

PEACE STUDIES  
JOURNAL

**Volume 4, Issue 1**  
**January 2011**

# PEACE STUDIES JOURNAL

Vol. 4, Issue 1  
January 2011

Editor: Dr. Andrew Fitz-Gibbon, SUNY Cortland

---

## TABLE OF CONTENTS

*Onondaga Lake Cleanup: A Case Study of Environmental Conflict & Cross-Cultural Coalition*  
- Caroline Tauxe, Pg. 1 – 25

*A Twenty-First Century Anti-War Perspective*  
- Timothy Rodriguez, Pg. 26 – 50

*A Humanist Defence and Critique of the South African Truth and Reconciliation Commission*  
- Dan Jakopovich, Pg. 51 – 65

*An Examination Of Human Rights Violations In U.S. High Schools*  
- Laura L. Finley, Pg. 66 – 91

Book Review: *Why Do We Go To War? In Time Of War: Understanding American Public Opinion From World War II to Iraq. 2009, By Gabriel Rubin.*  
- Adam Berinsky, Pg. 92 – 94

# PEACE STUDIES JOURNAL

Vol. 4, Issue 1  
January 2011

---

## **Onondaga Lake Cleanup: A Case Study of Environmental Conflict & Cross-Cultural Coalition**

Caroline Tauxe  
Le Moyne College  
Research Article  
tauxecs@lemoyne.edu  
29 Cross Road, Syracuse NY  
315-446-4299

---

## **ONONDAGA LAKE CLEANUP: A CASE STUDY OF ENVIRONMENTAL CONFLICT & CROSS-CULTURAL COALITION**

### **Abstract**

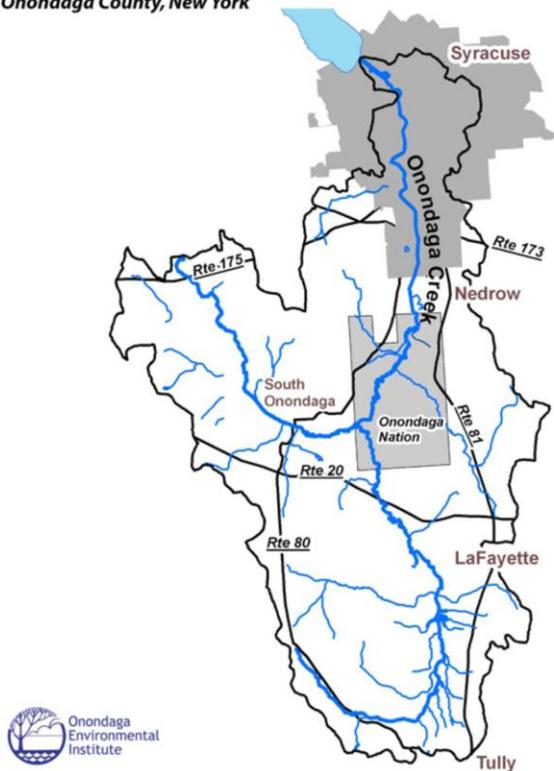
Onondaga Lake in Syracuse and its principal tributary Onondaga Creek in Syracuse, New York were seriously polluted with toxic industrial waste and municipal sewage effluent throughout the twentieth century. Cleanup plans included partial removal of toxic waste and locating a stigmatizing sewage treatment facility in a low-income African-American neighborhood. A cross-cultural coalition came together to fight corporate polluters and county government for a more complete and equitable outcome. These partners included Onondaga Nation leadership; advocates of the urban neighborhood threatened by sewage plant construction; community-connected environmental organizations; and local peace & justice activists. Each of these sets of actors had distinct ways of relating to the waters in question, of defining issues, and of pursuing their agendas. This paper analyzes how and why this coalition worked and ultimately succeeded in producing a paradigm shift in local environmental policy.

Onondaga Lake, a sort of “thumb” near the Finger Lakes of Upstate New York, adjoins the city of Syracuse in Onondaga County. Its principal tributary, Onondaga Creek, rises in glacial drumlins south of the contemporary Native-American Onondaga Nation Territory. It flows through the Territory and then traverses part of Syracuse before

debouching into the lake.<sup>i</sup> Most of the creek's urban segment crosses a low-income, mainly African-American neighborhood known as the Southside. Onondaga Lake and Creek lie at the heart of the traditional Onondaga territory, a land base now reduced to 5% of its extent at the time the US was founded. The lake was infamous throughout much of the 20<sup>th</sup> century as one of the most polluted lakes in the United States. When a court order finally forced a cleanup, the ensuing struggle over how to do it brought together six different sets of actors with distinct ways of relating to the resource, of defining issues and outcomes, and of pursuing their agendas. These actors in the conflict included corporate polluters, local government and its engineers, community-connected environmentalists, peace and justice activists, Southside community development advocates, and the traditional leadership of the Onondaga Nation.

Longstanding activist networks linking the last four of these groups facilitated formation of a cross-cultural coalition capable of effective cooperation. Working in complementary ways, this coalition was ultimately successful in changing the course of cleanup strategy in ways that acknowledged socially toxic environmental injustice as well as the chemical toxins of pollution. It also successfully pushed for a paradigm shift in local environmental policy thinking from emphasizing the "grey infrastructure" of water pipes and treatment plants to reliance on the "green infrastructure" of rain gardens and porous pavements. This success was made possible by the arrival of an opportune historical moment, in which a new generation of politicians took the reins and green consciousness and the technology of green urbanism gained mainstream acceptance.<sup>ii</sup>

**Onondaga Creek Watershed,  
Onondaga County, New York**



This was not the first conflict in which Onondaga Lake has figured strongly. The lake was the geographic centerpiece of the legendary founding of the Haudenosaunee (a.k.a. The Six Nations, or League of the Iroquois), an event that ended an era of inter-tribal warfare centuries before the arrival of Europeans to this land. The resolution of that earlier conflict established the Onondaga Nation in its current form, while the inland penetration of European colonialism in the 1600s initiated a long history of illegal takings of and damage to Native lands in Central New York as throughout the New World. Since past conflicts in what is now Onondaga County continue to inform the present ones it is helpful to review this history, and to understand how past environmental injustice forms a relevant legal and cultural context for contemporary struggle.

### **1. The Onondaga Nation & The Great Law Of Peace**

Onondaga means “People of the Hills” and the Onondaga people have lived for many centuries in the hilly country where Syracuse, New York, is now located, in contemporary Onondaga County.<sup>iii</sup> In the 1600s their main village was on the shores of Onondaga Lake, but French attacks forced them to retreat several miles to the south. Nonetheless, the lake remains a historical, cultural and spiritual center of the Onondaga world. The Onondaga Nation was one of the founding tribes of the Haudenosaunee Confederacy. The word Haudenosaunee means “People of the Longhouse” and it refers to their traditional dwellings sheltering an extended set of matrilineally and affinally

linked relatives, each family with their own fire hearth along its length. The term also refers metaphorically to the bringing together under one roof of diverse peoples speaking Algonquian languages living across what is now Upstate New York. That is, from west to east, the Seneca, Cayuga, Onondaga, Oneida and Mohawk nations. The Tuscarora migrated into the region from the south and joined the Confederacy in the early 1700s. The Onondaga occupy a geographically and symbolically central place, as the Keepers of the Central Fire, and their territory remains the meeting place of the Grand Council of Chiefs, the traditional ruling body of the alliance. Today, the council meets in a modern version of a traditional longhouse, which also serves as a location for community social, cultural and spiritual activities.

According to oral tradition, the Haudenosaunee Confederacy began as much as two thousand years ago, and was ceremonially founded on the shores of Onondaga Lake. Warfare and bloody feuding had been endemic among the five tribes, and so the Creator sent a hero-messenger known as the Peacemaker with a plan for a new order—often referred to in English as The Great Law of Peace. Charged with carrying the powerful words of peace to all the five nations, the Peacemaker traveled miraculously in a stone canoe, demonstrating his divine authority. An important Haudenosaunee symbolic meaning of the canoe is as a vehicle conveying a people together with their laws and customs, of which the Peacemaker bore a new formulation. One of the first to accept his message was Haionwhatha (popularly known as “Hiawatha.”) who, while grieving the death of his daughters at the hands of Tadadaho, the most implacable opponent of the new order, found words to console others who had lost loved-ones in the conflict. Modeling a way forward toward reconciliation, he devised a method to remember these words by stringing beads made from purple and white freshwater clamshells into a patterned strip, making the first wampum belt, one signifying the peace agreement and foundation of the multi-tribal confederation. Since that time, wampum belts have been made as documents expressing the core content of significant covenants and treaties. Together, the Peacemaker and Hiawatha gained the support of leaders of all the five nations, and finally won over Tadadaho himself. His conversion was rewarded by choosing him for the role of first-among-equals of the chiefs, an office that still bears his name. Their agreement to form the Haudenosaunee was ritually completed by uprooting a white pine tree on the shore of Onondaga Lake; throwing their war weapons into the hole, where they were washed away by a mighty stream; and replanting the tree—the Great Tree of Peace.<sup>iv</sup> The peace among these nations has held since that time until today, and the Haudenosaunee system of confederated governance is still practiced by them.

The Onondaga Nation’s political legitimacy derives from its commitment to fulfill the spiritual, moral, and social mandates of the Great Law of Peace and to place itself under the authority of the Haudenosaunee Governing Council. Under the leadership of its chiefs, clan mothers, and faithkeepers the Onondaga Nation today maintains a traditional system of government, rather than a “tribal council” of the sort imposed on most Native peoples by the United States Federal Bureau of Indian Affairs. In spite of the pressures of the non-Native world they have maintained a relatively high level of cultural continuity to the present day, a feat that is important to their contemporary identity as a people. For example, Nation policy does not permit the sale of alcohol and has opposed casinos and

online gambling as antithetical to traditional cultural values. The Onondaga Nation has never ceded sovereignty to the United States, and its sovereign authority entails the power to pass laws, make treaties and act on behalf of the Onondaga people in relations with other sovereign nations.<sup>v</sup>

The Great Law constituting the Haudenosaunee includes a set of spiritual, moral and social mandates for all member nations. It establishes a form of government whereby each nation may govern its own internal affairs, while relations with outsiders (such as trade and treaties) are managed by a Grand Council of Chiefs, proportionately representing all the member nations' peoples. These chiefs are considered equals, and are chosen by clan mothers in each nation. When in council, every chief has an equal responsibility and an equal say in the matters of the Haudenosaunee. The image provided by the Peacemaker's words is one of the chiefs holding hands in a large circle. It is the responsibility of the chiefs to protect the people within the circle and to make decisions for their welfare, mindful of their long-term consequences. This mandate for long-term thinking is expressed in terms of protecting the welfare of those seven generations into the future, a practice supporting environmentally sustainable decision-making. Each chief works with his clan mother and clan members and serves as their voice in council. When all chiefs agree on a decision the council is said to be "of one mind." The chiefs are designated advocates of peace, responsible for the welfare of the people and the environment that sustains them. The Great Law represents a durable and successful tradition of international cooperation. It is a model for consensus-driven political practice, emphasizing equitable sharing of collective resources and environmental stewardship.

Throughout their history of contact with non-Native outsiders, traditional Onondaga leaders have sought to conduct their relations with them in the spirit of the Two-Row Wampum<sup>vi</sup>. The Two-Row Wampum was made to document the agreement reached between Dutch and Haudenosaunee negotiators when Europeans first began settling Upstate New York. The belt's design represents two peoples living side by side, neither interfering with the other. It consists of two parallel rows of purple beads running the length of the belt, separated by a field of white, representing two boats. One is the canoe holding the Haudenosaunee way of life, laws, and people. The other is the Dutch sailing ship carrying the Dutch laws, religion and people. The boats are to travel side by side down the river of life. The wampum symbolizes the agreement that the two peoples will respect each other's ways and not make laws against one another.

The Two-Row Wampum continues to represent the Onondaga approach to relations with outsiders and it is ritually invoked whenever they meet with non-Native government officials. It provides a time-honored image for the idea that Onondaga and outsiders should each keep a respectful distance, while maintaining a capacity to cooperate on important matters of mutual interest. The Nation Territory today is contiguous with Syracuse suburbs, and many Onondagas live and work in the city today, but their public profile as a distinct polity is muted. Few non-Natives visit the Territory other than on special occasions when the public is invited for a seasonal festival, art show, lacrosse game,<sup>vii</sup> or to patronize the Nation's sports arena enterprise. When they do appear in

Syracuse media and public forums, traditional leaders project a dignified persona and are routinely accorded respect by non-Native journalists, academics, and public figures.<sup>viii</sup> In the spirit of the Two-Row Wampum, Nation leaders have formed strong cooperative relations with non-Native peace and justice organizations and academics in Syracuse—especially the Neighbors of the Onondaga Nation (NOON), a group affiliated with the Syracuse Peace Council (SPC). The SPC is a community-based antiwar/social justice organization. It was founded in 1936 and is the oldest anti-war organization in the United States, except perhaps for the Haudenosaunee League itself.<sup>ix</sup> These allies help to educate non-Natives about Onondaga sovereignty, model respect for Native culture and mediate conflict between the Onondaga and non-Natives in the area.

## **2. Roots Of Injustice: Land Loss And Environmental Damage**

The present-day territory of the Onondaga Nation is approximately 7,300 acres just south of the city of Syracuse. This is what remains of an historic territory of some 2.6 million acres—an area 30 to 50 miles wide stretching from what is now the Canadian border well into Pennsylvania to the south, bordered on the east by the lands of the Oneida and on the west by those of the Cayuga. Between 1788 and 1822, the Onondagas lost possession of about 95% of their land through a series of “takings” by the State of New York, in defiance of U.S. Federal laws forbidding states from making land deals with Native peoples.<sup>x</sup> New York State took much of this land in order to redistribute it to Revolutionary War veterans in lieu of wages the state had no money to pay.

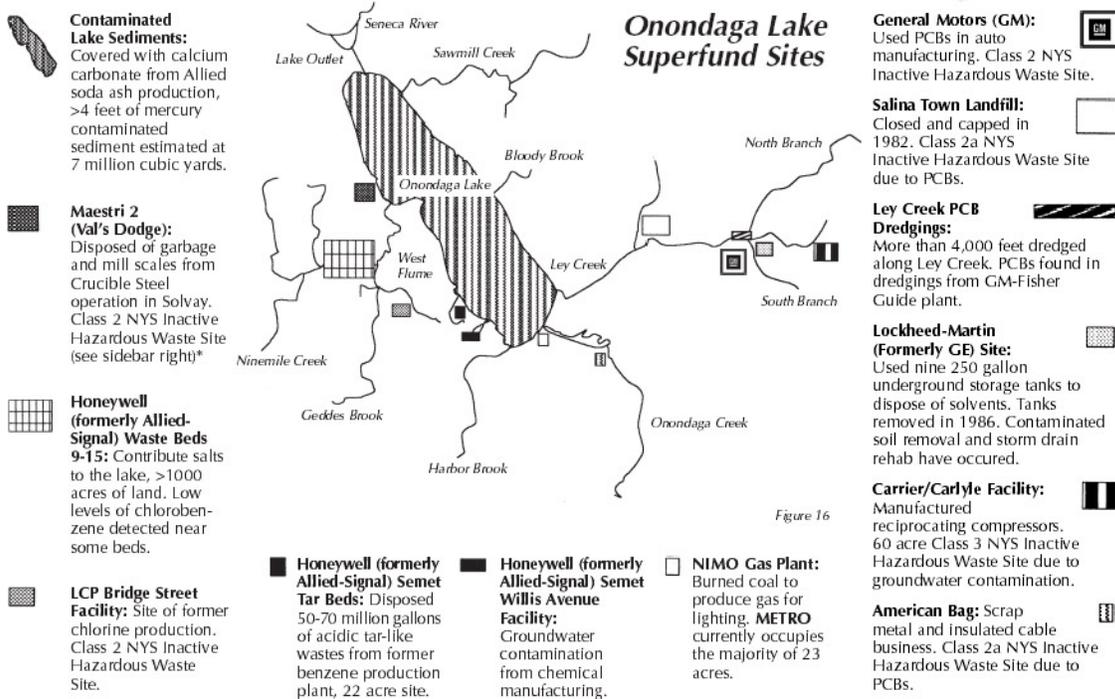
It is impossible to overstate the cultural significance of their traditional lands to the Onondaga people, and especially that of the heartland of what is now Onondaga County. Onondaga Lake is central to their traditional history, way of life, and identity. The surrounding watershed is the people’s ancestral home, containing dozens of former settlements and uncounted thousands of burial sites, many of which have been disturbed by subsequent development. The landscape is filled with Onondaga history, every hill and stream infused with the significance of events of which others are largely ignorant. The ground holds the bones of their ancestors from time immemorial. The area’s fish, animals and plants provided food; clothing; medicines; as well as materials for tools, baskets, homes, insignia, and ornaments to sustain the Onondaga people and their way of life. Access to waterways was essential to the traditional lifestyle; fish provided the most important source of dietary protein and water plants were used in medicine and ceremonies. Five of the nine clans are associated with water animals: turtle, beaver, snipe, heron and eel.

Most important in solidifying the identity of traditional Onondaga people with the place and its living things is the belief that it was entrusted to their stewardship by the Creator in his first instructions to the people. They consider it their duty to keep the eco-system healthy so it can sustain the people, and to seek long-term solutions to environmental and social problems. Failure of the traditional leadership to strive for environmental restoration and harmony among peoples would represent an abdication of their sacred responsibility. But the challenges to fulfilling this duty have been gargantuan.

Under United States control, the Onondaga homelands suffered severe environmental degradation. Just upstream and south of the Nation Territory, the land and waters were damaged by salt mining using brine-pumping wells, resulting in sinkholes and subsidence today. As early as 1899 the urban segment of Onondaga Creek itself was indicted by a grand jury as a public health nuisance because it was essentially an open sewer. The lake itself was fairly clean throughout most of the 19<sup>th</sup> century; though the detritus of additional salt mining activity marred the wetlands of the eastern shore, the western shore saw the development of several luxury resorts for tourists seeking to escape the New York City summers. But the “Golden Age” of Onondaga Lake resorts<sup>xi</sup> gave way to the industrial development of the shoreline. The Solvay Process Company began manufacturing soda ash from brine and limestone on the lakefront in 1884, eventually dumping 6 million pounds of salty waste sludge on nearby shoreline and wetlands.<sup>xii</sup> Solvay Process was taken over by the Allied Chemical and Dye Corporation in 1920, which continued to operate the plant until 1986. From 1946 to 1977 Allied operated a second plant, to produce chlorine by the mercury cell process, discharging an estimated 165,000+ pounds of mercury wastes directly into the lake, contaminating an estimated 7 million cubic yards of lake sediments, from which mercury enters the food chain of fish and fish-eaters. For decades, other companies released industrial toxins into several of the lake’s minor tributaries as well.<sup>xiii</sup> Sewage contamination remained a severe problem into the 21<sup>st</sup> century. Throughout the nine-mile stretch of the creek through the city of Syracuse, an aging and leaky sewer system combined storm and sanitary drains.<sup>xiv</sup> This meant that at times of heavy rainfall (occurring about 60 times a year) valves opened at over 60 overflow sites to relieve pressure on the overloaded system. These valves, known as Combined Sewer Overflows (CSOs) released the mixture—including raw sewage—into Onondaga Creek at a rate estimated at more than 600 million gallons per year. Industrial abuse of the lake has also continued in recent years; gravel mining at the headwaters of Onondaga Creek and resulting mud boils downstream were pumping 30 tons of mud and silt a day into the creek in the 1990s. This has continued after mitigation measures were completed in 1995 at a daily rate of one ton, while manure from large-scale concentrated livestock feedlots poses a new and growing problem.

More than 100 years of unchecked industrial pollution and an inadequate municipal sewage system had turned this once-thriving lake into a cluster of toxic Superfund<sup>xv</sup> sites. A layer of petroleum sludge laced with mercury and other heavy metals lay several yards thick on parts of the lake bottom. The water level was lowered decades ago to drain wetlands, and this combined with industrial waste reduced the lake’s volume by 40%. Towering wastebeds of calcium carbonate from the Solvay Process plant continued to leach salty effluvia from the southern shore. Salmon and lake whitefish disappeared by 1900, and ice harvesting was banned in 1901 due to water pollution. The lake was declared unsafe for swimming by 1940 and fishing was banned in the 1970s. By that time, Onondaga Lake had become a toxic soup, hazardous to plant, animal, and human health. Studies such as that conducted by the Onondaga Lake Cleanup Corporation (2001)<sup>xvi</sup> concluded that the waters had unsafe levels of phosphorous, ammonia, and nitrates, and that the lake-bottom sediments contained dangerous levels of mercury, benzene, toluene, ethylbenzene, xylenes (BTEX), chlorinated benzenes, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), and polychlorinated

dioxins and furans. Mercury is a known neurotoxin. Benzene, PAHs, PCBs and furans are known carcinogens. Elevated levels of some of these contaminants extended to a depth of at least 25 feet in lake-bottom sediments. The elevated phosphorous, ammonia and nitrates from sewage pollution caused dense algae blooms that used up available oxygen, contributing to conditions that were hostile to a healthy freshwater ecosystem. The lake was dying.



### 3. Routes To Remedy And A New Injustice

Efforts to clean up the lake and its tributaries have been lawsuit driven and constrained by the slow development of a body of environmental protection law, standards and enforcement capacity. Since the 1970s numerous scientific studies have been conducted to assess the state of the lake. These were initially prompted by the Clean Water Act, establishment of the federal Superfund program for cleaning up the most dangerous toxic sites in the country, and subsequent regulatory changes. Onondaga County, which maintains major trunk lines in the municipal sewage collection system, undertook improvements in the 1980s to reduce the incidence of CSO events and upgraded its

Metropolitan Wastewater Treatment Plant (known as Metro), but this was not enough to achieve compliance with clean-water standards.<sup>xvii</sup> In 1988 an environmentalist nonprofit corporation called the Atlantic States Legal Foundation, later joined by the New York State Department of Conservation, sued Onondaga County, alleging violation of its state discharge permit – resulting ten years later in an amended consent judgment ordering improvements. The effort to hold corporate polluters accountable heated up in 1989, when New York State sued Allied-Signal (which later went under the more mellifluous name of its subsidiary Honeywell), for pollution violations and resource damage, also resulting in a consent decree forcing them to negotiate and underwrite some level of remediation. The lake bottom and eight other toxic sites along the shore were added to the federal Superfund National Priorities list in 1994, making them eligible for federal cleanup money. An entity was established which came to be known as the Onondaga Lake Partnership (OLP) to cooperate in managing a process of environmental remediation of the lake. It was composed mainly of county and Army Corps engineers, corporate officials, state Department of Environmental Conservation (DEC) and local political executives and initially excluded Native or other public representation. Without inviting public input, this group sought remediation from Honeywell and negotiated a plan to address wastewater contamination (the Onondaga Lake Management Plan), obtained an Amended Consent Judgment, and began to implement it.<sup>xviii</sup>

Among the dozens of measures outlined in this plan, two were especially significant: Honeywell agreed to undertake a limited cleanup of industrial waste in lake sediments and some of Allied's upland dumpsites—removing upper layers and capping the rest in place—at an approximate cost of \$500,000,000. The County was to complete \$400,000,000 in further upgrades to the Metro plant to significantly lower the levels of ammonia and phosphates released into the lake, and mapped out measures to reduce pollution from the remaining CSOs. Rather than going the route of repairing worn-out leaky pipes and separating the sanitary and storm sewers throughout the city, they planned to build a series of above-ground plants—referred to as Regional Treatment Facilities (RTFs)—to store, swirl, remove solids from, and chemically disinfect (rather than actually clean) combined overflows before releasing them into Onondaga Creek. These RTFs were to be located at strategic points in the collection system chosen by the county's consulting engineers.

Other than a small demonstration facility, the first of the new sewage treatment plants was planned for construction amid the homes off Midland Avenue in the Southside neighborhood. The image of a potentially smelly facility handling human excreta to be placed in their midst impressed residents with its obviously negative connotations. In addition to a stigmatizing sewage plant, plans included burying an up to 12-foot diameter pipeline through a mile and a half of residential properties. Prior to the announcement of this project, the neighborhood had been seeing slow but steady improvements in housing and community development. This was a well-established urban community struggling to regain economic stability in the wake of the widespread loss of good-paying jobs and the unraveling of social supports in the late 20<sup>th</sup> century. Signs of former prosperity were evident in graciously landscaped parks; and large houses, many of them now divided into multiple apartment units and many in need of repair. Just as evident were signs of hard-

won improvements and investment: a new roof here, a pocket park with a cooperative garden there, clusters of new affordable housing, and a well-equipped community center. Residents were working hard to revitalize and beautify this neighborhood. Decades of grassroots community development efforts on the Southside had generated strong organizations and experienced activists with established relationships with others across the city. Imposing a sewage-treatment facility here endangered all these efforts, and threatened the property values of homes that were in many cases the only significant asset of the owner-occupants. And most of all it carried an unmistakable symbolic sting that felt like a slap in the face. Community activists geared up to fight it.

#### **4. FRAMING THE ISSUE: WHAT DOES ENVIRONMENTAL CLEANUP MEAN?**

To the corporate polluters, the problem was one of liability and public relations, Honeywell representatives repeatedly pointed out that much of the toxic waste had been dumped not by their company, but by Solvay Process before it was bought out, and during an era when such disposal was not illegal. Although the corporation was legally responsible, their negotiators sought to minimize the cost to shareholders while implying that Honeywell was environmentally heroic for doing anything at all.

To local government in the late 1990s the wastewater problem was a long-standing financial nightmare, the technical aspects of which were properly handed over to environmental engineering consultants. To the consulting engineering firms the proposed clean-up projects represented a lucrative opportunity (\$550 million in sewage-related projects alone), to which they had a level of privileged access. In fact, the consulting group Environmental Engineering Associates (EEA) was formed as a limited partnership specifically to control and profit from these projects. The firms constituting EEA included O'Brien & Gere; Blaslund, Blouk & Lee; and Stearns & Wheeler—all large corporations and some with “old boy” connections to county administration.<sup>xix</sup> The engineering perspective viewed the waters in question as a hydraulic system to be controlled by grey infrastructure solutions arrived at through technical analysis. Their role was to design profitable engineering solutions to problems as posed to them by policy makers, rather than to question the decision-making process or to worry about the social or moral aspects of implementation. For example, when plans emerged to leave 80% or more of the toxins in place in the upland waste sites and the problem arose of how to prevent them from flowing through groundwater to the lake, the engineering fix was to build a concrete barrier to at least partially contain the flow. Engineers offered this remedy rather than pointing out that full containment was impossible and that if further contamination of the lake were to be prevented, all of the toxic waste would have to be removed—a higher cost but more effective remedy. Similarly, charged with reducing CSO incidents they chose the Midland site and the above ground swirler *cum* disinfectant technology solution as a logical extension of the existing system, employing off-the-shelf technology, which they sold nationwide. Community-based critics who had researched alternative (including green infrastructural) solutions they believed would be less socially

disruptive, more environmentally friendly, and even cheaper, felt that their proposals were dismissed as unprofessional meddling by non-experts.<sup>xx</sup>

As the process moved ahead and members of the public became aware of remediation plans for both sewage and industrial pollution, three great problems with the Lake Partnership's approach became obvious: its goals, scope and process. First was that, in the view of its critics, its goals set the bar very low; they were limited to achieving compliance with environmental standards and attaining the lake's "designated uses" of swimming, fish propagation, and secondary recreation. OLP members were not planning anything approaching restoration to the level of the nearby Finger Lakes, where fish are edible and the water is used for drinking. Indeed, according to the environmental attorney advising community-based proponents of restoration (more complete cleanup than just "remediation"), the plan failed to set cleanup levels acceptable to the state DEC's own standards for major pollutants.<sup>xxi</sup> The chlorine-based technology proposed for disinfecting combined sewage before releasing it to the creek was more environmentally damaging than the sewer separation and wastewater capture approach being pursued by other municipalities with similar problems.<sup>xxii</sup> Chlorinated effluents from the sewage plant, such as volatilized chloroform and other trihalomethenes, harm aquatic life and also degrade air quality. The latter was a particular concern in the Midland area because the Southside already had the worst air quality in Syracuse and asthma rates 13 times the county average.<sup>xxiii</sup>

Second was that it focused narrowly on the lake itself and its immediate vicinity, rather than on the watershed as an integrated ecological system. Critics argued that comprehensive cleanup would have to take more seriously problems throughout the length of Onondaga Creek. And third was its undemocratic process, in which a plan devised by engineers and bureaucrats was to be imposed regardless of its negative impacts on marginalized communities. Opponents feared that county officials were favoring friends in awarding contracts and protecting pet development projects in whiter and more affluent parts of the city from stigmatizing RTFs.<sup>xxiv</sup> The Onondaga Nation leadership, Southside community development advocates, community-connected environmentalists, and a seasoned network of peace and justice activists all cried foul. Each category of actors responded in their own way, with complementary efforts reflecting their own relationship to the waters in question, their own ways of understanding the issues, and their own capacities for action.

