

# Interstate

## *Journal of International Affairs*



Professor Michael Clarke  
*Britain's 4<sup>th</sup> Afghan War*

Barbara Szewców  
*Israel and its 'Settlements'*

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the Antebellum American South*

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murder case'*

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# INTERSTATE

2014 – Issue I

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## ***Britain's 4<sup>th</sup> Afghan War***

### **Professor Michael Clarke**

BRITISH troops will be winding up their operations in Afghanistan by the end of next year. There may be other specialised things British troops will do thereafter, depending on what happens in Afghanistan from 2015. But sustained 'combat operations' for British forces have already ended and the 9,000 British troops in Helmand will begin pulling out from the beginning of 2014. By Christmas they should all be gone. They have been there in various ways since the autumn of 2001, so the country is winding down a commitment that has spanned a full 13 years. Many observers will be taking stock during the coming year and given the emotions that have been stirred during that time; few of the evaluations will be dispassionate.

Strategic analyses are, by definition, long-term perspectives and as we go into this process of reflection a long-term view will certainly be needed.

It is easy to be critical of British strategy in Afghanistan. So much was expected, so much has gone wrong. Critics keep referring to Afghanistan as a graveyard of British military ambitions going back to the days of Empire. In fact it was not. The British fought three wars in Afghanistan between 1839 and 1919 in which there were some spectacular reverses, like the massacre in the retreat from Kabul in 1842 or the battle of Maiwand in Helmand in 1880. But Britain won two of those wars and settled for an ambiguous result in a third. More to the point, the strategic objective of all Britain's campaigns in Afghanistan was to keep Russia out of the north-west frontier of India. Whether this was a legitimate aim or not, the fact remains that it was a strategic objective and it was achieved.

The current operation may go down as Britain's Fourth Afghan War and we have to ask ourselves similar questions: with all that has gone wrong, all that could – and should – have been done differently; all that it has cost in human, materiel and moral currency, have the broad strategic objectives been achieved? The picture is not simple but it is important to understand the context in which early decisions were taken.

Firstly, it began with a policy dilemma not a choice that could be freely made. The 9/11 attacks were planned and effectively launched from Afghanistan; Osama bin Laden had explicitly declared war on the West in 1998, and the Taliban government would not yield up a group that had committed the greatest terrorist act in history. The US faced a dilemma that it had either to acquiesce to the fact of the attack if it chose a negotiating strategy, or else intervene militarily in Afghanistan to restore –

yes, restore – a sense of international justice. Britain faced a dilemma, too. Tony Blair was no less outraged by 9/11 than the US President and could choose to back up the US or else – in a moment when NATO invoked for the first time in its history Article 5 of the Washington Treaty – to shrink from the responsibility and indicate that the US was now less important an ally to Britain than it had been throughout the Kosovo crisis in 1999, the Bosnian crisis from 1992, the Iraqi no-fly zone from 1991 or the Iraqi invasion of Kuwait in 1990. It is barely conceivable that Britain would not continue to support the US in such egregious circumstances as the 9/11 attacks provoked. The question of what sort of support could be debated, but that Britain would try to make a tangible contribution to US action was virtually axiomatic, however unpalatable that action might become. Tony Blair certainly understood from the very beginning that involvement in Afghanistan would be neither simple nor brief.

Secondly, once intervention in Afghanistan had removed the Taliban by December 2001, Western powers then faced a second dilemma. If a new government was to be established in Afghanistan, how far should Western powers go in supporting it? The choice was to withdraw quickly and leave Afghanistan to its future; quite possibly a sustainable future in a distinctive Afghan way, given that the Taliban were on their knees in 2002 and the country was generally optimistic. Alternatively, Western powers could remain significantly engaged to help establish a new type of Afghanistan and put it firmly on the road towards sustainable democracy and a better economy. Both possibilities were risky.

In the event, Western powers fell slap between two clear alternatives and wilfully impaled themselves on the classic horns of the dilemma. They stayed engaged, but did little or nothing that made a difference. The invasion of Iraq in 2003 – a classic strategic blunder that was good for Iraqis, but bad for all other Western interests in the region – had the effect of neglecting Afghanistan. By 2006, the Western powers had not been in Afghanistan for five years, but rather for one year five times. The only thing that genuinely moved forward was the rotation schedules of the troops who shuttled through the country. In the five years that Afghanistan could have been made into an economic and political success, the disinterest of the international community was critical.

The fact was that Iraq sucked all the strategic air out of Afghanistan in the policy-making offices of Washington, London, Brussels and Mons. Being neither politically out of Afghanistan, nor properly in it, US and ISAF forces made the situation worse in almost all respects. By 2005, the results were stark to those who considered the geopolitical aspects of the situation. If Afghanistan was left on the same trajectory, the strategy would undoubtedly fail and more than likely, the country would split apart isolating Kabul from Persian Herat in the west and from Pashtun Kandahar in the south-east. A Pashtun heartland spanning southern Afghanistan and the North West Frontier Province and Balochistan in Pakistan could

become a political reality. The Durand line that demarcated Afghanistan from Pakistan would become meaningless (something that many Pashtun radicals have maintained for best part of a century); Jalalabad in Afghanistan and Peshawar in Pakistan would form a natural Pashtun homeland triangle with Kandahar in south east Afghanistan, and with the Baloch territories of Iran. Like the aspiration for a Kurdish homeland, an assertive people would straddle three (equally volatile) countries. If so, the crisis of South Asia would become a global flashpoint. In other words, Pakistan could not be stabilised by what happened in Afghanistan, but it could certainly be destabilised by it.

Thirdly, in the face of this possibility, a plan was hatched during 2005 to reinvigorate the military contribution to Afghanistan, based on a deal between the Canadians, the British and the Dutch to take real strategic control of the south. The plan would only work if US troops came into Afghanistan in some numbers, but the US would only commit troops if the Europeans of ISAF were already there. Thus, to get the US back onto its own strategic track in Afghanistan, to save it from its own blundering distraction in Iraq, it was necessary to commit ourselves to the south.

It was a neat enough analysis; at once an exercise in continuity to avoid failure and a leap into a new campaign to trigger something different and bigger. It was devised in the first instance by British, Canadian and Dutch military officers and their respective Service Chiefs. Politicians agreed with the analysis, civil servants worked through the details, and it was all floated through the North Atlantic Council in 2005 as a new NATO contribution to ISAF. It would take effect during 2006. There was no question of this plan being made in secret or being kept from the politicians. It is clear that everyone who should have known what was going on, did know and was appropriately consulted. Nevertheless, it is difficult to find over that winter of 2005-6, anywhere within this process, a strategic brain at work in Britain at a politically responsible level. There was no 'strategic decision point' that seemed to be recognised within either the government or the British military. The decision rested everywhere and nowhere. It was a fly-wheel on the dominant motor that drove the Iraq campaign during 2005-6, which was in some trouble during those months. The way we now judge Britain's experience in Afghanistan flows from this crucial period of policy-making.

Where did it leave Britain in its Afghanistan strategy? It worked insofar as it saved Afghanistan from immediate failure, united the US counter-terrorism operation with the nation-building mission of ISAF, and ultimately got US troops back into an operation they should have engaged with almost a decade previously. On the other hand, it put the Afghan operation onto a new strategic footing, at once stimulating an anti-foreigner insurgency, and combating it; raising the stakes even higher to become a matter of Western military credibility.

For Britain, this created two crippling drawbacks. One was that Britain's attempt to make a strategically significant contribution was frustrated by the fact that British troops went to Helmand and not to the real heart of the Pashtun and Taliban insurgency in Kandahar. If a powerful politico-military, well co-ordinated and muscular contribution to sophisticated nation-building was to be made anywhere to create national unity around Kabul, then it should have been in Kandahar. The other was the fact that Britain had no real influence over the country-wide strategy led by the Karzai government in Kabul. Where British counterinsurgency campaigns had been successful in the past, it was always where the high politics of government could be integrated with the low down and dirty process of keeping order and building stability on the ground. That did not exist in this case. And whether Afghanistan is a success in 2014-15 is now out of our hands. We can hope, but there is little more we can do to influence, still less control, the outcome. Successful counterinsurgency campaigns are not supposed to end with so much left to political chance.

In the end, British troops will return in 2014 not with a victory, but a score draw away from home; a job reasonably well done in unpropitious circumstances. They might have done better in the 2006-7 campaigns but they have learned from the experience. For Britain as a whole, the country comes out of it rather in the way of the First Afghan War – an ambiguous result which has a reasonable chance of maintaining the strategic objectives. In this case it was to help prevent a worse crisis in South Asia, and to maintain the relationship with Washington in an era of great stress on America but very poor US leadership. It's not a peace to be celebrated in Trafalgar Square. But nor is it dishonourable or a source of national humiliation.

## ***Can One Side of the Coin Be More Equal than the Other?***

### ***Greater Jerusalem and its 'settlements'/'neighbourhoods'***

**Barbara Szewców**

IF I belonged to the majority of the Israeli public I might call this paper 'A journey along an Israeli neighbourhood – discovering the many sides of Jerusalem'. If my origins were different, perhaps the title would be: 'The issue of Israeli settlements – the division of Jerusalem?' If I came from the so-called 'Western World', my vocabulary might include the term 'Separation Wall' but, if my home was in Israel, I might prefer to talk about the 'Jerusalem envelope' or 'Security Fence'.

Where I come from may not matter if I go to a place of interest, experience its reality and meet people who will influence my viewpoints. Perhaps, I will realise how little I knew or how restricted the lines of my knowledge and imagination were. After some time the crucial factor can become where I have been, what I have experienced went to and how much I have changed since then.

The thought of Jerusalem brings to my mind not only the image of the Old City and its holy places which are the main subjects of a visit to Israel. What becomes apparent as one travels along, are Israeli and Palestinian 'neighbourhoods', the differences between them, the passionate words of our guides and tracing step by step the map of the 'settlement project'.<sup>1</sup>

The road along the settlements changes constantly – at once you can drive along wide streets with pavements on either side, to appear suddenly on destroyed roads without space for pedestrians. The on-going changes to the landscape make you wonder whether you are still travelling within the boundaries of the same area. Then you analyse who should be held responsible for this clear inequality, who you should question and what are the reasons behind it. Yet, you take a long breath and think: 'thankfully I do not belong to either side. Maybe I will manage to see both sides of the coin'.

The thought of Israel reminds me of one more crucial issue – the importance and sensitiveness of every conceived and spoken word. There are times when one's seemingly trivial expression can place you in the position of being a defender of some, and an enemy or opponent of others.

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<sup>1</sup> The author uses the terms 'settlements' and 'neighbourhoods' in quotation marks to highlight how contentious the use of language is regarding these issues,



In this case those words are: ‘settlements’ and ‘neighbourhoods’. The phenomenon that takes place in East Jerusalem is named by the Israeli government, many Israelis and some secondary observers as the ‘neighbourhood project’. For most Palestinians, some Israelis and the majority of international opinion the relevant name is ‘settlement project’. Depending on whose opinion is brought to the discussion table, those two terms are used interchangeably to describe the same issue.

The project of building ‘Israeli settlements’ in East Jerusalem, which started after the Six Day War, is officially a private investment project without direct or open government support. Nevertheless, it is openly argued that the government unofficially supports the project despite the questions raised about not only separating Israelis and Palestinians, but also Palestinians from Palestinians, dividing Jerusalem, attempting to gain the control over the Old City by Jewish settlers as well as acting against the idea of a ‘two state solution’. Since 1967, 30 per cent of East Jerusalem land was disposed in order to build Israeli ‘neighbourhoods’.<sup>2</sup>

In December 2012, the organisation *Americans for Peace Now* (APN) reported on a few recent developments regarding ‘settlements’.<sup>3</sup> Following the United Nations General Assembly vote, on 29 November 2012, that granted Palestine non-Member Observer State status in the UN,<sup>4</sup> the Netanyahu government declared its support for the building of up to 3,000 homes in Jerusalem and for planning the E1 area.<sup>5</sup> Additionally, APN reported plans for 6,600 units in East Jerusalem including building in Givat Hamatos, Ramat Shlomo and Gilo. The APN noted the danger for Palestinian families who would be removed from their homes in Sheikh Jarrah in order to allow settlers to move in.<sup>6</sup>

Following the impressions from my visit to Israel and relying on my own research, I will briefly present the two main settlement projects which are

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<sup>2</sup> Ir Amim, ‘On Israeli construction in East Jerusalem’. IA. Available at: <http://eng.ir-amim.org.il/?CategoryID=289> (Accessed 17 January 2013). Used with permission.

<sup>3</sup> Americans for Peace Now, ‘Settlement round-up: Thousands new homes planned for East Jerusalem, West Bank’. APN (online), 27 December 2012. Available at: [http://peacenow.org/entries/972\\_settlement\\_round-up\\_thousands\\_new\\_homes\\_planned\\_for\\_east\\_jerusalem\\_west\\_bank#.UPCvfY1IRdk](http://peacenow.org/entries/972_settlement_round-up_thousands_new_homes_planned_for_east_jerusalem_west_bank#.UPCvfY1IRdk) (Accessed 17 January 2013).

<sup>4</sup> United Nations General Assembly, Sixty-seventh General Assembly, General Assembly Plenary, 44th & 45th Meetings (online) 29 November 2012. Available at: <http://www.un.org/News/Press/docs/2012/ga11317.doc.htm> (Accessed 17 March 2013).

<sup>5</sup> Sidner, S ‘Israel says it will build settlements in East Jerusalem neighborhoods’. CNN (online), 20 December 2012. Available at: <http://edition.cnn.com/2012/12/20/world/meast/israel-settlement-plans/index.html> (accessed 17 January 2013).

<sup>6</sup> Americans for Peace Now, ‘Settlement round-up: Thousands new homes planned for East Jerusalem, West Bank’. APN (online), 27 December 2012. Available at: [http://peacenow.org/entries/972\\_settlement\\_round-up\\_thousands\\_new\\_homes\\_planned\\_for\\_east\\_jerusalem\\_west\\_bank#.UPCvfY1IRdk](http://peacenow.org/entries/972_settlement_round-up_thousands_new_homes_planned_for_east_jerusalem_west_bank#.UPCvfY1IRdk) (Accessed 17 January 2013).

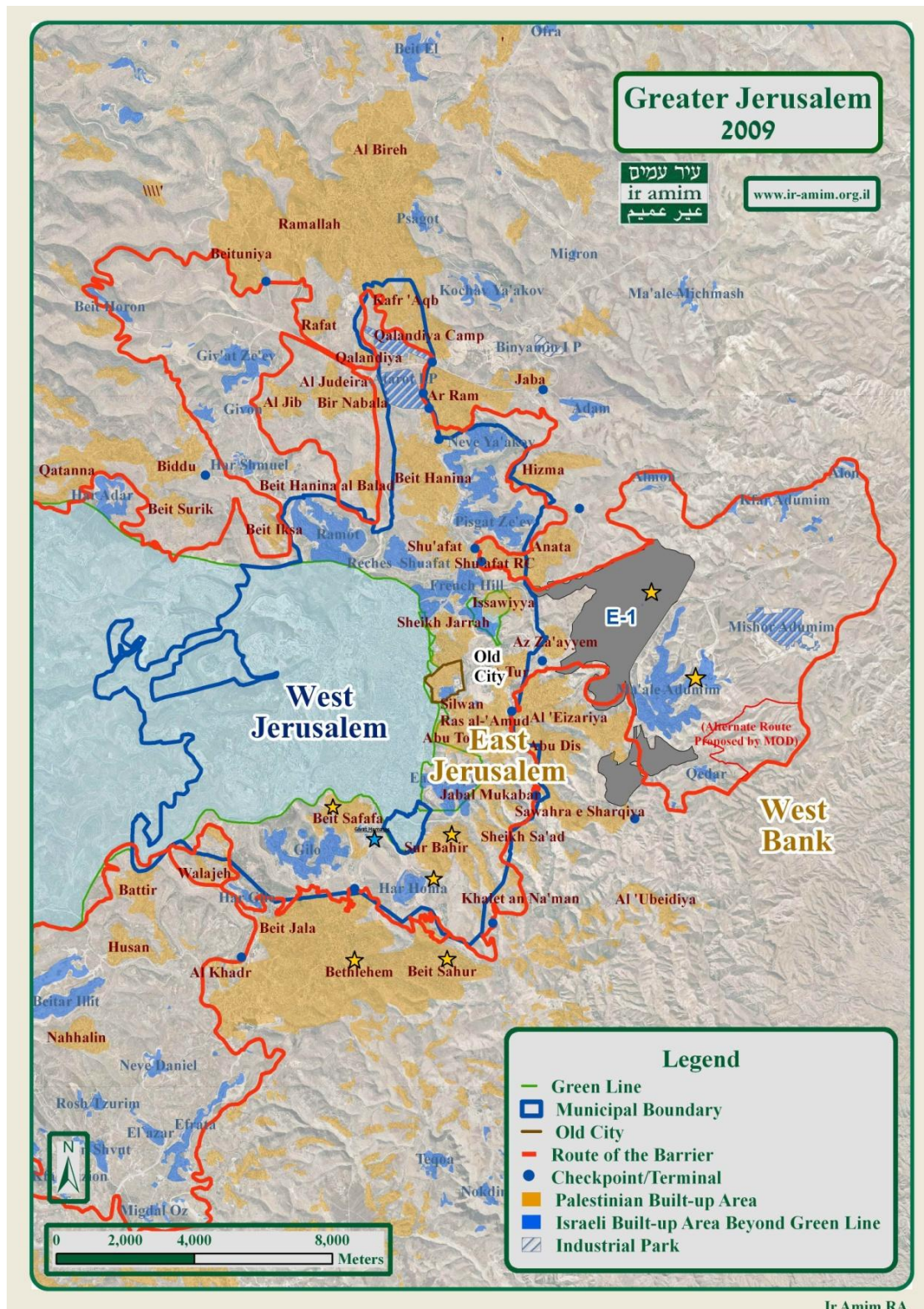
E1 and Maale Adumim, together with Har Homa and Givat Hamatos (marked with stars on the map below).

E1 ('East 1') is a term introduced by the Israeli Ministry of Housing to an area that belongs to the West Bank and is located between the eastern municipal boundary and Maale Adumim. This term also refers to the Israeli intention to build a 'neighbourhood' that includes, among other things, construction of 3,500 or more residential units, the transfer of the West Bank Police Headquarters from its present position and building an industrial area.<sup>7</sup> For Israelis, building on E1 would prevent the Maale Adumim 'neighbourhood' from being isolated and would also connect this 'settlement' to Jerusalem. However, many oppose this project. First of all, Maale Adumim is built beyond the Green Line, on the West Bank territory which, according to international law, defines it as a settlement. Secondly, there is some agreement that the E1 construction would likely hamper any hope for a 'two-state solution'. It would divide the West Bank into Northern and Southern parts, disrupting the unity of the land and, therefore, a future Palestinian state. Furthermore, it would 'disconnect' Palestinians living in the West Bank with East Jerusalem. As a result, the Old City of Jerusalem and its holy places would be less accessible.<sup>8</sup> It has to

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<sup>7</sup> Friedman, L 'What You Need to Know About E-1'. APN (online), 7 December 2012. Available at: [http://peacenow.org/entries/post\\_69#.UPMuSI1IRdm](http://peacenow.org/entries/post_69#.UPMuSI1IRdm) (Accessed 16 March 2013); Ir Amim, 'What is E-1?' Ir Amim. Available at: <http://eng.ir-amim.org.il/?CategoryID=180>. (Accessed 18 January 2013).

<sup>8</sup> Friedman, L 'What You Need to Know About E-1'. APN (online), 7 December 2012. Available at: [http://peacenow.org/entries/post\\_69#.UPMuSI1IRdm](http://peacenow.org/entries/post_69#.UPMuSI1IRdm) (Accessed 16 March 2013).



This map is reproduced with the kind permission of Ir Amim.

be noted that the possible ‘two state solution’ recognises Jerusalem as a neutral land and capital of both states.<sup>9</sup>

The Givat Hamatos ‘neighbourhood’ plans are based to the south of Jerusalem, between Beit Safafa and Bethlehem. This is the first new Israeli ‘neighbourhood’ in East Jerusalem since the building of Har Homa in 1997. The previous project was strongly opposed by Palestinians as it lay in the middle of an existing Palestinian built-up area and in-between Bethlehem, Beit Sahur and Sur Bahar ‘neighbourhoods’ (see the map above). The new ‘neighbourhood’ would isolate Bethlehem from East Jerusalem and, again, destroy the continuity of Palestinian land<sup>10</sup>. As reported by the Ir Amim organisation, the building plan is divided into four sections:

- **Plan 5834A** – for 2,337 housing units was approved for validation in September 2008
- **Plan 5834B** – for 549 housing units – this plan was deposited (published in ads) in January 2010
- **Plan 5934C** – for 813 housing units – the objections for this plan were discussed at the regional committee February 2010
- **Plan 5934D** – for 1,100 hotel rooms – was not yet approved for deposit<sup>11</sup>

A *CNN* report has quoted Israeli Prime Minister Benjamin Netanyahu as saying that the ‘neighbourhood project’ is the continuation of the building process in the ‘capital of the Jewish people’ carried out by all Israeli governments.<sup>12</sup> Additionally, a *Jerusalem Post* analysis of a *Washington Post* article argues that the idea that the Israeli ‘settlements’ are the main obstacle to the peace process is misleading. It says that the Israeli Prime Minister limited the building project ‘almost entirely to areas that both sides expect Israel to annex through territorial swaps in an eventual settlement’ and therefore Israeli ‘settlements’ are planned on the space that would become part of Israel in the future peace agreement.<sup>13</sup> Moreover,

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<sup>9</sup> Agence France Presse, ‘Settlements block Jerusalem as capital of two-states’. *EU Arab News* (online), 27 February 2013. Available at: <http://www.arabnews.com/middle-east/settlements-block-jerusalem-capital-two-states-eu> (Accessed 17 March 2013).

<sup>10</sup> Eldar, A ‘New neighborhood on the way between Jerusalem and Bethlehem’. *Al-Monitor* (online), 17 December 2012. Available at: <http://www.al-monitor.com/pulse/originals/2012/al-monitor/new-neighborhood-on-the-way-betw.html> (Accessed 16 January 2013).

<sup>11</sup> Ir Amim ‘2500 new housing units approved for Givat Hamatos’. IA. Available at: <http://eng.ir-amim.org.il/?CategoryID=313> (Accessed 16 March 2013).

<sup>12</sup> Sidner, S ‘Israel says it will build settlements in East Jerusalem neighborhoods’. *CNN* (online), 20 December 2012. Available at: <http://edition.cnn.com/2012/12/20/world/meast/israel-settlement-plans/index.html> (accessed 17 January 2013).

