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# Letter from the Editors

*Since its establishment in 1979, the focus of the Martin Institute has been to instill a sense of understanding of the causes of war and the means necessary for peace in its constituents, while also strengthening the development of tomorrow's leaders. From the beginning of their partnership in 1997, the Martin Institute and Program in International Studies have striven to provide transformational educational experiences while serving a number of constituencies across both campus and community.*

*As a fairly small department, the education and attention dedicated to each student is personalized; faculty and staff grow to know you, your dreams, and capabilities. Through a curriculum systematically designed to yield students a holistic education, the Martin Institute has created an effective way to engage its students in a wide range of opportunities aimed to help students keep abreast of major global issues, explore career options, form relationships with other IS majors, and contribute to a fun and rewarding university experience. The work being carried out by the students, with the coordination of the Institute, undoubtedly upholds the vision of founders Boyd and Grace Martin.*

*With the combination of issue emphasis training, regional emphasis coursework, and advanced language preparation, and by requiring students to study abroad as a part of the International Studies curriculum, not only does the Martin Institute create scholars but culturally apt, intellectually centered, historically literate, diverse conversationalists, a combination of which makes for terribly interesting human beings.*

*The position of co-editors consisted of an array of responsibilities ranging from the initial selection process of the articles for publishing, to furthering the aspirations of the Martin Institute and Program in International Studies for undergraduate students, to proper acknowledgment of the extensive research conducted by each of the authors in pursuit of this final product, and finally, the preparation of captivating interview questions for Ambassador James Moriarty (the interview is published alongside the student articles).*

*With this in mind, we are pleased to introduce the 6th edition of the journal. The selection process was difficult due to the array of thought provoking topics presented by each writer. Ultimately, we feel that the following research not only accurately represents what the Martin Institute aspires from and for its students but also demonstrates the profundity of dedication students put into the culmination of their education.*

Cheers,



Hannah J. Sandoval



Mariela G. Vazquez

*It now becomes necessary for us to put our major global problems  
into a socially relevant global framework.  
Our world has become too complex, too interdependent,  
to answer these questions by simplistic answers.*

*These problems call for creative thinking...*

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– Boyd A. Martin, founder of the Martin Institute and namesake  
of the Martin School, at the Institute's inauguration, 1980



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## China's Silk Road Revival: Managing the Restive West

– Ana Reed

### ABSTRACT

*China is on a quest to revive the old Silk Road as it looks towards Central Asia for resources and new markets to fulfill its burgeoning demand. Economic expansion at the cost of great economic inequality in China's Western Xinjiang province presents a pressing issue: heightened political unrest, separatism and increasing violence among the Muslim Uyghur population threaten regional stability and China's plans to march West. By examining the root causes of failure in affirmative action, cultural assimilation, education, autonomous policies, and multilateral cooperation, China can acknowledge its own deficits in addressing its restive west. The solutions recommended are equitable economic development through international pressure, decreasing indiscriminate violence, and developing a framework for proper analysis of terrorist vs. separatist incidents in the region. Proper adherence to and implementation of China's policies will be the ultimate driver for managing the restive West.*

### OVERVIEW AND BACKGROUND

Among China's many goals for 2014, it recently announced plans to invest an additional 10 billion USD in its restive Western province, Xinjiang.<sup>1</sup> China is considering how it will meet the ever-increasing demand for energy and mineral resources for its people as its population exceeds 1.3 billion, and their current strategy as world power needs regional compliance to connect with states beyond their borders, notably to the West along the historical Silk Road. This paper assesses China's strategies in addressing one major challenge to these goals: its restive West. It brings to light Uyghur ethnic separatism and the regional violence China currently faces.