## **5. The Onondaga Nation's Land Rights Action & the Goal of Recovering "Skanonh"**

To the traditional Onondagas, the lake was sacred, a source of their identity as a people, and its polluted state a peculiarly painful horror. Shut out from the deliberations over environmental remediation plans and spurred by their sacred duty to exercise stewardship over the local environment, the Onondaga leadership formulated its own response. In 2005, the same year that construction began on the Midland Avenue plant, the Onondaga Nation filed a long-awaited land rights action in the United States District Court, seeking redress for the illegal takings 200 years before.<sup>xxv</sup> Several years previously a land claim filed by the Oneida Nation had been decided in the Oneida's favor by the U.S. Supreme

Court, though no final settlement with New York State has yet been reached. Other Haudenosaunee Nations have also filed land actions, all of which have been vigorously opposed in the courts and in the court of public opinion in upstate New York, where a group called Upstate Citizens for Equality organized angry protests against Native sovereignty and land rights.<sup>xxvi</sup> Syracuse residents proved relatively tolerant of Onondaga aspirations, and cautiously accepting of public statements by Onondaga leaders explicitly ruling out any effort to evict non-Natives or to take their property involuntarily.

The special relationship of Onondaga people to the land in question is central to the reasoning presented in the land rights action. Its complaint opens with these words:<sup>xxvii</sup>

The Onondaga people wish to bring about a healing between themselves and all others who live in this region that has been the homeland of the Onondaga Nation since the dawn of time. The Nation and its people have a unique spiritual, cultural, and historic relationship with the land, which is embodied in Gayanashagowa, the Great Law of Peace. This relationship goes far beyond federal and state legal concepts of ownership, possession or legal rights. The people are one with the land, and consider themselves stewards of it. It is the duty of the Nation's leaders to work for a healing of this land, to protect it, and to pass it on to future generations. The Onondaga Nation brings this action on behalf of its people in the hope that it may hasten the process of reconciliation and bring lasting justice, peace, and respect among all who inhabit the area.

The timing of the land action and its framing in terms of stewardship and healing of social relations were directly relevant to environmental conflicts roiling in Onondaga County at the time. Filing the action did not prove a wildly successful legal gambit (at least in the short run) but it got the attention of local government. While it did not result in any great shifts in local power relations, it did provide a conspicuous media platform from which to shift the dialogue over the environmental cleanup of the lake system. For the first time, Onondaga representatives were permitted a seat at the Onondaga Lake Partnership table and to observe the cleanup plan decision-making. In this context, the differences in cultural perspective were starkly apparent. The discourse of engineers, government officials, and corporate representatives emphasized technical, financial, and legal considerations about the problem of getting the lake up to regulatory standards. Their objectification of the polluted lake was exemplified in a plan requiring one level of clean water standards in the eastern half and a different one in the western half of the lake, as if the waters could be separated by drawing a line on a map. Onondagas, on the other hand, persisted in seeing the lake and the creek together as a living region, and reminding others to think of the problem in watershed terms, rather than viewing the lake as a separate object. They insisted that problems upstream and downstream needed to be addressed systemically rather than piecemeal, and in the long-term perspective of responsibility to the seventh generation rather than seeking a quick but partial fix.

In numerous public statements Onondaga spokespersons have framed the Nation's interest in both the land rights action and environmental cleanup in terms of "skanonh."<sup>xxviii</sup> Skanonh is a word in the Onondaga language that refers to peace, health, and a state of balanced harmony. It is the ideal state within one's own body (with all parts

working together for good health), in the environment (with different species etc. in an ecological system interacting properly—“doing their duty,” in Onondaga terms), and between groups of people. It characterizes their traditional system of government, with power cooperatively balanced between men and women, and with everyone having a voice. It is the way things should stand among different communities in a peaceful world, with mutual respect and fair treatment. All this reflects skanonh—health, well being, peace, harmony and balance. This proper state is disturbed, thrown off kilter, by acts of injustice among peoples and by abuse of the environment. Both kinds of resulting conditions are seen as in need of healing in order to restore skanonh. If pursued in the right spirit, both processes are linked; in the words of Robin Kimmerer, director of the Center for Native Peoples and the Environment at SUNY College of Environmental Science and Forestry, “In healing the land we heal ourselves.”<sup>xxxix</sup>

In framing the issue of their land rights, Onondaga spokespersons refer to their efforts in terms of healing and relationships. In order to restore harmony among peoples and put everyone back on a healthy path, the injustice of the treaty violations must be acknowledged and remedied. Cleaning up the lake is part of the same process of restoring skanonh—industrial and municipal damage to the ecosystem (of which people are a part, not a separate social system) must be acknowledged and remedied for the environment to be healthy again and functioning to sustain the people. The various components of the natural world—the stone, the waters, the plants and animals (including humans), the winds, the moon and sun—are referred to as “all our relations” in the traditional thanksgiving address that marks every significant occasion. The idiom of healing and reciprocity characterizes the Onondaga leaders’ approach to environmental cleanup and provides the link they see between that and the land rights action. Onondaga efforts to teach others about their perspective on the natural world are also about maintaining balance in their own relations with its forces. A faithkeeper explained it this way:

All our ceremonials begin with a Thanksgiving for everything in Creation. All its features are named and thanked for their gifts that support our life. It’s kind of long but I love this; it focuses people’s minds and brings oneness to the group. The main reason for us to get out there and share our way of life is environmental. To teach others is a way of returning gifts to the land. Keeping these traditions is a duty, a mandate, a responsibility.<sup>xxx</sup>

This holistic view of the natural and social world accompanies the Onondaga “traditional ecological knowledge,” or TEK, as it is known in environmental anthropology. TEK is a component of indigenous cultures, that is, those of peoples who have lived in the same place for many centuries and have acquired enormously detailed and locally specific knowledge about their ecosystems and how to live sustainably as a part of them. Fikret Berkes has characterized TEK as “the cumulative body of knowledge, practice and belief concerning the relationships of living beings to one another and to the physical environment.”<sup>xxxix</sup> The goal of Onondaga activists regarding cleanup of the lake was not just to remediate or encapsulate the toxins, but to restore both the people’s relationship to the environment and the environment’s ability to provide the foods and other materials necessary to the traditional Onondaga way of life long into the future.

## 6. Southside Community Activists and the Partnership for Onondaga Creek

The Onondaga landscape carries a very different significance to residents of the Southside neighborhood affected by the County's municipal effluent cleanup measures, and neighborhood activists framed the issue in terms of racism and violation of civil rights. Although Onondaga Creek flows through this part of the city, it has not historically been a valued resource to urban dwellers. It is fenced off and canalized along most of its length, littered with trash and infested with urban rats. The neighborhood was built up as a middle-income community in the mid-twentieth century, when local manufacturing jobs were plentiful. As Syracuse lost most of its industrial base in recent decades to neoliberal restructuring and globalization, the economy of the Southside declined. Though many residents still own their homes, conditions have deteriorated with rising poverty. To community organizations based here, the lake was not the center of their interest; it is the neighborhood and its people that concerned them most. In the face of economic decline, they had been working hard to revitalize the area, working with residents to renovate homes and improve quality of life. For Southside residents, home ownership was a hard-won toehold toward a more secure, middle-class future for their family. All of this was threatened when the County forced upon the neighborhood its plan for constructing a stigmatizing wastewater facility there.

Seen through the eyes of Southside community leaders this is a very social landscape, with people's stories attached to houses, churches, and businesses. With the imposition of the Midland plant, community leaders complained that hope for a future of community revitalization was stolen from this urban neighborhood, and its residents mistreated in the process. In their view, the land is a resource that should be used to provide livelihoods to the residents and to improve their quality of life. They insisted that government decisions should be transparent, honest, and include the people affected in the decision-making. Community leaders were convinced that the government would have behaved very differently had it been a white, middle-class neighborhood; their mistreatment and exclusion from decision making felt deeply racist to them. In the words of one resident mobilized by the Midland Plant struggle:

This neighborhood used to be better off when there were manufacturing jobs. It has declined into bad conditions but people have been working to bring it back up by the bootstraps. Now that progress is undone. The County swindled the people here! They should be using this land and these resources to improve life for the neighborhood, to bring jobs here, not sewage. I was doing a presentation up at the University on what was going on here and it suddenly struck me: they think it's ok to bring sewage here because they think we're shit! Excuse me for using the word, but that's how they're treating us, like shit!

Claims were well founded that the way the county went about preparations for plant construction entailed mistreatment of Southside residents. During site preparation 35 families were summarily evicted from nearby public housing without adequate measures to preserve the well being of a vulnerable population. Seven households of homeowners were forced to sell out; they were approached individually and asked not to communicate

with others, in an effort to keep compensation costs as low as possible. The resulting disruption and dislocation were especially painful for those who had planned to live out their retirement in the home and to provide shelter to other relatives there. When blasting began for construction of the pipeline to convey wastewater to the plant, others were not adequately compensated for foundation damage. The county first offered the neighborhood \$3,000,000 of mitigation funds for community development to ameliorate the disruption caused by construction and then cancelled the offer.<sup>xxxii</sup> Most frustrating to community development activists was that the plant was imposed without linkage to any broader community development vision for the neighborhood, as if such visions and plans did not exist or were not significant and legitimate. Critics contrasted such treatment with the county's process of holding public debates over siting another RTF near a thriving downtown business district.

Unlike the county officials imposing the plan, Southside residents were acutely conscious of the history of repeated disruption, dislocation, and marginalization their community had suffered as a consequence of municipal development initiatives.<sup>xxxiii</sup> An area known as the 15<sup>th</sup> Ward had been a center of the Syracuse African-American community since at least the 1860s, when it included the homes of Reverend Jermain Loguen and other prominent Black abolitionists and professionals. One hundred years later, the 15<sup>th</sup> Ward was undeniably a ghetto, with poor housing conditions and exploitative absentee landlords,<sup>xxxiv</sup> but it was also a tightly knit community. Its destruction in a 1960s urban renewal project to make way for SUNY Upstate University Hospital was a devastating blow that still reverberated 50 years later. Despite the efforts of an underfunded Syracuse Office of Urban Renewal to assist with relocation, the displaced population faced housing discrimination, redlining, and a lack of good quality affordable housing alternatives. Most former 15<sup>th</sup> Ward residents found themselves directed to the Southside, a declining neighborhood that by the late 1960s had become a largely low-income and African-American area<sup>xxxv</sup>. Subsequent developments resulting in repeated evictions included an interstate highway that cut off the Southside from the more affluent, whiter, University Hill area, a large garage facility for the public bus system, an industrial park, and a steam plant for Syracuse University. Each of these displaced blocks of Southside residents and constituted marginalizing non-residential buffers separating them from other parts of the city.<sup>xxxvi</sup>

The environmental issues of greatest immediate concern to Southside residents in the latter decades of the twentieth century included poor-quality housing, lead paint, and poor air quality near the interstate highway. When the county announced plans to construct a garbage-incinerating plant, Southside residents concerned over deteriorating air quality and rising asthma rates in the neighborhood joined other “downwinders” and the Sierra Club in the 1970s and 80s, in an unsuccessful battle to prevent it. Cognizant of this history, Southside residents were quick to see the Midland plant project as another in a series of discriminatory measures placing a supposed public good above the well being of a low-income and minority population.

Activists in the Midland Avenue area organized quickly once the county's plans were announced. An initial group incubated at community development non-profit Syracuse

United Neighbors spun off as a new organization, the Partnership for Onondaga Creek (POC). They set to work contacting affected residents, organizing protests including pickets at the County Executive's home, staging civil disobedience arrests, getting media coverage, lobbying policy makers, making presentations to members of local government, speaking to wider public audiences, researching the environmental and engineering issues, participating in creek cleanups and canoe tours; and developing alternative proposals. Some members of Syracuse city government came to support the movement against the Midland plant, swayed by their arguments and stung by the county's seizure of city land to build the facility. The POC also quickly activated links with other neighborhood-based organizations; the local chapter of the NAACP; with environmentalist groups including the Sierra Club, Citizens' Campaign for the Environment and SEAC (the Student Environmental Action Committee at Syracuse University); and with the Syracuse Peace Council.

County officials were taken aback by the highly organized, energetic, and skilled character of this resistance from a population they had clearly underestimated. Their initial response was an angry one, digging in their heels and refusing to make their analyses and decision-making process available to public scrutiny in an effort to stifle opposition and push their plans through regardless.<sup>xxxvii</sup>

It became clear in 2003 that the county intended to pursue the RTF strategy promoted by its engineering consulting firms despite the proposal of a financially and technologically viable alternative. In response, the POC took formal action to file a Title VI claim of civil rights discrimination, assisted by Syracuse University's Public Interest Law Firm.<sup>xxxviii</sup> This action was aimed at bringing the equity issues to public attention as well as stalling the plant's construction in hopes of re-starting negotiations toward what they saw as a fairer and healthier design.<sup>xxxix</sup> The POC has vigorously pursued this claim to the present day despite foot dragging, dismissals and re-openings, and failures to investigate on the part of the USEPA's Office of Civil Rights.

## **7. Formation of a Cross-Cultural Coalition**

The Onondaga people and Southside residents were the two groups whose lives were most directly affected by the measures undertaken to clean up Onondaga Lake and Creek, and both mounted organized campaigns to address environmental and social wrongs, but in very different ways. A successful strategy to counter the power of the corporate-county government block would require effective cooperation among these groups and other allies. A pre-existing citywide network of social justice and environmentalist activists provided much of the social infrastructure for making this happen. Grassroots organizing has been an important force in Syracuse since the time of the 19<sup>th</sup> century Abolitionist and Women's Rights movements.<sup>xl</sup> At the beginning of the 21<sup>st</sup> century, networks of activists were in place linking Southside community development advocates, the traditional Onondaga leadership, peace and justice activists and environmentalists in academia and elsewhere. In many cases, these were relationships between individuals who had worked together on a variety of issues over the course of decades, who served as links between clusters of issue-specific activists and organizations. The network was rife

with strong connections among people who knew and trusted one another, and who could cooperate easily in organizing actions and coordinating tactics. Each of the issue-specific clusters brought with it a broader network of its own, whose support could be mobilized at significant moments in a struggle. These relationships and history of working together made the formation of a coalition possible despite differences in how groups related to the Onondaga watershed, and their different ways of framing the issues and goals regarding its cleanup.

Those pushing for more a comprehensive and socially just approach to local environmental issues had access to significant institutional capacities. In addition to Syracuse University, Syracuse is home to the SUNY College of Environmental Science and Forestry (ESF), some of whose faculty had previously worked with both urban community development organizations and with the Onondaga Nation on revalorizing the Creek and re-envisioning it as part of an improved urban landscape. A high profile and well-publicized series of Community Forums on cleanup issues was held at ESF in 2006. Another well-networked nonprofit corporation was the Onondaga Environmental Institute (OEI), whose mission included public education, scientific research, and remediation of the environment. OEI became a key player when it won a series of EPA grants to work with others to revitalize Onondaga Creek, to work on habitat enhancement and control of non-point source pollution to the lake, and also to conduct water quality monitoring and public education on behalf of the Onondaga Nation. An OEI grant provided funding for an Onondaga Creek Visioning project, undertaken with ESF partners, to engage communities throughout the Onondaga watershed (including both Onondaga people and Southside residents) to learn more about the waterway's ecology, cultural significance, and potential for restoration; and to bring them together through community organizing all the way up and down the creek.<sup>xii</sup> The local chapter of the Sierra Club was also notable for its activist character, and had worked in coalition with Southsiders before in efforts to stop construction of the county's trash-incinerating steam plant.

The challenges of organizing across these segments of society were nonetheless significant. The constituencies of coalition "partners" (who were in some cases only loosely connected clusters of organizations) tended to have different core priorities and to frame the issues differently. These differences may be summarized as follows, with apologies for the oversimplification:

**Traditional Onondaga Leadership**

*Priorities and Core Concerns:* maximal environmental restoration, recognition of their dispossession, a greater voice in local environmental decision making

*Dominant Frame:* healing the environment and relations among the peoples

**Southside Community Activists**

*Priorities and Core Concerns:* government should treat citizens with respect and honesty and include them in decision making; compensation to individuals and community for damages

*Dominant Frame:* civil rights struggle against racist system

### **Mainstream Environmentalist Organizations**

*Priorities and Core Concerns:* remediating ecosystem damage, holding polluters accountable

*Dominant Frame:* ecological science and public policy expertise as tools to achieve environmental improvement

### **Peace and Justice Organizations**

*Priorities and Core Concerns:* practicing solidarity with the oppressed, working for peace through justice and promoting cross-cultural understanding and respect

*Dominant Frame:* struggle against environmental racism

An organizer working to put together a protest event including all these partners explained the challenges this way:

Everyone has their own agenda and limited resources. The different groups in this coalition can support each other but not sustain an ongoing organization with everyone committing time and resources with no end date. There is lots of work around the lake and the creek but they're not necessarily working *together*. But pretty much in the same direction. I'm trying to pull the segments together for this Environmental Justice tour.

In fact this event was a notable success. The day before, celebrated anthropologist and UN goodwill ambassador Jane Goodall made an appeal for a clean lake and joined Onondaga leaders, POC members and other coalition partners in planting a white pine tree on the lakeshore near the legendary site of the original legendary Great Tree of Peace.<sup>xliii</sup> The Onondaga Nation then hosted a stop on the nationwide Environmental Justice tour, with all coalition groups joining in an impressive demonstration. As one picket-holder's sign read, "Water Unites Us All."

Choosing the name "Partnership for Onondaga Creek" represented an effort to refocus Southside development activists' views of the immediate environment, which had tended to emphasize the social dimension and largely ignore the creek itself. By choosing to highlight their commitment to restoring the waterway as part of a strategy for socially just community development, the POC claimed common ground with the Onondagas and others seeking maximum environmental cleanup. Opposing the treatment plant on environmentalist grounds as well as social justice grounds freed them from the appearance of simply obstructing an attempt to solve the CSO effluent problem. Working hard to establish their own environmentalist credentials, POC members called attention to the Midland plant's design flaws and limitations, and worked with other environmentalists to develop credible alternatives. The Onondaga leadership also recognized the value of such a coalition and the importance of speaking out publicly to calm alarms in the wake of their land rights action. In an effort to educate others about their relationship to the land and their motivations in taking legal action, Onondaga spokespersons joined POC activists on stage in numerous academic forums and public presentations on the issues. While maintaining their sovereign character as expressed in the Two-Row Wampum, traditional leaders sought to work with those sharing a common interest in promoting environmental cleanup that was maximally effective and socially

just. One Onondaga leader expressed to me what she had discovered through these efforts: “We will accomplish more if we emphasize common ground with others. What we have in common, environmentally, is how we feel about it, how we respond to Nature with an aesthetic feeling of appreciation, gratitude.”

For their part, peace and justice activists embraced as a rare privilege the opportunity to work more closely with Onondaga leaders, whom they held in profound respect. They accorded the Onondaga a uniquely high moral ground because of what they saw as the Onondaga’s demonstrated commitment to genuinely democratic values, practice of peaceful co-existence with others, and spiritual teachings on the connection of all beings based on inter-relationships rather than domination. Translated into their own idiom, activists in the Syracuse Peace Council and its Neighbors of the Onondaga Nation program saw the land rights action as an exemplar of nonviolent direct action, in which the Nation had spoken truth to power by demanding that corporate polluters take responsibility for their actions. Speaking to me, one NOON member characterized colleagues in the group this way: “They want to relate to the Onondaga’s sense of identity and community. Here there is an absolute assertion of difference, of dignity, and cultural pride, but it is one that we value and want to learn from. This shapes the dynamic.”

Environmental organizations in Syracuse were also pleased to join this coalition. ESF, OEI, and Sierra Club already had positive relationships with Southside residents, from having worked together against the Incinerator, and on re-visioning of the urban stretch of Onondaga Creek. They were also already interested in Traditional Ecological Knowledge (TEK), the usefulness of which was becoming well recognized in the field of environmental management. The “Scientific Ecological Knowledge” (SEK) that provides the dominant discourse at environmental research institutions such as ESF and OEI research can be compared to TEK in relation to the problem of environmental restoration. Robin Kimmerer, for example, points out that where TEK aims at restoration of the human relationship to the land, SEK speaks of restoration of the eco-system structure. Where TEK emphasizes the centrality of respect, reciprocity, and partnership with natural processes, SEK seeks to get eco-systems to regain their function for delivery of ecosystem services such as oxygenating the atmosphere, cleansing of groundwater, and absorbing stormwater runoff.<sup>xliii</sup> Although they represent different ways of conceptualizing the environment and the place of humans in it, ESF had established a Center for Native Peoples and the Environment, where they were being brought together in complementary ways.

Despite its informal and decentralized character the coalition worked because the goals of its members regarding local environmental cleanup were generally compatible, because they could appreciate the healing message brought to the issue by the Onondagas, and because all of them were comfortable with the idea of working for social justice as well. Parts of the coalition worked in complementary ways and brought complementary capacities to bear. Even without any overarching institutional authority the pervasive network of personal relationships among activists willing to put in organizing energy and expertise even made the broad alliance capable of episodic collective action.

## 8. The Coalition's Accomplishments

Up until 2007 all of the environmental remediation plans had been formulated and pursued under the administration of County Executive Nicholas Pirro, in an atmosphere of animosity toward critics. Even under these conditions the coalition pushing for a more comprehensive and just approach made some headway. While installing the first 1000 feet of the pipeline conveyance, construction of the Midland plant hit a snag in the form of unexpectedly shallow bedrock, resulting in delays and cost overruns. The original plans called for blasting a route to bury this huge conduit through 1.5 miles of the Southside, so the pipe could conduct half the sewage and storm water runoff to be handled by the facility. Taking advantage of the delay, The Onondaga Nation and the Partnership for Onondaga Creek together fought to stop pipeline construction, arguing that it was too disruptive to the neighborhood. The coalition proposed instead a plan developed by a POC organizer (and retired engineer) and others to combine a series of smaller gray projects such as cleaning trunk lines, repairing leaking pipes, installing a small storage tank, and separating some storm sewers from sanitary sewers; with green measures such as green roofs, porous pavements and street swales to prevent runoff from reaching storm drains in the first place. The Pirro administration brushed aside this alternative, but coalition spokespersons found increasingly receptive audiences in their presentations to the public, county legislators, and the Syracuse Common Council. The coalition eventually persuaded DEC environmental justice office representatives to visit the Midland neighborhood and walk the proposed pipeline route, convincing them to support its cancellation on the grounds that the Southside had already been unfairly impacted by the project. So, when the Midland RTF went on line in 2008 it was as a scaled back version without the giant pipeline, and with the state-of-the-art odor control technology demanded by the coalition.

After launching the land rights action and beginning to work in close coordination with coalition allies, the Onondaga Nation leaders found their position for influencing industrial waste cleanup improved. As a spokesman explained:

Before, whenever Onondagas tried to call attention to it they were ignored. The bigwigs have their houses on Skaneateles or Cazenovia Lake, which they keep very clean. But this lake and this creek is the only waterway we have left. Since we filed the land rights action the Nation has more of an inside voice. We can sit in on the Lake Partnership meetings and have been accepted as a trustee for Natural Resource Damages.<sup>xliv</sup> We are still excluded from the Honeywell cleanup, but we're making progress in getting research done on the damage they have done to the environment and in getting Honeywell to pay to restore it. We've also had much better success in repatriating remains and grave goods since then. Before, we were largely ignored.

Such changes address the social as well as environmental dimension of healing the Onondaga watershed. Onondagas seeking solutions for the seventh generation had opposed partial cleanup measures from the beginning because they saw them as temporary and incomplete. This view became more widely accepted after the release of studies showing that mercury levels in the fish of Onondaga Lake had risen three times

between 2003 and 2008, instead of declining as the cleanup progressed. Improvements at Metro had reduced ammonia and phosphorus effluents, which in turn reduced the algae population. With more oxygen in the water, fish were swimming to greater depths and feeding near the mercury deposits. It was clear that the Onondaga Lake Partnership's limited plan of dredging only 15% of the industrial sediments would never produce a healthy ecosystem and that more would be needed in order to truly heal the ecosystem. The land rights action also brought about broader recognition of the historical injustice of dispossessing the sovereign Onondaga Nation and of their special role as stewards of the Onondaga heartland. Both the recognition of past injustice and of their cultural rights to exercise stewardship are great steps toward healing the relations among the peoples, another essential part of restoring skanonh to the area. Working together in coalition with another marginalized cultural community, represented by the mostly African-American and female membership of the POC, and with other non-Native allies, was itself a healing process in this sense for traditional Onondagas. As one of the participants put it: "We are working with our neighbors to improve the environment for everyone. It's about healing and reconciliation. Working with people from the Southside on this has been a very healing experience. Politicians make decisions for the next election. The Onondaga make them for the seventh generation. We are pushing for a paradigm change."

## **9. Getting To Green**

The paradigm change sought by opponents of the DEC-approved partial industrial-waste cleanup plan and RTF-based CSO abatement strategy actually came about through a serendipitous conjuncture of actions by coalition partners and events occurring independently of them. It was too late to stop the Midland RTF but with additional RTFs in the planning phase, opponents of the plan continued to work for better solutions. The complementary capacities of coalition partners and their ability to cooperate, combined with the rising tide of mainstream concern for environmental sustainability added up to a powerful result.

By 2007 scientists at the Onondaga Environmental Institute monitoring water quality in the creek were able to demonstrate that bacteria levels traceable to sewer leaks were high even in dry weather, not just after storms. This finding called into question the remediation plan focused only on eliminating CSOs and building RTFs. Educating public officials, engineers and DEC officers about the implications of this finding was crucial to getting them to reconsider their approach. That same year Joanne (Joanie) Mahoney, a former member of the Syracuse Common Council who had been swayed by a POC presentation years before began campaigning for county executive. During the campaign Mahoney, Onondaga Nation representatives and Southside POC activists cemented a new alliance, and when Ms. Mahoney was elected just a week later, she pledged to pursue a new course. As she was taking office in January 2008 the EPA released an action strategy titled *Managing Wet Weather with Green Infrastructure* and began urging municipalities to adopt it. Simultaneously, a representative from the Onondaga Nation teamed up with the director of Atlantic States Legal Foundation (ASLF), the entity that brought the original lawsuit resulting in the order to clean up the lake, to persuade the state Department of Environmental Conservation that a green infrastructural solution could

effectively replace the existing plan. Three weeks into her new administration, Onondaga County Executive Mahoney faced a decision. Site work had already begun on the downtown RTF and bids submitted for construction. To the astonishment of county administrators expecting a contract to be awarded for sewage plant construction, she announced her intention to abandon that project. Mahoney then obtained a moratorium to study greener alternatives and included POC, ASLF, and Onondaga Nation representatives on the county's new research committees who together laid the basis for a new amended federal court order for cleanup. The county had formally joined the coalition!

Any changes to the \$560 million program to clean up Onondaga Lake would require state DEC approval and the blessing of a federal judge. Accordingly, the team advising Mahoney, including the Nation chief counsel, the ASLF Director and a lead POC member, continued their campaign to educate state and local officials and county engineers about the effectiveness of green alternatives in other US cities and how such a course could be implemented in Syracuse to prevent 95% of the stormwater from reaching the drains. They made PowerPoint presentations to the top state environmental officials in Albany, brought in experts from around the country,<sup>xlv</sup> and by the fall of 2009 achieved this goal. In November a U.S. District Judge approved a new consent order to replace the one calling for the RTF solution with a grey-and-green technology approach.<sup>xlvi</sup> The old plan was officially scrapped, and replaced with the alternative its critics had proposed years earlier, that emphasized green infrastructure to prevent run-off while combining it with underground storage, sewer separation, and replacing worn-out pipes. When the time came to contract engineering consultants to design the new plan, Mahoney avoided EEA and hired outsiders with "green-urban" experience and lacking local political connections. What had begun as an underdog's struggle by marginalized populations and "radical" environmentalists had achieved a transformation in local environmental policy and set the county on an entirely new course. "It really is democracy at its best," remarked a lawyer for the Onondaga Nation, "with people who are really involved demanding and achieving change."<sup>xlvii</sup>

In spite of all the coalition's efforts, none of this change might have happened but for the arrival of an opportune historical moment. It was not until the first decade of the 21<sup>st</sup> century that the urgency of an impending global warming crisis became broadly accepted in mainstream American society and a wave of "green" culture swept the nation. Following behind a well-developed *avant garde* of exemplars, municipalities, corporations, and households all over the country adopted environmental sustainability as a watchword and began undertaking measures to conserve energy and reduce carbon emissions up and down supply chains and throughout urban systems. The technology of green urbanism, which had for many years been a part of the consciousness of city planners, became more available and more acceptable to others in local government, and especially to the younger generation coming into power. The City of Syracuse had already officially adopted an environmental sustainability stance (styling itself "the Emerald City") and joined the forces opposing the county's lake-cleanup plan. But what made it possible for county administrators to begin working together with its critics was the rise of Green culture. A career administrator in the County Executive's office

responsible for Onondaga Lake water quality projects related to sewage explained the shift this way: “In 1998, when lake clean-up plans were first formulated, the word ‘green’ never came up. By 2008 when Joanie Mahoney’s administration took over implementation it had become a normal thing to seek green solutions – green infrastructure instead of grey infrastructure – to deal with things like storm run-off.”