<sup>13</sup> JPOST.COM STAFF ‘Wash. Post’: Settlements not main peace obstacle’. *Jerusalem Post* (online), 1 February 2013. Available at: <http://www.jpost.com/MiddleEast/Article.aspx?id=298171> (Accessed 16 March 2013).

there is an argument that the ‘settlement’ project is a natural response to the need to supply housing for a fast growing population.<sup>14</sup>

Nevertheless, voices are increasingly being raised against Israeli construction in East Jerusalem. As a *CNN* report states, the project is carried out on the area that was hoped by Palestinians to become their capital in a future Palestinian state that would include Gaza and the West Bank. The annexation of East Jerusalem by Israel after the 1967 Six Day War was never accepted by international opinion and the Palestinians, who considered it as an act against a future peace agreement.<sup>15</sup>

Ir Amim’s director Yehudit Oppenheimer said in a talk that most people focus on the Israeli right, or lack thereof, to build beyond the Green Line. However, there is a much more important issue that touches people living on those territories. As Oppenheimer says: ‘This reality traps within it a large Palestinian population, with all its religious and symbolic assets, with no civil status and with no rights, while the Jewish majority has a monopoly on the mechanisms of power and control’.<sup>16</sup>

One of the Israeli government’s biggest contributions to ‘settlement’ projects is state funding of security for East Jerusalem settlers. The Israeli government spends an average of NIS 38 million per year - a budget which comes from the Ministry of Housing - to protect 2000 settlers. In 2008, the Israeli Knesset approved an additional NIS 15 million for settler security.<sup>17</sup>

Another problem is inequality between the citizens of East Jerusalem, despite their common status as residents of Israel. On the one hand, Palestinians receive various benefits thanks to their status, including the right to live and work in Israel without special permits, entitlement to social benefits and health insurance. However, on the other hand, by not considering themselves as Israelis, they face many obstacles. For example, Palestinian residents cannot vote in elections for the Israeli government and they are not have ensured the right to return to Israel at any time, in case one leaves the country.<sup>18</sup> Furthermore, one of the main issues is a municipal inequality which mainly touches two areas. These are obstacles

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<sup>14</sup> JPOST.COM STAFF ‘Editorial: The logic of E1’. *Jerusalem Post* (online), 12 February 2012. Available at: <http://www.jpost.com/Opinion/Editorials/Article.aspx?id=294327> (Accessed 16 March 2013).

<sup>15</sup> Sidner, S ‘Israel says it will build settlements in East Jerusalem neighborhoods’. *CNN* (online), 20 December 2012. Available at: <http://edition.cnn.com/2012/12/20/world/meast/israel-settlement-plans/index.html> (accessed 17 January 2013).

<sup>16</sup> Hasson, N ‘Construction in Jerusalem neighborhoods beyond Green Line peaked in 2012’. *Haaretz* (online), 3 January 2013. Available at: <http://www.haaretz.com/news/national/construction-in-jerusalem-neighborhoods-beyond-green-line-peaked-in-2012-1.491549> (Accessed 17 January 2013).

<sup>17</sup> See more at: Ir Amim. ‘State Funding of Security for East Jerusalem Settlers’. Ir Amim. Available at: <http://eng.ir-amim.org.il/?CategoryID=301>. (Accessed 18 January 2013).

<sup>18</sup> B’Tselem - The Israeli Information Center for Human Rights in the Occupied Territories, ‘Legal Status of East Jerusalem and its Residents’. B’Tselem (online), 1 January 2013. Available at: [http://www.btselem.org/jerusalem/legal\\_status](http://www.btselem.org/jerusalem/legal_status) (Accessed 18 March 2013).

to the physical development of the Palestinian neighbourhoods, such as failing to draw up outline plans; and the problem of education. In 2009 there was a shortage of more than 1000 classrooms; about half of the parents of Palestinian children were forced to send their children to private education and about 5,500 Palestinian children do not go to school at all. These and many other issues are subject to disputes between both sides and their supporters.

This paper is the result of what I have learned and experienced. Yet, it presents merely a few pieces of the large picture and traces some of the issues connected to the 'settlement project'. These and many more issues remain. Therefore it can be treated as an introduction and encouragement for further investigation of the topic.

On my visit, I did not belong to either of the sides; I have ignored the thought of where I came from and what I brought with myself; I allowed myself to be fully impacted on by the environment around me. I heard numerous opinions, facts and arguments but when I think of the strongest memory of this particular experience, I have in front of my eyes the picture of that constantly changing road and its surroundings. I look, then, at both sides of the coin and have this unnatural impression that despite the fact that it is a single coin, one side seems to be more equal than the other.

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## ***Explaining China's Intervention in the Korean War in 1950***

**Bangning Zhou**

### **Introduction**

IN October 1950, Chinese troops under the name of the Chinese People's Volunteer Army (CPV) crossed the Yalu River to assist North Korean armies, and engaged in the Korean War in an offensive manner after the U.S. troops crossed the 38th parallel. One central question immediately arises with regard to the Chinese intervention: Why did the newly established People's Republic of China (PRC) decide to send its troops to engage in a war which did not take place on its own territory? This issue is especially puzzling when one considers the facts that the economy of the PRC was shattered, with high inflation, extremely tight fiscal budget and lack of material resources. The internal security and authority of the regime was under threat by various acts of sabotage undertaken by remaining Kuomintang (KMT) agents, and the enemy China faced was far stronger in terms of military equipment and logistical supply. It should also be noted that the Chinese Communist Party (CCP) was preparing for the battles in Taiwan to unify the whole of China. In general, the conditions were highly unfavourable for an intervention operation. Most scholars, like Allen Whiting and Hao Yufan, argue that the reason for the Chinese intervention was mainly the security concern of a possible U.S. invasion of Chinese territory.<sup>1</sup> Others, like Sergei Goncharov and John Lewis, put more emphasis on influence of individual leaders like Mao Zedong.<sup>2</sup> All the above explanations, however, do not take into consideration possible alternative options China might have had and therefore ignored other aspects behind the decision to intervene.

This paper argues that three main factors drove the Chinese decision to engage in the Korean War: security concerns, the need to consolidate CCP's regime and domestic control, and the ideologies possessed by the individual leaders.

This paper will be divided into four parts. The first part of this paper will briefly provide a historical background of the Chinese intervention in the

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<sup>1</sup> Whiting, A. S. *China Crosses the Yalu: The Decision to Enter the Korean War* (Stanford, Stanford University Press, 1968); Hao, Y. Zhai, Z. 'China's Decision to Enter the Korean War: History Revisited', *The China Quarterly*, 121 (1990), pp. 94-115.

<sup>2</sup> Goncharov, S. N. Lewis, J. W. Xue, L. *Uncertain Partners: Stalin, Mao, and the Korean War* (Stanford, Stanford University Press, 1993).



Korean War. The paper will propose that besides traditional security concern of territorial sovereignty, which is a standard explanation for the Chinese decision to intervene, there are also some other important reasons that should be considered. The following three parts will identify and analyse those reasons from three perspectives. In the second part, this paper will analyse Chinese security concerns at the time. The paper examines how the Chinese leadership perceived the level of threat posed by the U.S. presence in the Korean peninsula, and argues that besides the threat on territorial integrity and sovereignty, Beijing was more worried about the constraints on future economic reconstruction and troop deployment posed by a U.S. presence in the border regions. The third part analyses Chinese domestic politics and argues that the second driving force for intervening the Korean War was the need to strengthen the CCP's regime, boost domestic morale, and reduce the remaining KMT sabotage activities. The fourth part examines the role of the individual Chinese leaders. It looks at the ideologies possessed by key CCP leaders in the Politburo, especially Mao, and argues that the third driving force for the decision to assist Korea is the ideologies possessed by Chinese leaders: internationalism offered by Marxism-Leninism ideology, and hostility towards the U.S. The paper will conclude that the above three factors persuaded Chinese leaders to decide to intervene in the Korean War.

### **Historical background of the intervention**

On 25 June 1950 the North Korean army led by Kim Il Sung, launched an offensive against South Korea. Although newly emerged evidence indicates that there was an exchange of views between Kim, Mao and Stalin on the North's plan of military invasion,<sup>3</sup> several signs indicate that China was still not prepared for an invasion. One example would be that the CCP started a large campaign of demobilisation of the People's Liberation Army (PLA) five days before the outbreak of conflict, in which 1.4 million of the PLA were supposed to be demobilised.<sup>4</sup> As a result, the border area near the Yalu River was left with only one army which was stationed there for crop production purposes.<sup>5</sup> At the same time, the domestic situation, especially the economic one, was not favourable for an intervention. Agricultural production fell by 40 per cent compared to the pre-civil war years, while major industrial outputs fell by more than 50 per cent.<sup>6</sup> Moreover, the military expenditure was cut, together with the large campaign of demobilisation mentioned above. It was estimated that less than 10 per cent of the budget was allocated for the militaries in the Northeast region in 1950.<sup>7</sup> With other problems

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<sup>3</sup> Goncharov. Lewis. Xue, *Uncertain*, p. 136. See also: Hunt, M. H. 'Beijing and the Korean Crisis, June 1950-July 1950', *Political Science Quarterly*, 107 (1992), p. 457.

<sup>4</sup> Hao, Zhai, 'China's Decision', p. 99.

<sup>5</sup> Hao, Zhai, 'China's Decision', p. 100.

<sup>6</sup> Whiting, *China*, p. 16.

<sup>7</sup> Whiting, *China*, p. 18.

including a high inflation rate and remaining anti-Communist forces of local 'bandits' which sought to establish their own authorities and KMT agents, the situation seemed highly unfavourable for armed intervention. In fact, at the initial stage, China took a passive response to the situation in North Korea. Besides moral support for Kim, the only material support provided by Beijing at the time was to send approximately 14,000 Korean Chinese who were then serving in the PLA back to Korea.<sup>8</sup> However, three subsequent events dramatically changed Beijing's attitudes.

The first is that on June 27, the U.S. Seventh Fleet was sent to the Taiwan Strait to 'neutralise' the situation. On the same day, President Truman announced air and naval support for South Korea. These movements lead the Chinese leaders to reassess American intentions towards China and redeploy some of its troops to the Northern border. But the debate on whether to send troops across the border still continued in the Politburo. The second and third events are the Inchon landing on September 15 and the U.S. troops' crossing of 38th parallel on September 25. The former event, according to the explanations found in much of the literature, endangered China's security interests and threatened the security of the Chinese mainland directly.<sup>9</sup> China quickly mobilised troops and resources in preparation for possible escalation, and issued its warning through Indian ambassador Kavalam Madhava Panikkar that China would intervene in the war if the American troops entered North Korea.<sup>10</sup> After the U.S. troops crossed the 38th parallel on September 25, China made the decision to intervene and the first Chinese troops entered North Korea on October 14.

In this brief overview of the historical background of China's intervention, it seems that the reason behind the Chinese decision was the threat to the security of mainland China posed by the United States. However, there are still questions to be answered. On the one hand, the deteriorating economic situation and weak military power could hardly support such an intervention, and the unstable political situation at home required relatively high resources to be deployed domestically. Moreover, China had at the time an important security guarantee from the Soviet Union which theoretically could reduce the need to intervene. The Sino-Soviet Treaty of Friendship, Alliance and Mutual Assistance, which was signed in February 1950 and stated that 'all-out' support would be provided by the Soviet Union if China was involved in military confrontations with the so-called imperialist countries,<sup>11</sup> served as a clear insurance of security of mainland China. The security treaty therefore

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<sup>8</sup> Hao, Zhai, 'China's Decision', p. 100.

<sup>9</sup> Chen, J. *China's Road to the Korean War: The Making of the Sino-American Confrontation* (New York, Columbia University Press, 1994), p. 152.

<sup>10</sup> Yao, X. *Cong Yalujiang Dao Banmendian (From Yalu River to Panmunjom)* (Beijing, People's Press, 1985), p. 17-18.

<sup>11</sup> Chen, *China's Road*, p. 185.

greatly reduced the possibility of an American invasion. As a result, staying out of the war seemed to be a cheap and secure alternative for Beijing besides sending its troops to assist Kim, especially given the fact that Beijing had great faith and confidence of the reliability of such strategic alliance and the treaty.<sup>12</sup> The fact that Beijing did not choose this alternative suggests that there must be other considerations besides the security of Chinese sovereignty. Therefore, the following sections will analyse Beijing's policy considerations from three perspectives: security consideration, China's domestic situation, and ideologies shared by influential individual leaders in the CCP Politburo.

### Security concerns

Before examining the security concern created by the United States to China, it is necessary to look at the role the Soviet Union played in Chinese strategic considerations. As the tension in the Korean peninsula escalated, Stalin became more cautious in avoiding direct confrontation with the United States and refused to send troops to Korea. Instead, he encouraged the Chinese to send their armies to assist the North and promised, according to the alliance treaty mentioned above, to support China with military equipment and air force cover for Chinese troops in Korea and to defend Chinese borders.<sup>13</sup> Beijing considered the Soviet support crucial to China's intervention. Mao specifically sent Premier Zhou Enlai to Moscow to discuss the Soviet support and made the decision to intervene only after such assurance was made. He also immediately halted all actions of the CPV after learning that the Soviet Union would not provide air support at the initial stage. Nevertheless, Beijing still proceeded in the absence of the important Soviet air support. If such a decision was made, as Allen Whiting argued, because of China's 'vulnerability',<sup>14</sup> then it is necessary to find out in which areas China felt vulnerable. If it is just the physical security of the mainland, why did China not opt for relying on the alliance treaty, especially when it knew that there would be no Soviet air support at the initial stage, which was crucial to Beijing's decision as analysed above? It suggests that there are some other vulnerable aspects which raised the awareness of Chinese leaders and compelled them to intervene.

One explanation for these 'other vulnerable aspects' is that Beijing's security concern is not only about the physical security threat posed by American forces moving towards the Chinese border, but also about the constraints on Chinese domestic development it might bring. In a telegram to Zhou, explaining the necessity to intervene, Mao emphasised that if the U.S. proceeded near the border 'all the North-eastern border

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<sup>12</sup> Chen, *China's Road*, p. 165.

<sup>13</sup> Chen, *China's Road*, p. 184.

<sup>14</sup> Whiting, *China*, p. 158-160.

defence forces will be absorbed'.<sup>15</sup> Zhou later also implicitly expressed his worries that there would be not enough troops to guard the 'one thousand kilometres' of borders if the Americans occupied North Korea.<sup>16</sup> Such concerns imply that the leaders in Beijing were deeply worried about the fact that once American troops were stationed in the border region, China would be forced to focus most of its troops and resources on the North-eastern border region. This would be both fiscally expensive and politically dangerous.<sup>17</sup> On the one hand, the Northeast region contains the main economic resources including steel, coal and hydropower to support the economic reconstruction and recovery for most of China. As Zhou points out that if the U.S. troops proceeded to the Yalu River, industries (especially heavy industries) would be 'within range of enemy bombers' and it was impossible to have 'the peace of mind to go about production'.<sup>18</sup> With resources and heavy industries under threat, the economic production and reconstruction would be severely constrained. Furthermore, the troops were forced to deploy troops around the border lines, the CCP would have limited military resources to continue their plan of 'liberation' of Taiwan and to deal with remaining KMT sabotage forces, especially at the time when the sabotages and harassments became more frequent domestically,<sup>19</sup> and the presence of the U.S. Seventh Fleet in the Taiwan Strait posed another security threat to China's Southern coastline. Furthermore, the constrains on economic reconstruction and countering anti-Communist activities would heavily constrain the CCP's efforts to consolidate its regime and domestic authorities, which, serves as an important reason for Beijing's decision to intervene.

The above analysis shows that security concern did play a role in China's decision to intervene in Korea. While the alliance treaty could guarantee full Soviet support to protect China's security when its territory was invaded, it could not lift the constrains on economic reconstruction and troop deployments for 'liberating' Taiwan and combating internal opposition forces posed by the U.S. presence near the border. Compelled by these obstacles for CCP's efforts to consolidate its regime, Beijing had to opt for an armed intervention to eliminate the root of such constrains: the American presence near its border if the North Koreans were defeated.

### **Domestic situation**

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<sup>15</sup> Christensen, T. J. 'Threats, Assurances, and the Last Chance for Peace: The Lessons of Mao's Korean War Telegrams', *International Security*, 17 (1992), p. 153.

<sup>16</sup> Hao, Zhai, 'China's Decision', p. 104.

<sup>17</sup> Christensen, 'Threats', p. 135.

<sup>18</sup> Ministry of Foreign Affairs of the People's Republic of China, *Zhou Enlai Waijiao Wenxuan (Selected Diplomatic Works of Zhou Enlai)* (Beijing, Zhongyang Wenxian Chubanshe (Central Document Press), 1990), p. 28-29.

<sup>19</sup> Hao, Zhai, 'China's Decision', p. 104.

As mentioned before, one constraint posed by U.S. military presence near the Yalu River is that it limited China's ability to respond to domestic anti-Communist movements. Implicitly behind this campaign of countering anti-Communist elements was the CCP's need to consolidate its regime which was established less than a year ago. More importantly, the CCP faced the difficult task of establishing its authority and credibility by creating extensive internal support from the population at large.<sup>20</sup> Influenced by the traditional Chinese strategic culture of regarding crisis (*weiji*) as constituted by both danger (*wei*) and opportunity (*ji*), the outbreak of crisis in Korea was seen by the CCP as both a challenge and a rare opportunity for the CCP to achieve the above objectives.<sup>21</sup>

It was obvious that leaders in Beijing, especially Mao, were deeply worried about the possible impact of a U.S. victory over North Korea on domestic anti-Communist forces. In his telegram to Zhou, Mao mentioned that allowing the U.S. to press to the border would allow the growing of arrogance of 'reactionaries at home', and would be 'disadvantageous' not only to China, but also Korea and the Far East.<sup>22</sup> In another telegram summarising the Politburo discussion nine days later, Mao again stressed that if the American troops reached the border region, 'the international and domestic reactionary bluster would surely become louder'.<sup>23</sup> Such emphasis on the effect of countering domestic anti-Communist forces can be seen as a direct response to the growing activities of such forces, including attacks on local officials and militaries, sabotages, assassinations and, according to the intelligence acquired by the public security ministry at the time, a bombardment of Tiananmen on the celebration of National Day on October 1.<sup>24</sup> By sending troops to combat the U.S. forces and prevent their arrival at the border regions, the CCP leaders hoped that it can 'beat the arrogance' of both the U.S. abroad and the reactionary forces at home.<sup>25</sup> In doing so the CCP could increase its strength on anti-sabotage campaigns as well as domestic reconstruction, and hence consolidated its authorities. In this sense, the intervention in Korea served as an important move to prevent the enemy from 'fanning counterrevolution sentiments' in China to threaten its domestic unity and security.<sup>26</sup>

Another aspect of domestic consideration is the CCP's desire and need to gain wider support among the public by successfully managing the Korean crisis. For the CCP and its regime, established for less than a year

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<sup>20</sup> Hu, S. *Zhongguo Gongchandang de Qishi Nian (Seventy Years of the Chinese Communist Party)* (Beijing, Zhonggong Dangshi Chubanshe (CCP History Press), 1991), p. 313-314.

<sup>21</sup> Chen, *China's Road*, p. 124.

<sup>22</sup> Christensen, 'Threats', p. 153.

<sup>23</sup> Chen, *China's Road*, p. 187.

<sup>24</sup> Hunt, 'Beijing', p. 471; Hao, Zhai, 'China's Decision', p. 104.

<sup>25</sup> Chen, *China's Road*, p. 168.

<sup>26</sup> Hunt, 'Beijing', p. 465.

after a destructive civil war, this task was especially crucial and challenging. The population who had just experienced foreign and domestic conflict and had limited knowledge of the CCP's internal and external policies would take the Korean crisis as a test of the CCP's capability to govern the country.<sup>27</sup> The CCP also realised that the Korean crisis was an opportunity to 'mobilise the masses' and to 'inspire the comrades-in-arms'.<sup>28</sup> To achieve such objectives, the Chinese leadership addressed both the 'revolutionary enthusiasm' and patriotism among the public. One example can be seen from an internal directive on official propaganda from the General Information Bureau, which stated that 'we have to...start a widespread campaign of propaganda...to educate our people at home'.<sup>29</sup> By stressing both the revolutionary characteristics (anti-imperialist) and the patriotic characteristics (defending sovereignty) of the Korean War, the CCP leadership believed that engaging in Korea could create a revolutionary momentum of the Chinese people and therefore strengthen the authority and reputation of the CCP.<sup>30</sup>

To summarise the above analysis, considerations of the domestic situation, specifically the need to counter anti-Communist forces and strengthen the CCP's regime played an important role in Beijing's decision to intervene. By sending its troops to assist the North Koreans in countering what they saw as 'imperialist' invasion, the CCP could decrease the morale of domestic anti-Communist forces on the one hand, and strengthen its legitimacy and authority by showing to the public its dedication to defend national sovereignty and Communism and fight against imperialism (which were the objectives the CCP had always stressed on before coming to power) on the other hand.

### **Individual leaders: ideological factors**

So far, the paper has analysed and concluded that constraints on economic reconstruction and military redeployment, and the need for domestic anti-sabotage campaign and the CCP's regime consolidation played important roles in Beijing's decision to intervene in Korea. However, there is still one aspect that needs to be examined: the role of the individual CCP leaders, especially Mao. Several newly published documents on the Korean War indicated that Mao played a dominant role in the process of decision making and the later military deployment of the CPV.<sup>31</sup> The following part of the paper will conclude that the idea of a communist-capitalist confrontation and hostility towards the U.S. served as a catalyst to Beijing's final decision.

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<sup>27</sup> Chen, *China's Road*, p. 124.

<sup>28</sup> Chai, C. Zhao, Y. *Banmendan Tanpan (The Panmunjom Negotiation)* (Beijing, the People's Liberation Army Press, 1989), p. 31.

<sup>29</sup> Chen, *China's Road*, p. 125.

<sup>30</sup> Chen, *China's Road*, p. 124.

<sup>31</sup> Hunt, 'Beijing', p. 460.