Xinjiang is vital to China as a strategic location that borders eight other countries (see Appendix A), is rich in natural resources like oil, gas, and minerals,

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<sup>1</sup> Ben Blanchard. "China to Spend Extra 10 billion in Restive Xinjiang This Year" *Reuters* (2014).

and constitutes 1/6 of China's land area.<sup>2</sup> As the historical Silk Road route, not only does Xinjiang lie at a cultural overlap between ethnic and political identities<sup>3</sup>, but also, it is home to China's largest Muslim population, the majority of whom are ethnic Uyghurs. They identify Xinjiang as East Turkestan.<sup>4</sup> The Xinjiang Uyghur Autonomous Region (XUAR) established in 1955, is characterized by years of inconsistent development policy, swaying from the assimilative policies of the Cultural Revolution to becoming a corridor for economic expansion into Central Asia where China is currently pursuing massive infrastructural and economic investment plans.<sup>5,6</sup> Ethnic separatism encouraged by Uyghurs, has existed for decades but did not gain much traction until the state economic reforms of the 1980s, which opened China to the outside world.<sup>7</sup>

Xinjiang's conditions of poverty, unemployment, social disparities and political grievances fuel current unrest in the region and are further complicated by ethnicity and the Muslim religion.<sup>8</sup> Separatism is strengthened by a steady influx of Han Chinese migrants to Xinjiang who are reaping the most benefits from economic investment and development creating a larger gap between the Uyghur Muslims and the Han.<sup>9</sup> This is exacerbated

by widespread discrimination against Uyghurs who do not speak the Mandarin language and thus are often rejected by Han employers. Despite efforts on the part of the state to create policies addressing ethnic minority needs, there remains a sizeable gap between policy creation and implementation.

The Uyghurs are weary of years of discrimination, economic inequality and a diffusion of cultural identity in their homelands. Militant factions emerge and sometimes integrate with insurgents from neighboring Asian countries, presenting regional security threats. A large crackdown by the government occurred in the 2009 riots after what started as a peaceful protest. Since then, violence between Uyghurs and state authorities continues to escalate in frequency and scale (See Appendix B). Within the last year, violence encompasses a train station bombing, knife attacks and a car crash at Tiananmen Square symbolizing some of the first acts to be committed outside Xinjiang. The Chinese government is endorsing a variety of solutions, some with positive response, but a misunderstanding and neglect of the root problem, Chinese policies themselves, have led to unintended consequences. The most feasible options are as follows:

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- 2 David O' Brien. "The Mountains are High and the Emperor is Far Away: An Examination of the Ethnic Violence in Xinjiang" *International Journal of China Studies* 2:2 (2011), 402.
- 3 James Millward. *Eurasian Crossroads: A History of Xinjiang*. (NY. Columbia University Press, 2007).
- 4 For a history of this identification see [www.china.org.cn/e-white/20030526/4.htm](http://www.china.org.cn/e-white/20030526/4.htm).
- 5 Peter Perdue and James Millward. "Political and Cultural History of the Xinjiang Region through the Late Nineteenth Century", in S. Frederick Starr (ed.), *Xinjiang: China's Muslim Borderland*. (Armonk NY. ME Sharpe, 2004) 27-29.
- 6 During 2013 China signed 22 agreements with Kazakhstan worth roughly \$30 billion. In Uzbekistan, an agreement was made to build a fourth oil pipeline and China is pursuing similar deals with Kyrgyzstan and Turkmenistan.
- 7 *Ibid.*, 12
- 8 Elizabeth Van Wie Davis. Asia Pacific Center for Security Studies. *Uyghur Muslim Ethnic Separatism in Xinjiang*, China. (pg. 2)
- 9 Dru Gladney. "The Chinese Program of Development and Control, 1978-2001" in S. Frederick Starr (ed.), *Xinjiang: China's Muslim Borderland*. (Armonk NY. ME Sharpe, 2004) 118.