The long struggle over how to clean up Onondaga Lake transformed local environmental policy and increased the influence and standing of marginalized actors. It also strengthened relations across a broad spectrum of local activists who are now even better positioned to support each other in the future. This may prove to be a crucial element in addressing the outstanding issues connected with this struggle: recovery of resource damages from corporate polluters sufficient to underwrite a complete cleanup of toxic waste, resolution of the Onondaga land rights action, economic justice for a Southside community still suffering from disproportionate poverty and neglect, and biocultural restoration of the whole Onondaga waterway. Healing the historic conflicts, displacements and damage of centuries remains a distant goal, but this cross-cultural alliance has taken some important steps together.

## Notes

<sup>i</sup> The maps included here are used with the permission of the Onondaga Environmental Institute.

<sup>ii</sup> The author is an anthropologist who carried out participatory research for this paper while working at a community-development non-profit in Syracuse, New York, and later as Interim Director of the Center for Urban and Regional Applied Research at Le Moyne College in Syracuse. Special thanks are owed to Wendy Gonyea, Joseph Heath, Sid Hill, Aggie Lane, Ed Michaelenko, Katie Nadeau and Louise Poindexter for their help and insights.

<sup>iii</sup> Other Onondaga populations live in Ontario, Canada.

<sup>iv</sup> A more detailed account can be found on the official Onondaga Nation website: <http://www.onondaganation.org>

<sup>v</sup> The information provided here was obtained from the official Onondaga Nation website (Ibid.); and from conversations with chiefs, faith keepers, and from the Nation’s legal counsel.

<sup>vi</sup> Onondagas and other members of the Haudenosaunee met as a sovereign, self-governing entity with delegates from England, France and the Netherlands in the years prior to American independence. During the colonial era the Haudenosaunee made at least 50 treaties with European powers, most of which were expressions of peace and friendship. Some were made to share the land, but the member-states of the League retained their hunting, fishing, and gathering rights within the territory they agreed to open to settlers. After the Revolutionary War the 13 colonies each became independent states and began to conduct themselves as sovereign governments. Eventually they set up a process for unified government (its design influenced by that of the Haudenosaunee) and created the United States Constitution. The Constitution specifically vested the President or his appointed representatives with the exclusive power to negotiate treaties. The Commerce Clause further granted Congress the exclusive right to regulate commerce with Indian nations. With this mutual understanding as a backdrop, the United States government entered into three major treaties with the Haudenosaunee. Two of these have never been abrogated by either side and remain in effect to this day. The third, the 1789 Treaty of Fort Hamer, was superseded by the Treaty of Candandaigua in 1794. In 1871 the U.S. ceased treaty making with native nations.

<sup>vii</sup> The game of lacrosse is a Haudenosaunee creation, and the Onondaga team competes at the international level

<sup>viii</sup> For example, the current Tadadaho, Sidney Hill, was asked to take a prominent part in the installation ceremony for a new Chancellor of Syracuse University, where he appeared in his regalia to speak a traditional thanksgiving in the Onondaga language. Clan mothers perform a similar thanksgiving to open the solstice concerts of the Syracuse Community Choir. Representatives are in demand to speak to classes and assemblies in the area’s colleges and universities on topics such as traditional religion and environmental relations. Such ceremonial and educational functions aside, traditional leaders have not historically pursued strong political influence in Syracuse affairs, but kept their distance as dictated by the Two-Row Wampum.

<sup>ix</sup> According to the Syracuse Peace Council’s mission statement, the organization “educates, agitates and organizes for a world where war, violence and exploitation in any form will no longer exist. We challenge the existing unjust power relations among nations, among people and between ourselves and the environment... we are committed to nonviolent means of conflict resolution and to a process of decision-making that responds to the needs of all.”

---

x The illegality of similar takings was upheld by the U.S. Supreme Court in its decision in favor of the Oneida land claim. The court ordered the State of New York to settle the claim, but it has not yet done so.

xi See Thompson, Donald L. 2002. *The Golden Age of Onondaga Lake Resorts*. Purple Mountain Press.

xiixii The Solvay Process used brine mined in the southern watershed of Onondaga Creek and locally obtainable limestone to produce sodium carbonate. The process produced salty wastes, made up of chloride, sodium, and calcium increased the salinity of the lakewater while reducing its levels of dissolved oxygen. The calcium produced excessive lake bottom accumulations by increasing the rate of calcium carbonate formation.

xiii For example, a General Motors plant dumped PCBs into Ley Creek and a General Electric plant dumped cadmium into Bloody Creek. The Sennet tar pits along the southern shore released acidic black tar, and a petroleum storage facility at the southern end of the lake known as Oil City contributed petroleum sludge and PCBs.

xiv In 2002 about 58% of the city's sewer lines were combined, according to the Syracuse and Onondaga County Planning Association (SOCPA) 2002, "Sewer Network in the Onondaga County Lake Basin, City of Syracuse" map.

xv The federal Superfund program was created by the Federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and is administered by the Environmental Protection Agency.

xvi Onondaga Lake Cleanup Corporation 2001, *The State of Onondaga Lake*, a research report approved for publication by the Onondaga Lake Management Corporation.

xvii This was at least in part due to the environmentally unfortunate (but less expensive) siting of the wastewater treatment plant on the upstream side of the lake. This was closer to the city but meant effluents went into the lake rather than into the less compromised outflow at the other end of the lake.

xviii Onondaga Lake Cleanup Corporation 2001, p.20.

xix For example, the Commissioner of Onondaga County's Water Environment Protection Department was a former vice-president of O'Brien & Gere, and the founder and president of Moffa & Associates was a fraternity brother of the previous commissioner. (Partnership for Onondaga Creek 2006, *A Study in Environmental Racism: "New and Significant" Information Regarding Title VI Claim 03R-04-R2*, Syracuse New York, p.1.

xx Aggie Lane (Partnership for Onondaga Creek organizer), personal communication.

xxi Joseph Heath, personal communication.

xxii Lane, Aggie and Tarki Heath (POC) 2007 "Environmental Racism in Syracuse, NY: A Case Study of Government's Failure to Protect an Endangered Waterway and a Neglected Community." State of Environmental Justice in America Conference, Howard Law School, Washington D.C., p.1

xxiii Ibid. p.9

xxiv Neighborhoods with similar sewer configurations to that of the Southside that were spared the imposition of RTF plants at the expense of the Southside included a Northside area the County Executive wished to make over as "Little Italy" and Franklin Square, the "baby" of influential Syracuse real estate mogul Roger Congel. A wastewater treatment facility planned for Franklin Square, a mostly white, middle class development, was downsized in 1988, shifting the sewage burden to other neighborhoods. In a design review, the engineering consultant linked this downsizing directly to a recommendation for "oversize pipeline in both Midland [Southside] and Clinton[downtown] to provide additional storage volume to replace the loss." Camp, Dresser & McKee "Preliminary VE Report, Value Engineering Review, Onondaga County CSO Control, Franklin Floatable Control Facility Planning Concept." Cited in Lane and Heath (op.cit.) p.6

xxv The long delay in bringing suit was because the Onondaga Nation was excluded from federal and state courts until 1974 and the Supreme Court did not decide such actions were viable until 1985. Since then, the chiefs and clan mothers had been working toward consensus on the best timing and strategy for entering the courts.

xxvi Upstate Citizens for Equality mounted a strident challenge to the sovereign status of Haudenosaunee nations, arguing that Natives should be legally treated just like any other ethnic minority in United States society.

xxvii <http://www.onodaganation.org/land/complaint.html>

xxviii I am indebted to Mr. Sid Hill, the sitting Tadadaho, for this explanation of the skanonh concept.

xxix Dr. Robin Kimmerer's address at Finding Common Ground: Indigenous Approaches to Healing Our Land and Waters, an event coordinated by Neighbors of the Onondaga Nation, November 8, 2010.

xxx Unless otherwise noted, particular observations and unpublished quotations from individuals were collected in the course of conducting fieldwork. Following the practice of anthropology, identities of the speakers are withheld.

xxxi Berkes, Fikret 2008. *Sacred Ecology* (2nd edition). New York: Routledge. p.3. For more on TEK's relevance to environmental management see Kimmerer, Robin W. 2000 "Native Knowledge for Native Ecosystems," *Journal of Forestry* 98(8)4-9.

xxxii Weiner, Mark. "County Drops \$3M Offer for Midland Improvement," *The Post-Standard*, Syracuse, New York, November 26, 2002. Cancellation of the mitigation funds followed a 9-month process of court-ordered negotiations over the CSO abatement plan in 2002, in which city and county representatives were obliged to include the POC as a representative of affected stakeholders. These weekly sessions produced a viable alternative to the large, chlorine-based plant, combining sewer separation and greater storage capacity to hold storm runoff until it could be treated at the METRO facility. But as consensus loomed, the county abruptly changed its conditions and the agreement collapsed. The POC interpreted the subsequent cancellation of the \$3 million as punishing the neighborhood for the POC's activism.

- 
- xxxiii Here I follow the lead of Laura Pulido, Steve Sidawi, and Robert O. Vos (1996) in “An Archaeology of Environmental Racism in Los Angeles,” *Urban Geography*, 17(5), in understanding such histories in terms of the processes by which neighborhoods become racialized and ultimately disproportionately affected by city planners and environmental policy-makers. By emphasizing processes, the analysis of environmental racism goes beyond characterizing it in terms of “deliberate and malicious targeting.” p.427.
- xxxiv Cornwall, Zoe, 1987. *Human Rights in Syracuse, A Selected History from 1963 to 1983*. Human Rights Commission of Syracuse and Onondaga County. p.5.
- xxxv Adams, Catherine Mahala, 2003. *Defending Our Place: Protest on the Southside of Syracuse*. Syracuse University Master’s thesis. pp.57-61.
- xxxvi For an analysis of the impact of these developments on Southsiders’ sense of place and motivations for activism around the Midland plant issue, see Adams, Catherine 2003 *Ibid*, p.51-73.
- xxxvii POC members and others in the Southside community claim the County sent plainclothes operatives to pastors of the neighborhood churches, pressuring them to tell their congregations not to have anything to do with the POC.
- xxxviii Financing for the Midland RTF relied partly on federal monies, Citizens could challenge federal funding for the project under Title VI of the Civil Rights Act because it prevents the federal government from funding projects that have a disparate effect on protected populations. The proposed RTF was slated for a protected neighborhood as defined by income and ethnicity.
- xxxix Lane and Heath 2007, *op.cit.* p.4
- xl The Onondaga Nation hid fugitive slaves on their territory and abolitionist networks organized through both Black and white churches in Syracuse prevented the return of captured fugitives and assisted hundreds to freedom in Canada. The area was home to Mathilda Joslyn Gage and other early feminist organizers who admired the Onondaga’s system of shared power between men and women. The Women Rights Declaration of Sentiments was proclaimed in 1848 at a convention held in nearby Seneca Falls.
- xli This socially dynamic and productive envisioning project provided a pointed contrast to that pursued by the corporate and government-dominated Onondaga Lake Partnership. As one OLP member ruefully remarked, “Yes, we are doing ‘envisioning’ – with focus groups, surveying the general public and decision-makers. But the results will not feed into a decision on what will happen in the cleanup order. We’re just organizing the trees in the park.”
- xlii This event was titled “Roots of Peacemaking: Indigenous Values, Global Crisis,” and it was jointly organized by Neighbor of the Onondaga Nation and traditional leaders of the Onondaga Nation, who presented Dr. Goodall with an award. (Syracuse Peace Council 2006, *Peace News Letter #757*).
- xliii Kimmerer, Robin, 2010. *op.cit.*
- xliv In 2009 a Trustee Council made up of NYDEC, U.S. Fish and Wildlife Service and the Onondaga Nation was formed to assess natural resource injuries at the Onondaga Lake Superfund site, and to plan and implement revitalization activities.
- xlv On the local level this campaign included a presentation attended by county officials by Nancy Stoner, a former EPA official who co-directs water programs for the National Resources Defense Council and co-author of “Rooftops to Rivers,” the RDF’s guide to green infrastructure; and Franco Montalto, a Drexel University hydro-engineer who runs a company specializing in green infrastructure, who toured local sites and met with county officials.
- xlvi Knauss, Tim, 2009 “Federal judge approves Onondaga County using green technology to reduce Onondaga Lake pollution,” *The Post-Standard*, November 16, 2009.
- xlvii Joe Heath, quoted in “Activists’ Persistence on Sewage Pushed Onondaga County to ‘Go Green,’” by Tim Knauss, *The Post-Standard*, January 18, 2010

# PEACE STUDIES JOURNAL

Vol. 4, Issue 1  
January 2011

---

## **A Twenty-First Century Anti-War Perspective**

Timothy Rodriguez  
Activist  
[Timothy.rod@gmail.com](mailto:Timothy.rod@gmail.com)  
Corps De La Paix  
BP 227  
Sikasso, Mali, West Africa  
00223.63.05.91.18

---

## **A TWENTY-FIRST CENTURY ANTI-WAR PERSPECTIVE**

### **Abstract**

At the close of World War II, nations around the world understood the threat to humanity that another major war and other acts of violence could pose to the entire world. It's for this reason that the U.N. Charter outlaws "the threat or use of force" as an underlying principle. Yet, at the beginning of the twenty-first century, one nation goes far beyond all others in violating this principle: The United States of America. From Latin America to Africa to Southeast Asia, and the Middle East, the amount of force used to project its power has been illegal and immoral. In a twenty-first century anti-war perspective, we must move beyond the confines of the state-corporate run "legacy of domination" and into a "legacy of freedom," as Murray Bookchin suggests, that challenges illegitimate power with a consciousness and sensibility that prevents further acts of aggression.

When writing the introduction to his national bestselling book, *Overthrow*, former Boston Globe foreign correspondent and New York Times bureau chief, Stephen Kinzer, commented on U.S. military aggression, saying that, "no nation in modern history has done this so often, in so many places so far from its own shores" (Kinzer, 2006).

The historical record is not a pleasant one. It is long and brutal. This record of U.S. military aggression can also be helpful in understanding an anti-war perspective.

Yet, some readers may view the previous sentences, and the ones to follow, with uneasiness or denial. It seems to me that there are two basic reasons for this. One reason is simply that applying the same standards to ourselves as we apply to others, namely the principle of universality, can be a threatening position to take.

For more elite sectors of society, applying this principle cuts away the foundation from which their power and privilege is built, as it reveals the hypocritical, and often times criminal, acts that sustain their elite position.

For other sectors of society, a type of subservience to power can reach deep into people's psyche. For some understanding as to how this develops, Erich Fromm's timeless work, *Escape from Freedom*, offers substantial insight. To summarize in brief, Fromm investigates the psychological relationships, stemming from socio-economic and political conditions, which keep people subservient to power in order to veil feelings of aloneness, hopelessness, powerlessness, insecurity, and despair. Since these feelings stem from the social, economic, and political make-up of societies with large concentrations of power, it is pervasive throughout broad sectors of society. Given the large concentrations of power and wealth in our own society, and the psychological impact that follows, to call into question certain presuppositions about one's own country is difficult if not nearly impossible for many. To be critical of our nation's policies could undermine the very power that can be used to veil deep-seated feelings of aloneness, hopelessness, powerlessness, insecurity, and despair. This could include rallying behind a strong leader and state with cries for patriotism or being tempted to protect a nation's wealth and power in the world even if it means acquiring and maintaining its position through violent and unjust means. Therefore, applying the principle of universality can be difficult for many. (Fromm, 1941)

The second reason why some will view this anti-war perspective with uneasiness or denial is because certain parts of the historical record can be obscured and forgotten.

The reason for this is all too familiar. George Orwell's preface to the first edition of his bestselling book, *Animal Farm*, offers an illustrative explanation. As is widely suggested, *Animal Farm* offers a critique of totalitarian societies, using the Soviet Union as the example, and how their doctrinal systems function. In his preface, though, Orwell explains how the propaganda systems of modern democracies, using England as his example, have similar results to that of totalitarian regimes. As he explains:

The sinister fact about literary censorship in England is that it is largely voluntary. Unpopular ideas can be silenced, and inconvenient facts kept dark, without the need for any official ban . . . . not because the Government intervened, but because of a general tacit agreement that 'it wouldn't do' to mention that particular fact . . . It is not exactly forbidden to say this, that, or the other, but it is 'not done' to say it, just

as in mid-Victorian times it was ‘not done’ to mention trousers in the presence of a lady.

Furthermore:

Anyone who challenges the prevailing orthodoxy finds himself silenced with surprising effectiveness. A genuinely unfashionable opinion is almost never given a fair hearing, either in the popular press or in the highbrow periodicals. (Orwell, 1945)

It is for this reason that certain parts of our own nation’s historical record are “kept dark,” that is, they are “unfashionable” and is just “not done to say it,” and therefore can become “silenced with surprising effectiveness,” as Orwell describes. Orwell’s preface becomes even more illustrative since, almost as if on cue, it was “silenced” from being published. It’s “unfashionable” for Western opinion to reveal its own propagandistic tendencies, yet it’s fashionable to reveal and focus on others’, especially that of our “enemies.”

In order to understand an anti-war perspective, it is necessary to review part of the “unfashionable” record of our nation’s military interventions. Since this is an essay and not a history book, I will only offer a glimpse of this record, since, unfortunately, it is a rather long and gruesome one.

## **1. Post-World War Era**

In response to the massive atrocities that were experienced during World War I and II, the world powers established the U.N. Charter and a set of international laws, presumably in order to prevent future wars from occurring. Brian Urquhart, whose respected 41-year career in the U.N. began with its inception in 1945, describes the widely held view of the post-war world.

The hard-won lesson of both world wars was that competing national security systems or military alliances lead to an arms race, which in turn leads to a situation where even a relatively small international misunderstanding or dispute in a sensitive area can trigger a major war. That was the reason why the founders of the United Nations were so anxious to establish a system of collective security (Urquhart, 1989).

An international system built on the U.N. Charter and international law, Urquhart explains, “would make it possible to scale down national security systems” and offer “a far greater degree of stability and security in the world” (Urquhart, 1989).

The central problem that arises though is the national interest tendencies that stem from nation-states and economic elite who formulate policy. Priority is given to their own power interests above international peace and security, and, as one can tell from the ever-growing environmental crisis and threats of nuclear catastrophe, above humanity as well.

These nation-state tendencies have been a detriment to the international system that was envisioned in the U.N. Charter. As Urquhart explains, the call for sensible international guidelines is now “often regarded as naïve or even subversive” to nation-states that wish to compete for a type of global hegemony (Urquhart, 1989).

For those of us who wish to live in a more peaceful and stable world, we should seriously contemplate the ramifications of our own nation’s actions. Otherwise, as Urquhart warns:

Will it take another world disaster to reinforce the lessons we have already learned in two world wars? If so, the outlook is grim, for we have created the weapons for a terminal disaster. We cannot afford another world war to convince us of what we know already. There is only one serious alternative – to make international institutions work properly. (Urquhart, 1989)

Although some international institutions are questionable—namely, those that have been created for the benefit of certain national interests at the expense of others (NATO, IMF, WTO, World Bank, etc.)—what is not in question are the basic principles of the U.N. Charter and international law, which is the only “serious alternative” to prevent nation-states from destroying each other.

On the other hand, we may wish to call into question the very legitimacy of nation-state-corporate rule, and seek different modes of organization that challenge centralized power and illegitimate authority that pose a threat to democracy, freedom, and even our existence. I will return to this point later.

## **2. Inadmissibility of the Threat or Use of Force**

There is a basic principle that underlies all international law—a principle that, if violated, is the most egregious crime that a nation can commit. This principle is articulated in the U.N. Charter.

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. (Charter, 1945)

Furthermore,

All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered (Charter, 1945).

Violations of this basic principle are regarded as “acts of aggression,” which is no slight crime. United States judge, Justice Jackson, explains the basis of this principle outlawing the use and threat of force in his opening statement at the Nuremberg Trials.

The common sense of men after the first World War demanded, however, that the law's condemnation of war reach deeper, and that the law condemn not merely uncivilized ways of waging war, but also the waging in any way of uncivilized wars of aggression (Jackson, 1945).

Justice Jackson goes on to explain how international conventions have repeatedly recognized "wars of aggression" as such a breach of the "common sense of men" that it "constitutes an international crime against the human species" (Jackson, 1945).

In fact, Jackson continues, it was the Nazi's "plot and the act of aggression which we charge to be crimes" (Jackson, 1945).

Of course, centralized power and nation-states will always attempt to justify their use of force. It is, therefore, necessary to clarify this principle, as the U.N. Charter does. There are two basic exceptions to the inadmissibility of force, and both involve the approval and action of the United Nations Security Council (UNSC). The reason, Urquhart explains, is because the "idea of a collegial Security Council dealing with problems of peace and security for the common good, rather than on the basis of individual national interest" can alleviate "competing national security systems" and allow for a more stable "collective security," so as to not forget that "hard-won lesson" from the world wars (Urquhart, 1989).

The ability to use force would be allowed if there was unanimous consent in the UNSC that abided by the U.N. Charter's principles for discretion, or if a nation faces imminent bombardment, in which case the right to self-defense is permissible until the U.N.S.C. can act.

As the U.N. Charter explains,

In order to ensure prompt and effective action by the United Nations, its members confer in the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf. (Charter, 1945)

Furthermore, as the Charter dictates, force can only be used as a last resort when all peaceful means have been exhausted.

These basic ideas and principles are rather sensible, straightforward, and uncontroversial. The immediate task is to apply these standards to our own country, so as to be sure that our own actions are those that move toward a more peaceful and free world rather than a more unstable and destructive world.

### **3. The Nicaraguan Example**

On September 11, 2001, a major terrorist crime occurred here in the United States. According to the United States government, Al Qaeda, a terrorist organization, carried out these crimes, not any particular nation. .

In the event of an international crime such as this, there is a legal and sensible way of dealing with the situation: This would be to use an array of peaceful means to isolate, capture, and hold the criminals accountable for their horrendous crimes. This is the standard approach taken in the event of any crime that occurs either domestically or internationally. The number one rule of what not to do, as dictated in the U.N. Charter, is to fight crime, in this case terrorism, with more crime and terrorism, or even worse, aggression, which can lead “to a situation where even a relatively small international misunderstanding or dispute in a sensitive area can trigger a major war,” as Urquhart explained (Urquhart, 1989).

An illustrative example of how to use the legal international processes, even in a far worse case of international terrorism and aggression, as well as in the face of the United States, is the Nicaraguan case.

During the 1980’s, the focal point of U.S. foreign policy was in Latin America, particularly Nicaragua. The reason was because a democratic movement within Nicaragua had elected a government, the Sandinistas, who were focused on improving social conditions through social programs (education, programs for the poor, health, etc.). Apparently, this was unacceptable for the United States, which, ever since the Monroe Doctrine<sup>1</sup>, has assumed a special right to control the entire hemisphere (now extending far beyond) for its own national interests.

Since the policies of the Sandinistas were arranged in such a way that would funnel money toward social programs instead of into elite Western pockets, and, furthermore, could offer other nations an example of how to organize a democratic movement to achieve those ends, the Reagan Administration felt it was necessary to support a criminal opposition group, the Contras, and carry out a major war within Nicaragua to attempt to destabilize the democratically elected Sandinista government.

While discussing the role of U.S. support for the Contras, a Defense Department official explained:

Those 2000 hard-core guys could keep some pressure on the Nicaraguan government, force them to use their economic resources for the military, and prevent them from solving their economic problems – and that’s a plus . . . Anything that puts pressure on the Sandinista regime, calls attention to its lack of democracy, and prevents the Sandinistas from solving their economic problems is a plus. (Chomsky, 2002)

The head of intelligence for the U.S.-backed Contras, Horacio Arce, was rather candid when he defected in the late 1980’s. As he explained:

We attacked a lot of schools, health centers, and those sorts of things. We have tried to make it so that the Nicaraguan government cannot provide social services for the peasants, cannot develop its project ... that's the idea. (Chomsky, 2002)

Leading scholar and intellectual, Noam Chomsky, sums up the operation by saying, "In Nicaragua, the U.S. proxy forces left a trail of murder, torture, rape, mutilation, kidnapping and destruction, but were impeded because civilians had an army to defend them." (Chomsky, 2002)

Even in the face of U.S. acts of aggression and terrorism—possibly the worst pair of crimes a nation can commit under international law—Nicaragua's reaction was not to find a way to bomb or go to war with the United States. Rather, it sought to use the international security system established in the U.N. Charter.

Nicaragua brought its case to the International Court of Justice, which decided that:

The United States of America, by training, arming, equipping, financing and supplying the contra forces or otherwise encouraging, supporting and aiding military and paramilitary activities in and against Nicaragua, has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to intervene in the affairs of another state. (ICJ, 1986)

The court goes on to point out specific attacks that prove the United States breached "its obligation under customary international law not to use force against another state," as well as violating "the sovereignty of another state," and had acted "contrary to general principles of humanitarian law." (ICJ, 1986)

The court ordered the United States "to cease and to refrain" from these crimes and pay massive reparations. Yet, since the U.S. is the world's superpower with special privileges, it exempts itself from international court rulings, so, therefore, the U.S. simply boycotted the proceedings and did not recognize the court's verdict. Not only that, but the U.S. actually increased its support for the crimes shortly thereafter (not to mention similar acts in other Latin American countries) as if to flaunt its iron fist in the face of the international community.

Still, Nicaragua did not pursue the bombing of Washington or other parts of the United States. Its next step was to approach the U.N. Security Council. The U.N.S.C. upheld the World Court's ruling, but, since the U.S. wields a unique amount of power, it vetoed the U.N.S.C. resolution calling on all states to respect international law.

Even still, Nicaragua continued to abide by the international legal processes. After the World Court and the U.N.S.C., Nicaragua approached the U.N. General Assembly to once again ask the U.S. to respect the World Court's verdict. The U.N. General Assembly resolution was adopted, with only three states voting against it: The United States of America, Israel, and El Salvador. These "no" votes should need no comment. Since the

U.S. vetoed the U.N.S.C. resolution, the General Assembly had no way of enforcing their decision. Yet, to this day, Nicaragua has not replied to these egregious crimes committed against them without reparations by bombing or going to war with the United States.

Nicaragua is not the only case, but is illustrative of how a nation can staunchly stick to the legal processes envisioned in the U.N. Charter amidst even continual bombardment, terrorism, and aggression. The United States, on the other hand, cannot say the same for itself even under considerably less threats, especially considering its amount of power and influence in the world to actually legally enforce international rulings.

The Nicaraguan example also illustrates how the inequitable distribution of power in the international system protects the powerful from being held accountable for their illegal actions. This is the predicament for an international system made up of nation-states that continuously compete to hold more power over others. This tendency is inherent within hierarchical social, economic, and political structures, that is, societies and an international system with concentrated power and wealth.

The importance, though, of the basic principles I have outlined, and the violations thereof, is to allow concerned citizens everywhere to understand and resist policies that violate principles of peace and security. It also allows us to seriously contemplate how to change society so “the common sense of men,” to use Justice Jackson’s phrase, prevails over acts of aggression. In short, a society in which our social, economic, and political systems are inherently peaceful and humane instead of destructive and insane.

#### **4. Fighting Terror with Terror**

Following the September 11, 2001 terrorist attacks in the United States, the U.S. quickly decided that it would retaliate with acts of aggression against nations that did not attack the United States, but were blamed with “harboring terrorists” or having “Weapons of Mass Destruction” (WMD).

By reacting with violence and aggression, the U.S. scrapped every use of legal and peaceful means to isolate, capture, and hold accountable the criminals responsible for the terrorist attacks. More peaceful means, as designated under the U.N. Charter, were available and could have alleviated more terrorism and even increased the chances of capturing those responsible.

First, peaceful means would have certainly alleviated international terrorism by preventing acts of aggression on another state in the first place, which is the worst crime a nation can commit precisely because of its devastating effects on civilian populations. For example, in Iraq, aggression since 2003 has left over one million people dead and millions more as refugees without adequate resources<sup>ii</sup>. Therefore, instead of preventing and stopping terrorism following the deaths of approximately 3,000 people on September 11, 2001, the U.S. chose to multiply the deaths by over 300 times, and that’s just counting Iraq.

Secondly, following the September 11 attacks, the jihadist movements faced sharp splits and divisions over the attacks that were tearing them apart before the U.S. invaded Afghanistan and Iraq, which, in fact, unified the movements as leading experts on the topic have explained. Fawaz Gerges, a leading scholar on jihadist movements, explains these divisions in his widely acclaimed book, *The Far Enemy*.

The fact remains that religious nationalists—a huge block within the jihadist movement—vehemently rejected Al Qaeda’s strategy and methods and broke with their transnationalist counterparts for good. Religious nationalists opposed both the globalizations and expansion of jihad outside of Afghanistan and the waging of war on Western nations (Gerges, 2005).

