrical force, specifically the extent to which this response is tied to ethnic components of the conflict.

Stuart Kaufman asserts that ethnic groups are mobilized through elite-led appeals to their emotionally powerful myth-symbol complexes, and that the success of these appeals to incite ethnic war depends on a number of specific conditions.<sup>4</sup> I contend that the actions of Israel and the US in the summer of 2006 can be understood through such an explanation: the governments attempted to mobilize support for their actions by appealing to myths that resonated with their populations and with the broader international community. The invasion needs to be understood in the context of a broader ethnic conflict between Israel and Palestinians, and leaders within Israel and the United States attempted to mobilize support for the invasion as a component of this broader conflict.

This essay discusses the actions and motivations of Israel and the US. Primarily the focus is on Israel, though another essay could easily have advanced a similar argument as mine from a US-based perspective. On the one hand, the Israeli offensive was a direct conflict with Hizbullah and, indirectly, an assertion of power over Lebanon and Israel's other neighbouring states. On the other hand, the US's efforts supporting Israel and delaying a Security Council Resolution from passing are rooted in an understanding of the conflict as part of the "global war on terror," within which Hizbullah is a target. The theme in both is similar, and there are points which I make using the US case that serve to illuminate the Israeli perspective.

There are three sections of this essay. The first portion presents a detailed overview of Kaufman's theory of the symbolic politics of ethnic war. In the second section I will establish an understanding of the invasion as a drastic enactment of the broader ethnic conflict between Israel and Hizbullah as a Palestinian group. Following this is the largest section of the paper, which assesses the invasion of Lebanon from the outlined framework. Within this section I will demonstrate the existence of ethnic fear, opportunity for action, and myths justifying hostility from the perspective of Israel. Furthermore, I will provide a series of statements from senior Israeli officials that demonstrate their efforts to appeal to the emotional power of the Israeli and international myth-symbol

complexes. The paper concludes with a summary of the argument presented.

### **The Theory of the Symbolic Politics of Ethnic War**

As this essay draws extensively from the theory of symbolic politics as advanced by Stuart Kaufman, it is relevant at this point to provide a detailed account of this approach.

Kaufman outlines his symbolic politics theory in his 2001 work, *Modern Hatreds: The Symbolic Politics of Ethnic War*. Kaufman is primarily writing in response to what he sees as the inadequacies of rationalist accounts of ethnic conflict to accurately portray the underlying causes and characteristics of ethnic conflict.<sup>5</sup> Overall, Kaufman works from a psychological perspective, integrating primordial and constructivist strands with work on the importance of emotion in decision-making. Especially important from Kaufman's perspective is the power of myths and symbols, and their relationship together as the myth-symbol complex. Kaufman builds on previous theories of symbolic politics in defining myths as commonly held beliefs that give meaning to actions and events, and symbols as tools for referencing the emotional power of a corresponding myth.<sup>6</sup> Thus a central tenet of symbolic politics theory is, "that people make political choices based on emotion and in response to symbols."<sup>7</sup> However, Kaufman's most considerable contribution to the literature is applying this and related principles to ethnic conflict.

Kaufman outlines three necessary conditions for ethnic war to emerge, and two processes through which ethnic wars develop. The first necessary condition is the presence of myths that justify ethnic violence.<sup>8</sup> These myths can serve varying functions – they may emphasize protection of a homeland or identify another group alongside a mythical enemy – but they must connect emotionally with their target audience. The second condition is a fear for ethnic survival, perhaps initially only held by one group within a conflict but eventually held by all.<sup>9</sup> Though such fear can be manifest in a number of ways, typically from a group's myth-symbol complex portraying the group as threatened or victimized, it functions to legitimate hostility against another group because it allows groups to frame this hostility as self-defense. The final condition is the opportunity for ethnic groups to mobilize, free from state coercion or hierarchical control.<sup>10</sup>

The mere presence of the three necessary conditions is not sufficient to create ethnic war. Ethnic war will only break out if these conditions combine to create mass hostility, in-group politics of extreme na-

tionalism, and a security dilemma.<sup>11</sup> According to Kaufman, the forces that lead to these three elements of ethnic war can be elite- or mass-led. Elite-led mobilization sees conflict escalate through elites stoking ethnic myths and symbols in an attempt to build support and incite broader populations into ethnic violence.<sup>12</sup> Mass-led mobilization occurs in cases where the necessary conditions are strong, especially myths justifying ethnic hostility and ethnic fears, and a change in political climate triggers or crystallizes a response among a large population.<sup>13</sup> Elites then seek to position themselves as leaders of the group by employing ethnic-nationalist rhetoric.<sup>14</sup>