In his analysis of the Chinese foreign policies Chinese foreign policies, Allen Whiting points out that the assumption of conflict played an important role in the ideological component of China's foreign policy making.<sup>32</sup> He further argued that the possession of Marxism-Leninism ideology by the CCP had leded it to conclude that the confrontation between capitalism and communism is omnipresent and inevitable.<sup>33</sup> Indeed, such ideology did influence the decision making of senior Politburo members, especially Mao. On one hand, the CCP leaders believed that China had a responsibility to assist communist North Korea in fighting against the invasion. By referring to the purpose of intervention as 'to assist our Korean comrades' and to rescue the 'revolutionary strength of Korea' in his telegram to Stalin, Mao showed that he felt an internationalist duty to assist the Korean revolution and to boost revolutionary morale among Communist movements in the whole of East Asia.<sup>34</sup> With such feelings in mind, he responded to those who were against intervention in the Politburo by saying 'once another nation is in a crisis, we'd feel bad if we stood idly by'.<sup>35</sup> On the other hand, Mao and the CCP leaders had been long aware of Washington's hostility towards China, and believed that the confrontation between communist China and capitalist United States was inevitable.<sup>36</sup> In the official propagandas, the CCP leaders repeatedly emphasised that the United States was China's enemy, from both the historical perspective (that the U.S. was one of the leading nations to exploit China) and the current perspective (that the capitalist U.S. was the natural enemy of communist China).<sup>37</sup>

The influence of ideology of individual leaders is important in the case of China's decision for two reasons. Firstly, by stressing the inevitability of the communist-capitalist confrontation and the need to support the communist revolution, the CCP could both justify China's intervention and prove that the CCP's decision was made from a moral standpoint. This justification and emphasis of moral high ground can on the one hand persuade the majority of Politburo members who argued against intervention, and on the other hand mobilise the support from the population. On the other hand, it also explains why the CCP decided to intervene and not to choose to rely on the alliance treaty. With the ideology of class conflict and promoting communist revolutions, intervening in Korea would not only safeguard national security and alleviate internal pressure, but also promote China's international status as an *avant garde* of world communist revolution. At the same time, under the domestic political situation in which individual leaders like Mao played an almost dominant role in the decision making process, the

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<sup>32</sup> Whiting, *China*, p. 6-7.

<sup>33</sup> Whiting, *China*, p. 6-7.

<sup>34</sup> Christensen, 'Threats', p. 151. See also: Hunt, 'Beijing', p. 464.

<sup>35</sup> Goncharov. Lewis. Xue, *Uncertain*, p. 179-180.

<sup>36</sup> Chen, *China's Road*, p. 124. See also: Hao and Zhai, 'China's Decision', p. 106.

<sup>37</sup> Chen, *China's Road*, p. 1179-180.

ideology of such leaders would influence their personal preference and therefore the decision making process of the whole administration.

### **Conclusion**

This paper has argued that the main driving forces behind Beijing's decision to intervene in Korea in 1950 were the ones of security concerns, domestic considerations and ideologies possessed by leaders of the CCP. The common explanations contend that China decided to intervene in Korea mainly because of the security consideration of possible U.S. invasion of Chinese territory. This paper argues that the security concern was not simply an invasion of Chinese sovereignty, because under the Sino-Soviet Alliance Treaty, China was guaranteed with an all-out Soviet support if it was invaded by other countries. As a country with its material power largely destroyed by the civil war and its military power far weaker than the United States, China's intervention was extremely risky and brought a huge burden on its reconstruction projects. Therefore, the fact that China did not choose the alternative of relying on the Sino-Soviet Alliance Treaty and to stay outside of the war indicates that there are other factors influencing Beijing's decision. This report has discussed three such factors in detail.

First, the report argues that the first factor is the security consideration. Specifically, this security consideration is mainly the one of constraints on economic reconstruction and deployment of troops for operations towards Taiwan and against anti-Communist forces.

The second factor is the domestic consideration of safeguarding and consolidating the CCP's regime and authority. Beijing calculated that the intervention could boost domestic morale and help suppress the growing anti-Communist activities at home, and therefore strengthen the CCP's authority and internal control, which was crucial to the CCP regime, established for less than a year.

The third such factor is the ideology possessed by individual CCP leaders like Mao. The belief that a communist-capitalist confrontation was inevitable and that China and the U.S. were natural enemies served as a catalyst alongside other calculations to motivate key leaders like Mao to make the decision of intervention regardless of the difficulties it might face. In summary, these three factors also have to be taken into account when explaining China's reasons for its intervention in the Korean War in 1950.



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## ***The Bush Administration and Torture: who is responsible for the abuse at Abu Ghraib?***

**Erik Eriksen**

SINCE first becoming public in March 2004,<sup>1</sup> the case of the detainee abuse at the Abu Ghraib Prison<sup>2</sup> has gained widespread interest and an important place in debates on the Iraq War. At the prison, systematic abuse of detainees, described as ‘sadistic, blatant, and wanton’, was perpetrated by military police guards.<sup>3</sup> The guards beat prisoners; intimidated them with unmuzzled dogs; placed hooded detainees in a pyramid; carried out a range of incidents of abuse with sexual themes; and humiliated them in many other degrading ways.<sup>4</sup> These actions are widely regarded as unlawful.<sup>5</sup> While eleven low-ranking soldiers were found guilty in relation to the abuse,<sup>6</sup> the only relatively high-ranking

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<sup>1</sup> Risen, J. ‘The Struggle for Iraq: Treatment of Prisoners; G.I.’s Are Accused of Abusing Iraqi Captives’. *The New York Times* (online), 29 April 2004. Available at <http://www.nytimes.com/2004/04/29/world/struggle-for-iraq-treatment-prisoners-gi-s-are-accused-abusing-iraqi-captives.html> (Accessed 24 March 2012).

<sup>2</sup> Its official name is the ‘Baghdad Central Confinement Facility’ (BCCF). ‘The Taguba Report. Article 15-6 Investigation of the 800<sup>th</sup> Military Police Brigade’ (2004), in *The Torture Papers: the Road to Abu Ghraib*, edited by Karen J. Greenberg and Joshua L. Dratel, with an introduction by Anthony Lewis (Cambridge, Cambridge University Press, 2005), p. 408. This report will henceforth be referred to as ‘The Taguba Report’. The prison has also been referred to as the ‘Baghdad Central Correctional Facility’, see ‘The Taguba Report’, p. 448. The confinement facility will be referred to simply as ‘Abu Ghraib’.

<sup>3</sup> ‘The Taguba Report’, p. 416, cf. p. 449.

<sup>4</sup> ‘The Taguba Report’, pp. 416-417, 449.

<sup>5</sup> The Diplomatic Conference of Geneva of 1949, ‘Convention (III) relative to the Treatment of Prisoners of War’, 12 August 1949, Art. 3(1)(a), 4, 13-16. Available at <http://www.icrc.org/ihl.nsf/INTRO/375> (Accessed 28 March 2012); the Diplomatic Conference of Geneva of 1949, ‘Convention (IV) relative to the Protection of Civilian Persons in Time of War’, 12 August 1949, Art. 3(1), 3(1)(a). Available at <http://www.icrc.org/ihl.nsf/FULL/380> (Accessed 28 March 2012); the United Nations General Assembly, ‘Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’, 10 December 1984. Available at <http://www2.ohchr.org/english/law/pdf/cat.pdf> (Accessed 28 March 2012); and 18. U.S. Code (U.S.C.), §§2340-2340A. Available at <http://www.law.cornell.edu/uscode/text/18/part-I/chapter-113C> (Accessed 28 March 2012). This interpretation of U.S.C. §§2340-2340A is, however, contested by Bybee, J. S. ‘Memorandum for Alberto R. Gonzales Counsel to the President: Standards of Conduct for Interrogation under 18. U.S.C. §§2340-2340A’ (2002), in *The Torture Papers: the Road to Abu Ghraib*, edited by Karen J. Greenberg and Joshua L. Dratel, with an introduction by Anthony Lewis (Cambridge, Cambridge University Press, 2005), esp. pp. 172-173, 183.

<sup>6</sup> Associated Press, ‘Fast Facts: Abu Ghraib Convictions’. *Fox News* (online), 27 September 2005. Available at <http://www.foxnews.com/story/0,2933,170603,00.html> (Accessed 25 March 2012); CBS News, ‘Abu Ghraib Dog Handler Sentenced’. *CBS News* (online), 11 February 2009. Available at [http://www.cbsnews.com/2100-500257\\_162-1676792.html](http://www.cbsnews.com/2100-500257_162-1676792.html) (Accessed 25 March 2012); and White, J. ‘Abu Ghraib MP Slain In Bid for Redemption’. *The Washington Post* (online), 6 March 2009. Available

officer to have been charged was Lieutenant Colonel Steven Jordan, second-in-charge of interrogation at Abu Ghraib.<sup>7</sup> The only charge he was found guilty of, however, was to have discussed an investigation into the abuse with soldiers.<sup>8</sup> This lack of high-ranking convictions can be argued to be highly unfair, given the widespread nature of torture and abuse during War on Terror operations also outside Abu Ghraib.<sup>9</sup>

This article will argue that the soldiers perpetrating the abuse, their commanding officers and members of the George W. Bush Administration are all morally responsible for the abuse at Abu Ghraib. However, it will also argue that one must look to commanding officers and all the way to the top of the administration to find the individuals that are most blameworthy. In arguing this, the article will refer to a number of historical cases, as well as to moral arguments by a number of scholars.

Firstly, the article will discuss the responsibility of the individual soldiers that carried through the abuse. Here it will argue that all moral agents are responsible for their own actions. It will also argue that claims of not being responsible because of orders from superiors are unacceptable, as anyone who knew, or should have known, that such actions were illegal have a responsibility to disobey orders. Following on from this, the article will discuss the responsibilities of commanding officers. It will argue that those tolerating or encouraging unlawful actions are fully responsible. It will also argue that commanding officer Janis Karpinski is responsible, as she should have attempted to find out and control the abuse, and because of her inability to enforce the ban on torture. Building on arguments from this section, the article will argue that members of the US government also are responsible. It will argue that Secretary of Defense Donald Rumsfeld was responsible – for the same reasons as the commanding officers who tolerated and encouraged these unlawful orders. It will also argue that President Bush is responsible and blameworthy for playing a central role in a group conspiring to commit war crimes. In the fourth section, arguments in favour of holding the entire American people responsible will be considered, but rejected on the bases that they could not have known when voting Bush into office

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at <http://www.washingtonpost.com/wp-dyn/content/article/2009/03/05/AR2009030503676.html> (Accessed 29 March 2012).

<sup>7</sup> Tyson, A. S. 'Army officer charged in Abu Ghraib prison abuse'. *The Seattle Times* (online), 29 April 2006. Available at [http://seattletimes.nwsource.com/html/nationworld/2002960310\\_ghraib29.html](http://seattletimes.nwsource.com/html/nationworld/2002960310_ghraib29.html) (Accessed 25 March 2012). Also see Schmitt, E. 'Iraq Abuse Trial Is Again Limited to Lower Ranks'. *The New York Times* (online), 23 March 2006. Available at [http://www.nytimes.com/2006/03/23/politics/23abuse.html?\\_r=1](http://www.nytimes.com/2006/03/23/politics/23abuse.html?_r=1) (Accessed 24 March 2012).

<sup>8</sup> White, J. 'Officer acquitted of mistreatment in Abu Ghraib case'. *The Boston Globe* (online), 29 August 2007. Available at [http://www.boston.com/news/nation/articles/2007/08/29/officer\\_acquitted\\_of\\_mistreatment\\_in\\_abu\\_ghraib\\_case](http://www.boston.com/news/nation/articles/2007/08/29/officer_acquitted_of_mistreatment_in_abu_ghraib_case) (Accessed 25 March 2012).

<sup>9</sup> Human Rights Watch (HRW), 'Getting Away with Torture?: Command Responsibility for the U.S. Abuse of Detainees'. (HRW, 2005).

that he would commit war crimes, and that they cannot be held responsible for the crimes through establishing the US Army.

This article will distinguish between “responsibility” and “blameworthiness”. With certain exceptions, which will be examined, individuals are responsible for what they do.<sup>10</sup> For each action, more than one person can be responsible; and, if so, the responsible individuals may all be entirely responsible – that is, each person’s responsibility does not have to be reduced.<sup>11</sup> Being “responsible” will also require that one is a moral agent when carrying through an action.<sup>12</sup> Further, if information is kept away from a perpetrator with the intention that an action shall be undertaken, then the person keeping the information away is the one that is responsible for the action.<sup>13</sup> Similarly, if someone has created policies that they knew, or should have known,<sup>14</sup> would lead to general actions like this, they are morally responsible too. One is responsible for the ‘wilful [breach] of a code of conduct...’<sup>15</sup> whether one actually perpetrated it oneself or had someone else do it. Being “responsible” will be taken as meaning morally, not legally, responsible for the action.<sup>16</sup> While one generally is responsible for what one does, one is blameworthy only for those actions that are one’s own. Under superior orders, actions can be argued to be not entirely one’s own,<sup>17</sup> meaning that also is less to blame.<sup>18</sup> Thus, the blame is generally equivalent to the degree to which the actions are one’s own. This means that, while responsibility usually is not reducible, some can be more or less blameworthy than others.

### **The Prison Guards**

As alluded to in the introduction, it is only individual soldiers who have been held responsible for the abuse at Abu Ghraib. The actions at Abu

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<sup>10</sup> Cf. Walzer, M. *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 4<sup>th</sup> edn., With a New Introduction by the Author (New York, Basic Books, 2006), pp. 40, 308.

<sup>11</sup> Cf. Lackey, D. P. *The Ethics of War and Peace* (Englewood Cliffs NJ, Prentice Hall, 1989), p. 83; Baier, K. ‘Guilt and Responsibility’, in *Individual and Collective Responsibility*, 2<sup>nd</sup> edn., edited by Peter A. French (Rochester VT, Schenkman Books, 1998), p. 100; and Walzer, *Just and Unjust Wars*, p. 309.

<sup>12</sup> Cf. Walzer, *Just and Unjust Wars*, p. 6; and Walzer, M. ‘Two Kinds of Military Responsibility’ (1980), in Michael Walzer, *Arguing about War* (New Haven, Yale University Press, 2004), p. 27

<sup>13</sup> Cf. Walzer, *Just and Unjust Wars*, pp. 312-313.

<sup>14</sup> Cf. French, P. A. ‘The Responsibility of Monsters and Their Makers’, in *Individual and Collective Responsibility*, 2<sup>nd</sup> edn., edited by Peter A. French (Rochester VT, Schenkman Books, 1998), pp. 7, 12.

<sup>15</sup> French, ‘Monsters and Their Makers’, p. 7.

<sup>16</sup> Cf. Walzer, *Just and Unjust Wars*, p. 288.

<sup>17</sup> Walzer, *Just and Unjust Wars*, p. 309.

<sup>18</sup> Cf. the mitigation of punishment in the Conference of London of 1945, ‘Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal. London’, 8 August 1945. Available at <http://www.icrc.org/ihl.nsf/FULL/350> (Accessed 23 March 2012), ‘Charter’, Art 8. This agreement will henceforth be referred to as ‘the Nuremberg Charter’. All references are to the ‘Charter’ rather than the ‘Agreement’.

Ghraib have generally been represented as exceptional cases, in which the abuse was perpetrated by a “few bad apples”,<sup>19</sup> acting based on their own, entirely rational, choice.<sup>20</sup> This, as shall be seen later, is not the case. However, this great focus on the individual officers – who were merely reservists<sup>21</sup> – forces this article to examine the responsibilities of individuals acting in what is described as ‘sadistic, blatant, and wanton’ ways.<sup>22</sup> This article will discuss the general responsibilities of soldiers, as well as their responsibilities when superior orders require them to abuse. As Walzer argues, all moral agents are responsible for what they do.<sup>23</sup> By moral agent, it is meant anyone with an ‘ordinary sense and understanding’,<sup>24</sup> who is not acting under duress, which is a threat directed at that particular soldier which is proportional to that at the detainee he is abusing.<sup>25</sup>

Sergeant Michael Smith, one of the dog handlers at Abu Ghraib, argued that when abusing prisoners with unmuzzled dogs, he was merely following orders.<sup>26</sup> This is, however, generally not an accepted excuse for breaking the rules of war: as clearly stated by the presiding judge in the case against Sergeant Hutton, who was standing trial for the My Lai massacre during the Vietnam War, one is obliged to disobey any order that one knows is illegal or is ‘manifestly illegal on its face’.<sup>27</sup> This means that, even if there are superior orders, one is obliged to disobey, if it is clear that it is illegal. It seems obvious that the actions described above are illegal. It would neither, due to the characteristics of the abuse, be justified to argue that they did not know what would happen,<sup>28</sup> or duress,

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<sup>19</sup> George W. Bush, Jr., cited in *The Economist*, ‘Just a few bad apples?’ *The Economist* (online), 20 January 2005. Available at <http://www.economist.com/node/3577249> (Accessed 25 March 2012). Cf. ‘The Taguba Report’, pp. 448-449.

<sup>20</sup> Zimbardo, P. *The Lucifer Effect: How Good People Turn Evil* (London, Rider, 2007), p. x. Cf. ‘The Taguba Report’, p. 449.

<sup>21</sup> Welsh, S. C. ‘Abu Ghraib Court Martial: “Ring Leader” Spc. Charles A. Graner, Jr., Sentenced to Ten Years’. *Center for Defense Information* (online), n.d. Available at <http://www.cdi.org/news/law/abu-ghraib-graner.cfm> (Accessed 28 March 2012); and CNN, ‘Judge: Abu Ghraib a crime scene’. *CNN* (online), 21 June 2004. Available at [http://articles.cnn.com/2004-06-21/world/iraq.abuse.trial\\_1\\_abu-ghraib-ivan-chip-frederick-guy-womack?\\_s=PM:WORLD](http://articles.cnn.com/2004-06-21/world/iraq.abuse.trial_1_abu-ghraib-ivan-chip-frederick-guy-womack?_s=PM:WORLD) (Accessed 28 March 2012).

<sup>22</sup> ‘The Taguba Report’, p. 416.

<sup>23</sup> Walzer, *Just and Unjust Wars*, pp. 306-309.

<sup>24</sup> *The United States v William L. Calley, Jr., First Lieutenant, U.S. Army*, 22 U.S.C.M.A. 534 (1973) – a case in the United States Court of Military Appeals. Available at [http://law2.umkc.edu/faculty/projects/ftrials/mylai/MYL\\_uscma.htm](http://law2.umkc.edu/faculty/projects/ftrials/mylai/MYL_uscma.htm) (Accessed 23 March 2012) (henceforth, *US v Calley*). Emphasis removed. Cf. Walzer, *Just and Unjust Wars*, p. 306.

<sup>25</sup> Walzer, *Just and Unjust Wars*, pp. 313-316. Cf. the Nuremberg Trial, ‘Judgement: The Law of the Charter’.

<sup>26</sup> Zimbardo, *The Lucifer Effect*, p. 404, cf. p. 411.

<sup>27</sup> Cited in Lackey, *The Ethics of War and Peace*, p. 83. Cf. the United States Department of the Army, ‘The Law of Land Warfare’, FM 27-10, Department of the Army Field Manual’ (Washington, D.C., the Department of the Army, 1956), section 509. Available at <http://www.aschq.army.mil/gc/files/fm27-10.pdf> (Accessed at 26 March 2012); the Nuremberg Charter, Art. 8; Wasserstrom, R. ‘The Relevance of Nuremberg’. *Philosophy & Public Affairs*, 1:1 (1971), p. 27; Walzer, *Just and Unjust Wars*, p. 314; and Walzer, M. ‘Two Kinds of Military Responsibility’, p. 27.

<sup>28</sup> Cf. Baier, p. 98-99; Walzer, pp. 312-313.

that they were threatened with proportional punishment if they did not carry it through.<sup>29</sup>

Even if one has been ordered to carry through abuse, ‘there is some ultimate humanity that cannot be broken down...’<sup>30</sup> to use Walzer’s words. If one is a ‘reasoning agent’, with an ‘ordinary sense and understanding’,<sup>31</sup> one should be able to understand that what one did was illegal. Given the arguments in this section, individuals are responsible for the abuse they have perpetrated. However, as the remainder of the article will show, there are also other actors that are responsible, and perhaps even more blameworthy.

### **Commanding Officers**

There is, much that points towards the fact that what went on at Abu Ghraib was not merely the actions of a “few bad apples”. This kind of abuse was widespread,<sup>32</sup> and was still taking place at Abu Ghraib more than a year after the story became known.<sup>33</sup> This section will look at the commanding officers. Firstly, it will examine the role of Major General Geoffrey Miller, who directly shaped the policies that resulted in the Abu Ghraib abuse. Following on from this, the responsibility of Karpinski, head of 16 Iraqi detention facilities,<sup>34</sup> and the commanding officer directly responsible for Abu Ghraib, will be discussed. When it comes to Karpinski, her seeming lack of knowledge about what was going on will be discussed.

Miller was given the task of spreading Guantánamo Bay-style interrogation methods to prisons in Iraq.<sup>35</sup> In this, he said to have argued that the guards should not ‘at any point [allow prisoners to think] that they are more than a dog...’<sup>36</sup> Miller denies ever having said this,<sup>37</sup> but given his actions as leader at Guantánamo,<sup>38</sup> seems plausible. Alongside

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<sup>29</sup> The threat of reprimands would not be sufficient. Cf. Walzer, *Just and Unjust Wars*, pp.313-316; and the Nuremberg Trial, ‘Two Hundred and Seventeenth Day, Monday, 30 September 1946’, Nuremberg Trial Proceedings Volume 22. Available at <http://avalon.law.yale.edu/imt/09-30-46.asp> (Accessed 26 March 2012).

<sup>30</sup> Walzer, *Just and Unjust Wars*, p. 311

<sup>31</sup> *US v Calley*. Emphasis removed.

<sup>32</sup> HRW, ‘Getting Away with Torture?’

<sup>33</sup> See for example Keller, M. *Torture Central: E-mails From Abu Ghraib* (New York, iUniverse, 2008).

<sup>34</sup> Sjoberg, L. and Gentry, C. E. *Mothers, Monsters, Whores: Women’s Violence in Global Politics* (London, ZED Books, 2007), p. 75.

<sup>35</sup> Zimbardo, *The Lucifer Effect*, p. 412; and HRW, ‘Getting Away with Torture?’, p. 75.

<sup>36</sup> BBC News, ‘Iraq abuse ‘ordered from the top’’. *BBC News* (online), 15 June 2004. Available at <http://news.bbc.co.uk/1/hi/world/americas/3806713.stm> (Accessed 27 March 2012); cf. HRW, ‘Getting Away with Torture?’, p. 76.

<sup>37</sup> HRW, ‘Getting Away with Torture?’, p. 76.