Furthermore,

Old simmering and hidden disagreements among militant jihadis burst into the open with a vengeance. For the first time, jihadis publicly criticized one another and engaged in a heated debate and public relations campaign to sway Muslim public opinion in their favor . . . the media war among jihadis is important in that it sheds light on their states of mind and the nuanced differences in their tactics regarding the use of force, terrorism, and political strategies” (Gerges, 2005).

The rest of the world, especially the powerful western nations, was overwhelmingly opposed to the September 11 attacks. It then follows that the United States, especially considering its amount of power and influence in the world, could have isolated the militant Al Qaeda faction of the jihadist movement and garnered support for a domestic or international tribunal to punish the terrorists responsible, thereby abiding by the U.N. Charter, of which the U.S. is a signatory. For further steps, a country must meet with the U.N.S.C. This would have been the legal and more peaceful way of reacting to the September 11 attacks, but the United States, well aware of these facts, decided to use aggression instead, which unified the jihadist movement, and calls into question the real motives of such violent acts.

Real motives could include what leading statesman and strategic analyst, Zbigniew Brzezinski, who served as National Security Advisor under President Jimmy Carter, described as providing America with:

[M]ajor strategic and economic interests in the Middle East that are dictated by the region’s vast energy supplies. Not only does America benefit economically from the relatively low costs of Middle Eastern oil, also America’s security role in the region gives it indirect but *politically critical leverage* on the European and Asian economies that are also dependent on energy exports from the region. (Brzezinski, 2004, emphasis added)

This opinion would fit the documentary record, which shows us that most of U.S. foreign policy following World War II has been focused on the Middle East precisely because of

its strategic importance for concentrated power and wealth as every superpower heretofore has realized.

## 5. Aggression Justifies Aggression

The use and justification of aggression in response to terrorism, “harboring terrorists,” or WMD, is also quite alarming for the United States itself. Using this U.S. logic, numerous nations would be able to justify wars of aggression and terrorism against the United States. Putting aside the fact that the U.S. has the most powerful weapons of mass destruction in the world, and a military budget that is double the rest of the world combined (which, according to aggressive U.S. logic, would mean the world would be justified in bombing the United States for their WMD production and massive military that could threaten international peace at any moment), nations around the world have faced U.S. terror many times over.

Nicaragua would, of course, be justified since the U.S. used terrorism and aggression even in the face of the International Court of Justice and United Nations resolutions calling on the U.S. to abide by international law. El Salvador, Colombia, Honduras, Guatemala, Brazil, Argentina, Panama and other Latin American countries would be justified as their similar histories and even current events of U.S.-backed death squads and military dictators, leaving a wake of pillage and destruction, reveal.

A rather ironic example is Chile. In a similar tale to that of Nicaragua, a democratic movement within Chile had elected Salvador Allende as president in 1970 with a platform that took a more independent course, and focused on social programs to help change the deep injustices that stem from its colonial history. This was, as in the Nicaraguan case, apparently unacceptable to the United States.

On September 11, 1973, the U.S. backed a military coup that overthrew Allende and brought to power a right-wing military dictator, General Augusto Pinochet. As Colin Powell summed it up, “it is not a part of American history that we are proud of.” (Kinzer, 2006)

Just imagine if on September 11, 2001, a foreign nation overthrew the U.S. government, imposed a military dictatorship, opened up the country to foreign economic exploitation, and went on a rampage of rape, torture, mutilation, and mass murder that left tens of thousands dead or injured. In brief, that was what happened in Chile beginning on September 11, 1973. In 1990, a *Chilean National Commission for Truth and Reconciliation* documented 3,428 cases of torture, rape, killing, kidnapping, and disappearance<sup>iii</sup>, later followed by the *National Commission on Political Imprisonment and Torture* documenting 27,255 testimonies with a complementary report documenting 1,204 additional cases<sup>iv</sup>. There have also been very detailed reports from leading human rights organizations and many books that provide further evidence on the crimes.

Using U.S. logic, Chile would have been more than justified in aggressively attacking the United States.

Latin American countries would also be justified, using U.S. logic, in carrying out wars against the United States since the terrorists and dictators that wreak havoc on the region are trained within U.S. borders. An infamous training center, formerly known as the School of the Americas (SOA), now named the Western Hemisphere Institute for Security Cooperation (WHINSEC), is located in Fort Benning, Georgia. This school, funded by the U.S. government, has trained tens of thousands of Latin American soldiers that would become military strongmen like Pinochet or mercenaries in death squads throughout the region. A recent example can be found in the 2009 military coup in Honduras, which was led by General Romeo Vasquez, a graduate of SOA.<sup>v</sup>

The list of countries that could aggressively attack the U.S. according to U.S. doctrine wouldn't stop with Latin America. Cuba, Haiti, and the Dominican Republic could as well, for attempted assassinations, international terrorist attacks, overthrowing democratically elected presidents, imposing military dictators, and the like.

Britain, in fact, using U.S. logic, could have bombed the U.S. because of U.S.-based support for the Irish Republican Army (IRA), which was responsible for terrorist attacks while fighting British forces in Northern Ireland.<sup>vi</sup>

South Africa, Angola, and Mozambique could have as well, since the U.S. was the main backer of South African Apartheid even when the rest of the world, and, in fact, the majority of the U.S. population, opposed apartheid. The U.S. gave military and diplomatic support to the apartheid-regime that carried with it military incursions into Angola and Mozambique as the U.S. used South Africa as a base for its interests in the region.<sup>vii</sup>

Somalia could also have bombed the United States, using U.S. logic, since the U.S. has a lengthy history of aggression and terrorism against them that continues today. In 1993, the U.S. attacked and killed between 6,000 to 10,000 Somalis—causing an incident known in the U.S. as “Black Hawk Down,” which is hailed here as a heroic mistake, but recognized in Somalia and elsewhere as a grave act of terrorism and aggression.<sup>viii</sup> Today, we are supposed to be concerned with Somali pirates taking over a U.S. military vessel off their coast, as if the U.S. would do nothing if Somali military vessels were off a U.S. coast.

In 1998, Sudan also faced a major terrorist attack by the United States. Falsely claiming that El-Shifa, Sudan's largest pharmaceutical plant, was manufacturing chemical weapons—an unsubstantiated claim, now conceded as such<sup>ix</sup>—the U.S. bombed the facility destroying about half of Sudan's pharmaceutical supply. The misery and death from the attack is nearly impossible to calculate. The attack was explicitly regarded as a horrific terrorist atrocity in Sudan and elsewhere.<sup>x</sup>

U.S. aggression also infamously killed millions of people in Laos, Cambodia, and Vietnam, which shouldn't need much comment. As then National Security Advisor, Henry Kissinger, exclaimed about one bombing campaign in the Vietnam War:

They dropped a million pounds of bombs ... a million pounds of bombs ... Goddamn, that must have been a good strike. ... That shock treatment [is] cracking them ... I tell you the thing to do is pour it in there every place we can ... just bomb the hell out of them.” (Kissinger, 1972)

A pleasant idea for a war criminal!

In Indonesia, the U.S. ousted President Sukarno, the first president of the country, who helped the country win its independence. In his place, the U.S. instituted General Suharto, a military dictator, in 1967. For the next 32 years, the U.S. would give diplomatic and military support to Suharto to facilitate the East Timor Genocide, which was one of the worst genocides of the twentieth Century, leaving 500,000 to 1 million people dead and a culture decimated. The target of the genocide, and of importance to the U.S., was to kill off the peasant base of the Indonesian Communist Party. Today, under President Obama, the U.S. is considering renewing its ties with the Indonesian military with more aid. Currently, a leading investigative journalist in East Timor, Allan Nairn, who was also an outspoken critic against the genocide, is leading opposition to this aid, the Indonesian military, and its continued crimes, as he is threatened with prison over an article he wrote highlighting some of the abuses.<sup>xi</sup>

All of these and other examples are a matter of public record, and readily accessible. I encourage all of who are unfamiliar with this “unfashionable” record to acquaint yourself with it in order to better understand your own country.

The record is long and gruesome. This list could go on, but it should be more than clear at this point that the arguments given for war by the U.S. have fallen right on its face, and, in fact, threaten even that of the U.S. itself. If those of us within the U.S. disagree with bombing the United States for having WMD, harboring terrorists, and committing acts of terrorism and aggression, then we also disagree with the bombing of Afghanistan, Iraq, Pakistan, Yemen, Somalia, Iran, and any other nation, whose crimes, by the way, are not even comparable. Any argument that favors wars of aggression such as these is complete and utter hypocrisy that vacates any concept of morality that “constitutes an international crime against the human species,” as Jackson described. Such acts are illegal and immoral. Those responsible should face just prosecution at the International Criminal Court, and people of conscience should act by organizing and building broad based coalitions in order to sustain a movement to end these injustices and crimes.

## **6. Arguments for War Mirror Arguments for Terrorism**

Indeed, the arguments for war emanating from the United States against others mirror the arguments for terrorism against the United States. U.S. aggression and repression in the region, the terrorists say, justifies terrorism against the United States.

The leading expert on suicide terrorism, Robert Pape, who has closely analyzed cases of suicide terrorism from 1980 through 2003, describes the logic behind Al Qaeda’s terrorists. Among other things, Pape documents terrorist recruitment techniques. As Pape

explains, recruiters speak “to an earthly motive: revenge for Western military atrocities in Iraq and Afghanistan.” As an example, Pape quotes a recruiter, Adam Gadahn.

I know [Western combat forces] killed and maimed civilians in their strikes because I’ve seen it with my own eyes ... I’ve carried the victims in my arms: women, children, toddlers, babies in their mother’s wombs ... When we bomb their cities and civilians like they bomb ours, or destroy their infrastructure and means of transportation like they destroy ours .... they should blame no one but themselves. Because they are the ones who started this dirty war and they are the ones who will end it by pulling out of our region and keeping their hands out of our affairs (Pape, 2006).

As I said, the arguments for war mirror the arguments for terrorism. Since terrorists attacked the U.S. or a supposed threat lingers, the U.S. says, we must respond by bombing “their cities and civilians like they bomb ours,” and destroying “their infrastructure and means of transportation like they destroy ours,” which inevitably kill “women, children, toddlers, [and] babies in their mother’s wombs.”

## 7. Real Grievances

The grievances in the Middle East are very real, which is why recruitment can be so effective. These grievances did not start with the current wars, however. The U.S. has a long record of aggression in the Middle East.

In the post-world war era, coming out as the world’s superpower, the U.S. recognized that it must take control of what numerous administrations refer to as the region with the most “strategic importance,” that is, the Middle East.

As Joyce Battle from the *National Security Archive* explains when reviewing U.S. declassified documents on the Middle East,

An earlier episode occurred early in the Cold War, during the Truman and Eisenhower administrations, when the U.S. was expanding efforts to incorporate the region into a global anti-Soviet alliance. It wanted *to protect and preserve Western control of Middle Eastern oil resources*. It was *concerned about the implications for U.S. interests* of the diminished post-World War II abilities of Britain and France to project Western Power and influence in the area, and by enormous increase in anti-Western feeling that had been generated by the establishment of Israel” (Battle, 2002, emphasis added).

The U.S. would replace Europe as the source of power and control in the region. It’s because of the strategic asset of Middle Eastern energy resources for world power and control that the majority of U.S. foreign policy post-WWII has focused on the region.

In order to take and maintain control in the region, as in other parts of the world, the U.S. has had to prevent democracy by either supporting dictatorships or faux-democratic

regimes that tailor to U.S. interests. It is for this reason that the U.S. has either backed or currently backs brutal dictatorships or regimes in Iran, Iraq, Turkey, Pakistan, Saudi Arabia, Egypt, Afghanistan, Israel, and others.

## 8. Iran

In 1953, following the democratic election of President Mossadegh in Iran, the U.S. backed a military coup that overthrew Mossadegh and brought to power the Shah, a brutal dictator who would be one of the United States' biggest allies in the region for the next 26 years. As historian James A. Bill writes:

There is little doubt that petroleum considerations were involved in the American decision to assist in the overthrow of the Mossadegh government . . . Although many have argued for America's disinterest in Iranian oil, given the conditions of glut that prevailed, Middle Eastern history demonstrates that the United States had always sought such access, glut or no glut. . . . Concerns about communism [more accurately, independent nationalism,] and the availability of petroleum were interlocked. Together, they drove America to a policy of direct intervention. (Kinzer, 2006)

Independent nationalism, an ideology the U.S. loves to have for itself, is unacceptable in the Middle East since it hinders U.S. capability to control its energy resources. In Iran or elsewhere in the Middle East, if people want to exercise their right to democratically elect a president or assert its nationalist power it's called communism or radical Arab nationalism by heads of state and the American media.<sup>xii</sup> Accordingly, they must be stomped out with indirect or direct intervention.

Today, of course, we are supposed to believe that the U.S. cares about democracy in Iran even as the U.S. is openly threatening to use force against Iran—in violation of the U.N. Charter and a recent U.N.S.C. resolution—or, as far as anyone knows, abiding by the Non-Proliferation Treaty (NPT), which allows for the enrichment of uranium. So, we must forget about the few decades the U.S. supported the Shah to prevent democracy, and forget about how the U.S. is acting in violation of the U.N. Charter by threatening force, in order to believe the U.S. supports democracy in Iran. Yet, even if we do forget, then the arguments being made against Iran still don't match up.

The issue of enriching uranium is serious, especially since it can quickly transition into weapons production. The issue is not solely exclusive to Iran. Furthermore, since the U.S. has the most powerful nuclear arsenal in the world, has just spent \$5 billion to upgrade it amidst denouncing Iran, is making nuclear deals with Hanoi, Vietnam to enrich their uranium,<sup>xiii</sup> is the only country in the world to have used nuclear weapons in war, has supported the development of nuclear weapons in extremely militant non-NPT signing states (India, Pakistan, and Israel), and is openly threatening to attack Iran along with Israel, does Iran, therefore, have the right to bomb the United States and Israel? The answer would be a resounding “no, of course not” in the United States, Israel, and elsewhere.

One shouldn't underestimate the extreme danger caused by proliferating nuclear weapons in India, Pakistan, and Israel. None of these three nations have signed the NPT, and the nuclear combination of the three could spell disaster not just for the region, but also for the entire world. India and Pakistan have come close to nuclear war a couple of times and continuously have an uneasy relationship, while Israel is threatening Iran with nuclear weapons.<sup>xiv</sup>

On top of that, the U.S. has also opposed every U.N. resolution calling for a Nuclear Weapons Free Zone in the Middle East,<sup>xv</sup> presumably so India, Pakistan, and Israel—strategic partners in the region—can have them. If the U.S. didn't want Iran or other nations to have nuclear weapons, then simply agree to a nuclear weapons free zone as, in fact, Iran has.

We are then left with one conclusion to draw from such a threatening stance toward Iran: the U.S., unconcerned with the consequences of its actions except when it concerns its power interests, wants to continue to impose its power in order to more effectively control Iran and the region as it has done in the past. The actions are illegal and unjust, and should be prevented before more death and destruction is wrought on Iran, the region, and the world.

## 9. Iraq

In Iraq, the U.S. supported another dictator: Saddam Hussein. It may seem very hypocritical, and it is, but during the 1980s, the strongest U.S. ally in the region was Saddam Hussein. The U.S. gave diplomatic and military support, including chemical weapons, to Hussein as he committed ethnic cleansing against the Kurdish population in Iraq, and attacked Iran during the Iran-Iraq War.<sup>xvi</sup>

Since it now serves U.S. interests to demonize Hussein, we are now supposed to look at the mass graves and his atrocities in disgust, but in the 1980s when he was committing the worst of his crimes, the U.S. not only supported what he was doing, but also barely uttered a peep about what was going on. To add to the hypocrisy, major government officials instrumental in supporting Hussein during the 1980s in the Reagan and George H.W. Bush Administrations would later be the same officials to topple Hussein in the George W. Bush administration (e.g., Dick Cheney and Donald Rumsfeld).

At the beginning of the 1990s, Hussein began overstepping his boundaries as he invaded Kuwait. The reason for the invasion was presumably to gain greater access and control of Kuwait's oil fields. The U.S. also decided to invade Kuwait, presumably for the same reason, adding invasion on top of invasion, with the rationalization that the U.S. now cared about Hussein's aggression and atrocities—something that didn't stop the U.S. from supporting Hussein as he annihilated the Kurds and invaded Iran during the 1980s. This 1991 invasion of Kuwait is known as the Persian Gulf War. Apparently only the U.S. can use force to protect its "vital resources."

In March of 1991, an uprising within Iraq was in a position to topple Hussein, but the U.S. looked the other way as Hussein cracked down on the rebellions. The U.S. then opposed another uprising in 1995. Both uprisings are discussed in Milan Rai's book *War Plan Iraq* in 2002.

There were two kind of coup that could have occurred in March 1991: a regime-stabilizing coup from within, such as the one derailed by the uprising; or a possibly regime-changing coup allied with the uprising ... The first kind of coup was prevented by the rebellion that the United States incited inadvertently. The second kind of coup was prevented by Washington's refusal to support the uprisings, or to give its support to the Iraqi opposition. (Rai, 2002)

Furthermore:

Not content with betraying the 1991 uprisings, the US also pulled the plug on another uprising/coup attempt in 1995. This initiative had at its centre the Iraqi National Congress (INC), [and] a coalition of Iraqi opposition groups led by Ahmed Chalabi ...” (Rai, 2002)

As a result of the war and its aftermath, approximately 158,000 Iraqis and 400 U.S. soldiers were killed<sup>xvii</sup>. “The Americans, it transpired, dropped nearly as many tons of bombs each day as were dropped on Germany and Japan daily during the Second World War,” notes investigative journalist Robert Fisk (Fisk, 2006). True to the immorality of the war, bombs were dropped on retreating soldiers, fleeing refugees, and civilian infrastructure within Iraq.<sup>xviii</sup>

Continuing throughout the 1990s the United States imposed severe sanctions on Iraq that, among other things, barred food and medicine in violation of international humanitarian law. The effects were devastating: Per capita income dropped from \$3510 in 1989 to \$450 in 1996, there was severe food insecurity for the population, 20% of the population living in chronic poverty, infant mortality rates more than doubled from 1989 to 1999, per capita share of drinkable water decreased by more than half from 1990 to 2000, health services were destroyed, a few hundred thousand children died (a conservative estimate – it could be closer to 750,000 children deaths), and somewhere between 800,000 to 1.5 million civilian deaths.<sup>xix</sup> This was not a pleasant situation, to say the least, and, according to the UN Coordinator for Humanitarian Affairs in Iraq, Denis Halliday, the sanctions amounted to “genocide.”<sup>xx</sup>

In 1998, the U.S. attacked Iraq with the justification that Iraq had or was developing WMD—a justification that would come up again in 2003. Yet, according to inspectors, the U.S. was not supporting and, in fact, was blocking U.N. inspections from occurring.

Major Scott Ritter, former Chief for the Concealment Investigations Unit for the U.N. Special Commission in Iraq, testified in front of the U.S. Senate in 1998 saying:

First of all, let me start by saying that the United States has been the foremost supporter of the Special Commission and as such has been the nation which has encouraged the Special Commission in setting forth on missions of discovery in Iraq to expose Iraq's retained capabilities. Having established such a policy, however, the United States has on repeated occasions put pressure on the executive chairman of the Special Commission and put pressure on member states of the Security Council to withhold support and to encourage the executive chairman to stop, postpone or cancel inspections of discovery inside Iraq. (Ritter, 1998)

The brutality against Iraq, including the Iraq War beginning in 2003, has devastated the country. The current war, as stated earlier, has killed approximately one million Iraqis. As investigative journalist, Nir Rosen, describes:

We've destroyed Iraq and we've destroyed the region, and Americans need to know this. This isn't Rwanda where we can just sit back and watch the Hutus and Tutsis kill each other, and be like wow this is terrible should we do something? We destroyed Iraq. There was no civil war in Iraq until we got there. And there was no civil war in Iraq, until we took certain steps to pit Sunnis against Shias. And now it is just too late. But, we need to know we are responsible for what's happening in Iraq today. I don't think Americans are aware of this. We've managed to make Saddam Hussein look good even to Shias at this point. And what we've managed to do is not only destabilize Iraq, but destabilize Jordan, Saudi Arabia, Iran. This is going to spread for decades, the region won't recover from this, I think for decades. And Americans are responsible.<sup>xxi</sup> (Rosen, 2006)

Today, with media attention focused on Afghanistan and away from Iraq, U.S. military presence in Iraq has been able to continue. Without U.S. citizens demanding a just reconstruction of Iraq, the possibilities for a full withdraw of U.S. military presence, the opportunity for Iraqis to democratically decide for themselves on how their country should be developed, and massive reparations to Iraq looks bleak. Citizens must act to repair the region through peaceful means or else we have no one to blame for further destruction but ourselves.

## **10. Turkey, Pakistan, Saudi Arabia, Egypt, and Afghanistan**

Since the Middle East is of primary concern today and in the record of post-world war U.S. foreign policy, it is only fair to offer a glimpse at some of the other nations that the U.S. has or is involved with militarily to give further insight into understanding this anti-war perspective in the twenty-first century.

Throughout the 1980s, but drastically increasing in the 1990s, the United States gave extraordinary amounts of military aid to Turkey. The military aid went toward massacring the Kurdish population, resulting in the deaths of tens of thousands of people, destruction of thousands of villages, and created millions of refugees. This wiped out the hope of an autonomous democratic movement that was arising among the Kurdish population in Turkey.<sup>xxii</sup>

In Pakistan, the U.S. supported two dictators: General Zia-ul-Haq and General Pervez Musharraf. As mentioned earlier, the U.S. also supplied nuclear weapons to Pakistan. Today, the United States, only increasing under President Obama, carries out intense air raid attacks using un-manned drones, which has been denounced by people around the world for killing civilians. The U.N. recently urged the United States to stop its drone attacks, but, with continued criminality, the U.S. bombs on.

In Saudi Arabia and Egypt, the U.S. continues to back brutal dictators: King Abdullah and President Mubarak, respectively. When asked by BBC if Obama considers Mubarak, in power since 1981, to be an “authoritarian ruler,” Obama replied, “No, I tend not to use labels for folks,” other than the label that he is a “stalwart ally” as well as a “force for stability, and good in the region.” Presumably, the same goes for King Abdullah. They are forces for “good” instead of forces for “evil” because they play along in U.S. hegemony without “unnecessary demagoging of the issue,” Obama explained. (Obama, 2009)

Afghanistan has another history of U.S. military intervention. Throughout the 1980s, when the Soviets militarily occupied Afghanistan, the U.S. supported many of the same terrorists it now claims to be fighting, who committed gruesome terrorist attacks that devastated the country<sup>xxiii</sup>. I say “claims to be fighting” because, as Malalai Joya, a women’s rights leader in Afghanistan, points out in her book *A Woman Among Warlords*:

While the United States bombed from the sky, the CIA and Special Forces had already arrived in the northern provinces of Afghanistan to hand out millions of dollars in cash and weapons to Northern Alliance commanders. They were the same extremists whose militias had pillaged Afghanistan during the civil war ... The Western media tried at the time to portray these warlords as ‘anti-Taliban resistance forces and liberators of Afghanistan,’ but in fact Afghan people believed that they were no better than the Taliban (Joya, 2009).

In 2001, the U.S. committed another act of aggression by invading Afghanistan without obtaining authorization from the U.N.S.C. on grounds that Afghanistan, without any evidence given by the United States as international law dictates, would not turn over suspected terrorists. This is something the U.S. doesn’t do itself when, for example, Latin American countries request the U.S. hand over terrorists it has trained and supported seeking safe haven within the United States. War crimes following the invasion include the massacre at Dasht-e Leili, where a few thousand prisoners were murdered. The casualties and aggression keeps rising and increasing in rate over nine years later, amounting to the longest war in U.S. history.

## 11. Israel

For over 30 years there has been an international consensus on a peaceful settlement of the Israel-Palestine Conflict – almost. There have been two nations that have routinely

voted against or vetoed the peace settlement proposal at the United Nations – The United States of America and Israel.

The international consensus on a peaceful settlement to the conflict is largely based off of two basic principles of international law: The right to self-determination and the inadmissibility of acquiring territory by war. The right to self-determination means that no one would be able to deny Palestinians their right to create a sovereign nation, which is a right that cannot be questioned in the case of Israel. The inadmissibility of acquiring territory by war means that Israel must withdraw its troops, settlements, checkpoints, wall, and relinquish its control over Palestinian territory, to its pre-June 1967 war borders. In return for abiding by these principles, Israelis and Palestinians shall agree to live in peace and respect each other's sovereignty.

When discussing the legality of Israel's wall in the West Bank, which dwarfs the Berlin Wall, the International Court of Justice reiterated the international consensus, finding the inadmissibility of acquiring territory by war too basic to call into question. Furthermore, the ICJ points out how the acts by Israel in Occupied Palestinian Territory constitute a "flagrant violation" of international law and warned states "not to render aid or assistance in maintaining the situation created by such construction." (ICJ, 2004)

All of this is unmentionable in respected circles in the United States. For the United States, Israel is a strategic military outpost that can help control the Middle East, for reasons already discussed. It is for this reason that the United States sends Israel more military aid than they give any other country in the world. Israel then uses this aid to demolish Palestinian homes in the West Bank, invade Gaza, and enforce an illegal blockade on Gaza (an act of war under international law) that stops all supplies needed for a decent standard of living from entering, while sustaining a special privilege of having nuclear weapons to threaten other countries with, to name just a few examples.

U.S. aid and diplomatic support that allows Israeli acts of aggression only furthers instability and violence on all sides of the conflict, and the entire region, with a very likely possibility of erasing the Palestinians from existence.

As Chomsky summarized at the end of his book entitled *Middle East Illusions*:

Honesty would leave us with a dilemma: the easy escape is conventional hypocrisy (as the word is defined in the Gospels). The other option is harder to pursue, but imperative if the world is to be spared still worse disasters. (Chomsky, 2003)

## **12. Conclusion**

The "other option" to that of "conventional hypocrisy" is to apply the same standards to ourselves as we apply to others. A fair place to begin is to have our country abide by basic principles of international law that outlaw the use of force.

Furthermore, we must understand this “unfashionable” history of U.S. militarism, and commit what we can to a struggle through social movement for peace and freedom. I believe we can transcend, or at least begin to transcend, destructive concentrated, unaccountable, and unjustifiable power and authority in order to build a consciousness and sensibility that goes beyond our “legacy of domination,” as Murray Bookchin has succinctly described, to that of:

The legacy of freedom that lives in the daydreams of humanity, in the great ideals and movements ... that have welled up in all great eras of social transition (Bookchin, 2005).

In order to “be spared [of] still worse disasters” and move toward humanity’s “legacy of freedom” we need changes “so far-reaching in character that humanity will totally transform its social relations and its very conception of life” supported by social, economic, and political institutions based off of participatory values of mutual aid and democracy with citizen control over “the material means of life – land, factories, transport, and the like” and over public affairs and policy. (Bookchin, 2005)

The day may come when we realize we can no longer subordinate ourselves to destructive unaccountable power. Unfortunately, if we are to even hope for a better future for the world, let alone to avoid a terminal disaster, this day may not come soon enough.

Today, leading liberal icons such as Stephen Colbert and Jon Stewart appealed to millions of people as they rallied in Washington D.C. for “moderation” in a time of fanaticism. Although the message was apolitical and not constructive in my opinion, it bears some truth. We do indeed need a type of “moderation,” where moderate and moral voices come to the fore to strive for peace, social justice, and quite simply, humane standards of living.

How to get from here to there, as with any form of social change, is a process of transition and progression. Many strategies and tactics go into shaping any social movement. In his recent book *Hopes and Prospects*, Noam Chomsky believes the most exciting and promising signs for hope in the twenty-first century can be found in Latin America, where indigenous, peasant, and women’s movements are forming popular democracies and moving toward independent development. One of the most dedicated scholars on the Israel-Palestine Conflict, Norman Finkelstein, has gone on tour speaking of how to end the conflict noting that the best hope lies in non-violent resistance and civil disobedience, which has taken the form of a Boycott, Divestment, and Sanctions Campaign (BDS) to stop the occupation, and marches and flotilla expeditions to end the blockade of Gaza. Israeli journalist, Amira Hass, believes in the use of investigative journalism to challenge centers of power. Cindy Sheehan, a brave mother who had a son killed in Iraq, has talked and organized on ending U.S. wars by non-violent civil disobedience. WikiLeaks has used modern technology in order to reveal hidden workings of world governments in corruption, deceit, and war that could have dramatic effects on reshaping power. Organizations such as Code Pink or Global Exchange

include domestic activism as well as international social justice in countries throughout the world. Other groups and individuals work on humanitarian assistance or protection of human rights. Many more work on local grass-roots organizations. Although this is a very incomplete list, the point is there is a lot one can do and much work to be done to achieve social change in the aim for peace and freedom. A multi-faceted and diverse civil society with committed individuals working on a range of different issues and activities can make a strong and healthy movement. At the same time, individuals and groups must become organized and act cohesively according to the moral, ethical, and democratic ideals that are to be obtained. Currently, it seems to me that there is a lack of cohesiveness domestically and internationally, yet many groups work on similar issues. I think many individuals and groups can agree on the basic principles that have been discussed here. Once organized groups begin supporting and coordinating with each other progress can be made.