## POSSIBLE SOLUTIONS

### **Approach 1: Maintain Status Quo**

The central government response to violence in the Xinjiang region follows a pattern of security clampdowns and increasing investment.<sup>10</sup> In 1996 and again in 2001 a "strike hard campaign" characterized forceful suppression of public demonstrations, and targeted Uyghurs and separatists.<sup>11</sup> There is a considerable amount of police presence and surveillance in many cities throughout the province. Police tend to be of Han ethnic origin that migrated to the province as per government mandates, creating resentment and discrimination between the ethnic groups. The Develop the West campaign aimed at developing China's western provinces consists of marketization

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10 O' Brien, 397.

11 Elizabeth Van Wie Davis. Asia Pacific Center for Security Studies. *Uyghur Muslim Ethnic Separatism in Xinjiang*, China. (pg. 6).



and opening up of local economies to trade and investment, with the belief that economic improvements lift people out of poverty. This is supposed to lessen desire for state separatism and violent defiance. But it is also viewed as a strategy to exploit natural resources to meet energy demands of the country as a whole.<sup>12</sup> Quality of life is improving as investments in infrastructure and natural resource mining bring money to the region.<sup>13</sup> However, a disregard for the cultural and religious societal and economic system already in place marginalizes Uyghurs.<sup>14</sup> This creates a perception that Beijing's development policies are aggressively imposing upon the West. Widespread belief also claims that economic benefit from such investment projects remains in the hands of elite Han<sup>15</sup> at the expense of regional environmental degradation and displacement of locals.

### **Approach 2: Massive Educational Campaigns**

Educational attainment levels and success differ between Uyghur minorities and Han ethnicities and between rural and urban populations. As students enter the labor force higher education can translate to greater job prospects and hopefully lower the number of young people that are unemployed. This creates a positive effect on the social dynamics of society by lowering crime rates and gang involvement, especially that which might be targeted at the central government. In 2006, a funding mechanism was introduced which provides free rural education to primary and secondary students.<sup>16</sup> Then in 2008, the government also granted subsidies to impoverished students living in boarding schools and exempted urban students from tuition fees.<sup>17</sup> As part of the plan, a proposed 500 minority ethnic teachers also receive a yearlong training to improve bi-lingual ability and enhance

the region's educational quality.<sup>18</sup> The suggestive campaign at large emphasizes Marxist concepts of country, religion, culture, patriotism and opposing national separatism.<sup>19</sup> The government moulds the perceptions of local inhabitants beginning at the primary school level so as to reshape the discourse on repression. Others view this as ideological purification.<sup>20</sup> Even so, "the Uyghur standpoint on separatism is also not a coherent monologue,"<sup>21</sup> thus care should be taken to understand that while education itself is valuable in reducing poverty levels and shaping ideas, ideals of separatism and resulting unrest are not founded on a sole ideological basis.

### **Approach 3: Affirmative Action for Ethnic (Uyghur) Minorities**

A number of concessions are provided for China's 55 ethnic minorities with the goal of establishing a level playing field for all. Preferential policies range from employment to education to family planning as well as protection of cultural traditions through local regulations and freedom of religious belief.<sup>22</sup> Freedom of religious belief, particularly important for Muslim Uyghurs is at times heavily restricted depending on whether a violent act or uprising was recently committed. This indicates a false generalization that separatist or terrorist violence is due to the Muslim religion itself. Nonetheless, other preferential policies relating to employment include provision of special meals at work and basic subsistence items at subsidized prices. The 1993 Regulation on Work with Urban National Minorities encourages cities' businesses to hire minority workers. Sometimes minority quotas are even used.<sup>23</sup> While preference is given to minorities in state leadership positions, there remains a wide gap between representation in state leadership and Party positions. The XUAR Party secretary, with

12 Emile Kok-Kheng Yeoh. "Stratification, Social Action and Morphogenesis: Structures and Agents in Contemporary China's Social Transformation" *International Journal of China Studies* 2:2 (2011), 432.

13 O' Brien, 397.

14 Zheng Yisheng. *Poverty Reduction and Sustainable Development in Rural China*. (Boston. BRILL, 2011), 107.

15 O' Brien, 397.

16 A.S. Bhalla and Dan Luo. *Poverty and Exclusion of Minorities in China and India*. (New York. Palgrave Macmillan, 2013), 195.