Kaufman also provides a number of insights into the three components of ethnic war: mass hostility, extreme nationalism, and a security dilemma. His commentary on ethnic security dilemmas is especially pertinent, arguing that in many cases they are the result of open and stated goals of dominance — rather than the result of structural conditions and information failures — and that they cause anarchy rather than emerge from it in cases of ethnic war.<sup>15</sup> As well, he suggests that the requirements for ethnic war are so powerful that all three of the causes must be present for an ethnic war to initiate.<sup>16</sup> Additionally, Kaufman argues that the many causes and processes of mobilizing ethnic groups for conflict are mutually reinforcing through positive feedback loops; strengthening one aspect is likely to strengthen others. The sequence of events is thus less important than the presence of the causes because, “events need not happen in any particular order. The causes are universal, but the paths to ethnic war are multiple.”<sup>17</sup>

Despite his detailed attention to the conditions required and mechanisms through which ethnic war develops, Kaufman spends little time dealing with identifying ethnic war. He defines ethnic war as conflict over the status of ethnic groups or ethnic markers such as language or religion.<sup>18</sup> His definition, which is at first glance beneficially parsimonious, is vague and amorphous. This tendency to progress without attempting to clarify the definition may partially be a result of the nature of his project in *Modern Hatreds*: Kaufman examines specific cases of conflict in Eastern Europe. He may already have in mind the conflicts he seeks to explain, and thus has little use for implementing a more rigorous and developed definition. He suggests that his goal in the book is to, “develop a theory to explain why ethnic wars occur and how they might be prevented,” a quote that indicates his primary interest lies beyond defining ethnic war.<sup>19</sup>

As he is concluding his argument in the final pages of *Modern Hatreds*, Kaufman suggests that the symbolic politics approach has bene-

ficial application beyond the sphere of ethnic wars.<sup>20</sup> The analytical strength of this approach is its emphasis on the emotionality of political decision-making and the power of the myths and symbols in elite-mass interaction. These factors have implications in any number of political questions, and Kaufman's brief dealing with these highlights the possible benefits in wider political scholarship.

The purpose of outlining the theory of symbolic politics of ethnic conflict above has been to provide a sufficiently detailed summary of Kaufman's work to enable a detailed analysis of Israel's invasion of Lebanon in 2006 using the various analytical components of his work. Kaufman has provided an approach to ethnic conflict that is both specific in its emphasis on certain aspects and yet broad enough to capture the wide range of possible scenarios and integrate the complicated realities of those scenarios.

### **Situating the invasion**

Kaufman's framework is fundamentally interested in explaining how ethnic groups are mobilized to undertake drastic action, of which ethnic war is one example. In other words, individual actors or groups would not otherwise be taking these drastic actions; they are not behaving as they typically would. There is a series of events and decisions that must take place before actors will feel motivated to act in a particular way, and it is these Kaufman seeks to understand. For the purposes of understanding Israel's invasion of Lebanon, it must first be shown that this was indeed a drastic action. Though Israel maintained a military presence in Lebanon for most of the last twenty years, the decision to re-conquer must be viewed as significant for three reasons.

Firstly, Israel knows well the challenges of fighting Hizbullah in Lebanon and of maintaining an occupation there, having done both in the past. Hizbullah waged a successful campaign against Israeli forces when they occupied the southern portion of Lebanon as a "Security Zone," eventually culminating, after an eighteen year occupation, in a unilateral Israeli withdrawal in 2000.<sup>21</sup> Secondly, though armed conflict between the two groups is common it is rarely direct or sustained. Israel maintains military dominance over Lebanon but rarely engages directly with Hizbullah. Instead, the two typically engage in a tit-for-tat form of combat, whereby an Israeli airstrike draws a Hizbullah rocket attack, which draws Israeli artillery fire.<sup>22</sup> Thus a direct engagement and mobilization of the IDF represents a drastic divergence from the emergent pattern of security relations.