The choice is up to all of us, but as long as concentrated power and wealth exist with their "legacy of domination," supported and rationalized intellectually with a propaganda system so efficient that "unpopular ideas can be silenced, and inconvenient facts kept dark, without the need for any official ban," as Orwell explained, we can be quite sure that the interests of the powerful and privileged will be "most peculiarly attended to," while the interests of citizens they preside over and victims of their wrath are entirely neglected and "sacrificed to it," as Adam Smith observed. (Smith, 1776)

A twenty-first Century anti-war perspective that addresses the most pressing issues of our world today and incorporates a democratic culture where war and aggression is no longer tolerated will have many difficulties to overcome in the coming years. Yet, it shouldn't be forgotten that without social movements in the past with aims toward peace and freedom, we would not have overcome monarchy, chattel slavery, and segregation or gained labor rights or even the bill of rights. We must continue to take on the difficult task of struggling with power in order to attain a more humane world.

## References

- Battle, J. (December 13, 2002). "U.S. Propaganda in the Middle East - The Early Cold War Version." *The National Security Archive*. June 2010  
<<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB78/essay.htm>>.
- Bookchin, M. (2005). *The Ecology of Freedom*. Oakland: AK Press.
- Brzezinski, Z. (2004). *The Choice: Global Dominations or Global Leadership*. New York: Basic Books.
- Charter, UN. (1945). "Charter of the United Nations, Chapter I: Purposes and Principles." *United Nations*. June 2010.

- . (1945) "Charter of the United Nations, Chapter V: The Security Council." United Nations. June 2010  
<<http://www.un.org/en/documents/charter/chapter5.shtml>>.
- Chomsky, Noam. (2003). *Middle East Illusions*. Oxford: Rowman & Littlefield Publishers, Inc.
- Chomsky, Noam. (2002). *Pirates and Emperors, Old and New*. Cambridge: South End Press.
- Fisk, Robert. (2006). *The Great War for Civilisation: The Conquest of the Middle East*. London: Harper Perennial.
- Fromm, E. (1941). *Escape from Freedom*. New York: Holt, Rinehart & Winston, Inc.
- Gerges, F. (2005). *The Far Enemy: Why Jihad Went Global*. New York: Cambridge University Press.
- Jackson, J. (November 21, 1945). "Justice Jackson's Opening Statement for the Prosecution." *University of Missouri-Kansas City School of Law*. June 2010  
<<http://www.law.umkc.edu/faculty/projects/ftrials/nuremberg/jackson.html>>.
- Joya, M. (2009). *A Woman Among Warlords: The Extraordinary Story of an Afghan Who Dared to Raise Her Voice*. New York: Scribner.
- Justice, International Court of. (June 27 1986). "Summaries of Judgments, Advisory Opinions and Orders of the International Court of Justice: Case Concerning the Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America)." *International Court of Justice*. <<http://www.icj-cij.org/docket/files/70/6505.pdf>>.
- Justice, International Court of. (July 9 2004). "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory." *International Court of Justice*. <<http://www.icj-cij.org/docket/index.php?pr=71&code=mwp&p1=3&p2=4&p3=6&case=131&k=5a>>
- Kinzer, S. (2006) *Overthrow*. New York: Henry Holt and Company, LLC.
- Kissinger, H. (April 1972). "The Kissinger Telephone Conversation Transcripts." *The National Security Archive*. 23 December 2008  
<<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB263/>>.

Obama, B and Webb, J. (June 2 2009). "Obama Interview: The Transcript." BBC.  
<[http://www.bbc.co.uk/worldservice/news/2009/06/090602\\_obama\\_transcript.shtml](http://www.bbc.co.uk/worldservice/news/2009/06/090602_obama_transcript.shtml)>

Orwell, G. (1945). *Animal Farm*.

Pape, Robert A. (September 2006). "What We've Learned About Suicide Terrorism Since 9/11." *Cato Institute*. June 2010  
<[http://www.cato.org/pub\\_display.php?pub\\_id=6679](http://www.cato.org/pub_display.php?pub_id=6679)>.

Rai, M. (2002). *War Plan Iraq: Ten Reasons Against War on Iraq*. New York: Verso.

Ritter, S. (1998). "Hearing with the Senate Armed Services Committee on U.S. Policy Regarding UN Weapons Inspections of Iraq." *Senate Foreign Relations Committee*. Washington.

Rosen, N. (November 27, 2006). *Anatomy of a Civil War: Writer Nir Rosen on Iraq's Descent into Chaos* Amy Goodman..

Smith, A. (1776 & 1904). *An Inquiry into the Nature and Causes of the Wealth of Nations*. London: Methuen & Co., Ltd.

Trends, APS Review Downstream. (1999). "Kuwait's Trans-National Activities, Cont'd from OMT.". *All Business: A D&B Company*. June 2010  
<<http://www.allbusiness.com/mining/oil-gas-extraction-crude-petroleum-natural/271550-1.html>>.

Urquhart, B. (1989). *Decolonization and World Peace*. Austin: University of Texas Press.

## Notes

---

<sup>i</sup> In the seventh annual State of the Union Address on December 2, 1823, President James Monroe declared European powers could not continue to colonize in the hemisphere in return for U.S. non-interference with European power on other continents. The doctrine would be used to assert U.S. power and control in the hemisphere without competition from foreign powers.

<sup>ii</sup> British based *Opinion Research Business*, consistent with findings by Johns Hopkins University and *The Lancet*, confirm that over 1,000,000 Iraqis have been killed since the 2003 invasion. (McElwee, Patrick. "A Million Iraqi Dead? The U.S. Press Buries the Evidence." *Extra!* January 2008.)

<sup>iii</sup> See The United States Institute of Peace for this report.

<sup>iv</sup> Ibid.

<sup>v</sup> For information on the School of the Americas, one can refer to School of the Americas Watch.

---

<sup>vi</sup> As the Associated Press reported, “From the 1970s to 1990s, U.S.-based groups — chiefly Irish Northern Aid — funneled hundreds of thousands of dollars annually to IRA-related causes in Northern Ireland” (Dodds, Paisley. “Official: U.S. Not Funding Nireland Dissident Groups.” 10/14/10. Associated Press.)

<sup>vii</sup> See *State Terrorism and the United States: From Counterinsurgency to the War on Terrorism* by Frederick H. Gareau (Clarity Press, 2004).

<sup>viii</sup> Maynes, Charles. *Foreign Policy*. Spring 1995.

<sup>ix</sup> See *United States Terrorism in the Sudan: The Bombing of Al-Shifa and its Strategic Role in U.S.-Sudan Relations* by Nafeez Mosaddeq Ahmed.

<sup>x</sup> *Ibid.*

<sup>xi</sup> One can visit Allain Nairn’s website at [www.allainnairn.com](http://www.allainnairn.com).

<sup>xii</sup> See, for example, *Containing Arab Nationalism: The Eisenhower Doctrine and the Middle East* by Salim Yaqub.

<sup>xiii</sup> Much of the press reported the \$5 billion increase in the U.S. nuclear weapons program. As far as supporting Vietnam’s nuclear weapons program, Jay Solomon from the Wall Street Journal reported (U.S., Hanoi in Nuclear Talks, 8/3/10) “The Obama administration is in advanced negotiations to share nuclear fuel and technology with Vietnam in a deal that would allow Hanoi to enrich its own uranium—terms that critics on Capitol Hill say would undercut the more stringent demands the U.S. has been making of its partners in the Middle East.”

<sup>xiv</sup> An illuminating article by Zia Mian in *Foreign Policy In Focus* entitled “Pushing South Asia Toward the Brink” offers compelling information. As Mian writes, “India is one of perhaps only three countries still making material for new nuclear weapons. The others are Pakistan and Israel (with North Korea threatening to resume production). India is building a fast-breeder reactor that is expected to begin operation in 2010 and is outside International Atomic Energy Agency safeguards. It could increase three- to five-fold India’s current capacity to make plutonium for nuclear weapons.”

Furthermore, “The U.S. silence on India’s nuclear weapons and missile programs is all the more telling, given that it was the Clinton administration that proposed United Nations Security Council resolution 1172. In 1998, this unanimous Security Council resolution called on India and Pakistan to “immediately stop their nuclear weapon development programs, to refrain from the deployment of nuclear weapons, to cease development of ballistic missiles capable of delivering nuclear weapons, and any further production of fissile material for nuclear weapons.” The Bush administration ignored it. It seems the Obama administration will too.”

<sup>xv</sup> See, for example, citations (Chomsky, 2002) and (Rai, 2002).

<sup>xvi</sup> Battle, Joyce. “Shaking Hands with Saddam Hussein: The U.S. Tilts toward Iraq, 1980-1984,” *The National Security Archive*: 2/25/03.

<sup>xvii</sup> The deaths among Iraqis here are from Beth Daponte’s research on casualties in the first Persian Gulf War, which has stood up time and again to peer reviews, and is partly discussed in this article by the Post-Gazette: Kelly, Jack. “Estimates of Death in First War Still in Dispute,” *Post-Gazette*: 2/16/03. <http://www.post-gazette.com/nation/20030216casualty0216p5.asp>, For U.S. casualties, I rounded a standard number given, which can be witnessed in this USA Today article: Cauchon, Dennis. “Why U.S. Casualties Were Low,” *USA Today*: 4/20/03. [http://www.usatoday.com/news/world/iraq/2003-04-20-cover-usat\\_x.htm](http://www.usatoday.com/news/world/iraq/2003-04-20-cover-usat_x.htm)

<sup>xviii</sup> Robert Fisk’s informative book *The Great War for Civilisation: The Conquest of the Middle East* offers a detailed personal account of not only the Persian Gulf War, but of major Middle Eastern conflicts of the twentieth and twenty-first centuries.

<sup>xix</sup> See the UNICEF Overview Report from July 2003 under “2003 IRQ: Iraq Watching Briefs” by Sen, B. It can be found at [www.unicef.org](http://www.unicef.org). Also see *Morbidity and Mortality among Iraqi Children from 1990 through 1998: Assessing the Impact of the Gulf War and Economic Sanctions* by Richard Garfield, as well as former U.S. Attorney General Ramsey Clark’s *International Commission of Inquiry on Economic Sanctions* in 1996.

<sup>xx</sup> See Denis J. Halliday’s article entitled *The Deadly and Illegal Consequences of Economic Sanctions on the People of Iraq*, which can be found at The Watson Institute for International Studies.

<sup>xxi</sup> It should be noted that in the case of the Rwandan genocide, as well as in the much bloodier conflict with the war in the Congo, the U.S. did much more than “just sit back and watch” as Rosen describes. I would direct people to Edward Herman’s book *The Politics of Genocide* where, among other cases, he documents U.S. support for forces carrying out the Rwandan Genocide as well as crimes in the Congo.

<sup>xxii</sup> Noam Chomsky and Robert Fisk have given detailed documentation of U.S.-Turkish crimes during this period on numerous occasions.

---

<sup>xxiii</sup> Many people have documented this, but a recent book by Tom Engelhart entitled *the American Way of War: How Bush's Wars Became Obama's* can offer valuable insight.

# PEACE STUDIES JOURNAL

Vol. 4, Issue 1  
January 2011

---

## **A Humanist Defence and Critique of the South African Truth and Reconciliation Commission**

Dan Jakopovich  
Vijenac Frane Gotovca 8  
10020 Zagreb  
CROATIA

---

### **A HUMANIST DEFENCE AND CRITIQUE OF THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION**

The South African Truth and Reconciliation Commission (TRC) was a landmark event for the development of nonviolent criminology and authentic peacemaking. It was an unprecedented endeavour in terms of substance and scale, and its importance for the world lies mainly in its communicative value as a hopeful symbol and harbinger of “a new beginning.” The very vision of a new way of dealing with past atrocities, a new type of truth and conciliation (as developed in the minds of its more genuine proponents) planted seeds of moral progress and a truly nonviolent society.

In this essay, I will assess the South African TRC from a radical humanist, peace-building perspective. Instead of the usual approach which judges the TRC according to its success or failure to achieve the objectives of “retributive justice,” I will look at the TRC's work from the perspective of humanistic ethics, of “restorative”—or, in fact, “transformative justice”—and its specific goals. In the course of this analysis, I will illustrate how relocating the ideological vantage point in this way leads to a creative new (and very marginalized) set of objectives and benchmarks. These are generally applicable not just to the work of the South African TRC, but to future truth and reconciliation initiatives as well.

In the first part of my analysis, I will establish the reasoning behind a humanist defence of the TRC, arguing for transformative justice on the basis of (personal and political)

practical ethics. In the second part of my argument, after I have set out this general framework for thinking about a progressive response to crime, I will offer a humanist, peacemaking critique of the TRC, where I will examine the TRC process primarily in terms of how it related to the task of establishing a new, nonviolent, democratic social order. This will specifically entail a look at some of its inconsistencies, as well as the overly narrow nature of its mission and approach.

As a final, prefatory note, I make no claim to comprehensiveness here. Instead, I merely aim to offer a stimulating introduction to a rarely heard, dissenting perspective.

## 1. Outlining The Humanist Lens

A humanist approach fundamentally entails treating humans and humanity as “the measure of all things” (Protagoras). This means people have to be treated as *ends* in themselves, by affirming the universal “right to life, liberty and the pursuit of happiness” (conceived in sociable terms). This postulate, in turn, takes account of the need to devise a novel kind of politics which would consistently affirm a certain unity (although not necessarily “identity”) of means and ends, and would thus reject the prevailing notion “that violence can be overcome by violence, evil by evil.”<sup>1</sup> On the basis of this belief that abuse (from whichever side it comes) is intolerable, and that it is ineffective in preventing crime and violence, as well as on the basis of a general belief in the possibility of redemption, human perfectibility and personal and social transformation, radical humanists advocate a humane criminal sanction system based on prevention, mediation, restitution, and rehabilitation. This approach is conceived not only as a reaction to individual wrong-doing, but also as a sustained challenge to structural violence and unprincipled policies of the social elites.

The prevalent concept of institutional punishment is in many ways similar to the (violent) crimes it is supposed to prevent, not necessarily in form, but often quite similar in purpose, and often far more premeditated and sadistically-motivated. Whereas the aim of “restorative” or “transformative” restitution and reparation is to bring back to the victim something of what he/she has lost (like dignity, sense of justice), while simultaneously reintegrating the perpetrator back into the moral community, the concept and practice of punishment, in addition to their supposed effect as a deterrent, define “justice” as the infliction of pain on the offender. Whether or not there is active hatred involved in the practice of punishment, i.e. the conscious, premeditated infliction of pain, is not a central issue. Indifference could also be understood as a form of “hatred” or aversion, and, even more so, hatred is a form of indifference (that is, the indifference to the moral violation of producing or condoning the suffering of the Other). Punishment is a condemnation of crime, but is inconsistent in its condemnation of violence and cruelty: it enthusiastically accepts the principle of inflicting pain and suffering. Punishment—particularly as it is currently employed—merely shifts the location of violence and suffering. Violent communicative behaviour is a common trait which institutional punishment shares with violent criminal offences—it is the very essence of punishment. Moreover, it is always premeditated and (at least partly) conscious of the harm that it inflicts. Indeed, it is at least partly (and usually largely) oriented precisely toward inflicting pain. In those

respects, punishment actually differs from many criminal offences, and, insofar as the overt or covert rationale of punishment is largely about inflicting pain, it differs from most criminal offences. It is both premeditated and sadistically-oriented. Additionally, by victimising the offender, it also often victimizes his or her family and friends, innocent “collaterals” in the pursuit of criminal “justice.”<sup>2</sup> This usually overlooked fact, as well as the very notion of deterrence (“setting someone as an example”) best reveal the centrality of objectification in conventional “criminal justice” approaches.

In their erroneous defence of the penal system, some scholars (like Nozick) present a classical utilitarian/consequentialist (deterrence-based) and communicative argument, apparently oblivious to the paradox of the communicative function of punishment (As anti-death penalty activists put it, the state “kills people in order to show that killing people is wrong.”) The dehumanising function and effects of prisons and other forms of violent punishment have strongly confirmed the irrationality of this retributive logic. The concept of deterrence fails us here. Firstly, not only have the current forms of more or less actively violent deterrence (which are highly objectifying, since they use the offender as a *means*) proven incapable of eradicating violence and inhumanity; they have perpetuated and extended the practice of violence, as well as contributing to the continuation of dehumanization/asocial character of many (or perhaps most) offenders.

The “boomerang effect of dehumanization” (to paraphrase Aimé Césaire) on the society which dehumanizes should be identified, as clearly exemplified by cruelly retributive societies such as the US or China, not really known for nonviolent and peaceable interpersonal relations (this point is accentuated when we compare them to less retributive and generally less violent societies such as Denmark, for instance). In this sense, speaking of the relationship between victims and perpetrators of the crimes of apartheid, Desmond Tutu rightly emphasised that “their humanity is caught up in our humanity, as ours is caught up in theirs.”<sup>3</sup> “*Ubuntu* says I am human only because you are human. If I undermine your humanity, I dehumanize myself.”<sup>(4)</sup> In this perspective of “the indivisibility of humanity,” the powerful call of compassion ensures that “the person cannot be thrown away like trash.”<sup>5</sup>

Nozick defends preposterous methods of “resocialization” (into a cruel and violent society): “When he undergoes punishment these correct values are not totally without effect in his life (...) because we hit him over the head with them.”<sup>6</sup> He fails to notice the implications of writing that “there is a connection effected in those who punish; by so doing, they themselves link up with correct values.”<sup>7</sup> Indeed, there is plenty of truth in the notion that by harming and abusing others (in socially condoned ways and under socially accepted circumstances) abusers “connect” with (and represent) the values of a violent society. “If we push for incarceration (...) we legitimize the degradation and destruction of human beings in prisons as a method of social control—and we increase reliance on the patriarchal state to determine who is wrong or guilty.”<sup>8</sup> In sharp contrast to the belief that one can influence the offender into internalizing positive social values by crushing him, through objectification and the establishment of one’s dominance over him, there are other forms of influencing re-offence rates, including an abundance of methods of positive reinforcement for positive behavior, reintegrative moral shame and

reintegrative, non-objectifying sanctions and restitution, development of the offender's sense of morality and moral self-worth, development of meaning, social dealienation, alternative forms of prevention like humanistic education and humanising life experiences, access to health care and other social services etc. A recent meta-analysis shows that incarceration and punishment do not act as an effective deterrent after all, and that rehabilitation and restorative approaches work better in reducing criminal recidivism.<sup>9</sup> Should it be very surprising that approaches which focus “on serving the human part of human beings rather than denying it”<sup>10</sup> actually work better?

While forgiveness cannot change the factual past, it can transform the past's bearing on the present and the future, thus nullifying “the predicament of irreversibility.”<sup>11</sup> This avoidance of irreversibility is the central reason why Walter Benjamin referred to the “weak Messianic power” of redemption (his and my notions of redemption differ, but the validity of the philosophical principle remains).<sup>12</sup> One important side product of intense cycles of violence is the creation of “subcultures of resentment,” in which personal experiences transcend personal relations or rational argumentation and shape destructive political futures. A strong example is how the merciless way in which domestic fascists, collaborators and their families were dealt with after the liberation of Yugoslavia created deep-seated bitterness which was instrumental in the development of the secessionist movement, and which ultimately sealed Yugoslavia's fate.

## 2. The Taxonomy Of Forgiveness, And The Special Category Of Mercy

Morals and criticism are not so properly objects of understanding as of taste and sentiment.

David Hume<sup>13</sup>

If, on my return to America, I should employ myself on a history of the French Revolution, I had rather record a thousand errors on the side of mercy, than be obliged to tell one act of severe justice.

Thomas Paine<sup>14</sup>

Forgiveness is not (or at least not primarily) an “intellectual” process. Any approach which tries to “evict” emotions from its conceptualization is epistemologically artificial and impoverished. Furthermore, forgiveness is first and foremost a question of *practical* ethics, and—as a voluntary interpersonal process—it is primarily what the people involved make of it. Of course, it should remain possible to theorize it, and to speak normatively of “degrees of forgiveness”. This is precisely what I will do here. What exactly are these main degrees (or categories) of forgiveness I am talking about?

Firstly, there is the basic category of mercy, which (in this classification) connotes an unconditional respect for human rights, but does not encompass “forgiveness” in the intersubjective, mutualist sense. The maxim “hate the sin, but love the sinner” has sometimes been employed in this approach, as it implies universal compassion while including a clear requirement to oppose evil acts. Therefore, it doesn't signify condonation, but the will to respond to the better instincts in human nature (both one's

own and the offender's), to open the door for the offender's transformation and rehabilitation, or at least to consistently oppose dehumanization. Under this approach, love (i.e. "agape" or "ahimsa," respect for the offender's *sentience* and concomitant human rights) replaces hate, but it might not entirely eradicate resentment, nor is this necessarily desirable. As the distinguished American pacifist Igal Roodenko stated: "I have to love everyone—thank God I don't have to like everyone."<sup>15</sup> This form of unconditional empathy and, accordingly, unconditional mercy, therefore implies the possibility (and, in cases of major abuses, the likelihood) of residual resentment, which probably tends to decrease in proportion to the degree of atonement by the offender. This approach also presupposes the willingness to grant the possibility of (at least some degree or form of) redemption. "However diabolical the act, it did not turn the perpetrator into a demon. We had to distinguish between the sinner and the sin, to hate and condemn the sin while being filled with compassion for the sinner."<sup>16</sup> Even in extremely rare cases where there is no shared humanity properly understood (e.g. the "endemic" case of the so-called "criminally insane"), there is no possibility for interpersonal forgiveness (as a communicative, bilateral process), but one fundamental commonality (even beyond basic shared moral fallibility) still remains as a basis for mercy—shared basic sentience. This also brings us to the issue of "radical evil." It would be frivolous to insist on the process and act of forgiveness (in this intersubjective, mutually interactive sense of the term) in cases of radical evil where little potential for exculpation and genuine remorse—let alone fully meaningful restitution—could be said to exist, like in the case of organizers and direct administrators of genocide such as Eichmann. However, the separate category of mercy remains applicable. It is an essential broader communicative act that violence and abuse are wrong, whichever side they come from. Mercy is expressed through the refusal to stoop to the perpetrators' level, remaining above the practice and ideology of hatred, victimization and violence. It is fully committed to the idea that "two wrongs don't make a right." In such extreme cases, some form of humane confinement (the terroristic, objectifying nature of what we call prisons prevents me from using that term, in order to avoid Orwellian rhetoric) might even perhaps encourage the perpetrators of such terrible mass crimes to repent (in some way), and might therefore strengthen our common belief in the possibility of human progress. Needless to say, such attempts to creatively erode *status quo* notions and institutions currently remain beyond the pale in mainstream criminology and mainstream public ideology.

The second category encompasses various degrees of the *intersubjective, mutualist* communicative process of "forgiveness." Intersubjective forgiveness is contingent on some sort of *atonement*—penance. This includes in some cases (usually in some accordance with the gravity of the offense), a longer-term offender's personal process of reform and longer-lasting restitution. The social and interpersonal significance of atonement for past wrongs has to do with its potentially beneficial effect for the victim's "closure" and recovery, as well as the offender's (re-)socialization. These victim-offender processes are highly conducive to the possibility of genuine forgiveness and reconciliation. Obviously, the South African Truth and Reconciliation Commission (TRC) couldn't have facilitated the offenders' atonement in all cases. Yet, an intensive parallel project of education and (re-)socialization would have been necessary if more genuine reconciliation and peace-building was to be achieved. It is, however, important

to acknowledge that while mercy, “low-level” forgiveness and even certain forms of atonement/restitution were partly envisaged within the framework of the TRC, the temporal quality of long-term personal reform and restitution made the fullest form of reconciliation clearly unattainable within the context of the TRC.

As it is proposed here, the concept of mercy is unconditional (simply by virtue of the offender’s *sentience*), and should extend above and beyond individual sentiments in order to function as (constitutionally mandated) public policy. On the other hand, as already indicated, the active, mutual, intersubjective process of forgiveness has to remain a personal choice. Society and social institutions can recommend certain outcomes, but these outcomes cannot be mandated. Interpersonal forgiveness might even be morally “obligatory” in certain cases, but it cannot be coerced, if it is to remain credible, psychologically authentic and in a voluntary contractarian context. Still, mercy/compassion and nonviolence imply moderation and control of resentment.

Equally so, the expected factors in the process of asking for forgiveness (such as apology, personal experience and expression of regret, commitment on the offender’s side to change, etc.) cannot authentically develop as a result of coercion (even if it is only verbal). In terms of the requirement of remorse, there is a danger of forcing insincere proclamations. Community service and other concrete forms of restitution therefore seem more substantial and constructive. Obviously, this need not be an either-or choice. Moreover, since social interpretations of right and wrong usually aren’t absolute (or permanent), and since the issue of *sentience* of the wrongdoer transcends the significance of evil deeds committed by the guilty party, it is important to ensure a broader basis on which a peacemaking practice can be built, which is where the concepts of mercy and consistent nonviolence remain central.

A brief comment on the common accusation that the TRC tried to impose a “religious morality” might also be useful here. Public discourse, conception of society and life are still largely mediated and expressed through theological narratives and symbolism in many countries, South Africa included. This does not *a priori* determine the legitimacy of the fundamental message. To give a rather apparent example, liberation theology has contributed far more to the progressive development of secular social realms than otherwise status quo secularists, or of course those who, while skeptical about religious interference in political affairs, sided with the forces of reaction. Besides, even non-believers can and often have drawn from “theologically informed political imagination.”<sup>17</sup> Certain motifs and expressions which are more common in widely disseminated theological accounts can be more politically effective than the often marginalized (and sometimes self-marginalizing, in the sense of rejecting appeals to emotions) progressive secular discourse. Restorative and transformative justice approaches employ common concepts like dignity, respect and mercy, which are a part of what Rawls called “public reason,” and are (or at least have the potential to be) intelligible to all citizens.<sup>18</sup> As a matter of fact, many cultures with different religious traditions employed notions and processes of “restorative justice”—like the Maori’s of New Zealand, the Judeo-Christian tradition, African traditions like *ubuntu*, the Japanese etc. Many of these restorative/transformative concepts can also be identified among many

Jains, Buddhists, Hindus (particularly through the notion of *ahimsa*), and have been advocated by numerous atheists, agnostics and secularists just as well. To give an example, one of the most prominent advocates of transformative non-repressive justice is the famous African-American Marxist Angela Davis. After all, it was the leading early twentieth century American socialist and (Christian) secularist Eugene V. Debs who famously stated: “*while there is a lower class, I am in it, and while there is a criminal element I am of it, and while there is a soul in prison, I am not free.*”<sup>19</sup>

In his novel *Resurrection*, which incandescently attacks the prison system and the penal principle, Tolstoy describes a common abolitionist path of reasoning: “Am I out of *my* mind because I see things that other people don't see, or are *they* out of *their* minds, the ones who are doing what I am seeing?”<sup>20</sup> Those of us who are in the minority regarding the issue of the globally vastly dominant (and indeed very *domineering*) mainstream “criminal justice” system tend to feel much more unprotected from this “religion of retribution,” both in its theological and secular forms and origins. In Ignatieff’s words, “(t)he chief obstacle in the path of reconciliation is the desire for revenge. (...) Reconciliation is difficult precisely because it must compete with the powerful alternative morality of violence.”<sup>21</sup> Emotional “reparation” or *closure* is socio-culturally mediated and produced; there is no single, “inherent” way to achieve closure, since there is no “unalterable,” vindictive human nature as we are often being led to believe (one need only compare practicing Quakers or Jains with the Taliban or US imperialists in order to observe the diversity of human “social nature”). Restorative/transformational justice challenges some of the basic, “self-explanatory” assumptions concerning morality and the functioning of society. It is a counter-hegemonic challenge to a fundamental aspect of contemporary social ideology, and to its powerful institutional manifestations.

### 3. The Positive Aspects Of The TRC Experience

...only a redeemed mankind receives the fullness of its past—which is to say, only for a redeemed mankind has its past become citable in all its moments.

Walter Benjamin <sup>(22)</sup>

In thinking about the TRC, it is important to understand the basic context in which it was formed, and in which it operated. It was largely a product of the fact that a decisive ANC (African National Congress) victory was impossible, since the defeated elites still wielded a lot of power, especially in terms of economic domination, social power (e.g. political strength, knowledge and technical expertise) and cultural influence. They controlled military, judicial and economic “corridors of power”, making successful criminal court proceedings unlikely. The National Party insisted on an amnesty agreement as a crucial basis for political settlement. There was also a danger that security forces might disrupt the 1994 elections. Furthermore, the ANC and other resistance fighters committed some horrible crimes as well, so the option of “punitive justice” (which could be called “the continuation of the civil war by other means”) was unattractive on all sides of the party-political spectrum. Not only would a conventional punitive response to human rights’ abuses have been of questionable moral value: there is sufficient reason to suspect it would have diminished the likelihood of political

stabilization and the cessation of armed hostilities, or the restoration of “minimal decency,” a bare minimum of agreement and stability.<sup>23</sup> “Without a minimal peace, no other values can exist.”<sup>24</sup> Furthermore, a conventional court approach would provide a weak starting point in terms of the potential for deeper social transformation. There is a need to avoid being corrupted by the use of violence, to break the cycle of violence. In more ways than one, a TRC-type process was required in the interest of peace.