17 Bhalla, 195.

18 Singh, 9.

19 Bhavna Singh. "Separatism in Xinjiang: Between Local Problems and International Jihad?" Institute of Peace and Conflict Studies. (pg. 15)

20 Wang, Hongying and Yeh-Chung Lu. "The Conception of Soft Power and Its Policy Implications: a Comparative Study of China and Taiwan" *Journal of Contemporary China* 17:56 (2008) 430.

21 Ibid., 9.

22 Bhalla, 58.

23 Ibid., 198.

whom the real power rests for Xinjiang, has almost always been Han.<sup>24</sup> Critics question whether affirmative action neglects long-term efficiency in exchange for short-term benefits in equity and inclusion,<sup>25</sup> and if such appeasement policies are sustaining a degree of complacency amongst minority identities.<sup>26</sup>

#### **Approach 4: Multilateral Security Cooperation**

There is a strong regional consensus in Central Asia to ensure domestic stability and security. The Shanghai Cooperation Organization (SCO),<sup>27</sup> initially created after the Soviet break up to delineate borders around China, now sets its priorities on the tasks of fighting terrorism, separatism, and extremism as well as promoting economic and cultural cooperation.<sup>28</sup> Coordinated efforts included the deportation of alleged Uyghur separatists from Kazakhstan and improved border security.<sup>29</sup> Yet, there is evidence that "China's neighbors have not always followed Beijing's lead on the issue, at times using the 'Uyghur card' as leverage" for benefit of their own agendas.<sup>30</sup> After a 1999 bombing in Uzbekistan and the US 9/11 attacks, China skillfully used such events to form an alliance against Muslim militants in the Central Asian region, and to its own benefit, containment of Uyghur separatists.<sup>31</sup> The 2011 Astana Declaration reaffirms SCO member countries' commitment to these values.<sup>32</sup> The SCO also plans to build a

counterterrorism center in Uzbekistan's capital, Tashkent.<sup>33</sup> And, China is trying to work with Afghanistan to ramp up anti-terrorism security and provide training and material necessities to Afghan military and police. The Wakhan Corridor of Afghanistan (see Appendix C) remains difficult to manage and has porous borders into Tajikistan through which China believes insurgents can travel to Xinjiang.<sup>34</sup>

#### **Approach 5: Ethnic and Cultural Integration**

When the PRC assumed power in 1949 they worked to integrate the frontier region by promoting Han migration to Xinjiang.<sup>35</sup> This initially served a strategic purpose against the Soviets, however this integration policy in more recent decades is viewed as a way of curbing the nationalist sentiments that result from the homogeneity of Uyghur ethnicities. Unable to accommodate nationalist sentiments, China seeks to swamp the Uyghur population growth with Han immigration.<sup>36</sup> The government's policies of incorporation and assimilation are leading to further development of socioeconomic niches based on ethnicity.<sup>37</sup> Language is another important aspect. While the state offers education in Uyghur and Mandarin, it has made certain that Mandarin is the language of upward mobility. This can be viewed as either advancing minority integration into modern China or as a way of trying to dissolve the native culture of the region and promote Han language and culture. A 2000 survey in Urumqi disclosed that 60 percent of respondents were unwilling to accept Han immigrants for fear of losing jobs.<sup>38</sup> Also resettlement of Uyghurs for the purpose of energy infrastructure development are under the guise of economic efforts to ensure safety and promote people's integration with

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24 O' Brien, 396.

25 Bhalla, 58.

26 Ibid., 62.

27 Shanghai Cooperation Organization (SCO), originally named the Shanghai Five became the SCO in 1996. Permanent members include: Republic of Kazakhstan, People's Republic of China, Kyrgyz Republic, Russian Federation, Republic of Tajikistan, and the Republic of Uzbekistan.