Thirdly, choosing to invade a country draws the attention of the international community and the United Nations because it is a violation of international norms and, in some cases, international law. By invading Lebanon Israel created the need to justify its actions to the international community, to reply to questions of self-defense and proportionality of response, and to face sanction by the UN Security Council. While the role of territorial sovereignty and international law in this conflict will be discussed in greater detail below, its mention at this point serves to highlight that Israel's invasion was a drastic act not only because of its hard economic and security costs but also its international implications.

Before we turn to exploring the justifications Israel offered for its invasion, it is pertinent to establish the presence of an ethnic dimension of the conflict. Kaufman adopts Anthony Smith's germane definition of "ethnic group" as a group sharing five traits: a name, belief in common descent, common historical memories, shared culture such as language and religion, and territorial attachment.<sup>23</sup> Along these dimensions we can certainly see "Israeli" as an ethnic group, primarily tied to the common Jewish culture and religion, but also to the historical memories of independence and the struggles since then.

The case is less straightforward for Hizbullah. There are certain identifying markers for the group: symbols such as its flag and the image of its leader Hassan Nasrallah, its Shi'i religion, its concentration in southern Lebanon, and the extent to which its history has been formed in resistance to the Israeli presence in Lebanon. However, Hizbullah is a political party, not an ethnic group. Hizbullah is more accurately understood as a militant wing of a broader Palestinian ethnic group. In this sense, Hizbullah is the focus of Israeli aggression and regional anti-Israeli support from Syria and Iran because it embodies aspects of the broader conflict between Palestinian and Israeli. Of course Hizbullah cannot be said to represent all Palestinians in its actions or its goals, but it is reasonable to suggest it serves a function in the ongoing dispute of relative political power between these groups. This proposition is additionally supported by the extent to which Israel worked to relate Hizbullah's offenses to the Lebanese government and, to a lesser extent, population.

### **Three Necessary Conditions**

Having established that the invasion of Lebanon can be understood as a drastic act undertaken within the context of a broader ethnic conflict between a Palestinian group and an Israeli one, we will now examine the

presence of the three conditions Kaufman posits are required for ethnic war to emerge: fears, opportunity for action, and myths justifying hostility.

Hizbullah poses a legitimate security threat to Israel. They receive significant support from two of Israel's greatest regional rivals, Syria and Iran, and they have repeatedly demonstrated their ability to strike military and civilian targets across northern Israel. Additionally, Palestinians as a whole continue to attack Israeli targets. The threat to Israel from Palestinian militants is not merely perceived, it is actualized on a routine basis. While Israelis may be justified in individually fearing for their safety, the extent to which they fear for the survival of their ethnic group is less clear. Take for example, Hizbullah's conscious effort to focus its most violent attacks against military targets rather than civilian ones.<sup>24</sup> In a country of conscription and widespread militarization the division between civilian and military can be difficult for both Hizbullah and Israelis to make. Additionally, the great deal of anti-Israeli rhetoric presents a challenge because while some is likely little more than rhetoric, that it advances some group's political agenda is sufficient to suggest the presence of legitimate threats to the Israeli people. For symbolic politics to resonate with groups it is not required for fears to be founded in factual proof, only that groups perceive there to be reason to fear. In the case of Israel this possibility exists.

Opportunity to mobilize is the second necessary condition Kaufman points to. That is, groups must exist free from state interference under the state or be the state. The case of Israel's conflict with Hizbullah challenges Kaufman's framework in this regard because the two exist in separate states. Israel as a sovereign state is in principle free from internal impediments to mobilization, however, the international system and other states impose to some degree external limits on Israel's ability to undertake significant hostile action. Principles of international law, such as the UN Charter, govern the relations between states and there is a well-developed international legal tradition dictating both the acceptable conduct of war and the conditions under which use of force is permissible. The focus of this paper is not on determining the legality of Israel's invasion — though there are significant discussions of this point<sup>25</sup> — and mention of international law at this juncture serves only to highlight that for whatever barriers Israel viewed international law as imposing, they were surmountable. Israel and the US insist that the conditions warranted the invasion under international law.<sup>26</sup> It is notable that the contention of this point is such that the Ministry was compelled to release a document addressing the legitimacy of Israel's response and its

document addressing the legitimacy of Israel's response and its proportionality.<sup>27</sup>