<sup>38</sup> HRW, ‘Getting Away With Torture?’, pp. 71-76; cf. the Taguba Report’, pp. 409-410; Fay, G. R. ‘AR 15-6 Investigation of the Abu Ghraib Detention Facility and 205<sup>th</sup> Military Intelligence Brigade (U)’ (2004), in *The Torture Papers: the Road to Abu Ghraib*, edited by Karen J. Greenberg and Joshua

Miller, Lieutenant General Ricardo Sanchez, US Commander in Iraq, is also responsible, for authorising Miller's policies.<sup>39</sup> Despite the fact that he never laid his hand on any of the Abu Ghraib detainees, why is this article arguing that Miller is responsible? As Walzer argues, commanding officers 'tolerat[ing] and encourag[ing]' such actions are fully responsible.<sup>40</sup> In the case of Miller, not only did he encourage these actions, he even ordered them. There is also another reason for why Miller, and even more so, Sanchez, must bear responsibility. As Lackey argues in relation to the My Lai massacre, the tactics at that time disregarded civilian life so much that it was 'bound to happen sooner or later'.<sup>41</sup> Similarly, US troops were so disrespectful towards War on Terror detainees that such abuse would happen "sooner or later". For these reasons, these two men much bear responsibility for the abuse.

However, also those who did not know what was going on are to blame. Karpinski, commander of 16 Iraqi prisons, argued that she did not know what was going on at Abu Ghraib,<sup>42</sup> a story doubted by few.<sup>43</sup> Then, why is she to blame? The trial against the Japanese General Yamashita during WWII is illustrative. Although he was probably misjudged based on the principles set forward in the trial, the principles are themselves valuable. His sentence was based on the argument that where there 'are widespread offences, and there is no effective attempt by a commander to discover and control the criminal acts, such a commander may be held responsible... for the lawless acts of his troops...'<sup>44</sup> As Walzer argues, commanders must take 'appropriate measures' to enforce the rules of war.<sup>45</sup> This must be regarded as especially so in a case like this, where the commander's focus does not have to be on military tactics at the same time. The commander is thus responsible for widespread abuse if she has not *attempted* to "discover and control" it; a lack of knowledge is not by itself an acceptable excuse. According to the Abu Ghraib whistleblower, 'nobody in command cared enough to find out'.<sup>46</sup>

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L. Dratel, with an introduction by Anthony Lewis (Cambridge, Cambridge University Press, 2005), pp. 1035-1036 (henceforth 'the Fay Report').

<sup>39</sup> Zimbardo, *The Lucifer Effect*, p. 414, cf. pp. 411-413. Cf. HRW, 'Getting Away with Torture?', pp. 63-64.

<sup>40</sup> Walzer, *Just and Unjust Wars*, p. 309.

<sup>41</sup> Lackey, *The Ethics of War and Peace*, p. 84.

<sup>42</sup> Sjoberg and Gentry, *Monsters, Mothers, Whores*, p. 79.

<sup>43</sup> Sjoberg and Gentry, *Monsters, Mothers, Whores*, p. 79; and Hylton, W. S. 'Prisoner of Conscience'. *GQ* (online), September 2006. Available at <http://www.gq.com/news-politics/newsmakers/200608/joe-darby-abu-ghraib> (Accessed 24 March 2012).

<sup>44</sup> The Trial of General Tomoyuki Yamashita in the United States Military Commission, Manila, cited in *In re Yamashita*, 327 U.S. 1 (1946). Available at <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=327&invol=1> (Accessed 28 March 2012). Cf. the Diplomatic Conference of Geneva 1974-1977, 'Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)', 8 June 1977. Available at <http://www.icrc.org/ihl.nsf/FULL/470> (Accessed 27 March 2012); and French, 'Monsters and Their Makers', p. 7.

<sup>45</sup> Walzer, *Just and Unjust Wars*, pp. 319-321

<sup>46</sup> Hylton, 'Prisoner of Conscience'.

Assuming that this is true, Karpinski failed in her responsibility, and her resulting inability to enforce the ban on torture means that she is responsible. Nevertheless, she is perhaps not as blameworthy as those who created the policies she failed to discover.

### **Government Responsibility**

The next group of individuals that is responsible for the abuse at Abu Ghraib are members of the US government. Secretary of Defense Rumsfeld and President Bush will function as examples for this argument. Although interpreted as applicable only to “crimes against peace” at the Nuremberg Trials,<sup>47</sup> the Nuremberg Charter<sup>48</sup> states that those ‘participating in the formulation or execution of a common plan or conspiracy to commit [war crimes] are responsible for all the acts performed by *any* persons in the execution of such plan’. For this ‘there shall be individual responsibility’;<sup>49</sup> government officials are not exceptions.<sup>50</sup> What must be noted here is that even conspiring to carry through such an act is unlawful in itself.

Although members of the Bush Administration did not carry through the abuse at Abu Ghraib, it is clear that they have taken part in this conspiracy, and should have known what was going on at Abu Ghraib. Rumsfeld is responsible for two additional reasons, through ordering the kinds of actions seen at Abu Ghraib<sup>51</sup> and his command responsibility as the top official of the Department of Defense.<sup>52</sup> As can be recalled from the discussion on Miller, commanding officers encouraging abuse are responsible for the violations of the rules of law. Not only did Rumsfeld encourage these violations, he even approved the procedures later taking place at Abu Ghraib.<sup>53</sup> Further, as argued in relation to Karpinski, when there is widespread abuse, and the commanding officer does not attempt to “discover and control” these, then he is also responsible. From this, this article can judge that Secretary Rumsfeld is responsible, as well as greatly blameworthy, for the abuse at Abu Ghraib.

However, the one that is most blameworthy is the one “at the top”, the President himself. Bush and his team of advisors consistently did what

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<sup>47</sup> ‘Judgment of the International Military Tribunal’, in *Trial of the Major War Criminals Before the International Military Tribunal* (Washington, D.C., 1947), Vol I, p. 226, cited in Wasserstrom, ‘The Relevance of Nuremberg’, p. 29.

<sup>48</sup> Its full name is ‘the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, and Charter of the International Military Tribunal’. See ‘The Nuremberg Charter’.

<sup>49</sup> The ‘ill-treatment of prisoners of war’ is here recognised as a war crime. ‘The Nuremberg Charter’, Art. 6. This author’s emphasis.

<sup>50</sup> ‘The Nuremberg Charter’, Art. 7.

<sup>51</sup> HRW, ‘Getting Away with Torture?’, p. 33.

<sup>52</sup> Title 10 of the United States Code, §162(b), cited in HRW, ‘Getting Away with Torture?’, p. 30.

<sup>53</sup> Mark Danner, at ‘A Question of Torture’, *PBS Frontline*, 18 October 2005, cited in Zimbardo, *The Lucifer Effect*, p. 408; and HRW, ‘Getting Away with Torture?’, p. 33.



was in their power to define this kind of abuse as legal.<sup>54</sup> For example, in 2002 the administration argued that the “Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment” does not require punishment for ‘cruel, inhuman, or degrading’ treatment and punishment,<sup>55</sup> and requiring torture to entail pain or suffering equivalent to that of ‘death, organ failure, or [impairment of bodily function]’ or psychological harm lasting for months or years.<sup>56</sup> In sum, it was decided that torture must entail ‘pain that is difficult to endure’ to be defined as such.<sup>57</sup> There was a specific aim on the part of the administration to bend and ignore the rules against this kind of treatment, in order to justify its use. This clearly fulfils the requirements of the “conspiracy” clause of the Nuremberg Charter. In this, all those who are taking part in formulating a common plan to commit war crimes, are responsible for all the acts perpetrated by *any* person in carrying that plan through. It is clear that the President is guilty of this through his attempts to justify the abuse of prisoners.

As Walzer argues, the decision at Nuremberg that those who were part of Adolf Hitler’s inner circle of advisors or played ‘such a major role in the making or execution of policy that their protests and refusals would have had a significant impact’ should also be held responsible<sup>58</sup> is a fair argument. This makes individuals such as Assistant Attorney General Jay Bybee, who wrote the memorandum justifying torture,<sup>59</sup> among those responsible for the widespread torture. On the other hand, officials such as Secretary of State Colin Powell, who clearly opposed the war but failed to resign,<sup>60</sup> can be said to be responsible, but less blameworthy. Building on this argument, two more questions will be discussed. Firstly, the next section will discuss the arguments in favour of holding the entire American people responsible for the abuse at Abu Ghraib. Secondly, the article will argue that those at the top of the system are most blameworthy for the abuse.

### **The American People?**

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<sup>54</sup> Bybee, ‘Memorandum’, esp. pp. 172-173, 183; Lawrence Wilkerson, cited in Dowd, M. ‘System on Trial’, *The New York Times* (New York), 7 November 2005, cited in Zimbardo, *The Lucifer Effect*, p. 433; Lewis, A. ‘Introduction’, in *The Torture Papers: the Road to Abu Ghraib*, edited by Karen J. Greenberg and Joshua L. Dratel, with an introduction by Anthony Lewis (Cambridge, Cambridge University Press, 2005), pp. xiii-xvi; Greenberg, K. J. ‘From Fear to Torture’, in *The Torture Papers: the Road to Abu Ghraib*, edited by Karen J. Greenberg and Joshua L. Dratel, with an introduction by Anthony Lewis (Cambridge, Cambridge University Press, 2005), pp. xvii-xx; and Dratel, J. L. ‘The Legal Narrative’, in *The Torture Papers: the Road to Abu Ghraib*, edited by Karen J. Greenberg and Joshua L. Dratel, with an introduction by Anthony Lewis (Cambridge, Cambridge University Press, 2005), p. xxii.

<sup>55</sup> Bybee, ‘Memorandum’, p. 172.

<sup>56</sup> Bybee, ‘Memorandum’, pp. 172, 183. This author’s emphasis.

<sup>57</sup> Bybee, ‘Memorandum’, p. 172.

<sup>58</sup> Walzer, *Just and Unjust Wars*, p. 292.

<sup>59</sup> Bybee, ‘Memorandum’.

<sup>60</sup> Lewis, ‘Introduction’, pp. xiv-xv; and Greenberg, ‘From Fear to Torture’, p. xix. Cf. Walzer, *Just and Unjust Wars*, p. 293.

Can it be argued that the entire American people is responsible for the abuse at Abu Ghraib? Some thinkers in fact believe that entire communities can be blamed when the rules of war are violated.<sup>61</sup> Gray, for example, argues that the greater possibility one has for acting, the more responsible one is if one fails to act against the violations.<sup>62</sup> This is based on the principle that the people as sovereign is responsible *for* the government.<sup>63</sup> Thus, it is reasonable to ask whether voters knew or should have known<sup>64</sup> that the Bush Administration would order the use of torture after his election as president. Let it be assumed that the voters all knew that when electing Bush. Would this make them responsible? One can certainly argue that those who voted for him despite knowing that he would torture Iraqis, or anyone else for that matter, would be responsible for the actions resulting from their votes. However, holding the entire population responsible is more problematic, as many in fact chose other candidates or no candidate at all. Further, it is little evidence that either the people, or the President himself, knew or should have known that the wars or the subsequent abuse would take place. Thus, it would be unreasonable holding the American people, or a large section of it, responsible for the abuse based on this argument.

Then, what about Calley's argument that the US Army is merely a 'Frankenstein monster', created by the 'people of the United States'?<sup>65</sup> The question posed here is whether the "maker" should have known that the "monster" would commit such abuse when getting out of their control. Calley's argument that the people are responsible for creating the "monster" is unconvincing. There are several reasons for this. Firstly, the Army was created long before anyone living today was born, questioning the argument that it was this people that created it.<sup>66</sup> It is also unreasonable to think that the people themselves would be able to disband the Army. Secondly, it is questionable whether the creation of an Army makes a people responsible for its abuses, just like those who support a war are not necessarily responsible for war crimes.<sup>67</sup> It can be argued that the American people may have to pay restitutions, but to hold them accountable for the actions is to go too far. Calley's argument that the American people were responsible is clearly an attempt to affect the

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<sup>61</sup> See for example Gray, J. G. *The Warriors: Reflections on Men in Battle*, with a new foreword by the author, and an introduction by Hannah Arendt (New York, Harper & Row, 1970), pp. 196-199.

<sup>62</sup> Gray, *The Warriors*, p. 199. Cf. Walzer's critique of this argument: Walzer, *Just and Unjust Wars*, pp. 299-303.

<sup>63</sup> Baier, 'Guilt and Responsibility', p. 112.

<sup>64</sup> Cf. the earlier questions of whether individuals knew or should have known that abuse would take place.

<sup>65</sup> William Calley, cited in Esquire, 'The Continuing Confessions of Lieutenant Calley'. *Esquire*, February 1971, cited in French, 'Monsters and Their Makers', p. 1., cf. French, 'Monsters and Their Makers', pp. 5, 7.

<sup>66</sup> Maass, J. R. *The Army's Birthday: 14 June 1775*. Available at <http://www.history.army.mil/html/faq/birth.html> (Accessed 28 March 2012).

<sup>67</sup> Cf. Baier, 'Guilt and Responsibility', p. 114.

decision in the case against him. For these reasons, arguing that the American people are responsible for the abuse at Abu Ghraib is unreasonable.

### Conclusion

First, this article argued that the individual guards carrying out the abuse at Abu Ghraib were responsible for their actions, as they are moral agents who should have known that what they did was illegal. It also maintained that the argument of following superior orders is an unacceptable excuse, as soldiers have a duty to disobey orders they knew, or should have known, are illegal. Building on this, it argued that also the commanding officers are responsible for the actions of their subordinates. Miller, for example, ordered the abuse, and his general disregard for detainees made this kind of abuse likely to happen at some point. Karpinski, on the other hand, failed in her responsibility to discover and control these acts, as well as in her responsibility to take “appropriate measures” to enforce the rules of war. The third section argued that also members of the American administration must be held responsible for the abuse. It argued that Rumsfeld is among these, as he encouraged and approved the abuse, and failed in his command responsibility to discover and control it. Further, it was argued that members of the administration, and especially President Bush, must be held responsible for the abuse due to their participation in formulating a conspiracy to commit war crimes. Lastly, it maintained that the arguments that the entire American people can be held responsible is unconvincing, as their influence on policy decisions is limited to elections – when they could not have known that abuse would take place.

Having argued that individuals all the way from those carrying out the abuse to the president himself are to blame, a more important question remains: who is more blameworthy? It is widely accepted that when actions “are not one’s own”,<sup>68</sup> as when one is under orders, this may reduce one’s blameworthiness.<sup>69</sup> This is a reasonable argument. It was the Bush administration that were the “minds” behind this abuse, legally challenging the accepted definitions of torture, doing what was in its power to defend this kind of widespread abuse as legal. Thus, the abuse is largely the actions of the government. However, Miller is also to blame, although less so than the administration. He was the one who designed the particular methods that led to the abuse, and who required prisons to make use of these. Further, these have, unlike the reservists carrying out the abuse, chosen the army as a career path. This, too, means that more should be expected from these ambitious individuals. For all these reasons, the highest-ranking individuals discussed here, from Major

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<sup>68</sup> Cf. Walzer, *Just and Unjust Wars*, p. 309.

<sup>69</sup> Cf. the mitigation of punishment in ‘the Nuremberg Charter’, Art. 8.

General Miller to President Bush, should be criminally prosecuted for their involvement in the Abu Ghraib torture.

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## ***Access to Education for Girls in the Rural Regions of Afghanistan Following the fall of the Taliban***

**Innes Leighton**

### **Introduction**

At present, 'more than 80 percent of Afghan women are illiterate'.<sup>1</sup> However, in the rural regions of Afghanistan, where more than 74 percent of the population lives, the illiteracy rate of females is closer to 93 percent.<sup>2</sup> Following the establishment of the Islamic Republic of Afghanistan in 1919, 'successive Afghan governments have used women or the idea of women, as pawns for political legitimization.'<sup>3</sup> This manipulation resulted in significantly divergent swings in attitudes towards the presence of Afghan women and girls in public life. This report will focus specifically on challenges faced by women residing in rural regions of Afghanistan gaining access to education following the fall of the Taliban in 2001. Particular emphasis will be placed upon the roles of community and national Non-Governmental Organizations (NGOs) as well as female parliamentarians and government officials in drawing attention to the need for gender equality when discussing the right to education.

Prior to the Taliban gaining power in 1996, Afghan women enjoyed relative freedom concerning education and employment. Under President Muhammad Khan, from 1959 onwards 'increasing numbers of women were educated in government schools and universities.'<sup>4</sup> Estimates show that in the early 1990's, approximately '50% of government workers and university students' were women.<sup>5</sup> After the Taliban seized power, the Taliban leaders argued 'that the education of women is un-Islamic' and

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<sup>1</sup> The New York Times. (2008). *In Poverty and Strife, Women Test the Limits*. Available at: <http://www.nytimes.com/2008/10/06/world/asia/06bamian.html?pagewanted=all>. (Accessed 30 October 2012).

<sup>2</sup> MRRD (Ministry of Rural Rehabilitation and Development) and CSO (Central Statistics Organisation). 2009. *National risk and vulnerability assessment 2007/2008. A profile of Afghanistan*. Kabul. pp. 66. Cited in UNESCO. (2011). *On the Road to Resilience: Capacity Development with the Ministry of Education in Afghanistan*. Available at: <http://unesdoc.unesco.org/images/0019/001915/191583e.pdf>. (Accessed 05 November 2012).

<sup>3</sup> Zulfacar, M. (2006). 'The Pendulum of Gender Politics in Afghanistan'. *Central Asian Survey*. Vol. 25, No. ½. pp. 28

<sup>4</sup> Gallagher, N. (2000). 'The International Campaign against Gender Apartheid in Afghanistan'. *Journal of International Law and Foreign Affairs*. pp. 369.

<sup>5</sup> U.S. Department of State. (2001). *The Taliban's War against Women*. Available at: <http://www.state.gov/j/drl/rls/6185.html> (Accessed 05 November 2012).

consequently tried to deny women in Afghanistan access to education.<sup>6</sup> Afghanistan's 1964 Constitution stated that education for both sexes was compulsory, yet in rural Afghanistan 'the realities of poverty, underdevelopment, and patriarchal attitudes limited girls' access to school.'<sup>7</sup> Due to this, many females experienced little change regarding access to education and as such the Taliban cannot be held uniquely responsible for the limited number of girls receiving an education in rural Afghanistan. Furthermore, not all girls were denied an education under Taliban rule. A minority of females received a basic education due to the underground schools set up in the homes of women who possessed knowledge of subjects such as English, Arabic and Biology.<sup>8</sup> It is difficult to get exact data on the number of underground schools in existence during Taliban reign due to fears of reprisal attacks on communities.

This report will firstly assess the current situation faced by many women throughout Afghanistan, before discussing the main issues which continue to prevent the majority of women from gaining an education. Three nation-wide initiatives will then be assessed to examine to what extent, if at all, they are impacting on the educational opportunities available to women in Afghanistan.

### Contemporary Situation

Following the Taliban's fall, significant political barriers which had previously blocked female access to education were eliminated. This encouraged an increasing number of female students to enrol at educational facilities. 'As of September 2011, there were 2.7 million Afghan girls enrolled in school, compared to just 5,000 in 2001 – a 480-fold increase.'<sup>9</sup> However, as the educational system is still developing, it is important not to overstate the optimistic statistical facts; it is still uncertain whether the positive trend will continue. This is highlighted by the issues faced by girls residing in rural areas as they attempt to get to school facilities. Currently they remain 'stymied at almost every turn by vicious militant attacks, a lack of adequate facilities and teachers, and even their own parents' reluctance to break from the tradition that says "girls belong at home."<sup>10</sup> In the 2011 Oxfam Report, more than a quarter

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<sup>6</sup> Fleming, C. (2005). 'Even in Dreams, They are Coming: Islamic Fundamentalism and the Education of Women in Afghanistan'. *William and Mary Journal of Women and Law*. Vol. 11, No. 3. p. 611.

<sup>7</sup> Amiri, R. et al. (2004). 'Transition Within Tradition: Women's Participation in Restoring Afghanistan'. *Sex Roles*. Vol. 51, No. 5/6. p. 285.

<sup>8</sup> Povey, E. R. (2003). 'Women in Afghanistan: Passive Victims of the *borga* or Active Social Participants?' *Development in Practice*. Vol. 13, No. 2/3. p. 271

<sup>9</sup> Oxfam. (2011). *Gains in Girl's Education in Afghanistan are at Risk: Real Lives*. Available at: <http://www.oxfam.org/en/campaigns/health-education/afghanistan-girls-education-risk>. (29 October 2012).

<sup>10</sup> Banbury, J. (2009). 'Girls Education in Afghanistan'. *UNICEF*. Available at: <http://www.unicefusa.org/news/news-from-the-field/feeding-girls-hunger-to.html>. (Accessed 30 October 2012).

of persons interviewed 'named the lack of a female teacher as a major obstacle to girls' access to education'<sup>11</sup> In fact, 'out of 364 districts in Afghanistan, there are no female teachers in more than 200 districts'<sup>12</sup> and those lacking female teachers overwhelmingly are rural regions. Furthermore, Ministry of Education data highlights the gap between 'enrollment and actual attendance, suggesting that far fewer than the 2.4 million girls enrolled in school regularly attend classes.'<sup>13</sup> This could be considered a direct result of numerous obstacles blocking access to education for rural Afghan girls, including poverty, early marriage and lack of family support<sup>14</sup>. Until such time as the highlighted matters are fully confronted and a concerted effort is made to address them, the Afghan female population will continue to be denied the benefits of education.

### **Key Issues Preventing Rural Females Gaining an Education**

'In Afghanistan, oppression of women is rampant and justified through tradition, religion, chivalrous protection of women, and defense of personal and family honor'.<sup>15</sup> While some girls may enrol at the start of the school year, it is not guaranteed they will continue to attend regularly throughout the term. This is partly because of pressures from the extended family and community for girls to perform their 'traditional female roles' in households. Many families are reticent to see female relatives break the recently established norm of girls existing almost entirely in private households and hidden from society. Of those questioned in the 2011 Oxfam report, 31.8% specified lack of support as an obstacle to female education.<sup>16</sup> Often, the girls are not supported in their attempts to achieve an education due to society's enduring perception of the women's subordinate role in society and lack of recognition that girls deserve an education.<sup>17</sup> Families also succumb to pressure from within communities, fearing if their daughter 'does not conform to the traditional ideal of the secluded female and attends school in the public sphere, who will marry her?'<sup>18</sup> This is specifically a

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<sup>11</sup> Oxfam Joint Briefing Paper. (2011). 'High Stakes: Girls Education in Afghanistan'. Available at: <http://www.oxfam.org/sites/www.oxfam.org/files/afghanistan-girls-education-022411.pdf> (Accessed 29 October 2012) p. 5

<sup>12</sup> RAWA. (2011b). *Violence, Tradition Keeps Millions of Afghans From School*. Available at: <http://www.rawa.org/temp/runews/2011/01/01/violence-tradition-keep-millions-of-afghans-from-school.html> (Accessed 05 November 2012).