28 Gladney "Chinese Program of Development and Control," 116.

29 Ibid., 109.

30 Sean R. Roberts. "A Land of Borderlands" in S. Frederick Starr (ed.), *Xinjiang: China's Muslim Borderland*. (Armonk NY. ME Sharpe, 2004) 232.

31 Ibid., 234 and Graham Fuller and Jonathan Lipman "Islam in Xinjiang" in S. Frederick Starr (ed.), *Xinjiang: China's Muslim Borderland*. (Armonk NY. ME Sharpe, 2004) 232.

32 "Astana Declaration of the 10<sup>th</sup> Anniversary of the SCO." Shanghai Cooperation Organization.

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33 Roberts, 234.

34 Ankit Panda. "China in Afghanistan: All About Xinjiang Now?" *The Diplomat* (2014)

35 Isabelle Attane and Youssef Courbage. "Transitional Stages and Identity Boundaries: The Case of Ethnic Minorities in China. *Population and Environment*. 21:3 (2000) 276.

36Ibid., 278.

37 Gladney. "Chinese Program of Development and Control," 113.

38 Bhalla, 229.

modernizing areas of the province. These various methods exercised by the government are breeding resentment between locals and investors.

### **Approach 6: Adherence to Autonomous Region Policies Already in Place**

The PRC's Ethnic and Regional Autonomy Law of 1984 guarantees many freedoms to Uyghurs and other minorities but the failure to implement this law deprives Uyghurs of their legal rights and freedoms and leaves them without effective mechanisms to address ethnic and cultural grievances. As is the case in Tibet (autonomous region) as well, if the Chinese government could implement its own laws and promote a genuine sense of autonomy that just might quell the unrest of the West. One facet of carrying out this law would need to include equitable representation of minorities like Uyghurs in substantial government positions. Currently the respective Party secretary for both Xinjiang and Tibet whom the real power lies with for each region, has never been of the local ethnicity, but rather remains a Han Chinese. A governor does exist for each autonomous region and while this position is held by a "local", his domain of control mostly pertains to softer matters like culture or tourism. Policies and input that address the root inequalities in Xinjiang seem unable to pass approval by top Han officials. China could also re-consider the current successful structure of administrative relations it has with Hong Kong and Macao as a one country, two systems governance<sup>39</sup> and consider such application as part of implementation of existing regional autonomy laws. Other examples of relative success in semi-autonomous concessions include the case in Quebec and the North Ireland Good Friday agreement, whereby a compromise reached on both sides could help alleviate ethnic dissatisfaction and unrest.

### **Approach 7: International Role and Pressure**

The role of international actors, both state and non-state cannot be ignored in their efforts to allay conflict and unrest in Xinjiang. A number of NGOs such as Amnesty International advocate for equitable human rights before the law for Uyghur

separatists and strongly condemn China's actions thus far. China may view this as advocacy for the separatist movement itself and sternly warns outsiders to mind their own business. In the wake of 9/11, the US agreed in 2002 to single out a particular Uyghur radical group called the Eastern Turkistan Islamic Movement (ETIM) as a terrorist organization.<sup>40</sup> ETIM is accused of ties with the Taliban and other Central Asian Muslim militant groups, but relations remain unclear.<sup>41</sup> The leader of ETIM denied any links to Al-Qaeda, but stated that some members might have independently fought alongside bin Laden.<sup>42</sup> This US recognition of ETIM has in effect legitimized the Chinese case against Uyghurs, even though the US also denounces China's fierce actions in the region. Still, this makes it easier for China to designate many Uyghur nationalist movements as "terrorist".<sup>43</sup> Outside of China, a number of expatriate Uyghurs host organizations in the US and Europe that place strong pressure upon Uyghur struggles. Not all organizations advocate independence or separatism, but the vast majority of them press for radical change.<sup>44</sup> They report on human rights, environmental degradation, and economic injustices. There is also growing presence of cyber advocacy. Ramping up such efforts may lead to China revisiting its approach in the province.