The US acted to help create the opportunity for Israeli action in a number of ways. Since the attacks of September 11, 2001 a principle of justifiable intervention in states harbouring terrorists has been advanced by states such as the US. Israeli leadership adopted a similar argument regarding the invasion of Lebanon. The earliest statements of Israeli officials such as Prime Minister Ehud Olmert and Foreign Minister Tzipi Livni made it clear that Israel viewed both Hizbullah and Lebanon as responsible for the attacks for two reasons: Hizbullah was an active participant in the Lebanese government, and the Security Council had many times demanded that the Lebanese government disarm Hizbullah.<sup>28</sup> The statements also indicted Syria and Iran for their support of Hizbullah, but actions against these states was less possible. These attempts to tie the actions of Hizbullah, a socially and militarily powerful sub-state group with foreign and domestic support, to the justification of reprisals against the Lebanese state and its population are indicative of Barry Buzan's argument, who maintains that in some cases it is acceptable to hold populations to account for the actions of groups directly or indirectly supported by them.<sup>29</sup>

US support for Israel generally and in the specific case of the invasion of Lebanon also allowed Israel to operate with less international pressure. The US worked to build support for Israeli action, or at least to limit open dissent, in organizations such as the G8 and UN. American conditions were crucial to the delays in ceasefire discussions, and numerous draft resolutions in the Security Council were threatened with veto.<sup>30</sup>

For us to understand the invasion of Lebanon as a component of the broader ethnic conflict between Palestinians and Israelis, Kaufman suggests there would also need to be myths that justify hostility on the part of Israel. Some of these myths pertain to the international community, some to the domestic Israeli audience and others to both. Rather than attempting to completely list the extent of the myths employed, I will highlight four of the most pertinent myths and discuss their importance. And rather than discussing these myths in abstract, I will deal with each one in relation to the efforts to evoke them in support of the Israeli invasion. Thus the following section both completes the account of Kaufman's three necessary conditions and explores the application of the elite-led effort to mobilize support.

One of the most powerful myths is that of Israel as a country - and Israelis as a people - under siege. There are two direct aspects of this

myth: the need to defend the imperiled homeland and the notion of being isolated and surrounded by enemies. On the day of the Hizbullah raid, 12 July, Foreign Minister Tzipi Livni issued a statement that spoke to both aspects of this myth:

Israel views the government of Lebanon as responsible for today's unprovoked aggression. There is an axis of terror and hate, created by Iran, Syria, Hizbullah and Hamas that wants to end any hope for peace. ... In these circumstances, Israel has no alternative but to defend itself and its citizens. We also expect the international community to act. We will fight back, in order to fight for peace.<sup>31</sup>

Israeli officials delivered other similar statements, in the early stages of the invasion. With statements such as this the Israeli leadership hoped to engage with the domestic and international audience and access the emotional aspects of decision-making such that undertaking drastic action against Hizbullah, as a component of a broader Palestinian opponent, would be acceptable. These statements buttress feelings of fear and isolation, and attempt to increase the perceived opportunity for action by suggesting that there are "no alternatives" and that the international community is "expected to act."

A second myth evoked by the Israeli leadership is that of the Israeli (Jewish) nation suffering and surviving. This is a deeply historical myth and is fundamental to the identity of the Jewish and Israeli nations and the Israeli state. In his first official statement following the Hizbullah raid Prime Minister Ehud Olmert said, "The State of Israel and its citizens now stand in an hour of trial. We have withstood difficult tests in the past, even more difficult and complex than these. We, the State of Israel, the entire nation, will know how to now overcome those who are trying to hurt us."<sup>32</sup> Appealing to this myth is both a form of reassurance to citizens and a reminder that with solidarity suffering can be overcome. The reference to the, "State of Israel *and* its citizens," is additionally bridging the gap between fear for individual and community security, tying the survival of all citizens to the nation and to the state.