<sup>13</sup> Oxfam Joint Briefing Paper. (2011). 'High Stakes: Girls Education in Afghanistan'. p. 10

<sup>14</sup> Oxfam Joint Briefing Paper. (2011). p. 4.

<sup>15</sup> Brodsky, A. et al. (2012). 'Beyond the ABCs: Education, Community and Feminism in Afghanistan'. *Journal of Community Psychology*. Vol. 40, No. 1. p. 172

<sup>16</sup> Oxfam Joint Briefing Paper. (2011). 'High Stakes: Girls Education in Afghanistan'. p. 16

<sup>17</sup> RAWA. (2012). *Afghan Girls Miss Years of Schooling in Nangarhar*. Available at: <http://www.rawa.org/temp/runews/2012/10/18/afghan-girls-miss-years-of-schooling-in-nangarhar.html>. (Accessed 30 October 2012).

<sup>18</sup> Hunte, P. (2006). 'Looking Beyond the School Walls: Household Decision-Making and School Enrolment in Afghanistan'. *Afghanistan Research and Evaluation Unit: Briefing Paper*. p. 6

problem for those in rural areas of Afghanistan, as previously, urban communities were accustomed to both genders co-existing in society.

Females are also prevented from becoming educated due to familial fears for their safety because of continuing instability throughout Afghanistan as well as the threat of attacks by the Taliban on educational facilities. Between '2007 and 2009, the Taliban and its allies have bombed, burned, or shut down more than 640 schools in Afghanistan, 80% of which were schools for girls.'<sup>19</sup> Furthermore, adequate learning facilities simply do not exist in rural Afghanistan. Many lack access to educational facilities that have suitable sanitation amenities, school books, desks and chairs. As a result, national NGO's such as RAWA have established non-formal educational systems in rural Afghanistan, so girls can be taught basic numeracy and literacy skills necessary to help secure basic-wage jobs. As Kirk and Winthrop state, home-based schooling can be held 'in a room in a home, space in a mosque, or the shade of a tree.'<sup>20</sup> By focusing efforts on basic education, NGOs are attempting to bring changes to the majority of girls in Afghanistan. However, a direct impact is that less emphasis is placed on further education. This means students wanting to continue onto further education, or to gain a structured formal education, miss such opportunities due to the emphasis on basic mass-education.

### **Local Initiatives to Change the Status Quo throughout Afghanistan**

Throughout Afghanistan, women are raising awareness on the importance of education by employing a number of strategies. One initiative trying to change the status quo is the rise in the number of prominent female political figures in Afghanistan. One of the most important female figures to date is Dr. Habiba Sarabi, who in 2005 was appointed governor of rural Bamyam Province, becoming the first woman in Afghanistan's history to hold such a position.<sup>21</sup> During her seven years in power, Dr. Sarabi has used her public position to encourage the local community to embrace female education. She has also worked to change the long-held beliefs about the abilities of women. As a consequence, her province boasts the highest percentage of females in education. 45% of the regions 125,000 students are girls.<sup>22</sup> While individuals in the province initially opposed the appointment of a female

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<sup>19</sup> Shahrani, N. M. (2009). Afghanistan's Alternatives for Peace, Governance and Development: Transforming Subjects to Citizens & Rulers to Civil Servants. *The Centre for International Governance Innovation*. Retrieved June 6, 2012 from [http://cips.uottawa.ca/eng/documents/CIPS\\_WP\\_Shahrani\\_August2009.pdf](http://cips.uottawa.ca/eng/documents/CIPS_WP_Shahrani_August2009.pdf). Cited in Kissane, C. (2012). 'The Way Forward to Girls Education in Afghanistan'. *Journal of International Women's Studies*. Vol. 13, No. 4. Pp. 18.

<sup>20</sup> Kirk, J. and Winthrop, R. (2006). 'Home-Based Schooling: Access to Quality Education for Afghan Girls'. *Journal of Education for International Development*. Vol. 2, No. 2. p. 2

<sup>21</sup> ISAF. (2012). *Bamyam Governor Blazes Trail for Afghan Women*. Available at: <http://www.isaf.nato.int/article/news/bamyam-governor-blazes-trail-for-afghan-women.html>. (Accessed 30 October 2012).

<sup>22</sup> ISAF. (2012). *Bamyam Governor Blazes Trail for Afghan Women*.

governor, it is almost certainly because of her gender that the education rates for females are the highest in the nation. Furthermore, the appointment in 2005 of Fawzia Koofi as Afghanistan's deputy speaker in the Afghan parliament ensured that there were an increasing number of political elites in Afghanistan committed to raising national awareness on the benefits of increased female education. Altering the composition of the parliament will help ensure the traditional-minded war-lords that held political power during Taliban rule will be replaced by educated politicians who are more inclined to change the women's status quo.

Whilst political elites strive to change negative views on female education at a national policy level, there are numerous local and national NGOs in Afghanistan set up by women who approach this issue at grass-roots level. The operations of the NGOs can be split into three distinct strategy areas: lobbying, community outreach programmes and international networking. Firstly, the NGOs campaign to raise awareness not only of the need for education for girls, but also the need for a change in the treatment of females in the public sphere generally. Due to the threat of sexual harassment on their journey to school, many families are reticent to send their daughters to educational facilities.<sup>23</sup> In July 2011, Young Women for Change (YWC) held Afghanistan's first anti-sexual harassment march in Kabul to raise awareness on the need for safety for girls travelling to-and-from their educational facilities.<sup>24</sup> By publicly breaking from their prescribed societal roles as passive and socially-inactive, NGOs such as YWC are highlighting the need for changing attitudes towards females in public and the need for acceptance of women's 'new' rights in society. Furthermore, YWC had numerous male supporters marching with them, which will help to challenge the widely-held male view that women should not participate in society alongside men. Although not directly linked to educational-focused NGOs, organizations such as YWC will help build wider societal support for groups that are focused on providing education for women.

Secondly, NGOs in Afghanistan are using community-outreach programmes, where organisations establish, fund and run educational facilities to raise female education standards. One grass-roots organisation set up specifically to focus on female rights is the Revolutionary Association of the Women of Afghanistan (RAWA). RAWA was established in 1977 to help 'Afghan women struggling for peace, freedom, democracy and women's rights in fundamentalism-blighted Afghanistan.'<sup>25</sup> As some rural regions still reject the notion of

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<sup>23</sup> Hunte, P. (2006). 'Looking Beyond the School Walls: Household Decision-Making and School Enrolment in Afghanistan. p. 6.

<sup>24</sup> UN Dispatch. (2011). *Demanding Dignity on Kabuls Streets, Afghan Women March Against Sexual Harassment*. Available at: <http://www.undispatch.com/demanding-dignity-on-kabuls-streets-afghan-women-march-against-sexual-harassment>. (Accessed 30 October 2012).

<sup>25</sup> RAWA. (a) *Revolutionary Association of the Women of Afghanistan*. Available at: <http://www.rawa.org/index.php>. (Accessed 05 November 2012).

females acquiring an education, RAWA have successfully set up and run numerous schools, in some instances establishing underground schools to provide literacy classes for girls and illiterate women.<sup>26</sup> Another grass-roots organization pursuing similar goals is the Afghan Institute of Learning, who have opened educational facilities in eight rural regions of Afghanistan at the request of the local communities. The Afghan Institute of Learning also helps to cover the costs of basic materials needed for the children to receive a basic quality education, such as chairs, blackboards and books.<sup>27</sup> This helps address the issue of poor quality of education holding some families back from enrolling their children.

Finally, while it is not the priority of many grass-roots organisations in Afghanistan, some NGOs have focused on international networking as a means of raising awareness of issues facing girls attempting to gain an education. One organisation attempting to create wider international awareness of the necessity for female education is the Educational Training Center for Poor Women and Girls of Afghanistan (ECW), which is currently a member of the South Asian Alliance for Poverty Eradication. As a direct result of this membership, representatives of ECW travel to international conferences to emphasize the plight of women and their continued lack of educational access in Afghanistan.<sup>28</sup> Through a multi-tiered approach, women across Afghanistan continue to highlight and circumvent current obstacles placed in the way of the majority of girls wanting to access a basic level of education and training.

### **How successful have these projects been?**

Whilst the undertakings mentioned above have been important in changing the current situations facing females wishing to obtain an education, there are limitations and advantages associated with each strategy. While it is vital that NGOs continue to help establish facilities in rural areas (with traditional-minded communities), the majority of NGOs currently focus on educating both genders. This has proved successful in raising the number of educated girls in some cases, but the combination of few female teachers and mixed-sex classrooms ensures that scores of girls do not attend the facilities due to family disapproval of the situation.<sup>29</sup>

However, education of both genders simultaneously is vital to ensuring that educational reforms are fully supported throughout rural regions. Due to Afghanistan's patriarchal society, in order to change the females'

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<sup>26</sup> RAWA (b). *RAWA's Social Activities*. Available at: <http://www.rawa.org/s.html>. (Accessed 30 October 2012).

<sup>27</sup> Afghan Institute of Learning. *Learning Centers*. Available at: <http://www.afghaninstituteoflearning.org/learning-centers.html>. (Accessed 30 October 2012).

<sup>28</sup> ECW. *Advocacy*. Available at: <http://ecw-af.org/advocacy.html>. (Accessed 30 October 2012). p. 1.

<sup>29</sup> Oxfam Joint Briefing Paper. (2011). 'High Stakes: Girls Education in Afghanistan'. p. 20

cultural position, male members within the community require an education. Educated males are more likely to understand that by gaining an education, a woman is not necessarily going to challenge the male's established social power, but could raise a community's living standard through participation in public life. If the males are not willing to accept new gender norms, educational reforms for women will fail. Therefore, although female enrolment has not risen as NGOs anticipated, the significant changes in society may take another few years to filter through and impact on education levels.

One significant issue is that organizations such as the Afghan Institute of Learning only opens facilities at the request of communities, as opposed to targeting communities which may stand to benefit more from the provision of facilities but who cannot openly ask for such necessities. Therefore, a slight change in their strategy of targeting communities in need of facilities should be made. Although identifying communities wishing for education that cannot currently ask for facilities would be challenging, it is an avenue that certain well-established NGOs, such as RAWA, could attempt to pursue. This is in order to ensure that the maximum numbers of girls are included in their educational programs.

The combination of lobbying and the presence of prominent female political figures throughout Afghanistan has proven highly successful in changing community-held views on female education. Due to their public protests, YWC is challenging the gender roles and supposed characteristics of 'normal' Afghan girls, boldly marching through the male-dominated public areas. Furthermore, YWC also has male volunteers, ensuring that their gender equality message is distributed as widely as possible throughout Afghan society. While YWC continues to lobby political groups and draws national attention to the need for female education, the female political representatives in rural areas of Afghanistan help to subtly change rural views. Although communication services throughout Afghanistan are poor, gradually communities will see their neighbouring societies changing and benefitting through the female education being provided under a female governor. In combination with increased standards of male education, ensuring there are a number of prominent successful female figures present in the rural areas of Afghanistan will help to encourage families and communities reconsider their notions on a female's position in society.

### **Conclusion**

The issue of female education in rural Afghanistan has highlighted the importance of multi-tiered approaches when attempting to change public attitudes to the female role in society. It is questionable whether the work of NGOs or female politicians on their own could have produced the change in the number of educated Afghan women and girls that we have to date. By publicly breaking their prescribed gender roles, the politicians and lobbying groups have helped to create a changing social climate, allowing communities to embrace the new roles of females and therefore

allow some girls to receive an education. Nonetheless, it is important not to over-enhance the gains made thus far, as gaining an education remains ‘an elusive dream for most girls.’<sup>30</sup> In 2007-2008, female adult literacy remained at approximately 12%,<sup>31</sup> far below the world average of 79.7%.<sup>32</sup> However, to date, educational progress has so far been unequal across Afghanistan. As an increasing number of women continue to benefit from the efforts of the initiatives discussed throughout the report, the situation regarding female education in Afghanistan is, at last, beginning to improve.

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<sup>30</sup> Kissane, C. (2012). ‘The Way Forward to Girls Education in Afghanistan’. p. 10.

<sup>31</sup> UNICEF. (2010). *UNICEF Supports Literacy Centers for Afghan Women*. Available at: <http://www.unicefusa.org/news/news-from-the-field/unicef-supports-literacy.html>. Viewed on 31/10/2012.

<sup>32</sup> UNESCO. (2012). *Adult and Youth Literacy*. Available at: <http://www.uis.unesco.org/literacy/Documents/fs20-literacy-day-2012-en-v3.pdf>. (Accessed 31 October 2012). p. 1



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## ***The Concept of Property and Ownership in the Antebellum American South: Slaves, Slaveholders, Theft, Conflict and the Law***

**John Wood**

### **Introduction**

THE role of personal property in our lives is one that to a very great extent we take for granted. We, in a crowded country such as the UK, all clearly understand that some things are ‘ours’, some things ‘others’ and some things ‘public’, most people in Western society have a fully developed conception of ownership and property from an early age. For slaves, condemned by law to be treated as property due to being the descendants of black Africans imported in the pre-revolutionary period,<sup>1</sup> and their white masters, as those who owned other human beings as property for agricultural and domestic labour, this conception of ownership must have been more complex. For the master, was ownership of the slave the same to him as the ownership of livestock to a farmer today, or did the rational status of the slave make it something else? For the slave, did his or her status as chattel property change his or her conceptions of ownership? Following current trends in historiography, can, for the slave, the act of claiming ownership or property be seen as a customary matter evolved over time between him and the master, or was it an act of rebellion? The evidence suggests that both these ideas were true at the same time.

This project seeks to explore the concept of property for slaves and slaveholders in the antebellum period (1783-1860), through a comparison of the legal, customary and normative concepts of ownership of these groups to synthesise what property and ownership actually meant for the people of the region in this period. Property can be defined in the physical sense, but also has a metaphysical component. In this essay, some of the conflicting conceptions of property and ownership for the various groups of the Old South can be seen, and they are very different to our own.

In the first section, the study of philosophy of property and ownership as relating to slavery and the South will be explored to try and find a ‘platonic ideal’ of property rights and law in the South. In the second

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<sup>1</sup> Or more rarely Black African and Native American, as the attempted enslavement of the Native Americans in the 17<sup>th</sup> and 18<sup>th</sup> centuries had been largely unsuccessful.

section, the perception of the slaves towards property will be investigated using, primarily, the testimonies of the Federal Writers Project, a part of the Roosevelt Administration's efforts to provide government sponsored work to ameliorate the Depression. The third section investigates the thoughts of the slaveholder class on ownership, most particularly through the ample source material provided by slaveholder's diaries and the edited collection *Advice Among Masters*, as they are in some ways the link between the radically different conceptions of property of the legal and customary spheres.

### **The concept of property in philosophy and under law in the South**

The philosophical justification of the ideas of ownership and property within the Constitution and laws of the United States relies to a great extent on the works of the philosopher John Locke. It was in the formulation of the Constitution of the United States by Thomas Jefferson that ideas, proposed in Locke's *Two Treaties of Government*, were first tested, and from this the basis of the conception of property and ownership in the United States emerge. James Huston characterises the importance of the concept of property at the time of the Revolution as 'at times appearing to be a monomania.'<sup>2</sup> As an overview of Locke's idea of the role of property and ownership, he suggests in the Second Treatise that things that exist 'in the state of nature' (for our purpose the undeveloped land of the continental US) become property through the work put into them and so the value added to them. This can either take the form of our personal labours<sup>3</sup> or through the value we place upon items through investing our money in them.<sup>4</sup> It is in the common protection of this property, according to Locke, that a society forms a government, and when that government no longer protects property those who are under it have the right and duty to overthrow and replace it with one that will.<sup>5</sup> Liberty and property were thus linked in the nascent political class of the United States from the outset.<sup>6</sup> For an examination

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<sup>2</sup> Huston, J. L., *Calculating the Value of the Union: Slavery, Property rights, and the economic causes of the Civil war*, (North Carolina UP, 2003, London), p. 7

<sup>3</sup> Seen as a philosophical justification for the Westward Expansion throughout the nineteenth century, The Native Americans were not using the land (in the traditional conception of the whites) so it could be claimed by the labour of the settlers.

<sup>4</sup> In that by placing a subjective value upon what was there, but not previously valued, they have been invested with the product of our labour.

<sup>5</sup> The above discourse is a summary of paragraphs 27-43 of Locke, J. *Second Treatise of Government* (London, first published 1690), with criticism from the Stanford Encyclopaedia of Philosophy available at

<http://plato.stanford.edu/entries/locke-political/#Pro>

<sup>6</sup> The discipline of legal history has not been in vogue for much of the twentieth century due to the decline of the statist paradigm after the First World War, and before this time there was little interest in the legacy of slavery, but there has been some resurgence in recent years, see for example Palmer, V. V., 'The customs of Slavery: The war without arms', *The American Journal of Legal History*, Vol. 48, No. 2, pp. 177-218, or Flanigan, D. J., 'Criminal procedure in Slave trials in the Antebellum South', *The Journal of Southern History*, Vol. 40, No. 4, pp. 537-56. Much of the contemporary discussion of the role Locke played in the pro and anti-slavery debates such as Loewenborg, R. J., 'John Locke and

of this idea in the wider context of 19<sup>th</sup> century American history, the ideas both of how Lockean property rights impacted US expansionism and its attitude towards other races, both Walter La Feber's *The American Age*, Volume one, and Michael Hunt's *Ideology and US Foreign Policy* are excellent starting points.

The founding fathers, particularly Jefferson and Alexander Hamilton, were some of the first to consider the philosophical implication of slavery and property within the new nation, and also suffer discomfort with the results. They could not reconcile the legitimacy of slave ownership with Locke's theory of ownership. Samuel Adams, the cousin of the second president and revolutionary polemicist sums up the ambiguity well:

Men therefore, *in society having property*, they have such a right to the goods, which by the law of the community are theirs, that no body [sic] hath the right to take *any part* of their substance from them without their consent.<sup>7</sup>

Patrick Henry also commented on the relation of property rights with regard to slavery:

'What is the inference when you enumerate the rights which you are to enjoy? That those not enumerated are relinquished? ... To talk of it as a thing subsequent, not as one of your inalienable rights, is leaving it up to the casual opinion of the Congress... [to] ... liberate every one of your slaves, if they please: and this may be done by men with no common interest with you... ...The majority of the congress is in the north and the Slaves to the South. In this situation I see great jeopardy'.<sup>8</sup>

In this it can be seen that from the beginning it was understood that there was a tension between the theory of ownership and the custom that made the law. Locke had posed that by his own labour a man was made, and the customs of society could not take what was his except by his consent. Slaves were not considered their own property, and they certainly had not been given, or could be given, the right to decide their status.<sup>9</sup> The law they had, rather than their ideal conception, was that descended though English common law, and blended through the individual states

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the antebellum defence of Slavery', *Political Theory*, Vol. 13, No. 2, pp. 266-291, presupposes prior detailed knowledge of Locke, so for the benefit of the historian it is elaborated here.

<sup>7</sup>Adams, S., *Writings of Samuel Adams*, Vol. 2:299, quoted in Huston, *Calculating the Value of the Union*, p. 12

<sup>8</sup> Patrick Henry, *History of the Virginia Federative convention*, quoted in Lyman, J. L., 'Jefferson and Negro slavery', *The Journal of Negro Education*, Vol. 16, No. 1, pp. 13-14

<sup>9</sup> This problem was given its most explicit form on the eve of the Civil War. In *The executors of the Creswell Estate vs. Walker*, (1861) It was judged that a slave given the option of choosing his legal master upon the death of his previous one, or choosing manumission was judged legally incapable on grounds of capacity to choose his own freedom over slavery.

legal systems.<sup>10</sup> The *de facto* definition was a circular one; property was an object of personal possession that the law protected, yet possession was secured by the right to property.<sup>11</sup> It was Samuel Adams' 'society' rather than Lockean 'natural right' which governed the concept of property.

Jefferson was intellectually an abolitionist; his *Notes on the State of Virginia* speak for emancipation.<sup>12</sup> But it would seem that over time his view on the ownership of slaves, especially after becoming President, became one of grudging acceptance.<sup>13,14</sup> He believed that since slavery - though morally wrong - was a legacy of English rule,<sup>15</sup> the greater evil was the 'tyranny of the majority' over the rights of the slaveholding minority in the South,<sup>16</sup> thus rationalising the status quo and placing societal norms once again at the centre of the debate over ownership of human beings. Hamilton also had a deep concern as to the nature of

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<sup>10</sup> See Gross, A. J., *Double Character: Slavery and mastery in the Antebellum Courtroom*, (Princeton UP, 2000, Oxford), introduction, for the different evolutions of the slave as a person and the slave as property through the criminal and civil courts respectively.

<sup>11</sup> Huston, *Calculating the Value of the Union*, p. 13

<sup>12</sup> Jefferson, T., *Notes on the state of Virginia with an Appendix, Third American Edition*, (Furman and Loudon, 1801, New York), pp. 125 – 133, exemplars in this text of his thought before his term as President include describing Slavery as 'this Blot upon our country', and ending the passage with '[may] the minds of our citizens be ripening for a complete emancipation of human nature' (p. 133).

<sup>13</sup> Thomas Jefferson's legacy with respect to slavery has been debated at length throughout the twentieth century, and this will probably continue. From the founding of the NAACP to the present there has been a conflict over the traditional hagiography of the founding fathers when their status was combined with that of slaveholder. See for example Lyman, J. L., 'Jefferson and Negro slavery', *The Journal of Negro Education*, Vol. 16, No. 1, pp. 10-27, or Jefferson, T. and Magnis, N. E., 'Thomas Jefferson and Slavery: An analysis of His racist thinking as revealed by his writings and behaviour', *Journal of Black Studies*, Vol. 29, No. 4, pp. 491-509 and Schwartz, P. J., 'Jefferson and the Wolf: The sage of Monticello Confronts the Law of slavery', *OAH Magazine of History*, Vol. 8, No. 4, pp. 18-22, for good examples of the 'anti' and 'pro' Jefferson camps.

<sup>14</sup> This may be due to the contradictions of his political theory in that he was certainly a racist, thinking that white and black people may not have shared monogenesis, and unable to reconcile the expansion in state power necessary for the dismantling of the slave system, with his fundamental views of the 'yeoman' state. Ashworth, J., *Slavery, capitalism and politics in the Antebellum South, Volume One*, (CUP, 1995, Cambridge), pp. 37-40

<sup>15</sup> Jefferson speaking of George III:-

'Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this exorable commerce.'