More than other truth commissions in the past, the TRC was conceived in order to perform multiple tasks and carry multiple responsibilities (investigative, judicial, political, educational, even therapeutic, etc.). In terms of its “moral entrepreneurship,” it “promoted a more ambitious and expansive vision of justice” within the confines of a highly pragmatic political strategy.<sup>25</sup> This was a consequence of the TRC’s specific self-orientation more so than of the provisions given to it by parliament (which were mainly a result of political expediency). The locally intelligible concept of *ubuntu* (a communal understanding of justice, “humaneness”) played an important role in legitimizing the TRC’s agenda.

In contrast to the adversarial setting of criminal trials (e.g. aggressive cross-examinations etc.), the TRC conducted its proceedings through respectful listening to victims, rituals of acknowledgment, and the provision of (some) social and psychological support for victims. Ultimately, it gave agency and voice to victims much more than would be conceivable under the traditional trial system. Amnesty hearings have even been described as a “ritual of empowerment” for the victims.<sup>26</sup> A discussion on the expected therapeutic effect of sharing stories is beyond my ability here, but it seems safe to suggest that at least re-traumatization would have been more likely in the adversarial courtroom setting.<sup>27</sup> In the TRC process, both the perpetrators and the TRC officials tended to support victims’ stories. In fact, the requirement of full avowal as a precondition for amnesty reversed the motivation of offenders from concealment to truth telling. Trials after mass atrocities lead to only a small percentage of perpetrators charged, and an even smaller percentage of human rights’ violations processed. By reversing the motivation of offenders in favor of full avowal, the TRC managed to deliver verdicts on guilt relatively effectively. The requirement of full disclosure actually led to many more people being implicated in human rights’ abuses, leading to a fuller account of the crimes that were committed.<sup>28</sup> The TRC’s major achievement was to “reduce the number of lies that circulate unchallenged”.<sup>29</sup>

However, the requirement of full disclosure in order to qualify for amnesty is not the only, or necessarily the best, way to achieve disclosure. In any case, if this approach is to remain fully transformative and humane, the options shouldn’t be amnesty and retributive institutional abuse, but perhaps amnesty and/or the requirement of non-abusive forms of accountability and restitution (like community service) on the part of the wrongdoer. In fact, as far as serious human rights’ abuses are concerned, the requirement of restitution should remain even in cases of full disclosure (with stricter forms of restitution requirements being made in those cases where it was determined that full disclosure had not occurred). The TRC’s *Final Report* made a similar criticism of its mandate, asserting that some form of restitution needed to be included.<sup>30</sup> Truth and reconciliation

commissions should optimally include relatively “nonviolent” sanctions such as lustration, as well as forms of material restitution such as community service, individual reparations etc., more than purely verbal forms of restitution (at least in cases of grave atrocities). Howard Zehr rightly pointed out that the amnesty provision “breaks the crucial link between violation and obligation.”<sup>31</sup> A restorative/transformational approach might also include public trials for the worst offenders of human rights, as long as this more conventional procedural line did not preclude restorative practices (e.g. the victim’s agency in the course of the trial, possibility of actively participating in the construction of conciliation), and as long as relatively nonviolent, humane sanctions for those convicted were applied. Again, it is necessary to differentiate between mercy/moral decency backed by laws forbidding abuse in all its forms, and the interpersonal process of forgiveness. There are also different levels of forgiveness and reconciliation. Minimal political conciliation implies basic acceptance of the other and cessation of open hostilities (therefore it might occur without political forgiveness, and it is not necessarily between individuals), while a higher level of reconciliation implies a higher level of affirmation. In the TRC process, it appears that no one who was (rightly or falsely) accused ended up being “legally crushed,” whereas the traditional judicial system considers even false convictions a more-or-less unfortunate sacrifice (“collateral damage”) in the preservation of the system of criminal “justice.” Uniquely for truth commissions, an opportunity was given to perpetrators to explain their viewpoints and motives for committing the crime. This “dialogical” element wasn’t marginal, as it provided important insights into the basis of the conflict, in addition to its importance in avoiding reverse victimization, which increased chances that the offender would not resist resocialization and reintegration. Beyond establishing a factual account of human rights violations, the TRC was conceived in order to also establish certain post-apartheid social truths. This was the basis for the hope that it would no longer be possible for people to “indulge in their separate dynasties of denial.”<sup>32</sup> The TRC’s pursuit of truth might have at least created some necessary conditions for reconciliation. Truth commissions can help facilitate conciliatory developments although they alone cannot attain them.

#### **4. Major Limitations Of The TRC**

In order to build more authentic truth and reconciliation commissions in the future, it is also important to acknowledge the largely inauthentic, instrumentalist political foundations of the TRC project.

The political elites were invested in a presentation of the TRC as a model of restorative justice (largely conceived as a convenient “forgive and forget” affair which would essentially ensure perpetrators’ impunity) but only applied it to the case of the final conflict over apartheid, thus revealing that the project—at least as it was initially conceived by the elites—was a hypocritical manifestation of political expediency and shallow political instrumentalism. Furthermore, by restricting amnesty (or any other “restorative” approaches) only to cases of full disclosure and to narrowly-defined “political” crimes, the Promotion of National Unity and Reconciliation Act (which brought about the TRC) confirmed the narrowly political, inconsistent nature of the elite’s support for “restorative” approaches. In fact, a restorative justice approach would

especially make moral sense in contemporary South Africa, in the context of escalating levels of violence and the ongoing criminalization of black township youth (under conditions of disenfranchisement, poverty and oppression), its perpetuation mainly along racial and economic lines.

The somewhat sycophantic approach to the TRC's supposed "democratism" also needs to be challenged. Although its form was discussed through prolonged public debate and was subsequently established by the national parliament, as opposed to prior truth commissions in other countries, which were formed by executive decrees, the TRC was essentially the product of an agreement between political elites, rather than a genuine result of participatory democratic public deliberation. However, it is unfortunately very unlikely that a grassroots-driven process would have entailed much interest in a nonviolent approach to dealing with past violence.

The TRC process suffered from some other limitations also common to traditional trials—particularly the confines of positivist law, a legalistic paradigm/straitjacket which obstructs other avenues for conflict transformation and resolution, and which individualizes guilt and individualizes victims (despite the political responsibility of all those who didn't resist apartheid, and the victimization of entire communities). In the process, the TRC individualized both the guilt and the victims of apartheid, failing to highlight and address the structural nature of apartheid, and the structural nature of the required solutions. The TRC, therefore, clearly failed to fully underline the systematic multiplicity of oppression under apartheid, or to underline the understanding of apartheid as a racist, oligarchic and plutocratic system based on broad political, economic and social support for exploitative and racist policies and social structures. "The consequence was to narrow the TRC perspective to a *political* reconciliation between state agents and political activists, individual members of a fractured political elite, rather than the "national unity and reconciliation" mandated by the legislation that set it up."<sup>33</sup> Of course, primary blame still rests on the shoulders of lawmakers (the political elites) who largely defined the operational limits of the TRC's mandate. From this perspective, it is important to note that while the "criminal justice" format (i.e. concentration on individual perpetrators and punishment) might not have been politically feasible in the South African context, the imperatives of post-conflict stabilization cannot so easily serve as a viable justification for the failure to conduct TRC style "prosecutions" of major apartheid era decision-makers. In TRC's defense to some of these criticisms, one can point to its *Final Report*, in which the TRC appeared critical of some parts of its mandate (like the absence of restitution). The Report also stressed that reconciliation is a long-term goal that couldn't be achieved solely through the TRC, and openly called for reparations and economic redistribution, stating that "wide-ranging structural and institutional transformation" is needed.<sup>(34)</sup> Additionally, the TRC held hearings on the role and responsibility of certain professions and major institutions during apartheid. And yet, there were serious practical constraints on the extent to which the collectivization of guilt and moral responsibility *could* have been pursued. Fully autonomous new morality cannot be secured on the wobbly foundations of inconclusive, fragile hegemony. Social change is often a complex balancing act.

It is important to repeat that civilized, non-cruel legal sanctions/restitution remain reasonable for serious criminal offences in a truly civilized, nonviolent society. Yet, despite the need to devise (non-abusive) methods of holding human rights abusers accountable, no real accountability for the main perpetrators of apartheid crimes has been established, nor a full acknowledgment of apartheid's crimes and victims, especially considering the fact that "(r)oughly half of all violations recorded by the Commission are said to have occurred during the period of transition from apartheid (...) only 15% of the violations are said to have been committed in the heyday of apartheid."<sup>35</sup> The absurdity of this approach was illustrated by the fact that most instances of human rights violations that the Commission's Final Report recorded were cases of "black-on-black" violence (primarily between the African National Congress and the Inkatha Freedom Party) committed in the course of the liberation struggle. Mamdani's critique of the TRC's limited focus on civil law and the failure to give attention to customary law and customary authority in its work seems very pertinent. "(T)he Commission interpreted its otherwise broad mandate so narrowly (...) it focused wholly on the removal of constitutional limits to the exercise of state power, and not at all on the creation of a judicial structure that racialized and ethnicized the population into fundamentally *unequal* population groups."<sup>36</sup> The Commission's impoverished approach, especially its "tendency to dehistoricize and decontextualize social processes, and to individualize their outcomes,"<sup>37</sup> so lacking in communal and structural focus, couldn't adequately address deeper socio-economic structures based on inequality, exploitation and oppression. Both the ANC and the TRC operated with a narrow notion of democracy, which failed to acknowledge the desirability of certain elements of conflict in democratic politics, the conflict which is intrinsic to the pursuit of progressive over regressive or conservative interests. There is certainly an inevitable tension between the "preferential option for the oppressed" and the goal of social reconciliation with its principle of the universality of human rights. Ultimately, however, the task of establishing a democratic new hegemony necessitates both political wisdom and a morally "prefigurative" dimension of the struggle, the erection of new, higher moral standards – and new material realities – conducive to the establishment of a new kind of society. The TRC's conciliatory mission should have been dialectically integrated within a broader framework for structural social change and the expansion of participatory democratic public deliberation and socio-economic empowerment.

The quest for authentic social reconciliation required the collapse of racial and class boundaries. The failure to establish a truly just society and an egalitarian, nonviolent economy led to the perpetuation of social and economic apartheid within a new neoliberal context.

## **5. Abolition Democracy**

The TRC was "the most expensive truth commission in history."<sup>38</sup> Still, it dealt with a large number of atrocities in a far more efficient and quick way than traditional criminal trials ever could.<sup>39</sup> That said, the TRC could not provide the necessary social and mental health services for victims to deal with trauma. Neither did it address or replace the need for broad, democratic, human rights-oriented political (re)education. Its recommendations

to provide substantial reparations for the victims of apartheid never materialized. The double burden of racial and class oppression continues to exist. Deprivation and violence are mutually connected and self-perpetuating.

The importance of transformative justice in the creation of a truly democratic society remains mostly unknown. Firstly, in the process of locating individual responsibility, mainstream (status quo) penal approaches perpetuate fear, distrust, and an antagonistic backdrop to the pursuit of truth. Truth commissions and other transformative methods, on the other hand, are uniquely placed to move beyond trying to acquire just basic, factual truths (which are certainly necessary), toward also searching for a deeper understanding of violent human actions, oppressive social structures, ideologies etc. These are the kinds of social truths which traditional courts cannot fully grasp, and which the TRC only began to tentatively explore.

Furthermore, as previously elaborated, “criminal justice” depersonalizes both the victim and the perpetrator. It powerfully contributes to the extension of control, coercion and ideological indoctrination, authoritarian government and/or corporate encroachment, erosion of human rights and civil liberties, the reduction of resources for social services, health care, education etc.<sup>40</sup> Repressive social structures obstruct the fulfillment of human needs and “incarcerate” the potential for individual and social development.

Some radical approaches, such as the one employed by Angela Davis, nicely represent the anti-repressive, transformative justice perspective that rejects a system in which “democratic rights and liberties are defined in relation to what is denied to people in prison. (...) the physical and mental agonies produced on a daily basis in prisons (...) all over the world. This is a flawed conception of democracy.”<sup>41</sup> Numerous humanistic socialists share her desire to “urge people to think more deeply about the very powerful and profound extent to which such practices inform the kind of democracy we inhabit today.”<sup>42</sup> Imprisonment, and the prison-industrial complex in particular, as a suspension of basic civil and human rights, is a form of institutional totalitarianism within supposedly “democratic” societies. It is a form of structural—institutional and ideological—violence, a material and normative challenge to the institute of democratic citizenship. The vision of democratic citizenship proposed by democratic humanistic socialists is characterized by an egalitarian, humanist rejection of *all* forms of oppression. It implies the embracement of a universal new norm of human dignity and freedom from abuse as an inalienable right.

The counter-hegemonic quality of peacemaking justice reveals the semantic incoherence of the term “restorative” justice. Peacemaking, or “deep,” substantive, transformative justice is about positive social change and invention. The alternative to violence—which the TRC failed to adequately chart and project— would have to commence seriously with a radically new, radically substantive frame of thought. “In thinking specifically about the abolition of prisons using the approach of abolition democracy, we would propose the creation of an array of social institutions that would begin to solve the social problems that set people on the track to prison, thereby helping to render the prison obsolete.”<sup>43</sup> This innovation, material and cultural, presupposes an immense new social edifice. Yet

the TRC didn't manage to strongly advance the cultural or ideological aspects of this struggle, the formative tasks of education and (re-)socialization, and the related "educational" infrastructure to put these developments into motion. Let alone could it transform the rest of the institutional, political and economic framework.

The mission of humanistic transformative justice is to change the balance of forces in society in a way conducive to the development of a wider civic culture of peace and nonviolence, a new order based on new, non-abusive social institutions.

## 6. TRC's Promethean Spark

Eye for an eye makes the whole world blind

Mahatma Gandhi

South Africa failed to seriously move toward positive peace, toward an expansive understanding of human rights and democratic freedoms. Nonetheless, for all its serious limitations and inconsistencies, the TRC managed to offer a working, comparatively successful alternative to the dogmas of previous efforts to deal with violent past. It offered a potent counterpoint to apartheid politics, established discursive dominance of certain factual, as well as progressive social truths, advanced both the popularity and our experience of transformative justice, and affirmed the inviolability of certain basic human rights. In this sense, the South African Truth and Reconciliation Commission is a window into a future freed from the nightmare of violent objectification.

### Notes

1. Richard Quinney, *The Way of Peace: On Crime, Suffering, and Service*, in Harold E. Pepinsky and Richard Quinney (eds.), *Criminology as Peacemaking*, Indiana University Press, Bloomington and Indianapolis, 1991, p.12.
2. See for instance Mar Mauer and Meda Chesney-Lind (eds.), *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, The New Press, New York, 2003.
3. Desmond Tutu, *Where Is Now Thy God?*, Trinity Institute, New York, January 8, 1989, in Michael Battle, *Reconciliation: The Ubuntu Theology of Desmond Tutu*, Pilgrim Press, Cleveland, 1997, p.95.
4. Desmond Tutu, in Mark Gevisser, *The Ultimate Test of Faith*, Mail & Guardian, April 12, 1996, in Lyn S. Graybill, *Truth and Reconciliation in South Africa: Miracle or Model?*, Lynne Rienner Publishers, Boulder, United States, p.33.
5. John Mfuniselwa Bhengu, *Ubuntu: The Essence of Democracy*, Novalis Press, Cape Town, 1996, p.5.
6. Robert Nozick, *Philosophical Explanations*, Clarendon Press, Oxford, 1981, p.375.
7. *Ibid.*, p.379.
8. Gail Sullivan, *A Funny Thing Happened on the Way to the Revolution*, Aegis, quoted by Fay Honey Knopp, *Community Solutions to Sexual Violence: Feminist/Abolitionist Perspectives*, in Harold E. Pepinsky and Richard Quinney (eds.), *op.cit.*, p.187.

9. James Bontha, Rebecca Jesseman, Tanya Rugge and Robert Cormier, *Restorative Justice and Recidivism: Promises Made, Promises Kept?*, pp.108-120, in Denis Sullivan and Larry Tift (eds.), *Handbook of Restorative Justice*, Routledge, London and New York, 2008.
10. Lila Rucker, *Peacemaking in Prisons: A Process*, in Harold E. Pepinsky and Richard Quinney (eds.), *op.cit.*, p.172.
11. Hannah Arendt, *The Human Condition*, The University of Chicago Press, Chicago & London, p.237. Arendt herself believed both punishment and forgiveness can be useful in this respect.
12. Walter Benjamin, *Illuminations*, Fortuna Press, London, 1992, p. 254.
13. David Hume, *An Enquiry Concerning Human Understanding*, Cambridge University Press, Cambridge, 2007, p.165.
14. Thomas Paine, *Collected Writings, Shall Louis XVI. Have Respite?, Speech in the Convention*, January 19, 1793, The Library of America, 1995, p.389.
15. David McReynolds, *A Philosophy of Nonviolence*, The A.J. Muste Memorial Institute, New York, 1997, p. 30.
16. Desmond Tutu, *No Future Without Forgiveness*, Image, New York, 2004, p.84.
17. Elizabeth Kiss, *Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice*, p.87.
18. John Rawls, *Political Liberalism*, New York, 1993, pp. 213-254, in Elizabeth Kiss, *ibid.*, p. 86.
19. Eugene Debs, *Statement to the Court Upon Being Convicted of Violating the Sedition Act*, 1919, published online at:  
<http://www.marxists.org/archive/debs/works/1918/court.htm>.
20. Leo Tolstoy, *Resurrection*, Penguin Books, London, 2009, p. 471.
21. Michael Ignatieff, *The Warrior's Honor: Ethnic War and the Modern Conscience*, Metropolitan Books, New York, 1998, p.188.
22. Walter Benjamin, *Illuminations*, Fortuna Press, London, 1992, p. 246.
23. See Rajeev Bhargava, *Restoring Decency to Barbaric Societies*, in Robert I. Rothberg and Dennis Thompson (eds.), *Truth v. Justice: The Morality of Truth Commissions*, Princeton University Press, Princeton and Oxford, 2000.
24. Lyn S. Graybill, *op.cit.*, p.163.
25. Elizabeth Kiss, *Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice*, in Robert I. Rothberg and Dennis Thompson (eds.), *ibid.*, p. 69.
26. Graybill, *op.cit.*, p.85.
27. See for instance Pumla Gobodo-Madikizela, *Remorse, Forgiveness, and Rehumanisation: Stories from South Africa*, *Journal of Humanistic Psychology*, Vol. 42, No.1, Winter 2002, p. 11; Tom Winslow, *Reconciliation: The Road to Healing?*, Track Two, Vol. 6, No. 3&4, December 1997.
28. Elizabeth Kiss, *op.cit.*, pp.76-77.
29. Michael Ignatieff, *op.cit.*, p.173.
30. TRC, *Final Report*, I, chapter 5, paragraph 100.
31. Howard Zehr, *Restorative Justice: When Justice and Healing Go Together*, Track Two. 6(3&4), 1996, published online at [http://ccrweb.ccr.uct.ac.za/two/6\\_34/p20\\_restorative.html](http://ccrweb.ccr.uct.ac.za/two/6_34/p20_restorative.html).

32. Antjie Krog, *Country of My Skull*, Random House, Johannesburg, 1998, p. 86, in Graybill, *op.cit.*, p.86.
33. Mahmood Mamdani, *Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)*, Diacritics, Fall-Winter, 2002, p.34.
34. TRC, *Final Report*, 1, chapter 5, paragraph 26, 52.
35. Mahmood Mamdani, *op.cit.*, p.35.
36. *Ibid.*, p. 51.
37. *Ibid.*, p. 58.
38. Lyn S. Graybill, *Truth and Reconciliation in South Africa: Miracle or Model?*, Lynne Rienner Publishers, Boulder, United States, p.8.
39. *Ibid.*, p.68.
40. See for instance the July/August 2008 special issue of *Boston Review* dealing with the US prison system.
41. Angela Y. Davis, *Abolition Democracy: Beyond Empire, Prisons, and Torture*, Seven Stories Press, New York, 2005, pp.43-46.
42. *Ibid.*, p. 47.
43. *Ibid.*, p.96.

# PEACE STUDIES JOURNAL

Vol. 4, Issue 1  
January 2011

---

## **An Examination of Human Rights Violations in U.S. High Schools**

Laura L. Finley,  
Assistant Professor of Sociology & Criminology, Barry University  
11300 NE 2<sup>nd</sup> Ave  
Miami Shores, FL 33161  
305.899.3412  
[lfinley@mail.barry.edu](mailto:lfinley@mail.barry.edu)

---

## **AN EXAMINATION OF HUMAN RIGHTS VIOLATIONS IN U.S. HIGH SCHOOLS**

### **Abstract**

Although there has been more attention to human rights issues in the U.S. in recent years, little focus has been on the ways youth are denied their essential human rights. This paper focuses on U.S. high schools, describing how disciplinary policies, like zero tolerance laws, fail to respond appropriately and do not attempt to prevent harassment and abuse of lesbian, gay, bisexual, transgendered, and questioning (LGBTQ) students. School-based corporal punishment is in violation of international human rights agreements. The paper uses Eisler's (2000) framework of dominator and partnership models as well as Giroux's (2009a) critique of neoliberal education to explain these violations. It concludes by offering suggestions for an alternate educational approach.

Dear Teacher: I am a survivor of a concentration camp. My eyes saw what no man should witness: Gas chambers built by learned engineers. Children poisoned by educated physicians. So I am cautious of education. My request is: Help your students become human.

Haim Ginott (cited in Apsell, 2000)

### **1. Introduction**

Although sadly it was prompted largely by the atrocities committed by U.S. soldiers at Abu Ghraib and elsewhere, there has been increased attention to human rights violations perpetrated by the U.S. in recent years. Yet still the attention is too limited, and has tended to focus on actions overseas, not domestically (Bazon 2005; Conroy 2000; Goodman 2006; Sontag 2004). Domestically, however, human rights violations are occurring every day. Some scholars have recognized and described the link between cruel, unusual, and degrading treatment of prisoners overseas and practices and conditions in U.S. prisons (Conroy 2000; Finley 2009; Franklin n.d; Goodman 2006; Lomax 2005; Marx & Wood 2004). As has been well documented, those most vulnerable to human rights abuses are people with little social power (Conroy 2000; Finley 2009). One of these groups is U.S. high school students, who are required by law to attend school until age 16. Almost no attention has been paid to the human rights abuses faced by public school students as they seek to attain education.

The right to attain education is considered a fundamental human right. What also must be considered, however, is the quality of that education and the environment in which it is provided. In many cases, the educational environment students endure is horrendous. Violations of basic human rights occur daily in U.S. high schools. Lesbian, Gay, Bisexual, Transgendered, and Questioning (LGBTQ) students face harassment and abuse from both students and staff; punitive disciplinary policies push out already marginalized students; and in 21 states it is still legal for educators to beat students who misbehave. Failure to prevent or adequately respond to dating violence, use of invasive search techniques, and inadequate attention to sexual harassment are among the abuses (Finley 2006). For instance, Human Rights Watch found that 83 percent of girls in 8<sup>th</sup> through 11<sup>th</sup> grade had experienced some form of sexual harassment in public schools (Safe Schools: Every Girls' Right 2008). Keys to Safer Schools (2007), a non-profit, identified eighteen instances of sexually abusive behavior against public school students in just one ten-day stretch of 2007. The report noted, "If girls are not protected from physical, psychological and sexual violence, the effect is to undermine their right to education..."(3).

One of the primary reasons for the dearth of focus on human rights violations in U.S. public high schools is connected to the justifications made by those in control of educational systems. Zero tolerance laws and corporal punishment, for instance, are all perpetrated by well-meaning educators who do so "for their own good" (Miller 2002). That is, administrators and politicians say this "benevolent abuse" is to be enacted and implemented as a means to ensure a safe educational climate. This has been particularly true after the 1999 Columbine massacre. Educators, with the support of parents (generally) enacted repressive policies out of fear. In reality, juvenile crime and school crime have been decreasing in the U.S. for a decade (CDC 2004; LeTendre, Baker, & Akiba 2005), yet fear of school violence did not decrease. Much of the fear is manufactured, and this irrational fear has led to the imposition of some inappropriate and detrimental policies and programs directed at youth. Fischlin and Nandorfy (2006) commented that, "Manufactured fear...compromise(s) the rights of innocents and do(es) so in ways that beg the question of how responses to rights abuses can themselves

become abusive, how responses that further spiral into cycles of violence that altogether ignore root causes are themselves a severe threat to global rights” (149). Similarly, Lindle (2008) noted, “fear often drives people into rash decisions and wrong-headed policies that may exacerbate conditions and that certainly offer unintended consequences” (33). Hirschfield (2008) explained that this manufactured fear has prompted an overall trend of school criminalization since the 1990s. This type of criminalization, is not just real but symbolic, as in the frequent use of criminalized metaphors to describe students, schools, and teaching. For instance, teachers speak of teaching as “being in the trenches” while many students can provide a litany of examples of how schools are like prisons. “Rule-breaking and trouble-making students are more likely to be defined as criminals—symbolically, if not legally—and treated as such in policy and practice” (Hirschfield 2008: 80). As Giroux (2009c) noted, the result of these fear-based policies is that youth are increasingly victim to adult indifference, at best, and at worst, mistreatment and abuse.

As was clear with the situation in Abu Ghraib prison, these violations cannot be chalked up to a few bad apples in our school systems. Rather, human rights violations are part of structures, processes and policies enacted in schools. In her book *Tomorrow's Children*, Eisler (2000) elaborated on the dominator model and documented how it has influenced the educational system in the U.S. The dominator model is characterized by four core elements: an authoritarian structure, male dominance, high levels of fear, and systems of belief that “make this kind of structure seem normal and right” (4). It is, in essence, a militaristic model (Finley 2003). Ideologically, the dominator model is not only accepted as the way things are done, but also as the *only way* things can be done. Similar to Eisler, Garland (2001) referred to the treatment of youth (in both the UK and the US) as a “hegemonic culture of control.” The Human Rights Watch report on violence against school girls noted earlier made the point that “Schools are marked by asymmetrical power relations: teachers are supposed to regulate children’s behavior; administrators are supposed to make rules and hand out punishments; older students are role models for younger students. Abusive teachers and school employees are able to exploit these asymmetrical relations, as are older students” (Safe Schools: Every Girl’s Right 2009: 10). In this dominator-focused system, educators have abdicated their job for teaching “the whole child.” Instead, they are increasingly using dominator teaching methods in the classroom—what Freire (1972) called “banking education”—and allowing administrators and even law enforcement officers to police students’ bodies (Finley 2006; Giroux, 2009a, 2009b, 2009c, 2009d). As Giroux (2009c) put it, “the punishing state has divested itself of any moral responsibility with regard to those human beings who, in the logic of free-market fundamentalism, are considered either as commodities or as waste products...”

This paper begins with a brief history of human rights and an outline of the international human rights agreements relevant to high school students in the U.S. It next elaborates on each the above-listed types of violations. This is framed by Eisler’s concept of dominator versus partnership models and Giroux’s critique of neoliberal schools, which can help explain why these human rights violations occur. Eisler’s work also illustrates the possibility of partnership models in high schools. Ultimately, awareness and advocacy for

educational restructuring will result in greater human rights for everyone, including high school students. As Jingsheng (2000: 44) explained, “Discussion of the issue of human rights and international cooperation on human rights is not merely an academic exercise, but is essential to the protection of human rights. If we are not able to exert pressure from within and without regarding various human rights issues, then we will have little means to safeguard human rights.”

## **2. Literature Review: International Human Rights**

### **A. Brief History of Human Rights Development**

First, it is imperative to outline what is meant by the term human rights. Henkin (2000: 5) explained, “The human rights idea declares that every human being, in every political society, has ‘rights’: recognized, legitimate claims upon his or her society to specific freedoms and other goods and benefits. They are claims ‘as of right,’ not by grace, or love, or charity, or compassion: claims that society is morally, politically, even legally obligated to respect, ensure, and realize.”

Although some of the earliest discussions of human rights emphasized that they “apply to all,” “...those who so confidently declared rights to be universal in the late eighteenth century turned out to have something much less all-inclusive in mind” (Hunt 2007: 18). Individuals with human rights had to be capable of developing empathy and respect for the boundaries of each others’ bodies. Further, they were to be able to exercise independent moral judgment (Hunt 2007). Yet, “In the eighteenth century (and indeed, right up to the present), all ‘people’ were not imagined as equally capable of moral autonomy. Two related but distinct qualities were involved: the ability to reason and the independence to decide for oneself. Both had to be present if an individual was to be morally autonomous” (Hunt 2007: 28). Children, the insane, slaves, servants, those without property, and women were thought to be incapable of the ability to reason, nor were they autonomous individuals (Hunt 2007).