The third myth employed by Israeli and US leaders is the myth of the virtuous self against the senseless terrorist.<sup>33</sup> In relating to this myth the leaders of the US and Israeli governments aim to equate their actions with moral superiority, and often suggest that violent response is not optional but required. Additionally they portray the actions of their opponent as baseless and senseless, violence for the sake of terror rather than political advancement. Following an Israeli strike that killed 57



Lebanese civilians in Qana, the same town where 110 had died in a similar incident ten years prior,<sup>34</sup> the Defense Minister said in a speech to the Knesset:

This is a war that was forced on us after we did everything to prevent it. ... While we make every effort to target only terrorist elements, Hizbullah strikes indiscriminately [sic] at Israeli civilians and population centers. They send suicide bombers to explode in buses and restaurants. While they have no regard for human life, not giving a second thought to using innocent Lebanese civilians for their purposes, we make every effort to avoid harming uninvolved civilians. When they succeed in killing innocent train workers in Haifa, they consider it an operational success. When we kill innocent civilians, we consider it a tragedy to be investigated thoroughly.<sup>35</sup>

This myth builds support for hostility against the terrorists by simultaneously lauding Israeli military action and demonizing the actions of opponents. It also addresses questions of motivation by suggesting that while terrorists undertake action because they choose to, Israel must take action because it is forced to. The notion of being forced to act in self-defense is central to rationalizing violent action and is a persistent theme through Kaufman.

Finally, Israeli and American leadership referred to the myth of the failed state as universal security threat. This myth understands a state with competing sources of authority as a security threat both to itself and its neighbours and as such paves the way for legitimizing outside intervention. In Lebanon, the US and Israel saw a state unable to properly function because of the presence of multiple armed authorities within its territory. Intervention offered the possibility of "improving" the state, of acting to reduce the influence of Hizbullah while strengthening the Lebanese government. Throughout the conflict both the Israeli government and the US government repeatedly evoked the myth of the failed state by supporting the instatement of UNSC 1559 (2004), which called for the disbanding of all militias and the extension of the Government of Lebanon's control to all Lebanese territory.<sup>36</sup> In referencing this resolution both Israel and the US are selective in their emphasis, because they minimize any mention that the resolution also goes to great length to reaffirm calls for strict respect of the territorial integrity and sovereignty of Lebanon. Though there appears to be an objective conundrum in calling for a strengthened Lebanese government while destroying the country and in calling for the sovereignty of a state one is currently in-

vading, the focus of symbolic politics is on how claims affect the emotional core of the intended audiences.

## **Conclusion**

The purpose of this essay has been to explore the nature of the conflict between Israel and Hizbullah in Lebanon as it was expressed through the invasion of 2006. It has been argued that the conflict can be understood as an application of the conflict between ethnic Israelis and ethnic Palestinians in which Hizbullah served as the focal point for aggression on both sides. Using Kaufman's symbolic politics theory of ethnic war and its emphasis on the importance of emotional appeals to ethnic myth-symbol complexes, I have demonstrated the efforts of the Israeli and American leadership to build domestic and international support for their drastic efforts to combat Hizbullah. To do so they undertook a number of appeals to myths relevant to the Israeli nation and to the international system as a whole.

What has not been discussed up to this point is the success or failure of these leaders' efforts, partially due to the difficulty of measuring success of this kind. To measure it by public support, according to newspaper polls 86% of the Israeli public supported the Israeli action four days after it began,<sup>37</sup> suggesting success. As time passed and casualties on both sides mounted support waned, however, and the invasion has since been seen in a much less positive light. This change is partially the result of changes in Israelis' perceptions of the actions of the Israeli military relative to the actions and justifications of Hizbullah and Lebanese more generally.<sup>38</sup>

To some, the invasion has become a symbol in its own right, representing the rampant militarization of Israeli society and leadership, and the massive asymmetry of military power between Israel and its neighbours.

## **Notes**

<sup>1</sup> Phyllis Bennis, "The Lebanon War in the UN, the UN in the Lebanon War," in *The War on Lebanon: A Reader*, ed. Nubar Hovsepian (Northampton, MA: Olive Branch Press, 2008): 225-242.

<sup>2</sup> Associated Press, "Chirac: Israel has gone too far," *Jerusalem Post*, 14 July 2006.

<sup>3</sup> Stephen Zunes, "Washington's Proxy War," in *The War on Lebanon: A Reader*, ed. Nubar Hovsepian (Northampton, MA: Olive Branch Press, 2008): 93-118.

<sup>4</sup> Stuart J. Kaufman, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Ithaca, NY: Cornell University Press, 2001).

<sup>5</sup> *Ibid.*, 15.

<sup>6</sup> *Ibid.*, 16.

<sup>7</sup> *Ibid.*, 29.

<sup>8</sup> *Ibid.*, 30.

<sup>9</sup> *Ibid.*, 31.