*Writings of Thomas Jefferson, Federal Edition*, Vol. 2, pp. 210-212, quoted in Lyman, 'Jefferson and Negro slavery', p. 17

<sup>16</sup> In Jefferson's second inaugural address on his previous opposition to slavery:-

'All too well bear in mind that this sacred principle, that though the will of the majority is to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and their violation be oppressive'.

Lyman, J. L., 'Jefferson and Negro slavery', p. 18

slavery as valid property; in *The Farmer Refuted*,<sup>17</sup> using the Bible and the Declaration of Independence as his keystones for an argument that the principle of liberty and ‘natural law’ were ‘a gift of the beneficent creator to the whole human race... conformable to the constitution of man’.<sup>18</sup> From this we can infer that Hamilton placed human rights above those of property rights in cases where they conflict, as the first conception of rights was universal, the second derived from society.<sup>19</sup> Or to phrase it another way, Lockean protection of the self as a property right was meaningless if it could not be universalised.

This was where the debate on the nature of slaves as property rested until the 1850s. At this time, the differing application of the Lockean nature of property was once again taken up as a point of issue in the pro-slavery versus abolitionist debate. At this point the philosophical nature of slave ownership was refined, and given its clearest philosophical form by the former professor of Law at the University of South Carolina, Francis Lieber, in 1857:

‘Properly speaking... the slave himself is not property but his labour is. Property involves the idea of a free disposal over the thing owned... we possess no such right over the slave and have never claimed it. We own the labour of the slave and this cannot be done without keeping the person performing the labour, thus owned, in bondage’.<sup>20</sup>

From this perspective the slave as property had a duty of labour and obedience to his master, as the master is the protector of the slave and provides him with a comfortable subsistence. Thus a Hobbesian approach is used to bypass the perennial problem of Locke’s idea of the self as property, and this also is the explicit formulation of the southern paternalist paradigm.<sup>21</sup>

The role of the law in slavery was in some ways as rarefied as the concept of property within the philosophical sphere. Slaveholding elites did not pass slave codes to control their own slaves, whom; of course, they already held power over and could practice the ideal methods to keep in line. Instead, slaveholding elites passed laws to ensure compliance on their neighbour’s slaves, the dangerous alien faces of the next plantation. The various slave codes of the States which emerged

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<sup>17</sup> Alexander Hamilton, ‘*The Farmer Refuted*’ in *The Papers of Alexander Hamilton*, Vol. 1 pages 88-134

<sup>18</sup> Alexander Hamilton, ‘*The Farmer Refuted*’ quoted in Chan, M. D., ‘Alexander Hamilton on Slavery’, *The Review of Politics*, Vol. 66, No. 2, p. 215

<sup>19</sup> *Ibid.* p. 219

<sup>20</sup> Morris, T. D., *Southern Slavery and the Law 1619-1860*, (North Carolina UP, 1996, London)

<sup>21</sup> Within the political philosophy of Thomas Hobbes in *Leviathan*, writing 50 years before Locke, the dangers of the ‘state of nature’ mean that in exchange for the preservation of one’s life, one must be willing to utterly sacrifice one’s freedom to the terms of the protector, as it is the only solution to the constant risk of death.

through the colonial period provided that the rights of the slave under the law did not extend to ownership or inheritance of any property,<sup>22</sup> save that which was given by their master to them:

‘Our slaves can do nothing in their own right ; can hold no property ; can neither buy, sell, barter, or dispose of any thing[sic], without express permission from the master or overseer ; so that every thing [sic] that they can possess or do is, in legal contemplation, on the authority of the master’.<sup>23</sup> (Virginia, Civil Code Article 1405).

Or that of the Louisiana Civil Code (article 135):

A slave is in absolute bondage; he has no civil right, and can hold no property, except at the will and pleasure of his master; and his master is his guardian and protector; and all his rights and acquisitions and services are in the hands of his master. A slave is a rational being, endowed with volition and understanding like the rest of mankind, and whatever he lawfully acquires, and gains possession of, by finding, or otherwise, is the acquirement and possession of the master.<sup>24</sup>

An elaborative example of this can be seen in a judgement when the State of Louisiana judged that any property found by the slave (in this case a small sum of money), but not known to the master, which was then taken from the slave by a third (free, white) party counted as theft from that slave’s master.<sup>25</sup>

When taken to its extreme, this situation of denial of any the extremity of a slave’s lack of property under the law seems radically different from any modern perceptions. Under the Louisiana Civil Code a slave was not considered to ‘possess their own blood’, the reasoning being that should one of their relatives (through the matrilineal line as this precluded the legal notion of fatherhood) ever be free and then accumulate any goods or wealth; then there was the possibility should they die intestate, that the slave could become the rightful heir.<sup>26</sup> From this, we can draw a key point of this legal position on slavery. If a slave is not in possession of their ‘blood’, as the code puts it, then it becomes very hard to claim that there is any recognition of the slave as a social being. Thus under civil

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<sup>22</sup> With the historical exception of the States of Massachusetts and Connecticut, but in the antebellum period either slavery had been abolished (the former) or was rare as to be effectively unnoticed (the later). Wheeler, J. D., *A practical treatise on the laws of Slavery: being a compilation of all decisions made on that subject in the various courts of the United States and the State Courts*, (Benjamin Levy, New Orleans, 1837), p. 6

<sup>23</sup> *Ibid.*, p. 7

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.* Also mentioned in Stroud, G. M., *A sketch of the laws relating to Slavery in the several States of the United States of America*, (Kimber and Sharpless, Philadelphia, 1827), p. 237

<sup>26</sup> *Ibid.*, p. 238.



law the slave becomes an atomised being of labour, any family is regarded only as a matter of pedigree.

The great issues for the legislators working in the South were how to reconcile the fact that the slave, although capable of adding value to property, should not own it, and for the slave owners to reconcile the legal framework with the everyday normative and customary situations they faced. It would seem that under the law the nature of the slave as property was actually contextual, as in certain, usually negative, conditions the slave would transcend their role as property and once again be seen as a person.<sup>27</sup> For the slave the Lockean concept of labour became one defined by its negation. A slave could not own a horse, but by his labour he could steal one. If the slave was caught he would be tried as a person rather than property (should they not be subjected to summary justice). The seemingly monolithic prohibitions on the slaves' rights break down at this point. Within the sphere of civil law the slave is property, without possession of legal volition or reason, whilst for the criminal sphere the slave is a person, though his rights and responsibilities are subsumed to those of the master. This dual nature can be seen in relation to our question through the case of *The Parish of St. Landry v. George (a slave)*. In this case of 1831, George had been found guilty of taking various small items from several local whites, but in punishment he was to be given '39 lashes, and well given', as well as wearing an 'iron collar of 5lbs weight, with three prongs put around the neck,' for one year. The master in addition to this personal culpability of the slave had to pay reparations and damages, as well as court costs.<sup>28</sup>

### **Conceptualising the Customary: the Slave's Understanding of Property**

To find the slave's concept of property and ownership, following the legal prohibitions above, is one therefore of perception rather than legality. As the slave only owned property by the leave of the master, or by theft, we must rely on investigation of the slave's first-hand testimony to provide a history of thought on this matter.

In exploring slaves' understanding of property there are two main kinds of sources, each of which have some problems of bias due to the

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<sup>27</sup> 'The Slave, who is but a 'chattel' on all *other* occasions, with not one solitary attribute of personality accorded to him becomes 'a *person*' whenever he is to be *punished!* He is the only being in the universe to whom is denied all self-direction and free agency, but who is, nevertheless, held responsible for his conduct... he is under the *control* of law, though *unprotected* by law and can know law only as an enemy, and not as a friend.' [italics in original]

Goodell, W., *The American Slave Code in theory and Practice: Its distinctive features shown by its Statutes, Judicial decisions and illustrative facts*, (The American Anti-Slavery Society, 1858, New York), p. 125

<sup>28</sup> Phillips, U. B., *The revised Statutes of Louisiana*, (New Orleans, 1856), pp.51, *Parish of St. Landry v. George (a slave)*, quoted in Morris, T. D., *Southern Slavery and the Law 1619-1860*, (North Carolina UP, 1996, London), pp. 226-7

historical context of when they were written and also why they were written. The most accessible source is the Federal Writers Project (FWP), collected from 1936-8 as part of Franklin Roosevelt's New Deal's Works Progress Administration, to combat the social and economic consequences of the Great Depression. These were recollections of surviving slaves collected by out of work authors and other 'writers' across the former Southern states. The other major source of slave testimony is the autobiographies and biographies written either in the period leading up to the Civil War, or to a lesser extent after it. These various biographies have the problem that many of them were ghost written or edited by abolitionist activists.<sup>29</sup> This has the tendency to bias the accounts due to the nature of the abolitionists' need to prove the evils of slavery to a white audience. This shows in narratives through the accounts being edited so that much of the everyday activity of the slave, essential to the social historian but dull to the contemporary reader, was not included.<sup>30</sup>

There are clearly several problems with the use of slave testimony which have been elaborated over the past half century, and it is with these in mind that we can explore the nature and understanding of property derived from testimonies of the FWP. Stanley Elkins is the first and possibly most adroit in his criticism of the intellectual paradigm surrounding the collection of the ex-slaves testimony, positing that there was an inherent bias in the selection of interviewers. This was due to the interviewers being (almost exclusively) white, coming from the same states, and sometimes the same local area, as their interviewees. So over the two or three generations between the subject materials collection and the events described, the nature of what he describes as the paternalist model,<sup>31</sup> has only altered rather than radically changed. He shows that the early studies of slavery were dominated by Southerners who grew up within the legacy of slavery and the 'Jim Crow' laws and this meant the recording of their testimony by the framework of the interviewers was

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<sup>29</sup> Many of the original titles, often cut down in newer editions to conform to modern style include a sub title similar to 'Written from a statement of facts made by himself' or 'Written by a friend, as recounted to him by Brother [insert name here]'. Davis, C. T., & Gates, H. L., *The Slave's Narrative*, (OUP, 1985, Oxford), p. 152

<sup>30</sup> James Olney in 'I was born': Slave narratives, Their status as autobiography and literature' in Davis, C. T., & Gates, H. L., *The Slave's Narrative*, (OUP, 1985, Oxford), pp. 148-175, describes an emergence from the 1830s of a standard template that these autobiographical accounts were almost expected to obey, ranging from the teleological nature of the incidents which memory emphasises lead to the slave's escape, to the very formatting of the text and supporting sources throughout the work, suggesting this was an publishing industry sector of the times equivalent to the formulaic cowboy novels of the early 20<sup>th</sup> century, or the *noir* detective novels of the 40s and 50s. This does not however mean that what is included is not true, as noted by Blassingame in *Slave Testimony* very few of these narratives were challenged by the Southern white community, introduction, pp. xxiii-xxvii

<sup>31</sup> The key points of paternalism are the inherent superiority of the whites to blacks, due to their 'childlike' nature, which he describes as 'Samboism', this gave the whites a 'duty of care and education' towards their slaves, and so the slaves the responsibility to work for their masters as a reward for this. See Elkins, *Slavery*, Chapters 3 and 4.

thus severely biased.<sup>32</sup> This applies to our sources of slave testimony in two ways. The first is that, any theft or other duplicity from, or involving, the owners was less likely to be reported; as on at least one occasion the interviewer was the descendent of a local slaveholder,<sup>33</sup> and in general the black interviewees were less inclined to confide in a white interviewer.<sup>34</sup>

There were also other more general problems with the evidence collected by the FWP, many of which are suggested by Blassingame, and those expanding upon his research between the publishing of his original book, *The Slave Community*, in 1972 and 1980.<sup>35</sup> It however must be noted that the pendulum of historiography had moved to the opposite side during this period, rather than, as in the 1920s trying to ameliorate the legacy of slavery à la Phillips, in the wake of the 1960s Civil Rights Movement there was now a move towards finding the slave's agency and empowerment, possibly to the point of bias.<sup>36</sup>

Time is only the most self-evident problem when assessing the interviews. Even for a slave who was only emancipated upon the passing of the 13<sup>th</sup> Amendment and was consequently interviewed at the start of the FWP, it was still exactly 70 years since they had been enslaved, and because of this, two further problems result. The first is that of memory, in that even for those ex-slaves who still had sharp memories after 70 years, they were generally vulnerable pensioners living through the Great Depression, in the region hit hardest, due to the reliance on agriculture in the South.<sup>37</sup> In several narratives this shows up as a longing for the lack of material hardship they had as slaves compared to current conditions

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<sup>32</sup> Elkins, S. M., *Slavery 3<sup>rd</sup> Edition*, (Chicago UP, Chicago, 1976), See the footnotes between pp. 14-18 for the discussion of the UB Phillips paternalistic paradigm (as described in his book *American Negro Slavery*, published 1918) being the dominant one for the whole of the period from 1920 and not 'seriously challenged' until at least 1944, with the release of Hofstadter, R., 'U B Phillips and the Plantation Legend', *Journal of Negro History*, Vol. 29, No. 1, pp. 109-24, thus dominating the working framework of the FWP writers. For a flavour of *American Negro Slavery*, 'In the actual regime severity was clearly the exception, and kindness the rule', p. 306

<sup>33</sup> Yetman, N. R., 'Ex-Slave interviews and the Historiography of Slavery', *American Quarterly*, Vol. 36, No. 2, p. 188

<sup>34</sup> Shown throughout the narratives in that there are a great many occasions when it is said that only slaves on other plantations were beaten or whipped, and there is hardly ever a personal tale of stealing from the master, despite reports of it happening being common in general.

<sup>35</sup> Blassingame, J. W., 'Using the Testimony of Ex-slaves: Approaches and Problems', *The Journal of Southern History*, Vol. 41, No. 4, pp. 473-493, and also serving as the lynchpin of the discussion in Gilmore, T., *Revisiting Blassingame's The Slave community: the scholars respond*, (Greenwood, 1978, London)

<sup>36</sup> Between 1982-8 three important articles were published stressing the importance of contextualising slave resistance within the wider southern community including Kolchin, P., 'Re-evaluating the Antebellum slave community: a comparative perspective', *Journal of American History*, Vol. 70, and Shore, L., 'The poverty of tragedy in American historical writing', *South Atlantic Quarterly*, Vol. 85.

<sup>37</sup> Gorman, R. M., 'Blazing the way: the WPA Library service demonstration Project in South Carolina' *Libraries and Culture*, Vol. 32, No. 4, p. 428. This was due to the effects of the depression being more severe on agriculture than many other sectors of the economy.

and other nostalgia.<sup>38</sup> The second factor is that as young children growing up in slavery there is evidence that their condition did not impinge upon their consciousness until they were around 8-10 years old, and they only started adult work between the ages of 12 and 16.<sup>39</sup> Thus as many of the ex-slaves interviewed were 'only' in their mid-70s, they themselves could only be reporting what they had been told about the adult slave regime, and those under 75 would not even have real memories of first hand observation. Age also introduces a bias due to the exceptionality of all of these slaves, in that cliometric modelling of the slave's lifespan suggests that the life expectancy of the average slave was only in their late 30s, compared with a contemporary US whites 40-2.<sup>40</sup> This suggests that the slaves living for 70 years following emancipation were those who were most fortunate, receiving both good diet and medical care, and one must contemplate that their narratives, therefore, may also be exceptional, rather than reflecting the average for a slave.<sup>41</sup>

With all of the above in mind as to the qualification and sensitive treatment of the ex-slaves narratives, several ideas of the slaves' understanding of property can be drawn out. The first is the seemingly communal nature of property within the slave quarters; there seems within the narratives to be a distinct body of property, usually that given by the master to his slaves, which is the property of the slaves as a whole rather than being a possession of the narrator in particular. Throughout the various narratives there are certain references to 'Our' and 'Us' rather than 'me' or 'mine.' This may be due to the fact for many large plantations the distribution of food, clothes and shoes was a mass event. Della Briscoe notes (in the interviewers obviously paraphrased style) 'Food was distributed on Monday nights, [there was] a staple ration of 3½ lb. meat, 1 pack of meal and 1 gal. 'shorts', whilst vegetables and

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<sup>38</sup> See the narrative of Clare Young, 89, Monroe Co. *Mississippi Narratives* for an archetypal example of this.

'What does I think about slavery? I tells you I wish it was back. Us was a lot better off in them days dan we is now. If'un Yankees had lef' us 'lone we'd be a lot happier. We wouldn't be on 'leif [poor relief] en' old age pension these last years. An' Jennie May I b'leive... .. woulda been the Missus' smartest gal and stayed at the big house lak I did.'

<sup>39</sup> Kolchin, P., *American Slavery*, (Penguin, London 1993), p. 141, As an example within the narratives see Harriet Ann Davies, 'I was nothing but a child, but I know, and remember, I was treated kindly' (though she stresses she was a mulatto so is possibly somewhat atypical), or Frank Freeman '[Master] would not let his slave boys work until they were 13', this however can be countered by Sarah Gudger 'If'n children too young to ho' they be pullin' weeds[sic]'

<sup>40</sup> Fogel, R. W., & Engerman, S. L., *Time on the Cross: The economics of American Negro Slavery*, (Wildwood House, 1974, London), pp. 125-6, though all of the figures of Fogel *et al* must be treated with some scepticism, see Evans, R. J., *In defence of History*, chapter 2 where *Time on the Cross* is used as the case study for controversial historical techniques.

<sup>41</sup> Just as an overview of one of the narrative volumes (South Carolina, part 2), out of 30 randomly selected narratives, 5 of the slaves were owned by something other than a professional planter, with a blacksmith, two doctors and two clergymen, which is statistically different from the population at large, where 7 in every 8 slaves were held on larger plantations (20+ slaves), whilst our ratio is 1 to 6 rather than 1 to 8. Kolchin, P., *American Slavery*, p. 99-101

meat was distributed daily’, whilst Jasper Battle notes ‘Jus’ a few o’ de slave famblies was ‘lowed to do cooking ... Marster kept cooks up at de big house what never had nothin’ to do but cook for the slaves’.<sup>42</sup> This is in accord with much of the current trends in the historiography of slave communities, suggesting the communal nature of many activities, whilst the gang labour system is the most obvious, a common one in narratives is ‘quilting’.<sup>43</sup> This communal activity combined with the lack of property of individuals to give them status, meant that role of the extended family blended into the community as a whole more than in the contemporary white culture.<sup>44</sup>

Just as there was a sense of the property which belonged to the whole community, rather than the individual, there is considerable evidence that outside this sphere there was an acceptance of casual or petty theft, ranging from poaching, which could be semi-condoned by the master, to general theft from the slave owner class. The most interesting and immediately striking example is that given by Rev. Allen in listing reasons for slaves being whipped, he says, ‘[because of] taking things – the whites call it stealing.’ This is certainly not the casual sophistry one would expect from a minister and speaks for a heartfelt idea of difference. There are also many other incidences throughout the narratives of cases of theft, usually reported by those who were still children at the time of emancipation.<sup>45</sup> For some plantations it would seem that theft was an endemic problem. Hector Hamilton recalls after the white males were drafted that:-

‘Mis’ Laura took me away from de sideboa’d [where he was a house servant] an’ made me a watchman. Dat is, I wuz set to watch the commissary to see dat de niggers wuzn’ take no more den dey share o’ eats, den I looked after de chickens an’ things’.

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<sup>42</sup> There are many other examples of this throughout the various narratives, such as in Mariah Hines, describing clothing distribution, John Bectom describing the yearly shoe allowance, and Prince Johnson, who noted that all food was prepared communally except on Sundays.

<sup>43</sup> Both Celestia Avery and Della Briscoe speak of autumn ‘quilting’ where by all the female slaves would travel from house to house, at each one ensuring that the family had enough warm clothes and blankets for the winter by helping finish any the mistress had not already before winter came, thus to some extent creating a sense of communal ownership, as all families contributed to the security of the others.

<sup>44</sup> Kolchin, P., *Unfree Labour: American Slavery and Russian Serfdom*, (Belknap, London, 1987), p. 210

<sup>45</sup> Rev. Squire Dowd stole honey from the master whilst tasked as a house boy, Charity Austen stole an egg each day when she was in charge of looking after hens, John Bectom mentions ‘Sometimes slaves would steal the marster’s chickens and hogs and got to another plantation to have them cooked.’ Candis Goodwin volunteered as a teen to watch the master’s children just so she could get ‘jam un’ biscuits ... Ef’n dey don’t give me none I jes’ teks some’. Rosa Barnwell, upon gaining a new master harsher than the old, ‘we was never allowed a piece of meat, unless sometime [we] should take a pig on [our] own account’, Blassingame, *Slave Testimony*, p. 698.

Fredrick Douglass also mentions this during the earlier antebellum period, 'Scarcely a day passed in the summer, but that some slave had to take the lash for stealing fruit'.<sup>46</sup>

One key notion which seems to run through the testimonies is that it was a slave's duty to steal on behalf of a runaway slave if they could get away with it. Fanny Cannady describes this at length when recounting the tale of how Burrus, a slave on her plantation was killed for running away by a cruel master:-

'Ol' Marse denn tole all de niggahs dat if anybody fed Burrus on de sly, de he was goin' ta shoot them like he done shot Leonard ... [later when he was found hiding out] Sally whispered an' tole him to lie still, dat she goin' to slip him somethin' to eat.'

Thus even in the face of explicit threat of punishment a slave was willing to steal for another. This example suggests the bonds of the community were sufficient to transcend the difference between the property of the slaves and the masters in the slave's eyes.<sup>47</sup> This may have developed, in part, through what was a necessity at times. Fredrick Douglass mentions his inner conflict on, as he saw it, being forced to steal due to hunger when the master was well provided for:-

'We were reduced to... begging and stealing, whichever came in handy in our time of need... many times have we been perishing with hunger when food in abundance lay mouldering in the safe or smokehouse.'<sup>48</sup>

He later explicitly defines the slaves' position as, 'The morality of free society could have no application to slave society'.<sup>49</sup>

There was some evidence of the slaves being allowed personal property in the form of their own private plots for agriculture by the masters, and even being allowed to trade the excess produce at market. Whilst Jeff

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<sup>46</sup> Douglass, F., *Narrative of the Life of Fredrick Douglass, an American Slave, written by himself*, (American Anti-Slavery Office, 1847, Boston), p. 16

<sup>47</sup> Other examples in the narrative include Dora Franks who would steal on behalf of a slave who ran away during the war and only came out upon emancipation. For more on slave theft as a social study see Lichtenstein, A., 'That disposition to theft, with which they have been branded': Moral economy, Slave management and the law', *Journal of Social History*, Vol. 21, No. 3, pp. 413-440, who, following Genovese's Marxist perspective thinks that the role of slave theft was an effort by the slave to redefine the boundaries of paternalism.