### **B. The Universal Declaration of Human Rights**

The Universal Declaration of Human Rights (UDHR) of 1948 was the first international agreement specifically outlining the basic human rights of all individuals. It emphasized the inherent dignity and inalienable rights held by all humans. These are the necessary foundation of freedom, justice, and peace. Among many basic human rights, all humans are entitled to live free of discrimination and are to be guaranteed equal protection under the law. No one can be subject to arbitrary interferences with their personal privacy. Article 18 states that all humans have the basic right to free thought, conscience, and religion, and Article 19 guarantees freedom of expression and opinion. All persons have the right to an education, according to Article 26.

### **C. International Agreements Relevant to Children and Youth**

Children are specifically mentioned in the Geneva Conventions, the Declaration of the Rights of the Child of 1924, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Rights of the Child (UNCRC). The UNCRC, which was adopted by the United Nations General Assembly in 1989 and entered into force as international law in 1990, specifically addressed the human rights of children and youth for those countries that ratified it. It specifies, among other things, the right to freedom of thought, conscience, and religion, and the right to free opinion and expression, including the receipt of impartial information and ideas. It also guarantees freedom from arbitrary intrusions on privacy and guarantees due protection of the law when this occurs.

Article 3 of the UNCRC provides that the best interests of the child should be a primary consideration in all actions, courts and law, which echoes other international human rights instruments (Goldson & Muncie 2006). Article 19 directs all ratifying states to provide any appropriate legislative, social and educational measures necessary to protect children from mental and physical violence, injury, or abuse, neglect, negligent treatment, maltreatment, or exploitation. Article 26 provides for the right to an education that is free and compulsory, among other qualities. Paragraph 2 states that the right to education is to be “directed to the full development of the human personality” (Morsink 1999: 212). Article 37 prohibits cruel, inhuman, and degrading treatment. The UNCRC specifies these protections regardless of race, color, gender, language, politics, origin, ability, or other status. At its essence, the UNCRC specified that children’s rights are human rights—they are not something special but rather the very same fundamental guarantees offered to all humans, and are requisite for the development of the child (Pais 2000). “In light of the Convention on the Rights of the Child, children are no longer envisaged as mere recipients of services or beneficiaries of protective measures. Rather, they are subjects of rights and participants in actions affecting them. They need to be respected in their individuality and in their evolving capacity to influence decisions relevant to their lives.” (Pais 2000: 132-133).

As of now, the U.S. stands with Somalia as members of the UN, but as countries that have not ratified the UNCRC. 193 other countries have done so, making it the most widely adopted of all international human rights conventions. Former U.S. President and human rights activist Jimmy Carter (2000) explained, “Somalia can explain its refusal by pointing to the fact that it lacks a working government, but the United States has a much more difficult task explaining its stance. Some American critics of the Convention on the Rights of the Child misinterpret the document, worrying, for instance, that it undermines parental rights, when, in fact, it repeatedly emphasizes the primacy of the role and authority of parents” (57). Others have noted that the U.S. has not become party to the UNCRC because it would require dramatic overhaul of some of our major institutions that deal with youth, including juvenile justice and schools (Roth 2000). At the time the UNCRC was proposed, the U.S. still executed juveniles, although it no longer does so.

Clearly, children were among the last groups to receive protections from a specific treaty. Fischlin and Nandorfy (2006) explained, “This long delay may be due to the fact that

abuse suffered by children can be interpreted as directed at other aspects of their identities like gender, ethnicity, poverty, and so forth. In Western societies, children are seen as symbiotically attached to their parents, especially mothers, and therefore only recently have their rights been considered as specific” (108-109).

#### D. International Human Rights History Relevant to LGBTQ Persons

Another group that did not receive specific international human rights recognition until recently is LGBTQ persons. “Over the past fifty years, sexual orientation issues have gone from being a topic discussed in embarrassed whispers in the halls of the United Nations to being recognized as a legitimate agenda item for its human rights mechanisms” (Dorf 2000: 229). Yet every day murders, incarcerations, and other infringements on the fundamental liberties of LGBTQ persons violate these basic human rights protections. Further, according to Dorf (2000: 229), “The attention given to these issues by the mechanisms in existence within the United States has been limited.”

The United Nations first addressed the issue of sexual orientation in 1987. The Economic and Social Council (ECOSOC) asked the UN Sub-Commission on the Prevention of Discrimination of Minorities to produce a report on the legal and social problems faced by sexual minorities. Unfortunately:

The report was a dismal and insensitive failure, marked by ignorance about the individuals and communities which were its focus... it claimed, for example, that ‘there would be fewer lesbians if men were able to be more affectionate, attentive and tactful.’ It displayed further fixation on theories of how to reduce homosexuality, rather than how to protect gays and lesbians from discrimination, by claiming that there would be fewer homosexual men ‘if men did not feel called on by the social model to achieve an exceptionally high level of sexual performance with their female partners’ (Dorf 2000: 230).

The UN did not formally address the subject until the 1990s. The UN High Commissioner for Refugees (UNHCR) began to issue opinions on political asylum cases in which people were fleeing persecution based on their sexual orientation in 1993. In 1994, the Human Rights Committee (HRC) interpreted the ICCPR’s provisions on privacy and non-discrimination to protect the rights of individuals to engage in sexual activity with same sex partners. The 1995 World Conference on Women In Beijing was the first time sexual orientation was included in an official conference document (Dorf 2000). Yet it is clear that every article contained in the UDHR is intended to apply to all individuals in society. “This would obviously include lesbians, gay men, bisexuals, transgendered individuals, and anyone else who engages in private, consensual, adult sexual activities” (Dorf 2000: 233).

#### E. Criticisms of the U.S

Many scholars, as well as leaders of NGOs and even other national leaders, have criticized the U.S. for its positions on human rights.

The United States has come kicking and screaming into the modern world of international human rights treaties. Originally an active participant in the drafting process undertaken by the Commission on Human Rights in the late 1940s, the United States did a sudden about-face when Secretary of State Dulles announced, in 1953, that our country did not intend to ratify international human rights treaties. Despite attempts by some presidents, notably Kennedy and Carter, to reverse the policy, U.S. aloofness from the treaties continued until the late 1980s, when the Convention on the Prevention and Punishment of the Crime of Genocide was ratified (Schabas 2000: 110).

In sum, the U.S. record on human rights is a mixed bag. “The United States has been a major influence in the spread of the human rights ideology and a principal contributor to the international human rights movement,” but at the same time, “The United States has been widely—and not unjustly—criticized for crucial failures to support and participate in international human rights. The United States, it has been said, has not been a pillar of the human rights church, but only a flying buttress that supports it from the outside.” (Henkin 2000: 18). By subscribing to the UN Charter, to the UDHR, and to other international agreements and treaties, the United States supposedly made a commitment to promote respect for human rights. This is “not just international human rights for others, and not just when it did not cost the United States much to do so” (Henkin 2000:18-19).

The U.S. did go on to ratify the ICCPR, the International Covenant for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), and the International Convention for the Prevention of All Forms of Racial Discrimination (ICERD), but refused to ratify the Convention for the Elimination of Discrimination Against Women (CEDAW) and, as noted, the Convention on the Rights of the Child. Of those treaties the U.S. did ratify, the trend was to make major reservations, interpretive declarations, and other provisos. Some countries and regions, including the European Union, interpret this as a statement of U.S. arrogance. It is perceived as a rebuff to the concept that the U.S. can learn from other countries, and as a means of protecting ourselves from international accountability for questionable practices (Roth 2000). Other countries have and do make such reservations, but the U.S. stands out (Schabas 2000).

### **3. Human Rights Violations in U.S. High Schools**

#### **A. Treatment of LGBTQ Students in Schools**

The following statistics and examples highlight violations of many of the provisions of the UDHR, the ICCPR, and other international agreements and treaties in regard to the basic human rights of LGBTQ persons in U.S. high schools.

The National School Climate Study is the only national study to specifically focus on conditions at school as perceived by LGBTQ students. First conducted in 1999, the 2005 version included 1732 students ages 13-20. It found 75.4% hear the words “faggot” or

“dyke” frequently, and 89.2% hear comments like “you’re gay,” or “that’s so gay” frequently. These comments are typically made when faculty and staff are not present, but when they are around, only 16.5% of the sample said they intervened frequently. Students said staff are less likely to intervene when they hear this type of remark than when they hear racist or sexist comments. 18.6% of the sample said staff also made this type of remark. Verbal harassment is very common, with 64.1% of students saying they are harassed at least some of the time due to their sexual orientation and 45.5% due to their expressed gender. While less common than verbal forms of harassment, physical harassment is by no means rare. 37.8% of students said they were physically harassed due to sexual orientation and 26.1% due to expressed gender. 17.6% were physically assaulted due to sexual orientation and 11.8% due to expressed gender. 41.2% of the sample said the harassment followed them into the cyberworld. A majority of the sample never reported the harassment, either to a school authority or to a parent or guardian (Kosciw & Diaz 2006).

The impact of this abuse and harassment is tremendous. Of the sample, 74.2% said they feel unsafe at school, 28.9% skip at least one day per month because they feel unsafe. They are three times more likely to skip school if the harassment is physical and five times more likely to do so than the general population. LGBTQ students in this sample were two times less likely to go to college or even complete high school, and students who are more frequently harassed have lower GPAs. Although some schools have policies prohibiting harassment (22.2% of students said their school had this specific to sexual orientation, 10% specific to expressed gender), there is still much more needed in this area. One promising note is that more schools have Gay Straight Alliances (GSAs) than in previous surveys (42.2%). GSAs have been demonstrated to make LGBTQ students feel safer (Kosciw & Diaz 2006). According to GLSEN, there are approximately 4,000 GSAs across the country, with 155 in Florida. In July 2008, a federal judge ordered Okeechobee High School to allow a GSA. The judge ruled that GSAs do not interfere with abstinence-only education, and that schools have a responsibility to take into account the well-being of students who are not heterosexual (Presgraves 2008).

Few schools offer in-class discussion of issues relevant to LGBTQ students (81.7% said their school did not), and many schools use abstinence-only curricula in sexual education that have been shown to be harmful to LGBTQ students (44.6% of schools use this). It has been difficult for schools to opt for comprehensive sexual education, given that the Bush administration tied federal funding to the teaching of abstinence-only (Kosciw & Diaz 2006).

Another 2005 study, conducted by Harris Interactive and commissioned by GLSEN, involved surveys and interviews with teachers and students. Detailed in a report called, *From teasing to torment: School climate in America*, the study found harassment or abuse to be commonplace in schools, especially for LGBTQ students. Two-thirds of teens reported being verbally or physically harassed or assaulted during the past year due to their real or perceived sexual orientation, gender expression, race/ethnicity, gender, disability, religion, or appearance. Half the students reported that sexist or homophobic comments were common, and seventy percent regularly heard the phrases, “You’re so

gay,” or “That’s gay.” A student’s appearance—the way they look or their body size—was the number one reason for harassment, followed by the student’s real or perceived sexual orientation. LGBTQ students were far more likely to report feeling unsafe at school (20% versus 6% of the general population). Two-thirds of LGBTQ students reported being harassed due to their sexual orientation in the last year, 16% had been physically harassed, and 8% were physically assaulted. LGBTQ students in this study were less likely to report harassment than are other students, most often because they believed teachers or staff were powerless to change the situation (GLSEN 2005).

A 2007 study, conducted by Harris Interactive on behalf of GLSEN, found that while half of principals view school bullying as a major problem, they often underestimate the amount and impact of bullying against LGBTQ students. Only 21% of the 1,580 K-12 principals surveyed said bullying based on gender expression or real or perceived sexual orientation occurred at their schools “often” or “very often.” Yet previous research has found that 90% of LGBTQ students are bullied in schools. Twenty-nine percent of the principals rated their staff as “fair” or “poor” in regard to their ability to fairly and appropriately respond if a student is being harassed due to their sexual orientation (Renna 2008).

Although the statistics listed above are sickening, individual cases sometimes make it easier to understand the problem. In spring of 2007, a high school female in Ponce De Leon, Florida told her principal she was being harassed by classmates because she is a lesbian. His response was to tell her homosexuality was a sin, to tell her parents she was gay, and to tell her to stay away from the students who were bothering her. The ACLU filed a suit against Principal David Davis, who was demoted. Judge Richard Smoak of the United States District Court, Northern District of Florida, Panama City Division also mandated that school personnel attend sensitivity training. The district was also ordered to pay \$325,000 in ACLU attorney fees. During the trial, evidence documented that Davis went so far as to raise the shirts of young girls so as to ensure they had not written “Gay Pride” or any similar gesture of support on their bodies (Principal’s outing of gay student... 2008).

In the worst cases, LGBTQ students are murdered because of their sexual orientation. In early 2008, 8<sup>th</sup> grade student Lawrence King was murdered by a classmate inside the Oxnard, California junior high school computer lab, just weeks after he had publicly announced he was gay. King had been tormented by classmates because he sometimes wore women’s clothing to school. Such treatment is commonplace in California schools; A 2005 California Healthy Kids survey found seventh grade students are 50 percent more likely to be harassed by peers because of their gender or sexual orientation than were 11<sup>th</sup> grade students (Cathcart 2008).

A major part of the problem is that teachers are unprepared to affirm and address the needs of LGBTQ students. This has been well-documented. Teacher-preparatory programs often ignore LGBT issues (Athanases & Larabee 2003; Blackburn & Donelson 2004; Kosik-Razabal & Macgillivray 2000; Letts 2002; Macgillivray 2004; Petrovic 1998; Sherwin & Jennings 2006).). The failure to prevent abuse, including not teaching

future educators to respond when abuse occurs, is in violation of the international guarantee to a safe education.

## B. Harmful and Racially Discriminatory Punishments

That school was run more like a prison than a high school. It doesn't have to be nothing illegal about it. But you're getting arrested. No regard for if a college going to accept you with this record. No regard for none of that, because you're not expected to leave this school and go to college. You're not expected to do anything" J.W., former inner city high school student and current maximum security prison inmate (cited in Hirschfield 2008: 79).

In recent years, teachers and administrators in U.S. public high schools have largely relied on three security-related interventions to address the potential for student misbehavior: surveillance, achieved through use of closed-circuit cameras, locker searches, drug-sniffing dogs, drug-testing, and ID badges; use of School Resource Officers (SROs); and expanded use of punishments (Kupchik & Ellis 2008). The latter includes adding offenses that are punishable as well as increasing the frequency of application of the punishment and making the punishments more severe. Most notably, schools have relied on zero-tolerance policies. Zero tolerance laws, which emerged from the 1994 Safe and Gun Free Schools Act, authorize specific punishments, typically suspensions and expulsions, whenever certain offenses occur. "School punishment is increasingly based on uniform procedural and disciplinary guidelines evolving around the nature of the offense rather than the discretion of teachers and other traditional disciplinary agents" (Hirschfield 2008: 81). This trend toward uniformity mirrors movements documented by Feld (1999) in the juvenile justice system. Allegedly uniform responses, which are anything but uniformly applied, have expanded use of suspension and expulsion, which is "a symbolic form of criminalization, irrespective of whether it follows strict penal guidelines or the whims of authorities" (Hirschfield 2008: 82). School policing is the fastest growing form of law enforcement, and "Among preventive practices, metal detectors and personal searches seem the clearest indicators of criminalization since they define students as criminal suspects" (Hirschfield 2008: 82).

Most often, both real and symbolic criminalization can be seen in urban schools with majority minority populations (Devine 1996; Wacquant 2001). Urban schools more often feature detectors and heavy gates, walls, and barricades (Devine 1996). Research spanning three decades has clearly documented the overrepresentation of African American students in suspensions and expulsions (Casella 2003; Casella 2001; Children's Defense Fund 1975; Ferguson 2000; Skiba, Michael, Nardo, & Peterson 2000). Johnson, Arumi and Ott (2006) reported the results of a nationally representative study conducted by Education Insights at Public Agenda in which 19% of White students, 26% of Hispanic students, and 33% of Black students reported that their school is not consistent in applying discipline. In 2001, the American Bar Association (ABA) voted to abolish the use of zero tolerance laws in schools based on their lack of effectiveness and discriminatory application. It is a fear of loss of control in the classroom, coupled with the fear of the "other," that accounts for this practice, what Giroux (2009a) called a

“human waste management system” (Casella 2003; Casella 2001; Fennin & Rose 2007; Noguera 1995).

In her analysis of discursive practices used by teachers in regard to school violence, Solomon (2006) found that most used traditional definitions of violence (that it is excessive use of physical force), and explained that most physical violence by students was not excessive but rather involved “fooling around.” Giroux (2009c) told the story of Porsche, a fourth-grade student from Philadelphia who, in December 2004, was yanked from her class and taken in handcuffs to the police station, where she was held for eight hours because she brought some scissors to school for a project. These policies completely ignore verbal, symbolic, and structural violence, making it difficult if not impossible for educators to define their own actions or those taken by the school as an institution as violent. Fine, Burns, Payne, and Torre (2004) found that students in California believe that educators perceive them as “animals,” “inmates,” or “killers.” African American students are often viewed as unsalvageable, according to Ferguson (2000). Hemmings (2002) found that teachers and students had quite different understandings of control, power, and respect, and that this dissonance played a role in the assigning of and perception of disciplinary practices.

Again, individual cases highlight the problem. In May of 2009, parents of nine African American students filed suit in Alabama, saying their children were harassed by teachers, called “niggers,” “filthy trash,” and told they would not be allowed to run around the school “like a bunch of wild animals.” These students had been suspended for multiple days for offenses like not having their shirts tucked in properly, not wearing a belt or wearing the wrong kind of belt, and wearing the wrong color undershirt. The staff at the school used corporal punishment against the students when they ran in the halls or talked in class, and when their parents complained, they received more punishment. The parents were also banned from school and threatened with arrest for complaining. Since the school board in that district prohibits public speaking related to racial discrimination at their meetings, the parents have had trouble bringing the issue to the public’s attention (ACLU lawsuit challenges racial discrimination... 2008).

On May 20, 2009, Marshawn Pitts, a 15-year-old African-American special needs student, was walking down the hallway of his school in Dolton, Illinois when a school police officer noticed his shirt was untucked. The officer began shouting at Pitts, who immediately started to tuck his shirt in. Not fast enough, however, as the officer pushed Pitts into a locker, punched him repeatedly in the face, then slammed him to the ground and pushed his face into the floor. While Pitts lay on the floor, the officer held him in a hold position that has been banned in eight states because it has resulted in more than twenty deaths. Pitts was left with a broken nose and a bruised jaw. He and his classmates were left confused, scared, and angry. The entire incident was captured on school video cameras and has been uploaded on Youtube. Pitts was not carrying a weapon, nor did he in any way threaten anyone (Giroux 2009a). Giroux (2009a) commented that this incident could not be explained away as the failure of one mentally unstable individual. Rather, “The brutalizing behavior exhibited by this unhinged police officer would be better understood as symptomatic of a set of larger forces in American society that are

increasingly defining kids through a youth crime complex that touches almost every aspect of their lives—extending from the streets they walk on to the schools and community centers in which they spend most of their time.”

Other high profile cases, like the 1999 Decatur 7, in which seven African-American males were expelled for fighting, and the Jena 6, in which six African-American males were criminally charged for beating a white male after the hanging of nooses at the local school, further highlight the racial divide. One of the consequences of these racially discriminatory policies is what has been called the “school to prison pipeline” (Giroux, 2009a; NAACP Legal Defense and Educational Fund, Inc. n.d.). Between 2000 and 2004, the Denver Public School System saw a 71 percent increase in the number of students referred to law enforcement, with many of the referrals for nonviolent offenses. Some schools, like those in the Palm Beach County (Florida) system, have created their own police forces (Giroux 2009c).

The pipeline begins with inadequate resources and segregated schools—schools today are more segregated than when Martin Luther King, Jr. was alive, according to Kozol (2005). These inadequate schools cause kids to disengage and make dropping out more likely. Street (2005) noted that half of the nation’s black male high school dropouts would be incarcerated at some point in their lives. Policies like No Child Left Behind, known to critics as “No Child’s Behind Left,” exacerbate the situation, as they provide incentives for schools to push out “problem” children in order to boost test scores (Kohn 2004). Giroux (2009d) explained that today’s schools, especially those populated largely by poor and minority youth, “are largely viewed as either testing centers where young people are simply bored into passivity or submission, or they are modeled after prisons...in short, if you are a poor black, brown or white kid, you are not considered a student or a productive citizen, but a potential criminal.”

Extreme measures, like zero tolerance laws and school searches, often exacerbate risks, and segregation and exclusion of students many times increases alienation, hence also the risk of violent behavior (Brady 2002; Hanson 2005; Lindle 2008; Lintott 2004; Watts & Erevelle 2004). Giroux (2009d) explained administrators today often “confuse management with leadership,” and, “instead of investing in disadvantaged youth, American society now punishes them.” Not only are they ineffective, then, but because of their discriminatory impact that leaves students of color with unequal opportunity to attain the education guaranteed to them, these policies are in violation of students’ fundamental human rights. Certainly these policies and practices violate the spirit of the agreements that mandate educational opportunity for all, regardless of race, gender, and other factors.

### C. School-Based Corporal Punishment

On August 18, 2003, 10-year-old Tim L. started the fifth grade at his public elementary school in rural east Texas. On the fourth day of school, Tim refused to run in gym class because he did not have his asthma medication. When the gym coach confronted him, Tim said, “coach sucks.” The coach then took a wooden

paddle and beat Tim severely on the buttocks. Faye L., Tim's mother, reported, "There was blood in his underpants.... I had to pull the underwear off his behind from the dried blood (Amnesty International 2008: 1).

When Tim's mother sought legal recourse, not only did authorities attempt to dissuade her, but also she met a dead end because of the legal immunity of public school teachers (A Violent Education 2008). Like police officers, educators generally have qualified immunity, which protects them from liability when using disciplinary discretion (Hyman & Snook 1999).

One hundred and six nations across the globe outlaw corporal punishment in schools, including the UK, which did so following a ruling by the European Court of Human Rights. In the U.S., however, 21 states allow corporal punishment in schools, although the practice is prohibited in most juvenile detention centers and foster care settings (A Violent Education 2008).

According to the Office for Civil Rights at the US Department of Education (cited in A Violent Education 2008), 223,190 students in schools from across the nation received corporal punishment at least once in the 2006-2007 school year, including 49,197 students in Texas alone, the largest number of any state. In Mississippi, 7.5 percent of public school students were paddled during this period, the highest percentage in the nation. The actual numbers almost surely are higher: Human Rights Watch interviewees reported that corporal punishment is often administered in a chaotic environment in which many instances of the practice are not recorded. One administrator reported that 37 students in a single day were sent to his office for corporal punishment. A high school student in another district estimated that as many as 60 students a day are paddled at her school. Several superintendents and district spokespersons admitted that they used corporal punishment far more often than they report (A Violent Education 2008).

Corporal punishment may take many forms, although paddling is the most common. Students can be physically punished for a wide range of misbehavior, including minor infractions such as chewing gum, being late, sleeping in class, talking back to a teacher, violating the dress code, or going to the bathroom without permission. In one school (location undisclosed), teachers are told they must lock their classroom doors when the school bell rings. The principal, as he walks by, then paddles students who are standing outside because they are late. In almost every situation, students could be paddled for vague offenses like "disrespect" (A Violent Education 2008; Hyman & Snook 1999).

Even students who are not punished find themselves in a hostile, violent environment designed to instill fear. One student reported that "licks would be so loud and hard you could hear it through the walls." A teacher reported that a principal turned on the loud speaker while paddling a student: "It was on the intercom in every class in the school.... He was trying to send a message ... [l]ike, 'you could be next'" (A Violent Education 2008).

Paddling students demeans them and degrades the relationship between students and educators. It also teaches students that violence is an appropriate response to school misbehavior. One mother interviewed by Human Rights Watch expressed concern that corporal punishment may legitimize domestic violence. One mother observed: “What are we teaching our young women when a school principal can swat . . . on the behind? We’re saying that it’s okay for a man to beat a woman . . . [that’s] something we don’t want in our families” (A Violent Education 2008).

Like zero tolerance laws, corporal punishment in the US disproportionately affects African-American students, and in some areas, Native American students. In the 2006-2007 school year, African-American students made up 17.1 percent of the nationwide student population, but 35.6 percent of those paddled. In the same year, in the 13 states with the highest rates of paddling, 1.4 times as many African-American students were paddled, as might be expected given their percentage of the student population. Although girls of all races were paddled less than boys, African-American girls were nonetheless physically punished at more than twice the rate of their white counterparts in those 13 states during this time period. Boys are more likely than girls to face physical punishments. According to the OCR data from 2006-07 school year, boys made up 78.3% of students who were paddled (A Violent Education 2008). The paddling of girls, however, brings up additional issues of sexual harassment, as many times the authorities administering the punishment are males (Green, Butt, & King 2002; Hyman & Snook 1999).

Special education students—students with mental or physical disabilities—also receive corporal punishment at disproportionate rates. For instance, in Texas, the number of special education students who were beaten in the 2006-2007 school year amounted to 18.4 percent of the total number of students who received corporal punishment statewide. However, special education students made up only 10.7 percent of the Texas student population, meaning almost twice as many were beaten as might be expected. Corporal punishment damages these students’ education as much as other students, and it may also adversely affect some students’ underlying physical or psychological conditions (A Violent Education 2008).

Students are sometimes asked to choose between corporal punishment and other forms of discipline such as suspensions or detentions. One elementary teacher described her pupils’ decision-making process: “I take the five licks because I’m nine and I want to go outside and play.” Older students choose paddling because they want to seem tough, or because their parents are less likely to find out about their misbehavior if it is handled this way. Human Rights Watch staff commented, “While it is a recognized principle of human rights that children should have a voice in making the policies to which they are subjected (and that participation is increasingly important as they get older), giving children of any age a stark choice between being beaten and other forms of discipline is not appropriate. Rather, it is a form of coercion that exploits vulnerable young people with underdeveloped decision-making capabilities, asking them to trade away their right to be free from beatings by school personnel” (A Violent Education 2008).

Some state laws criminalize the imposition of corporal punishment that is excessive, but

the standard of “excessiveness” is difficult to prove. Some districts have placed limits on the number of blows a child may receive or have required that the paddler not beat children when they are angry, these regulations are difficult if not impossible to enforce. Another difficulty is that, since educators have qualified immunity, a lawsuit must successfully demonstrate that the person administering the paddling acted with malice (Hyman & Snook 1999).

If students move during beatings they may receive additional blows and injuries. One eleventh-grade girl in Mississippi reported that in the course of a beating, her wrist was injured:

“One time I got hit on my wrist with the paddle, and he told me, ‘I told you not to be sticking your hand back there.’ Well, I had my hands on the table and he was about to swing and hit me, and I reached back and he hit my arm with the paddle by mistake ... it hurt!” Another Mississippi girl told us, “[The principal] reared back and paddled me once and I stood up and he said, ‘No, bend over.’ And I said, ‘No, I can’t take no more—that really hurt.’ ... [H]e paddled me again” (A Violent Education 2008).

Many students reported serious bruising after being paddled. In addition to bruising of the paddled area, typically the buttocks, students reported injury to their hands, which they often use to shield themselves from blows. The American Academy of Pediatrics has opposed corporal punishment, noting the higher risk for depression and the reduced self-esteem of students who have been paddled. Research has also linked corporal punishment to increased rates of bullying and aggression (Dussich & Maekoya 2007; Gershoff 2002; Hyman & Perrone 1998). It also contributes to lack of motivation, absenteeism, and higher drop out rates, and, contrary to arguments made by proponents, it has not proven effective at decreasing school violence (Dussich & Maekoya 2002). Hyman and Snook (1999) presented the following stories of corporal punishment and its impact:

A teacher took a book and slammed it on my sprained wrist just because I didn’t know the answer to his questions” (p. 37); “When I was seventeen years old I was in class when I felt a very heavy menstrual flow. I asked several times to go to the bathroom until the teacher finally agreed to let me go. He seemed angry when I returned. He said I had been in the bathroom too long and he took me into the hallway. He pinned me up against the wall so that my feet did not touch the floor and screamed at me for what seemed to me like hours (37).

Human rights experts, according to Human Rights Watch, are in agreement that corporal punishment violates a number of international treaties that protect children from cruel, degrading, and inhuman punishments, such as United Nations Convention on the Rights of the Child, the UN Convention against Torture, and the International Covenant on Civil and Political Rights (A Violent Education 2008). Corporal punishment in US public schools also violates other human rights, including the right to freedom from physical

violence and the right to non-discrimination. Corporal punishment infringes on the right to education, which is guaranteed by numerous international treaties and agreements to which the U.S. is party. Educational experts have concluded that the use of corporal punishment hinders learning, increases drop out rates, and generally undermines the purpose of education.