<sup>10</sup> *Ibid.*, 32.

<sup>11</sup> *Ibid.*, 34.

<sup>12</sup> *Ibid.*, 37.

<sup>13</sup> *Ibid.*, 36.

<sup>14</sup> *Ibid.*, 37.

<sup>15</sup> *Ibid.*, 34-35.

<sup>16</sup> *Ibid.*, 36.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*, 17.

<sup>19</sup> *Ibid.*, 2.

<sup>20</sup> *Ibid.*, 218-221.

<sup>21</sup> Judith Palmer Harik, *Hezbollah: The Changing Face of Terrorism* (New York, NY: I.B. Tauris & Co, 2004).

<sup>22</sup> *Ibid.*

<sup>23</sup> Kaufman, 16.

<sup>24</sup> Harik.

<sup>25</sup> There has been significant scholarly and public debate regarding the extent to which Israel was within its international legal rights to invade Lebanon and conduct the invasion as it did, with most suggesting it likely was not. See for example, Richard Falk and Asli Bali, "International Law at the Vanishing Point" in *The War in Lebanon* (see references for full citation), and Victor Kattan, "Israel, Hezbollah and the Conflict in Lebanon: An Act of Aggression or Self-Defense?" *Human Rights Brief* Vol 14 (1), Fall 2006 (<http://www.wcl.american.edu/hrbrief/14/1kattan.pdf?rd=1>).

<sup>26</sup> Israel Ministry of Foreign Affairs, *The Second Lebanon War: Hizbullah attacks northern Israel and Israel's response 12-July-2006*, <http://www.mfa.gov.il/MFA/Terrorism+Obstacle+to+Peace/Terrorism+from+Lebanon+Hizbullah/Hizbullah+attack+in+northern+Israel+and+Israels+response+12-Jul-2006.htm> (accessed 13 November 2008).

<sup>27</sup> Israel Ministry of Foreign Affairs, *Responding to Hizbullah attacks from Lebanon: Issues of proportionality, legal background*, <http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Responding+to+Hizbullah+attacks+from+Lebanon+Issues+of+proportionality+July+2006.htm> (accessed 15 November 2008).

<sup>28</sup> Israel Office of the Prime Minister, *PM Olmert: Lebanon is responsible and will bear the consequences*,

<http://www.mfa.gov.il/MFA/Government/Communiques/2006/PM+Olmert+-+Lebanon+is+responsible+and+will+bear+the+consequences+12-Jul-2006.htm> (accessed 14 November 2008).

<sup>29</sup> Barry Buzan, "Who May We Bomb?" in *Worlds in Collision: Terror and the Future of the Global Order*, eds. Ken Booth and Tim Dunne (New York, NY: Palgrave Macmillan, 2002): 85-94.

<sup>30</sup> British Broadcasting Corporation, *Bolton admits Lebanon truce block*, [http://news.bbc.co.uk/2/hi/world/middle\\_east/6479377.stm](http://news.bbc.co.uk/2/hi/world/middle_east/6479377.stm) (accessed 15 November 2008), and Zunes, 93-118.

<sup>31</sup> Israel Ministry of Foreign Affairs, *Excerpts from statement of Defense Minister Amir Peretz to the Knesset*, <http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2006/Excerpts+from+statement+by+Defense+Minister+Peretz+to+the+Knesset+31-Jul-2006.htm> (accessed 15 November 2008).

<sup>32</sup> Israel Office of the Prime Minister.

<sup>33</sup> Yitzhak Laor, "You are Terrorists, We are Virtuous," originally in *The London Review of Books* 28.16 (17 August 2006), reprinted in *The War on Lebanon: A Reader*, Ed. Nubar Hovsepian (Northampton, MA: Olive Branch Press, 2008), 254-259.

<sup>34</sup> Lara Deeb, "Hizbullah: A Primer," *Middle East Report Online*, 31 July 2006.

<sup>35</sup> Israel Ministry of Foreign Affairs, *Excerpts*.

<sup>36</sup> United Nations, *Security Council Resolution 1559 (2004)*, <http://www.un.org/Docs/sc/unscreolutions04.html> (accessed 12 November 2008).

<sup>37</sup> Rory McCarthy, "Widespread support of war among Israeli public," *The Guardian*, 19 July 2006.

<sup>38</sup> Laor, 254-259.