<sup>48</sup> Douglass, *Narrative of the life of Fredrick Douglass*, p. 52

<sup>49</sup> Fredrick Douglass in a later version of his autobiography (1855 rather than 1847 above), on the same section of slave theft. Quoted in Morgan, K., *Slavery in America: A Reader and Guide*, (Edinburgh UP, 2005, Edinburgh). Kolchin suggests that this is an issue with the contemporary biographies which distorts their legacy, in that so many of the accounts were written by runaways from slave elites, such as Douglass, who had suffered sudden loss in status, and that this was also what gave them the literacy and articulation to record their experience, for comments on the nature of the morality of necessity would certainly be unusual for a field hand. Kolchin, P., *Unfree Labour: American Slavery and Russian Serfdom*, (Belknap, London, 1987), p. 318

Forret has examined this in detail amongst the slaves operating in the rural Carolinas<sup>50</sup> and there has been extensive research in the slave economies of the Low Country,<sup>51</sup> there has so far been little on the slave economies of the Deep South with the exception of Vernon Palmer, who only traces the evolution of custom of slaves trading rather than extent.

It also emerges that there was some masters who allowed their slaves to work at certain times for pay, Gus Clarke says in his narrative:-

‘... but my Daddy say dat de niggers earn money on Old Boss’ place even during slav’ry. He give ‘em every other Sat’dy fer deyse’ves. Dey cut cordwood fer Boss, wimmens an’ all. Mos’ of de men cut two cords a day an’ de wimmens one. Boss paid ‘em a dollar a cord... Some cullud men saved enough to buy deyse’ves frum Boss, as free as I is now’.

This permission to earn money openly at the market seems however to be something which occurred more in the Deep South than the Upper South. In the Mississippi Narratives 4 of the 5 sampled testimonies mention being allowed to either earn through working or selling produce at the market or to the master.<sup>52</sup> In the Georgia Narratives 3 of the 6 narratives included some mention of permission to sell at the market.<sup>53</sup> By comparison in the Upper South there are two mentions of slaves being given permission to trade openly at the market for themselves.<sup>54</sup> The author would speculate that this may have had its cause partially in the demography of the Deep South as compared to the Upper South.<sup>55</sup>

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<sup>50</sup> Forret, J., ‘Slaves, poor whites and the Underground economy of the rural Carolinas’, *The Journal of Southern History*, Vol. 70, No. 4, pp. 783-824

<sup>51</sup> Articles here include Philip D. Morgan, "Work and Culture: The Task System and the World of Low country Blacks, 1700 to 1880," *William and Mary Quarterly*, Vol. 39, No. 3, Betty Wood, "'White Society' and the 'Informal' Slave Economies of Low country Georgia, c. 1763-1830," *Slavery and Abolition*, Vol. 11, and Lawrence T. McDonnell, "Money Knows No Master: Market Relations and the American Slave Community," in Winfred B. Moore Jr., Joseph F. Tripp, and Lyon G. Tyler Jr., eds., *Developing Dixie: Modernization in a Traditional Society* (Westport, Conn., 1988)

<sup>52</sup> Those narratives given by Gus Clark, 85, Pet Franks, 92, Monroe Co., Prince Johnson, ‘at least 86’, Clarksdale, and Clare Young, 89, Monroe Co.

<sup>53</sup> These were Rev. W. B. Allen, Georgia Baker and Celestia Avery, though Rev. Allen’s description is of his father, who was a blacksmith and so a much more valuable slave, usually given some leeway compared to normal slave convention. See Harris, J. W. Editor, *Society and Culture in the Slave South*, (Routledge, London, 1992), pp. 83 which shows that Blacksmiths were sold with between a 50-60% premium compared to the average labourer.

<sup>54</sup> Charles Crawley implies this when he says :-

‘Poor white folks like slaves had to get a pass ... to sell anything an’ go places or do an’thin’ ... dey had to go to sum Big white man like Colonel Allen [his master]’

Also James L. Bradley, of Arkansas, ‘I used to sleep three or four hours, then awake and work for myself the rest of the night... I used to go out with the hoe and plant little patches of corn... and tobacco. With my first money I bought a pig’. Blassingame, J. W., *Slave Testimony: Two centuries of letters, speeches, interviews and autobiographies*, (Louisiana State UP, 1977, Baton Rouge), p. 688

<sup>55</sup> When comparing the two sections the Upper South has a white to slave ratio of 4:1 (Virginia) and at least 2:1 (North Carolina), whereas the Deep South has more generally a ratio of 1.1:1 (Alabama, Georgia or Florida) or even 1:1.4 (South Carolina or Mississippi). Where the population of slaves

Another cause of these customary markets, according to Palmer, was a cultural blending with the period before the US annexation of the Louisiana Purchase territories. Due to the inheritance of the different slave codes from the Spanish *Codigos Negros* and the French *Code Noir*, where the legacy was that the slaves had to provide their own clothes and food rather than the master providing for them, there was the custom of temporary release from their duties to do this. These customs then diffused across the South due to the interstate trade of slaves.<sup>56</sup>

### **Paternalism in practice? The slaveholders' conception of property and ownership**

In this section the role of the slave as property will be addressed in two respects. The first is to find the idea the slaveholders had of the slave, as both a person and their property. The second approach is to examine the ideas slaveholders had of the slaves' property, or whether they thought of the slaves as having property at all.

The idea of slaves as key to the idea of property for slaveholders in the South is indisputable. When threatened with the loss of this property the various white groups thought it preferable to form the Confederacy and fight rather than risk the loss of this property. This being said however there were various conceptions of the slave as property by Slaveholders.

'My child, he had no gold, his wealth lay in his land and Negroes'<sup>57</sup> was the comment of N. B. De Saussure when describing her father's estate at the time of emancipation, and this, for many planters, describes their conception of the slave as property; large sums of money were not the making of a gentleman, rather the quantity of land one could cultivate with ones slaves. Through evidence such as this we can see that the element within the paternalist paradigm where the slaveholder saw the slave as almost part of the extended family. George Fitzhugh in *Cannibals All!* gave an elegant description:-

'Almost all Negroes require masters, whilst only children, the women, weak, poor and ignorant among the whites, need some protective and governing regulation of this kind'.<sup>58</sup>

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equals or exceeds the number of whites the policing of their activity would inevitably become harder, so it may be that the slaveholders preferred an open market for trade by the slaves that could be regulated to a black market which is mentioned elsewhere and by definition could not be controlled by the slaveholder class.

See <http://www.civilwarhome.com/population1860.htm>

<sup>56</sup> Palmer, V. V., 'The customs of Slavery: The war without arms', *The American Journal of Legal History*, Vol. 48, No. 2, pp. 177-218

<sup>57</sup> De Saussure, N. B., *Old Plantation Days: Being recollections of Southern Life before the war*, (Duffield & Co. 1909, New York), pp. 78-9

<sup>58</sup> Fitzhugh, G., *Cannibals All!*, quoted in Halpern, R. & De Largo, E., (Editors), *Slavery and Emancipation*, (Blackwell, Oxford, 2002), pp. 152 There were many other proponents of a racial difference as the basis of justified paternalism such as Josiah Nott as a proponent of polygenesis and



Much of the older historiography emphasised paternalism, and between the late 1960s and early 1980s much of the historiography excoriated this ideal, as has been described earlier, so for our purpose it is only useful to show that for many it was in fact a fallacy. In many cases that paternalism was only a mask for a business where, when profit was at stake, the only role of paternalism was to provide the form rather than reality of guilt.<sup>59</sup> Thomas Chaplin, when forced to sell ten slaves due to a debt shows the false guilt of the slave owner:-

‘I never thought I would be driven to this ... extremity, nothing can be more mortifying and grieving to a man, than... some of his Negroes to be sold. [To] separate families... all to pay for your own extravagances.’<sup>60</sup>

James H. Hammond was another slaveholder who does not see a dichotomy between slaves as persons and as property to be used for profit, though for him it seems almost though there was mental self-censorship of such thoughts. Within the space of four days his diary tells of the delight of a conversation with the son of a slave who was owned by the Boone pioneer family, and then a radical change to the need to procure more slaves and open up more land in case the price of cotton fails again, as if individually slaves could have a personality, but, when taken as a whole they were as any other livestock to him.<sup>61</sup> This comes out in many of the passages about the terrible mortality rate of his plantation, but is particularly evident when he says, ‘I have lost 89 Negroes and at least 50 mules and horses in the past 11 years, several of the horses, blood mares costing me \$1000 to \$1500’.<sup>62</sup>

Genovese in *The Political Economy of Slavery*, stresses, from a Marxist analysis, that the paternalist model was more important in interactions between the elite members of the slaveholder society, than between the slaveholders and their slaves. In this social sphere acting in accordance with paternalistic ideas was a mark of status. The relationship of the

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Samuel Cartwright and his ideas of mental illness among slaves, most famously Drapetomania. All of these authors tried to portray a scientific need for the enslavement of blacks based on racial inferiority.

<sup>59</sup> See Foster, G. M., ‘Guilt over Slavery: a historiographical analysis’, *The Journal of Sothern History*, Vol. 56, No.4, pp. 665-694

<sup>60</sup> Chaplin, T. B., Manuscript Diary entry of May 3<sup>rd</sup> 1845, South Carolina Historical Association, quoted in Rose, W. L. (Ed.), *A Documentary History of Slavery in North America*, (OUP, 1976, Oxford), pp. 374. For context the sale was of 8 young males and 2 females, in 1845 worth around \$5000 (calculated from values given by Hammond), quite a debt for living expenses at the time. This is also the man who in an undated entry from after the Civil War said, ‘It was a trying time then. But could I or anyone foreseen [sic] how things would be in 19 years when every Negro was set free by force of war... In truth the Negros did not care about us as much as us about them’.

<sup>61</sup> Diary entries of 31/3/1841 and 3/4/1841 respectively, quoted in Hammond, J. H. & Bleser, C. (Ed.), *Secret and Sacred: The Diaries of James Henry Hammond, A Southern Slaveholder*, (OUP, 1988, Oxford), pp. 49-52. Though it must also be noted that Hammond was a cold man when reading through his diaries and from a sense of superiority disliked not only ‘local society’ but his brother, Washington political society, doctors, horse racing and many other people and topics.

<sup>62</sup> *Ibid*, p. 102

slaveholders toward their slaves however was based around economic exploitation, as it was only through profiting from productive labour of the slave that the slaveholder could maintain his estate, and live the traditional role of the 'Southern Gentleman'. Those who could exploit the labours of their slaves most effectively became the leading members of this elite, as they could invest more capital in land and slaves, thus maintaining the economic focus over the generations.<sup>63</sup> The slaves only benefitted from paternalism as a by-product of the desire for status among the masters.

In some cases the paternalist ideal of the master receiving the labour of the slave in return for protection was not even paid lip service; Charles Parsons visited a large plantation where the means of profit was the 'breeding' of slaves for sale rather than the sale of produce they made:-

'There was very little labor [sic] done on that plantation .One Northern man would perform as much as five of those slaves. And yet I never saw a more miserable, degraded, despairing family of human beings. Debts, taxes, and expenses of all kinds were paid by the sale of slaves, and the 'soul driver' was an almost weekly visitor... there was not an unbroken family among them'.<sup>64</sup>

This form of industrialised slave production does not fit easily with prior southern philosophical justifications of slavery, when it was the 'soul' not the labour as a commodity.<sup>65</sup>

Finding the nature of property that slaves were allowed by their masters, through the masters eyes, is difficult, but though periodicals, such as *Southern Planter*, *De Bow's Review* and others, which were effectively slavery's trade journals, we can see into the minds of the planters on comparing the ideal slave regime. In certain themes there was a consensus as to the correct allowances for the slaves. In the discussion of slave housing there was almost total accord that it should be as good as the slave owner could afford, and situated in a place the slaveholder himself would live. This, however is measured by the reduction in doctor's fees good housing will provide when the slaves are away from dangerous 'miasmas'.<sup>66</sup> In other themes of ownership there was intense

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<sup>63</sup> Genovese, E. D., *The political economy of Slavery: Studies in the economy and society of the Slave south, 2<sup>nd</sup> Edition*, (Wesleyan University Press, 1989), Chapter 1

<sup>64</sup> Parsons, C. G., *An insider view of Slavery: or a tour amongst the planters*, (John P. Jewett & Co., 1855, Boston), p. 125

<sup>65</sup> There are however some historians who stress that throughout the antebellum period the notion of paternalism was in fact strengthening rather than a paper tiger. Crowther, E. R., 'Holy Honour: sacred and secular in the Old South', *Journal of Southern History*, Vol. 58, No. 4, pp.628-31 suggests that the internal reforming tendencies of religion were helping the condition of the slaves and strengthening paternalism in a reaction to criticism from Northern churches.

<sup>66</sup> See Breeden, J. O. (Ed.), *Advice among Masters: the ideal in Slave management in the Old South*, (Greenwood Press, 1980, London), pp. 114-144

debate over many years. Much was debated over the subject of food distribution: Was it better for a weekly allowance to be provided all at once or rationed per day? Should each slave family cook for themselves or should it be made the permanent task of a cook slave? Various arguments were employed by each contributor, including relative cost effectiveness, trustworthiness of slaves and the racial characteristics influence upon nutrition.<sup>67</sup>

The greatest debate of the slaveholders was over the nature of rewards and commerce among slaves. Some slaveholders were utterly against their slaves having any access to money under any situation, whilst others saw it as an effective means of social control. For the former, slave possessions which were not given by the master were a risk to him, as in a society where there was some legitimate trade by the slaves that trade would become a cover for sale of stolen goods and promote independence from the master as well.<sup>68</sup> Those of the latter viewpoint believed that through some small grants of land, or payment at holiday times for good or hard work, the slaves could be better kept in line, not only should there be a stick, but also a carrot.<sup>69</sup> When comparing the language of the two sides it is not surprising to note that those in the 'anti-reward' camp tend to stress the common perception of the time, that the 'negro' had an immature and infantile nature that could not be trusted with normal responsibilities without supervision, and those in the 'pro-reward' group the common human nature the slaves shared with the masters.<sup>70</sup>

### **Conclusions**

The philosophical conception of slavery seems to suggest that there was an unresolved issue between Locke's ideas and the *de facto* operation of slavery in the South with respect to legitimising ownership of slaves as property. This was recognised by both the early theorists of the American

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<sup>67</sup> Ibid. Elaborative quotes from this sometimes heated debate include 'Every planter knows there are some slaves who will barter an individual food allowance away for a little liquor or tobacco... and steal for their improvidence', pp. 91. From the other side of the argument, 'Many planters argue that negroes would be happier if their food was cooked for them. [Personal experience shows] the reverse... The simplicity of the negroes' diet, the very quiet, happy lazy way he has of enjoying his victuals has much to do with his admirable digestion and health', p. 107.

<sup>68</sup> Ibid. Such arguments by a planter that it was kinder to deny their slaves all opportunities for commerce as, 'the negroes are prevented from acquiring habits of trading in farm produce, which invariably leads to stealing, followed by whipping, trouble to the master and a [greater] discontent on the part of the slave,' p. 271. Another example stresses;- 'The system of encouraging slaves to the performance of reasonable labour by giving them crops... is one fraught with evil; nothing but evil, and that continually... it opens a strong temptation to theft... [makes] him vain and arrogant... independent that he will at last come to exhibit it at home... money is power', pp. 273-4

<sup>69</sup> Ibid. 'No negro with a full stocked poultry house, a crop advancing, or a few tubs unsold [referring to the craft of cooperage] will ever run away', p. 266.

<sup>70</sup> Ibid, 'A human being, the horizon of whose life is never illuminated by the cheerful beams of hope, is devoid of any inducements to praiseworthy actions... and must be driven by fear of punishment... such a one... will be fit only to be constantly under the eye of the overseer', p.261

nation and its more intellectual slaveholders. The evidence for this is the continual difference in the status of the slave as a person, and as property under the laws of the South. This was a problem that was largely ignored, and when under attack from the Abolitionist Movement, the philosophical basis of slave ownership changed to rely on paternalist foundations which were largely false. This difference in the validity of the foundations of the nature of slaves as property was a substantial cause of the tensions between North and South in the origins of the Civil War.

For the slaves, there was a constant struggle to test and redefine the limits of property allowed to them by their masters. Sometimes this was subconscious, as with the formation of a unique slave sphere of property, based on communal customs and the limited trade allowed by the master. Sometimes this struggle was conscious and explicit, as shown through slave customs of support for runaways and the perceived difference of taking from the master class as being different from a criminal act.

The masters, wishing to base their conception of slave ownership on the paternalist duty of care, failed to reconcile economic necessity to paternalism. The slave as an economic entity had to remain the first priority of the slaveholding, as it was only through their slaves' labour that they could prosper. Thus the master's duty of care only extended as far as creating the greatest economic efficiency in their work force. The incentives they sometimes used to maximize this efficiency, such as cash payments and the grants of land for the slave's to work for themselves ended up threatening the wider intellectual conception of slavery itself, as it gave the slaves property. Underlining the inherent weaknesses of the basis of slaves as property in the antebellum south by returning to the arguments of the Lockean paradigm, once the slaves owned property, they were, within the wider conception of property as a basis for liberty, partially free.

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Rev. W.B. Allen, 78, Columbus

Rachel Adams, 78, Putman Co.

Celestia Avery, 75, Troupe Co.

Georgia Baker, 87, Crawfordville

Jasper Battle, 80, Crawfordville

#### **Mississippi Narratives, Vol. IX**

Gus Clark, 85

Dora Frank, 81, Jackson

Pet Franks, 92, Monroe Co.

Prince Johnson, 'at least 86', Clarksdale



Clare Young, 89, Monroe Co.

**Virginia Narratives, Vol. XVII**

Charles Crawley, 'More than 80', Petersburg

Candis Goodwin, 80, Cape Charles

Mariah Hines, 102, Norfolk

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**North Carolina Narratives, Vol. XI, Part 1**

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Charity Austin, 83, Raleigh

John Bectom, 74, Fayetteville

Fanny Cannady, 79, Durham Co.

Harriet Ann Davies, 80, Raleigh

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***An Axe to Grind***  
***An overview of Hungary's 'axe murder case' and its effects on***  
***the international community***

**Akos Erzse**

POLITICS is the result of interaction of different groups and communities, aiming to ensure peaceful cohabitation of all actors. Due to this relationship between states, statements and actions by government officials, diplomatic officers or even civilians are capable of inadvertently offending societies and different peoples, provoking radical responses by administrations and the public alike. A good example was Presidential Candidate Mitt Romney's remark about the lack of preparedness of British security prior to the 2012 Olympic Games, which resulted in heavy criticism and left a bitter aftertaste following his visit.<sup>1</sup> This piece, therefore, will aim to present a more critical understanding of the chain of events that transpired in Hungary and the Caucasus region during September 2012. The extradition of Ramil Sahib Safarov - authorised by the Hungarian government - received exceptional media attention both on the international and domestic level. By offering a summary of the history of the Azerbaijani and Armenian conflict, the 'axe murder' case and the extradition, I aim to draw attention to the importance of a culture and region sensitive foreign policy making and the significance of international media in shaping politics.

I would like to begin by exploring the history behind the Armenian-Azerbaijani conflict and its connection to the murder, followed by a brief insight into contemporary Hungarian politics; spearheaded by the governing party, Fidesz (Fiatal Demokraták Szövetsége or Alliance of Young Democrats). Several theories emerged regarding the party's general aims in the Caucasus region and its "unorthodox" economic policy, which is to some extent connected to the conflict.

I will go on to detail the prosecution and extradition of Ramil Sahib Safarov, the Azerbaijani military officer, who played a crucial part in the to-be presented dispute. I will also examine Hungary's role in the conflict, and its initial response to the accusations in connection with the legal basis and legitimacy of the extradition. I also aim to present the broader international and domestic consequences of the extradition with the help of

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<sup>1</sup> Mulholland, H. 'Mitt Romney questions London's readiness for Olympic Games'. The Guardian (online), 26 July 2012. Available at <http://www.guardian.co.uk/world/2012/jul/26/mitt-romney-london-olympic-games>. (Accessed 15 March 2013).

different sources from the mass media, including Hungarian, Azerbaijani, Armenian and other international news sources.

I will conclude this piece by arguing that while Hungary played a substantial role in sparking the debate regarding the legitimacy of the extradition and the treatment of Safarov, it acted according to the rules set forth by international law. However, multilateral diplomatic negotiations, with all the involved actors, could have improved the immediate reaction of the affected states. I will also emphasize the importance of the role the media had played in the aforementioned conflict.

### **The Conflict**

During the 1980s, most of the European Soviet-bloc was facing dire economic and political problems as the authoritarian governments and their centralised economic systems began to fail.<sup>2</sup> While the dissolution of the USSR in 1991 offered a chance for the creation of sovereign nation-states, it meant a significant challenge for the future leadership. After declaring independence, the new-born countries, in most cases, had to completely revolutionise their economic and political systems by moving away from centrally regulated production and market, and by reintroducing private ownership into the economy. However, the fact that the former Soviet Union encompassed an astounding number of ethnicities, the creation of purely national states was impossible. Several affected regions were densely populated with differing ethnic groups and nationalities, whose leaders aimed to secure the interest, security and sometimes their primacy of their own community over others. This struggle for regional influence predestined the goals of several of the former Soviet member states. The contested territory of Nagorno-Karabakh between Armenia and Azerbaijan was no different.

Nagorno-Karabakh has always been an area of volatile tension, due to the ethnic and religious variegation in the region. Its population has mainly consisted of Armenians, even though it was geographically located in Azerbaijani territory. As Soviet rule weakened, the citizens of Nagorno-Karabakh were among the firsts to demand drastic political changes, including the separation from Azerbaijan and the merging of Nagorno-Karabakh with Armenia.