#### **4. Explaining Human Rights Abuses in U.S. High Schools**

The examples provided herein are just a few of the abuses that happen in U.S. public high school every day. It is essential to examine why these human rights violations occur. Surely there are many factors, but one underlying cause is that U.S. schools, like many of our institutions, have been and are currently being shaped by a dominator model. Conceived by historian Riane Eisler, the dominator model refers to structures, methods, and content that emphasize authoritarian, top-down structures, male-dominance, power over others, use of fear, violence, and abuse to control and “motivate,” and a system of beliefs, stories, and values that makes this way of doing things seem normal and right. More than that, when applied to schools, these practices are said to be helpful to kids, as they allegedly provide a safe educational climate (Miller 2002).

It is well-documented that the content we teach in public schools is more likely to emphasize conflict than peace and to favor those who have dominated—white males—over other groups’ contributions (Finley 2003). It does not generally include examination of fundamental human rights. When students are presented with information about human rights violations, they are typically taught that it is other countries, not the U.S., that are responsible (Loewen, 1994). Lesko (2000) explained, “The ‘permanent war’ mentality can be mobilized through complex, evil portraits of ‘others’ who threaten invasion or the takeover of American institutions or interests” (191). As Eisler (2000) explained, including certain kinds of information in the curriculum—and not including other kinds of information—effectively teaches children what is, and what is not, valuable” (39).

The methods used in many public high schools—both to teach and to punish—are authoritarian and emphasize adults’ repressive power over, not power with, students. Eisler (2000) explained, “Many of our teaching methods also stem from much more authoritarian, inequitable, male-dominated, and violent times. Like childrearing models based on mottoes such as ‘spare the rod and spoil the child,’ these teaching methods were designed to prepare people to accept their place in rigid hierarchies of domination and unquestioningly obey orders from above, whether from their teachers in school, supervisors at work, or rulers in government” (12). As described above, they disproportionately impact some groups while unfairly leaving out or even denigrating others. Casella (2001) discussed this problem in his work on zero tolerance and urban schools. “Some reasons for the persistence of systemic violence can be found in national rhetoric that sanctions forms of discriminatory punishment and policing. These policies create in our society a general feeling that teenagers are no good, out of control, and morally void. They bolster punishment in favor of pedagogy, control in favor of understanding” (35).

Even the structures we put in place—the physical layout of our classrooms, our course offerings, etc.—emphasize some over others. Crews and Tipton (1999) listed many commonalities schools share with prisons, from the uniforms and clothing standards, surveillance cameras to monitor students' behavior, to the increased use of school police officers and more. Not only does this type of hyper-controlled environment stifle individuality and creativity but it also can impair students' intellectual development. This is what some have referred to as systemic violence (Epp 1996; Epp & Watkinson 1997; Finley 2003). Schools in the U.S. typically feature a hierarchical authority structure, and those at the bottom—students—have little or no voice (Finley, 2003). Academic tracking and competition for accolades, according to Sizer and Sizer (1999) are further examples of a dominator structure. As Carlton (2001) explained, "The function of competition...[is] to assign each individual his place in the social system" (p.37). Kohn (1990) argued that competition is far from character building. Rather, a person's value becomes tied to what they have done and whom they have beaten, not to any personal characteristics. Competition is harmful to relationships in that people must inevitably see others as obstacles, not as allies. "Competition leads people to envy winners, to dismiss losers (there's no nastier epithet in our language than "Loser!"), and to be suspicious of just about everyone. Competition makes it difficult to regard others as potential friends or collaborators; even if you're not my rival today, you could be tomorrow" (Kohn, 1990).

This dominator model begins in teacher preparation, where future educators receive little to no education about human rights and how to teach about and for peace (Bey & Turner 1996; Eisler 2000; Finley 2004; Harris, Morrison & Regan 2003; Intrator 2002). Instead, future educators are taught to "control" our classrooms, and never to treat students as "friends" (Kohn 2004). Translation: do not treat them as fellow humans, but as something entirely "other."

Education itself has been commodified. Giroux (2009c) explained that the neoliberal, radical free-market culture no longer sees young people as "at-risk." Rather, "they are the risk," in particular the urban minorities. Youth are raised in an environment of "economic Darwinism" (Giroux 2009c). "Unfettered free-market ideology, a dehumanizing economic system, the rise of the racially skewed punishing state and the attack on public and higher education" are just some of the forces that have come together to create no less than a war on youth (Giroux 2009b).

Although No Child Left Behind and the expansion of a consumerist approach to education were endemic to the administration of George W. Bush, Democrat President Barack Obama's education policies, according to Giroux (2009c) are no better than his predecessor's. The general approach is more standardized testing and a continuation of policies and practices that define the purpose of education in economic terms. Obama's Secretary of Education, Arnie Duncan, "appears unusually illiterate when it comes to being able to pose a democratic vision for education, given his love of the market, testing and his dislike for any mode of knowledge and classroom pedagogy that cannot be measured" (Giroux, 2009b).

## **5. An Alternative Educational Approach**

Education is the most powerful weapon which you can use to change the world  
Nelson Mandela

Surely what has been presented here can leave readers feeling depressed and apathetic. Yet there are many promising ideas and practices that can shape future education in the U.S. Eisler suggested that we do not have to follow a dominator model; instead, a partnership model is possible. This model would involve cooperation, shared power and the institutionalization of mutual honoring, respect, and peaceful means of conflict resolution. Importantly, it would require reconsidering the content we teach, the methods we use, and, more difficult, the structures we create. In addition, moving toward a partnership model would require reconfiguring what is taught and how it is taught to future teachers.

Much like Freire's (1972) conscientization, the idea is to provide students with education that allows them to shape their lives in the ways they wish. This can be accomplished by reconsidering national priorities to make education among the top few. Parents, youth, and other concerned persons must first make visible the fear and distrust of youth, both inside and outside of schools. Further, drawing on Giroux's critiques, education must be removed from the current economic focus and structured such that quality not quantity, empathy not fear, and humanity not repression, are at its roots. As Fischlin and Nadorfy (2006) explained, "educators at all levels of knowledge making and knowledge transmission (from parents on up) must be given the resources and means to introduce critical rights learning into social and curricular structures. All knowledge is essentially futile if the fundamentals of justice, equity, and respect for sustainable life principles do not underpin 'learning' as a key co-creative, social attribute of 'being' human and 'having' meaningful human agency" (216).

Beyond the school system, it is imperative that national leaders begin to provide greater consideration of youth and their human rights. Clearly, it is not just schools that violate the human rights of young people. In sum, "There is much to be done to make compliance with international human rights norms *real*: to move states beyond nominal commitment to authentic commitment; to make the reporting system required by covenants and conventions more meaningful; to enhance the authority of the treaty committee; and to move beyond voluntary reporting by state parties to include international monitoring, investigation, and judicial protection, as some regional human rights systems have done" (Henkin 2000: 30).

## References

- A violent education: Corporal punishment of children in U.S. public schools* (2008). New York, Amnesty International.
- ACLU lawsuit challenges racial discrimination in Alabama school district* (May 22, 2008). American Civil Liberties Union.  
<http://www.aclu.org/racialjustice/edu/35436prs20080522.html> Accessed 23 September 2008.
- Andreopoulos, G. and Richard, P. (Eds.) (1997). *Human rights education for the twenty-first century*. University of Pennsylvania Press, Philadelphia.
- Apsell, J. (March 15, 2000). *Against the odds, two sisters survive*. St. Petersburg Times. Retrieved August 8, 2010 from  
[http://www.sptimes.com/News/031500/NIE/Chapter\\_24\\_\\_Against\\_t.shtml](http://www.sptimes.com/News/031500/NIE/Chapter_24__Against_t.shtml)
- Arcus, D. (2002). *School shooting fatalities and school corporal punishment: A look at the states*. *Aggressive Behavior*, 28, pp. 173-183.
- Athanases, E. and Larabie, T. (2003). *Toward a consistent stance in teaching for equity: Learning to advocate for gay and lesbian identified youth*. *Teach & Teacher Education*, 19(2), pp 237-261.
- Bazon, E. (2005, March/April). *From Bagram to Abu Ghraib*. Mother Jones  
[http://www.motherjones.com/news/feature/2005/03/03\\_2005\\_Bazon.html](http://www.motherjones.com/news/feature/2005/03/03_2005_Bazon.html).  
Accessed September 15, 2008
- Bey, T. and Turner, G. (1996). *Making schools a place of peace*. Sage, Thousand Oaks.
- Blackburn, M. and Donelson, R. (Eds.) (2004). *Sexual identities in schooling* [special issue]. *Theory Into Practice*, 43(2).
- Brady, K. (2002). *Zero tolerance or (in)tolerance policies: Weaponless school violence, due process, and the law of student suspensions and expulsions: An examination of Fuller v. Decatur Public School Board of Education School District*. *Brigham Young Education & Law Journal*: 159-209.
- Carlton, E. (2001). *Militarism: Rule without law*. Ashgate, Aldershot England.
- Carter, J. (2000). *The American road to a human rights policy*. In S Power G Allison (Eds.) *Realizing human rights: Moving from inspiration to impact* (49-62). MacMillan, New York.
- Casella, R. (2003). *Zero tolerance policies in schools: Rationale, consequences, and alternatives*. *Teach College Record*, 105(5).

- Casella, R. (2001). *“Being down”: Challenging violence in urban schools*. Teachers College, New York.
- Cathcart, R. (February 23, 2008). *Boys killing, labeled a hate crime, stuns town*. New York Times [online version].<http://www.nytimes.com/2008/02/23/us/23oxnard.html>. Accessed September 23, 2008.
- Centers for Disease Control (CDC). (2004). *Violence-related behavior among high school students—United States, 1991-2003*. Morbidity and Mortality Weekly Report, 53: 651-655.
- Children’s Defense Fund (1975). *School suspensions: Are they helping?* Washington Research Project, Cambridge.
- Conroy, J. (2000). *Unspeakable acts, ordinary people: The dynamics of torture*. Alfred A. Knopf, New York.
- Devine, J. (1996). *Maximum security: The culture of violence in inner-city schools*. University of Chicago Press, Chicago.
- Dorf, J. (2000). *Part IV: Sexual orientation and human rights in the United Nations*. In Danieli Y Stamatopoulou E Dias C (Eds.) The universal declaration of human rights: Fifty years and beyond (pp. 229-234). Baywood Publishing Company, Inc, Amityville.
- Dussich, J. (2007). Physical child harm and bullying-related behaviors. *International Journal of Offender Therapy & Comparative Criminal*, 51(5).
- Eisler, R. (2000). *Tomorrow’s children*. Westview, Boulder.
- Eisler, R. (1988). *The chalice and the blade*. HarperCollins, San Francisco.
- Eisler, R. and Miller, R. (2004). *Educating for a culture of peace*. Heinemann, New York.
- Egendorf, L. (2003). *Introduction*. In L. Egendorf (Ed.) Human rights: Opposing viewpoints (pp. 12-16). Greenhaven, Farmington Hills.
- Epp, J. (1996). *Systemic violence: How Schools hurt children*. Routledge, London.
- Epp, J. Watkinson A. (1997). *Systemic violence in education: Broken promises*. State University of New York Press, Albany.
- Feld B. (1999). *Bad kids: Race and the transformation of the juvenile court*. Oxford, New

York.

- Fennin, P. and Rose, J. (2007). *Overrepresentation of African American students in exclusionary discipline: The role of school policy*. *Urban Education*, 42(6), pp.536-559.
- Ferguson, A. (2000). *Bad boys: Public schools in the making of black masculinity*. University of Michigan Press, Ann Arbor.
- Fine, M. Burns, A. Payne, Y. and Torre, M. (2004). *Civics lessons: The color and class of betrayal*. *Teach College Record*, 106(11), pp. 219-223.
- Finley, L. (2008). *The torture and prison abuse debate*. Greenwood, Westport.
- Finley, L. (2009--forthcoming). *Our own Abu Ghraib?: Torture of "the other" in the U.S. War Crimes, Genocide, & Crimes Against Humanity*.
- Finley L. (2006). *Examining school searches as systemic violence*. *Critical Criminology*, 14(2), pp. 117-135.
- Finley L. (2003). *Militarism goes to school*. *Essays in Education*, 4.  
<http://www.usca.edu/essays/vol42003/finley.pdf>. Accessed 23 September 2008.
- Fischlin D. Nandorfy M (2006). *The concise guide to global human rights*. Black Rose Books, Montreal.
- Franklin B. (nd). *The American prison and the normalization of torture*. *Historians Against the War*.  
<http://ww.historiansagainstawar.org/resources/torture/brucefranklin.html> Accessed 9 October 2007.
- Freire, P. (1972). *Pedagogy of the oppressed*. The Continuum Press, New York.
- Garland, D. (2001). *Culture of control: Crime and social order in contemporary society*. University of Chicago Press, Chicago.
- Gay, Lesbian, Straight Education Network (GLSEN). (2005). *From teasing to torment: School climate in America*. GLSEN, Washington DC.
- Giroux, H. (2009a). *Brutalizing kids: Painful lessons in the pedagogy of school violence*. Truthout. [www.truthout.org/10090912?print](http://www.truthout.org/10090912?print). Accessed 15 October 2009.
- Giroux, H. (2009b). *Obama's view of education is stuck in reverse*. Truthout. [www.truthout.org/072409A?print](http://www.truthout.org/072409A?print). Accessed October 15, 2009.

- Giroux, H. (2009c). *Ten years after Columbine*. Counterpunch.  
[www.counterpunch.org/giroux04212009.html](http://www.counterpunch.org/giroux04212009.html). Accessed October 15, 2009.
- Giroux, H. (2009d). Youth: Beyond the politics of hope. Truthout.  
[www.truthout.org/1013092?print](http://www.truthout.org/1013092?print). Accessed October 15, 2009.
- Goldson, B. and Muncie, J. (2006). *Rethinking youth justice: Comparative analysis, International human rights and research evidence*. Youth Justice, 6(2), pp. 91-106.
- Goodman, A. (May 9, 2006). *Chicago's Abu Ghraib: UN Committee Against Torture hears report on how police tortured over 135 African-American men inside Chicago jails*. Democracy Now!  
[http://www.democracynow.org/2006/5/9/chicagos\\_abu\\_ghraib\\_un\\_committee\\_against](http://www.democracynow.org/2006/5/9/chicagos_abu_ghraib_un_committee_against) Accessed 15 September 2008.
- Green Butt King. (2002). *Taking the chaste out of chastisement: An analysis of the sexual implications of the corporal punishment of children*. Childhood, 9: 205-224.
- Hanson A. (Summer 2005). *Have zero tolerance school discipline policies turned into a nightmare? The American dream's promise of equal opportunity grounded in Brown v. Board of Education*. UC Davis Journal of Juvenile Law and Policy, 9, pp.298-379.
- Harris, I., Morrison, M., and Regan, T. (2002). *Peace education*. McFarland & Co.
- Hemmings, A. (2002). *Youth culture of hostility: Discourses of money, respect, and difference*. International Journal of Qualitative Studies in Education, 15(3), pp. 291-307.
- Henkin, L. (2000). *Ideology and aspiration, reality and prospect*. In S Power G Allison (Eds) Realizing human rights: Moving from inspiration to impact (pp. 3-38). Macmillan, New York.
- Hirschfield, P. (2008). *Preparing for prison? The criminalization of school discipline in the USA*. Theory Criminology, 12(79), pp 79-101.
- Hunt, L. (2007). *Inventing human rights: A history*. W.W. Norton & Co, New York.
- Hyman, I. and Perrone, D. (1998). The other side of school violence: Educator practices that may contribute to student misbehavior. Journal of School Psychology, 36, pp. 7 - 27.
- Hyman, I. Snook, P. (1999). *Dangerous schools*. Jossey-Bass, San Francisco.

- Intrator, S. (2002). *Stories of the courage to teach*. Joseey-Bass, San Francisco.
- Jingsheng, W. (2000). *Human rights: Not merely an internal affair*. In S Power G Allison (Eds) Realizing human rights: Moving from inspiration to impact (pp. 39-48). Macmillan, New York.
- Johnson, J., Arumi A., and Ott A. (2006). *Reality check 2006: How Black and Hispanic families rate their schools*. Education Insights at Public Agenda, New York.
- Keys to Safer Schools. (2007). *Sexual assaults at schools*. Keys to Safer Schools. Retrieved August 8, 2010 from <http://www.keystosaferschools.com/Sexual%20Assaults%20at%20Schools.htm>
- Kohn, A. (2004, Fall). *Safety from the inside out*. Educational Horizons. <http://www.alfiekohn.org/teaching/safety.htm> Accessed 29 September 2008.
- Kohn, A. (1990). Fun and fitness without competition. *Women's Sports and Fitness*. Retrieved May 27, 2010 from <http://www.alfiekohn.org/miscellaneous/compsports.htm>
- Kosciw, J. and Diaz, E. (2006). *The 2005 national school climate survey*. Washington, D.C.: GLSEN. [http://www.glsen.org/binary-data/GLSEN\\_ATTACHMENTS/file/585-1.pdf](http://www.glsen.org/binary-data/GLSEN_ATTACHMENTS/file/585-1.pdf). Accessed 20 September 2009.
- Kosik-Razabal, G. and Macgillivray, I. (2000, May). Sexual orientation and gender identity in America's urban schools [special issue]. *Education & Urban Society*, 32(3).
- Kozol, J. (2005). *Shame of the nation*. Crown, New York.
- Kupchik, A. and Ellis, N. (2008). *School discipline and security: Fair for all students?*. *Youth & Society*, 39(4), pp.549-574.
- Lesko, N. (Ed) (2000). *Masculinities at school*. Sage, Thousand Oaks.
- LeTendre, G. K. and Akiba, M. (2005). *Safe schools, dangerous nations: The paradox of school violence*. In D P Baker G.K LeTendre (Eds) National differences, global similarities: World culture and the future of schooling (pp. 86-103). Stanford University Press, Stanford.
- Letts, W. (2002). *Revisioning multiculturalism in teacher education: Isn't it queer?* In R Kissen (Ed) Getting ready for Benjamin: Preparing teachers for sexual diversity in the classroom (pp. 119-132). Rowman & Littlefield, Lanham.
- Lin, J. Brantmeier, E. and Bruhn, C. (2008). *Transforming education for peace*.

- Information Age Publishers.
- Lindle, J. (2008). *School safety: Real or imagined fear?* Education Policy, 22(1), pp. 28-44.
- Lintott, J. (2004) *Teaching and learning in the face of school violence*. Georgetown Journal on Poverty, Law, & Policy, 11, pp.553-580.
- Loewen, J. (1996). *Lies my teacher told me: Everything your American history textbook got wrong*. Touchstone, New York.
- Lomax, A. (June 16, 2005). *Torture in U.S. prisons: Common, lethal, unreported*. Counterpunch.  
<http://www.counterpunch.org/lomax06162005.html>. Accessed 30 September 2008.
- Macgillivray, I. (2004). *Sexual orientation and school policy: A practical guide for teachers, administrators, and community activists*. Rowman & Littlefield, Lanham.
- Marx, A. and Wood, B. (May 20, 2004). *In some US prisons, echoes of Abu Ghraib*. Christian Science Monitor.  
<http://www.csmonitor.com/2004/0520/p02s01-usju.html>. Accessed 15 September 2008.
- McLaughlin, A. (November 14, 2001). *How far Americans would go to fight terror*. Christian Science Monitor: 1.
- Miller, A. (2002). *For your own good: Hidden cruelty in child-rearing and the roots of violence*. Farrar Strauss Giroux, New York.
- Morsink, J. (1999). *The Universal Declaration of Human Rights: Origins, drafting, and intent*. University of Pennsylvania Press, Philadelphia.
- NAACP Legal Defense and Educational Fund, Inc (nd) Dismantling the school-to-prison pipeline. (n.d.)  
[http://www.naacpldf.org/content/pdf/pipeline/Dismantling\\_the\\_School\\_to\\_Prison\\_Pipeline.pdf](http://www.naacpldf.org/content/pdf/pipeline/Dismantling_the_School_to_Prison_Pipeline.pdf). Accessed September 29, 2008.
- Noguera, P. (1995). Preventing and producing violence: A critical analysis of responses to school violence. *Harvard Education Review*, 65, pp. 189-212.
- Pais, M. (2000). *A vision for children: The Convention on the Rights of the Child*. In Danieli, Y., Stamatopoulou, E. and Dias, C. (Eds) The universal declaration of human rights: Fifty years and beyond (pp. 131-144). New York: Baywood Publishing Company, Inc, Amityville.

- Petrovic, J. (1998). *The democratic sieve in teacher education: Confronting heterosexism*. Education Found, 12, pp. 43-56.
- Power, S. and Allison, G. (Eds) (2000). *Realizing human rights: Moving from inspiration to impact*. Macmillan, New York.
- Presgraves, D. (July 30, 2008). *Federal judge rules that Florida high school must allow gay-straight alliance*. GLSEN. <http://www.glsen.org/cgi-bin/iowa/all/news/record/2317.html>. Accessed September 5, 2008.
- Principal's outing of gay student roils Fla. Town* (August 21, 2008). MSNBC. <http://www.msnbc.msn.com/id/26316235/>. Accessed 5 September 2008.
- Reardon, B. (1988). *Comprehensive peace education: Education for global responsibility*. Teachers College Press, New York.
- Renna, C. (May 12, 2008). *Study finds half of principals deem bullying a serious problem at their school, yet appear to underestimate extent of problem for gay students*. GLSEN. <http://www.glsen.org/cgi-bin/iowa/all/news/record/2294.html>. Accessed September 5, 2008.
- Roth, K. (2000). *The charade of US ratification of international human rights treaties*. Chicago Journal of International Law. [www.globalpolicy.org/empire/un/2003/0806charade.htm](http://www.globalpolicy.org/empire/un/2003/0806charade.htm). Accessed September 9, 2008.
- Russo, R. (2006). *The extent of public education nondiscrimination policy protections for lesbian, gay, bisexual and transgender students: A national study*. Urban Education, 41, pp. 115-150.
- Rutenberg, C. (December 9, 2007). *Filing: Detainee "tortured."* Miami Herald, p. 3A. Safe Schools: Every Girls' Right (2008) New York, Human Rights Watch.
- Schabas, W. (2000). *Spare the RUD or spoil the treaty: The United States challenges the human rights committee on reservations*. In D Forsythe (Ed) The United States and human rights: Looking inward and outward (pp. 110-125). University of Nebraska Press, Lincoln.
- Sherwin, C. and Jennings, T. (2006). *Feared, forgotten, or forbidden: Sexual orientation topics in secondary teacher preparation programs in the U.S.A*. Teach Education, 17(3), pp. 207-223.
- Sizer, T. and Sizer, N. (1999). *The students are watching*. Beacon, Boston.
- Skiba, R., Michael, R., Nardo, A. and Peterson, R. (June 2000). *The color of discipline: The sources of racial and gender disproportionality in school punishment*.

- <http://www.indiana.edu/~safeschl/cod.pdf/minor.html>. Accessed 25 August 2006.
- Solomon, B. (2006). *Traditional and rights-informed talk about violence: High school educators' discursive production of school violence*. *Youth & Society*, 37, pp. 251-286.
- Sontag, S. (May 23, 2004). *Regarding the torture of others*. *New York Times* [online edition].  
<http://www.nytimes.com/2004/05/23/magazine/23PRISONS.html?ei=5007&en=a2cb6ea6bd297c8f&ex=1400644800&partner=USERLAND&pagewanted=print&position=> Accessed September 5, 2008.
- Street, P. (2005). *Segregated schools: Educational apartheid in post-civil rights America*. New York, Routledge.
- Thuynsma, P. and Thuynsma, H. (2000). *Human rights education: The humanizing of a global society*. In Danieli Y Stamatopoulou E Dias C (Eds) *The universal declaration of human rights: Fifty years and beyond* (pp. 253-263). New York: Baywood Publishing Company, Inc, Amityville.
- Wacquant L. (2001). *Deadly symbiosis: When ghetto and prison meet and mesh*. In D Garland (Ed.) *Mass imprisonment: Social causes and consequences* (pp. 82-120). Sage, London.
- Watts, I. and Everelle, N. (2004). *These deadly times: Reconceptualizing school violence by using critical race theory and disability studies*. *American Education Research Journal*, 41(2), pp. 271-299.

# PEACE STUDIES JOURNAL

Vol. 4, Issue 1  
January 2011

---

**Book Review: In Time of War: Understanding American Public Opinion From World War II to Iraq. 2009. By Adam Berinsky. Chicago: University of Chicago.**

Gabriel Rubin,  
Assistant Professor of Justice Studies,  
Montclair State University

---

**BOOK REVIEW: *IN TIME OF WAR: UNDERSTANDING AMERICAN PUBLIC OPINION FROM WORLD WAR II TO IRAQ*. 2009. BY ADAM BERINSKY. CHICAGO: UNIVERSITY OF CHICAGO.**

Adam Berinsky says that it is because elites that we trust cue us to the worthiness of the cause of war. Public opinion regarding the decision to go to war and support for war follows the same domestic partisan cues that lead the public to support or oppose quotidian issues such as tax hikes and whether to tinker with Social Security. “Above all else,” he writes. “Patterns of conflict among partisan political actors shape mass opinion on war.” (7).

Berinsky develops elite cue theory to explain opinion dynamics regarding American wars. He posits that members of the public look to trusted political figures to “delegate the difficult process of arriving at an opinion on a complicated policy matter” (70). For foreign policy, the President can be a good source of information one way or the other. If you like the President, you are likely to take on his positions; if you don’t like him, you will adhere to the opposite position.

Berinsky depicts this process through an example of the run up to America’s involvement in Kosovo. One party is arguing to authorize the use of force, the other is pointing out the dangers of combat (“Americans are...going to come home in body bags,” one Senator cautioned) (86). What sounds like the debates surrounding the Iraq War, with Republicans insisting on the use of force and Democrats pushing against them turns out to be a debate about entering Kosovo with Democrats playing the hawks and Republicans

doves. In this instance, Democratic citizens were more likely to support the use of force than Republican ones. Further, Berinsky tellingly shows that those citizens who took their political cues from FDR were ready for intervention in World War II well before the bombing of Pearl Harbor (51-2).

So elites lead the public to support or oppose wars. But don't elites read polls as well? Didn't George W. Bush create an Iraq Study Group partly due to pressure from the public? Aren't elections the ultimate lever for telling elites that the public doesn't like what they are doing? If elites read polls, and I contend that some do, then one could imagine an infinite regress of elite cues leading to public opinion leading to elite cues leading to public opinion, etc.

More importantly, how does the view that the public simply follows elite cues in making decisions about something as important as going to war reflect on our democracy? Berinsky writes that, "the magnitude of the partisan differences over the Iraq War is unparalleled in the history of opinion polling" (218). Could this simply be because elites are divided on Iraq? That can't be, because as Berinsky proffers, Democratic politicians were notoriously confused about whether to support the 2003 conflict or not (30). The mass protest movement against the Iraq War that took hold all over the country and the world though not dealt with in this book, was, in this reviewer's opinion, not simply the work of the public taking cues from politicians.

Still, Berinsky shows that as the Iraq War progressed, support for the conflict became increasingly polarized as Democrats began to staunchly oppose a war that Republicans staunchly supported (218). The two sides even perceived general facts, such as the casualty rate, differently with strong Democrats more likely to overestimate Iraq War casualties and strong Republicans more likely to underestimate them (77). An increasingly divided government has led us to an increasingly divided public, Berinsky argues, particularly on this war.

The implications of these findings are troubling. If the public simply looks for elite cues when making decisions about war, then there is little hope for the brakes on war that Immanuel Kant and others hoped that democracy would enable. Instead, democracy creates a system where the public is manipulated into fighting wars of questionable merit. As stated above, the protest movement against the Iraq War provides hope as do shifts in public opinion. George W. Bush and his strong partisans may have supported the Iraq War through his last day in office but Barack Obama was elected because a majority of voters stopped buying what Bush was selling.

What stands to question is why, then, America is more bellicose than other countries. If all democratic leaders have the same incentives to convince the public to go to war, then why is Europe so peaceful of late? One might explain this away by saying that Europe is militarily weak and America is militarily strong, so the incentives for America to go to war to feed the military-industrial complex are a special case. Or one might try to find examples of Europeans—or other countries—going to war or engaging in foolish battles

like England's fight with Argentina over the Falkland Islands. Explaining America's taste for war is a question raised by the book but outside its scope. Hope might come in the form of more female representation in government. Mirroring other studies, Berinsky witnesses a gender gap on support for war particularly when the word "war" is used (52-3). Women are less supportive of wars than men, so more female control of government could lead to less arguments for going to war.

From the perspective of peace, this book tells us, once again, to focus on our leaders. There may be just causes to fight over but most wars neither change the world nor bring about great national gains. Instead they bring human suffering and death. It is disappointing that in the 21<sup>st</sup> century, democratic publics are still convinced time and again to send their sons and daughters to fight and kill the sons and daughters of other nations. The tragedy is two-fold: that war still exists and that reasons for war still exist.

*In Time of War* explains how the rally to fight wars—even World War II—does not enrapture all Americans. Instead, Americans look to the leaders they trust for cues about whether to fight or not. It is the hope of this reviewer that more leaders come to recognize the weight of that trust as well as the horrific magnitude of the decision to counsel war.