The demise of the Soviet rule in the region gave the Azerbaijani government the required impetus to pursue their independence from Moscow's rule, while the Armenian population, supported by Armenia, aspired for their own and Nagorno-Karabakh's freedom from Azerbaijan. Naturally, this led to an increasingly violent disagreement between the Armenian population and the state of Azerbaijan. By 1990, the entire

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<sup>2</sup> Best et al. *International History Of The Twentieth Century And Beyond* (Oxon, Routledge, 2008), p. 483.

region and the Azerbaijani capital, Baku, have become engulfed in the ethnic conflict, as large scale protests were organized by the Azerbaijani Popular Front, the main force of opposition against the Armenian independence efforts. On the thirteenth of January the conflict escalated as anti-Armenian groups attacked independence supporters and claimed the lives of 48 Armenians. Even though the Azerbaijani government did not encourage the conduct of such pogroms, there was little effort to end the violence. Despite the fact that a state of emergency had been declared on the fifteenth of January, the violence continued and the Azerbaijani Popular Front became increasingly aware of the possibility of a Russian intervention. On the nineteenth of January, Soviet forces entered Baku in order to crush the resistance of the heavily anti-Moscow Azerbaijani Popular Front, but mitigating the suffering of the Armenian population seemed not to be the intervention's main goal. The Soviet central government's desperate attempt to hold together its fragmenting power over the region failed, as most of the Armenian population had already fled from Baku. In the end, the Soviet intervention only escalated the conflict and led to more violence. This chain of events led to a four year struggle over the region of Nagorno-Karabakh and neighbouring Azerbaijani territories.<sup>3</sup> The countries were finally able to end the violence, that resulted in the death of 30,000 people and the displacement of approximately one million, in 1994. Most part of this region is now under the control of the Armenian military forces and ethnic Armenian forces.<sup>4</sup> Nonetheless, the tension between Armenia and Azerbaijan remains. As any conflict with substantial ethnic issues at its heart, this one required extra caution from both states and the neighbouring countries as well. In the early days of September 2012, this volatile situation of relative peace has been indirectly disturbed by the action of a third country: Hungary.

Following a relatively successful period of economic growth, Hungary was hit hard by the global recession in 2008, and has been struggling to recover ever since. During the 2010 elections, the coalition of Fidesz and the KDNP (Keresztény Demokrata Néppárt, or Christian Democratic People's Party) managed to secure power and formed its government with MSZP (Magyar Szocialista Párt or Hungarian Socialist Party) in opposition.<sup>5</sup>

Doing its best to tackle the challenges of the economic recession, the right-wing government introduced several "unorthodox" economic and political

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<sup>3</sup> Human Rights Watch, Playing the "Communal Card": Communal Violence and Human Rights. Available from:

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(Accessed 18 March 2013).

<sup>4</sup> Al Jazeera English. 'A hero's welcome for Azerbaijan axe murderer'. Al Jazeera English (online), 2 September 2012. Available at:

<http://www.aljazeera.com/video/europe/2012/09/201291215548920251.html>

(Accessed 1 December 2012).

<sup>5</sup> Election Resources, Elections to the Hungarian National Assembly-Results Lookup. Available from:

<http://www.electionresources.org/hu/assembly.php?election=2010>

(Accessed 18 March 2013).

measures. Such measures were the introduction of “crisis taxing” affecting banks, telecommunication, energy and the retail sectors. Crisis taxing was meant to be a temporary economic measure that would have allowed the government to increase its budget and combat the recession effectively.<sup>6</sup> As a result, the government spent a large amount of its time and influence on waging a battle with the International Monetary Fund and looking for new economic partners.

During this process, the government’s attention had gradually shifted towards the East, as it saw more economic promise in those areas; especially the Caucasus region. One of the target countries was Azerbaijan. Prime Minister Viktor Orbán and Péter Szíjjártó; chairman of eight economic committees tasked with boosting eastern trade relations; had rounds of negotiations with Sahin Mustafajev, the Minister of Economic Development in Azerbaijan, exploring different possible opportunities for economic cooperation, which eventually led to a more friendly and stronger relationship between the states. Péter Szíjjártó underscored the fact that there are tremendous opportunities for Hungarian companies in Azerbaijan, for example investment in infrastructure and wastewater treatment.<sup>7</sup>

### **The murder and prosecution**

I believe it is crucial to present the ‘axe murder’ case at this point, which resulted in the prosecution and imprisonment of Ramil Safarov, a member of the Azerbaijani military. Ramil Sahib Safarov was born on the 25 August 1977, in Dzebrail, a city located in the previously mentioned Nagarno-Karabakh region. Safarov was charged with the first-degree murder of Gurgen Margaryan, an Armanian soldier, who, alongside Safarov, participated in a NATO Partnership for Peace program in Hungary, during the course of 2004. According to the defendant, the murder was premeditated, carefully planned and executed by him with an axe, while Margaryan was sleeping in his bed on the nineteenth of February in 2004. Throughout his questioning and trial, Safarov remained cooperative and admitted to his crime without hesitation. He justified his action by claiming that Lieutenant Margaryan provoked him on numerous occasions by slandering his homeland and taunted him by insulting the Azerbaijani efforts and people in the region (budapest.sumgait.info, 2012).<sup>8</sup> As a result of his crime, Safarov was sentenced to spend the rest of his life in a Hungarian prison.<sup>9</sup> Azerbaijan had requested the extradition of

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<sup>6</sup> Central Intelligence Agency, *The World Factbook: Hungary*. Available from: <https://www.cia.gov/library/publications/the-world-factbook/geos/hu.html> (Accessed 16 March 2013).

<sup>7</sup> hvg.hu ‘Másfél éve dönthetett a kormány a baltás gyilkos kiadatásáról’. HVG (online), 8 October 2012. Available at: [http://hvg.hu/itthon/20121008\\_Masfel\\_eve\\_donthetett\\_a\\_kormany\\_a\\_baltas](http://hvg.hu/itthon/20121008_Masfel_eve_donthetett_a_kormany_a_baltas) (Accessed 1 December 2012).

<sup>8</sup> budapest.sumgait.info, Ramil Safarov’s first interrogation. Available from: [http://hvg.hu/itthon/20121008\\_Masfel\\_eve\\_donthetett\\_a\\_kormany\\_a\\_baltas](http://hvg.hu/itthon/20121008_Masfel_eve_donthetett_a_kormany_a_baltas) (Accessed 1 December 2012).

<sup>9</sup> Sterling, J. ‘Axe murderer’s pardon stirs fears of war’. *CNN* (online), 6 September 2012. Available at

the prisoner several times throughout the years, but Hungary was determined to keep Safarov within its borders. Then suddenly, on 31 August in 2012, Hungary changed its mind and consented to the immediate extradition of Ramil Safarov. This decision caused the eruption of a major diplomatic storm in Central-Europe.

### **The extradition**

According to the Hungarian government, the state allowed the transport of the prisoner with the understanding that Safarov would serve out the rest of his sentence in Azerbaijan. Nonetheless, upon his arrival to Baku he was almost immediately pardoned on the order of Azerbaijani President Ilham Aliyev. Furthermore, Safarov was also given a new apartment and was reinstated to the Azerbaijani army by Defense Minister Safar Abiyev, but this time he was promoted to the rank of major.<sup>10</sup> His image in Azerbaijan is now nothing less than heroic and he has been able to continue his life and career.

Naturally, the extradition provoked immediate, and in most cases, quite indignant responses on both a governmental and public level. As an answer to the extradition, authorised by the Hungarian government, the Armenian state decided to cut all diplomatic ties with Hungary on the same day the extradition took place. This immediate reaction from the government was followed by an even more fiery response from the Armenian public as some proceeded to throw tomatoes and eggs at the Hungarian embassy in Yerevan, while burning the Hungarian flag.<sup>11</sup> Armenian communities in other countries reacted to the news as well, for example the Armenian National Committee of America, or ANCA, called for a civil, but firm protest against the extradition, by sending e-mails and placing phone calls to Ambassador György Szapáry, the Hungarian Ambassador to the United States. The ANCA also sent a letter to President Barack Obama, drawing his attention to the brewing conflict and asking him to publicly condemn the actions of the Hungarian government.<sup>12</sup>

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<http://edition.cnn.com/2012/09/05/world/asia/caucasus-ax-murderer-tension/index.html?iref=allsearch>  
(Accessed 1 December 2012).

<sup>10</sup> Al Jazeera English. 'A hero's welcome for Azerbaijan axe murderer'. Al Jazeera English (online), 2 September 2012. Available at:

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<sup>11</sup> A.L.B. 'Hungary, Armenia and the axe-murderer-Blunder in Budapest'. *The Economist* (online), 4 September 2012. Available at

<http://www.economist.com/blogs/easternapproaches/2012/09/hungary-armenia-and-axe-murderer>  
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<sup>12</sup> The Armenian Weekly. 'ACTION ALERT: ANCA calls on Community to Protest Axe-Murderer Safarov's Release'. *The Armenian Weekly* (online), 31 August 2012. Available at:

<http://www.armenianweekly.com/2012/08/31/action-alert-anca-calls-on-community-to-protest-axe-murderer-safarovs-release/> (Accessed 1 December 2012).

Armenia was not the only country who felt outraged by the sudden decision of the Hungarian government. A part of the Hungarian public opinion was fiercely contesting the lack of transparency regarding the extradition, fueled by the sometimes unpopular, above mentioned economic decisions of Fidesz. After the news of the extradition had spread across the media, Hungarian users created numerous Facebook pages in order to ensure the Armenian public that the government's decision is certainly not supported by the public at large. One page was even devoted to apologising for the actions of Hungarian Prime Minister Viktor Orbán.<sup>13</sup> Another one was aiming to spread the news and to demonstrate public opinion connected to the case.<sup>14</sup> According to Armenian News, a group of Hungarian intellectuals visited the tomb of Gurgen Margaryan. Professor Gabor Derek, pastor Gabor Ivanyi, political analyst Zoltan Biro and engineer Rudolf Ungvari expressed their deepest regrets regarding the actions of their government and the murder that has taken place in Budapest, underscoring the fact that the act of pure aggression happened during a program aiming to strengthen peace.<sup>15</sup>

The reaction of the international community was also rather condemning and negative. According to a press statement made by Patrick Ventell, Acting Deputy Spokesperson for the Office of Press Relation in the Department of State, the United States was deeply disturbed by the pardon of Ramil Safarov and requested further details from Hungary regarding the conditions of the extradition.<sup>16</sup> One day after the extradition, on 1 September, the Hungarian government published a statement in which they expressed their deepest regret regarding the troubling outcome of Safarov's transport and the cutting of the diplomatic ties with Armenia. Nonetheless, according to the government, the process of the extradition was fully transparent and complying with international law on every level.<sup>17</sup> Even though Hungary stated that the process of the extradition was legal, Zsolt Németh, Parliamentary State Secretary of the Ministry of Foreign Affairs, condemned the pardoning of Safarov and labelled it as 'contrary to the relevant rules of international law'.<sup>18</sup>

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<sup>13</sup> Facebook, Hey Armenia, sorry about our Prime Minister. Available at: <https://www.facebook.com/SorryArmenia> (Accessed 1 December 2012).

<sup>14</sup> Facebook, Petíció Orbán Viktorhoz az azeri katona kiadatása kapcsán (csatlakozz). Available at: <https://www.facebook.com/miniszterelnokurnak> (Accessed 1 December 2012).

<sup>15</sup> News.am. 'Group of Hungarian Intellectuals visits Gurgen Margaryan's tomb'. *Armenian News* (online), 10 October 2012. Available at: <http://news.am/eng/news/124327.html> (Accessed 1 December 2012).

<sup>16</sup> U.S. Department of State, Pardon of Azerbaijani Soldier. Available at: <http://www.state.gov/r/pa/prs/ps/2012/08/197250.htm> (Accessed 1 December 2012).

<sup>17</sup> Külügyminisztérium, Közlemény Ramil Sahib Safarov Azerbajdzsán részére történt átadásáról. Available at: <http://www.kormany.hu/hu/magyarorszag-jobban-teljesit/magyarorszag-jobban-teljesit/hu/kozigazgatasi-es-igazsagugyi-miniszterium/hirek/kozlemeny-ramil-sahib-safarov-azerbajdzsan-reszere-tortent-atadasarol> (Accessed 1 December 2012).

<sup>18</sup> Hungarian Ministry of Foreign Affairs, Press release. Available at: <http://www.kormany.hu/en/ministry-of-foreign-affairs/news/press-release> (Accessed 1 December 2012).



Despite the fact that Hungary refused to issue an official apology directly to Armenia at first, following the speech of Armenian MP Heghine Bisharyan at the 127th Inter-Parliamentary Union Assembly, the Hungarian delegation approached the Armenian delegation and expressed their regret in connection to the extradition. The Hungarian delegation also suggested the restoration of diplomatic relations on a Parliamentary level.<sup>19</sup> On 24 September, Hungary formally ‘expressed its interest to end the unilateral suspension of diplomatic ties with Armenia’ in the form of a diplomatic note.<sup>20</sup> Shortly after Hungary, Azerbaijan also confirmed the legitimacy of the extradition and the government’s action following the transport of Safarov. Azerbaijani Foreign Ministry Spokesman Elman Abdullayev stated that the process of the extradition was fully legal and labelled Armenian President Serzh Sargsyan’s response to the issue as ‘hysterical’ and ‘populist’.<sup>21</sup> The European Union’s High Representative Catherine Ashton and Commissioner Stefan Füle also expressed deep concern regarding the extradition, and called on the governments and public alike to ‘exercise restraint, on the ground as well as in public statements, in order to prevent an escalation of the situation’. The statement also mentioned that the extradition was carried out accordingly to the Convention of Strasbourg on the Transfer of Sentenced Persons of 21 March 1983.<sup>22</sup>

International actors also expressed fear of a wider conflict in the region as both Armenia and Azerbaijan has powerful allies.

Turkey maintains strong economic and cultural ties with Azerbaijan, which is demonstrated by the fact that Turkey allowed Azerbaijan to build a pipeline across Turkish territory in order to deliver natural gases and have a ‘firmer grasp on its exports’.<sup>23</sup> In August 2010, Azerbaijan and Turkey signed a strategic cooperation agreement, a mutual defensive pact, with the promise of mutual assistance in the event of an attack against either side. The agreement also directs cooperation regarding military affairs,

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<sup>19</sup> News.am. ‘Armenian MP’s speech causes Hungarian delegation to apologize - newspaper’. *Armenian News* (online), 30 October 2012. Available at: <http://news.am/eng/news/126589.html> (Accessed 1 December 2012).

<sup>20</sup> Hungarian Ministry of Foreign Affairs, Hungarian Diplomatic Note Sent to Armenia. Available from: <http://www.kormany.hu/en/ministry-of-foreign-affairs/news/hungarian-diplomatic-note-sent-to-armenia> (Accessed 2 December 2012).

<sup>21</sup> Aliyev, M. ‘Azerbaijani Foreign Ministry: Safarov’s return not contrary to international law’. *Trend* (online), 1 September 2012. Available at: <http://en.trend.az/news/politics/2060944.html> (Accessed 1 December 2012).

<sup>22</sup> Delegation of the European Union to Azerbaijan, Statement by the spokespersons of EU High Representative Catherine Ashton and Commissioner Stefan Füle on the release of Ramil Safarov. Available at: [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/132251.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/132251.pdf) (Accessed 1 December 2012).

<sup>23</sup> Agayev, Z. ‘Socar to Ship Caspian Natural Gas to EU Using Own Pipelines’. *Businessweek* (online), 29 December 2011. Available at <http://www.businessweek.com/news/2011-12-29/socar-to-ship-caspian-natural-gas-to-eu-using-own-pipelines.html>. (Accessed 14 March 13).

humanitarian issues and economic relations and was planned to come into full force after the ratification, which occurred on 10 December 2010.<sup>24</sup> Furthermore, former Turkish Minister of Defence, Vecdi Gönül stated that the Turkish military support of Azerbaijan exceeded 200 million USD in 2010.<sup>25</sup> The large-scale Turkish financial investment in Azerbaijan and the willingness to co-operate on a military level clearly shows that Turkey would be willing to assist Azerbaijan in an international conflict.

On the other hand, ever since its intervention in Nagorno-Karabakh, Russia has been dedicated to upholding the fragile peace mediated by the Organisation for Security and Co-operation in Europe Minsk Group. Shortly after the pardoning of Safarov, the Group expressed dire concern regarding the stability of the region, and labelled the actions of Azerbaijan ‘damaging’ and condemned the glorification of the crime Safarov committed. The OSCE Minsk Group also stated that it will remain committed to the goal of achieving a strong and stable peace between Armenia and Azerbaijan.<sup>26</sup>

We can see that both Azerbaijan and Armenia acquired substantially powerful allies in the region through economic and political co-operation. Should the conflict between Armenia and Azerbaijan turn even more hazardous, the actions of the neighbouring and partner countries could play a decisive role in deciding the immediate future of the region. However, it seems that neither state desires a full-frontal conflict. As the Armenian President Serzh Sargsyan stated, it is not in Armenia’s interest to provoke a fight, but they are prepared to use full force if they have to.<sup>27</sup>

### **The reasons behind the extradition**

As mentioned previously, Hungary’s decision to finally extradite Safarov after years of the continuous lobbying on the part of Azerbaijan was a sudden move and the motives behind the transport of the prisoner remain nebulous. As we have seen before, both Hungary and Azerbaijan confirmed the legitimacy of the extradition, but they failed to provide reasons for it. It seems that the best response the media could get was

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<sup>24</sup> Azerireport.com. ‘Azerbaijani Parliament Ratifies Azeri-Turkish Defense Pact’. Azeri Report (online), 21 December 2010. Available at: [http://azerireport.com/index.php?option=com\\_content&task=view&id=2540&Itemid=53](http://azerireport.com/index.php?option=com_content&task=view&id=2540&Itemid=53) (Accessed 1 December 2012).

<sup>25</sup> Artsakank. ‘Turkey-Azerbaijan military cooperation deepens to the tune of \$200 million’. *Artsakank* (online), 13 May 2010. Available at: <http://www.artsakank.com.cy/en/news/general/2010/turkey-azerbaijan-military-cooperation-deepens-tun>. (Accessed 14 March 13).

<sup>26</sup> OSCE Minsk Group, Press release-OSCE Minsk Group Co-Chairs meeting with the Foreign Ministers of Armenia and Azerbaijan. Available at: <http://www.osce.org/mg/93343> (Accessed 2 December 2012).

<sup>27</sup> Barry, E. ‘A pardon Reignites Armenia-Azerbaijan Tensions’. *The New York Times* (online), 4 September 2012. Available at [http://www.nytimes.com/2012/09/05/world/europe/pardon-reignites-azerbaijan-armenia-tensions.html?\\_r=0](http://www.nytimes.com/2012/09/05/world/europe/pardon-reignites-azerbaijan-armenia-tensions.html?_r=0) (Accessed 1 December 2012).

nothing more than a “because we can” answer. The strengthening economic ties between Hungary and Azerbaijan previously alluded to the first choice when it came to trying to discern reasons behind the decision. However, as soon as these accusations emerged, they have been refuted by both sides. In its official statement, the State Oil Fund of the Republic of Azerbaijan denied any rumours regarding the purchase of Hungarian debt obligations and the investment of any other financial tools in Hungary.<sup>28</sup> The mass media proposed another possible reason for the quick extradition, namely the upcoming presidential elections in Azerbaijan and Armenia.<sup>29</sup> By drawing public attention to the case of the extradition, both candidates could earn a massive amount of support from the population and secure their position by placing the ‘axe murder’ at the heart of their campaign.

### The future

As we can see, despite the recent silence in the international media, the case of Ramil Safarov may remain significant as the ethnic tension between Azerbaijan and Armenia continues to exist. The EU-Armenia Parliamentary Cooperation Committee stated during its thirteenth meeting, that the lack of meaningful progress regarding the issues of Nagorno-Karabakh is troubling to say the least. The Committee expressed a desire for a more stable and peaceful resolution to this conflict which is clearly in the interest of the whole region.<sup>30</sup> While the tension between Armenia and Azerbaijan is still significant, I believe it might be mitigated by new factors that had not been present during the conflict over Nagorno-Karabakh.

The rise of international media over the last four decades offers an opportunity of familiarising ourselves with current issues in a matter of minutes. Despite the fact that the information we acquire is heavily processed and cannot be labeled as neutral, it undeniably shapes our opinions and our attitude towards certain issues.<sup>31</sup> By influencing the opinion of the citizens, the media can have a significant impact on political decision making. Piers Robinson defines this phenomenon as the ‘CNN effect’. Robinson argues that due to the development of real-time communications technologies, the media is now capable of provoking

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<sup>28</sup> State Oil Fund of the Republic of Azerbaijan, Official Statement of the State Oil Fund of the Republic of Azerbaijan. Available at: [http://www.oilfund.az/en\\_US/news/786/100/Official-Statement-of-the-State-Oil-Fund-of-the-Republic-of-Azerbaijan.asp](http://www.oilfund.az/en_US/news/786/100/Official-Statement-of-the-State-Oil-Fund-of-the-Republic-of-Azerbaijan.asp) (Accessed 1 December 2012).

<sup>29</sup> Sterling, J. ‘Axe murderer’s pardon stirs fears of war’. *CNN* (online), 6 September 2012. Available at <http://edition.cnn.com/2012/09/05/world/asia/caucasus-ax-murderer-tension/index.html?iref=allsearch> (Accessed 1 December 2012).

<sup>30</sup> News.am. ‘EU stresses importance of Karabakh issue peaceful settlement and deplores lack of progress in negotiations’. *Armenia News* (online), 30 November 2012. Available at: <http://news.am/eng/news/130578.html> (Accessed 1 December 2012).

<sup>31</sup> Lisle, D. ‘How do we find out what’s going on in the world?’, in *Global Politics, A New Introduction*, edited by Jenny Edkins and Maja Zehfuss (New York, Routledge, 2009), p. 148.

major responses from domestic audiences on both global and national events.<sup>32</sup> I believe that the attention of the media could have been a possible restricting force that contained the conflict, as many of the international observers had the chance to readjust their positions and react almost immediately after the events that transpired by asking the involved actors to practice restraint. This attention was undoubtedly missing in the 1990s, when it would have been of utmost importance. People condemned and praised the actions of the past few months and decades based on different understandings of morality. Even though these moral views might differ from each other, the rise of international media and websites allow individuals to engage in discourse and encourage the citizens to share their opinion regarding conflicts like the 'axe murder case', which might help in containing such issues. However, we must not forget the importance of diplomacy and formal discourse of the governments. I believe that the process of the extradition could have been handled more smoothly if Azerbaijan and Hungary had approached the Armenian state first and discussed the issue in a more formal environment.

In conclusion, we can state that the extradition of Ramil Safarov caused a major diplomatic storm in Europe that attracted the attention of domestic and international actors as well. While the dispute posed a certain threat to the stability of the Caucasus region, fortunately it failed to ignite physical confrontation of Azerbaijan and Armenia. The international community of organisations and states succeeded in containing the conflict and prevented escalation. Following the extradition, the outrage and threat have seemingly decreased, but as the 'axe murder' case had shown, states must tread with caution in today's "media covered" world. Media reaches far further in our world than it did two decades ago and its significance cannot be dismissed by governments.

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<sup>32</sup> Robinson, P. *The CNN Effect: the myth of news, foreign policy, and intervention* (New York, Routledge, 2002), p. 2.

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