## **RECOMMENDED COURSE OF ACTION**

A myriad of attempts fail to engender peace and the region's political climate is increasingly precarious. Are the real issues then, disregard for the root problem of economic inequality and indiscriminate violence in Xinjiang combined with a blatant crusade into Central Asia? China needs to shift to a program that supports cultural and religious heritage, rather than a singular path of assimilation

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40 Elizabeth Van Wie Davis. Asia Pacific Center for Security Studies. *Uyghur Muslim Ethnic Separatism in Xinjiang*, China. (pg. 7).

41 Please see the Council on Foreign Relations' "The East Turkestan Islamic Movement" for background information on ETIM.

42 Fuller and Lipman, 342.

43 Ibid., 343.

44 Dru Gladney. "Responses to Chinese Rule: Patterns of Cooperation and Opposition" in S. Frederick Starr (ed.), *Xinjiang: China's Muslim Borderland*. (Armonk NY. ME Sharpe, 2004) 385.

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39 Please see "One Country, Two Systems" for history and policy details.

through education. Recognition is needed of how "disintegration of culture" causes resentment and the very separatism China is leery of. Demonstration of inclusiveness in economic sharing, consensus building, and leadership opportunities for Uyghurs that translate to legitimate policy contributions in the region, is a must.

The perception that outside forces are the reason for separatism is not completely accurate. Outside forces like Jihad among whom China blames recognize China's oppressed people and may seek opportunity in promoting their Holy War. But Jihad philosophy itself has a complete disregard for nationalist movements. China should stop grouping together Uyghur separatism and Jihadist movements so that they can more effectively target unrest, whether that is de facto terrorism or separatism. Developing a framework for analyzing terrorist vs. separatist incidents is a good start. Only in 2011 did China finally define terrorism.<sup>45</sup> The government should also re-train local police forces to scrutinize patterns of violence so as not to prematurely attack innocent Uyghurs. This could be aided by hiring a police force that has greater balance of Han and Uyghur authorities. It might also improve local perceptions of ethnic relations.

Separatism is usually ignited when state institutions deny an ethnic group access to resources that are essential for its preservation, expression and development of group identity.<sup>46</sup> While China's affirmative policies may provide help with basic needs, the government should acknowledge the imbalance that Han immigration has created and invest in localized job creation for Uyghurs to improve economic conditions and livelihood.

Realization of a separate state is unrealistic because

45 Singh, 11. Also see "China: Legal Definition of Terrorist Activities Clarified." Library of Congress. China's definition of terrorism is defined to be: *Activities that severely endanger society that have the goal of creating terror in society, endangering public security, or threatening state organs and international organizations and which, by the use of violence, sabotage, intimidation, and other methods, cause or are intended to cause human casualties, great loss to property, damage to public infrastructure, and chaos in the social order, as well as activities that incite, finance, or assist the implementation of the above activities through any other means.*

46 Karl Cordell and Stefan Wolff. *Ethnic Conflict*. (Cambridge. Polity Press, 2009), 84.

the Chinese would never let go of the precious land and power associated with the region. Concession of power in Xinjiang would mean that other provinces may soon attempt the same fate, a national and regional security crisis no one wants to see happen to China. The question is how can China be convinced to change? The right balance of international pressure is important; China does not want to lose its investors in the region so it will try to improve the socioeconomic situation, but steady pressure for equitable economic development might help. Approaching it from a political or human rights stance as has been done remains virtually ineffective in working with China. Multilateral security efforts are of vital importance to Central Asia's stability. The SCO is a valuable coalition of partners and a constructive platform from which to further outline sustainable economic development for the region, and hence greater equality for Uyghurs. SCO member countries should carefully analyze the root of Xinjiang's unrest instead of generalizing the issue, as China seems to be, so that more cooperative policies may be realized. 

APPENDICES

APPENDIX A



APPENDIX B

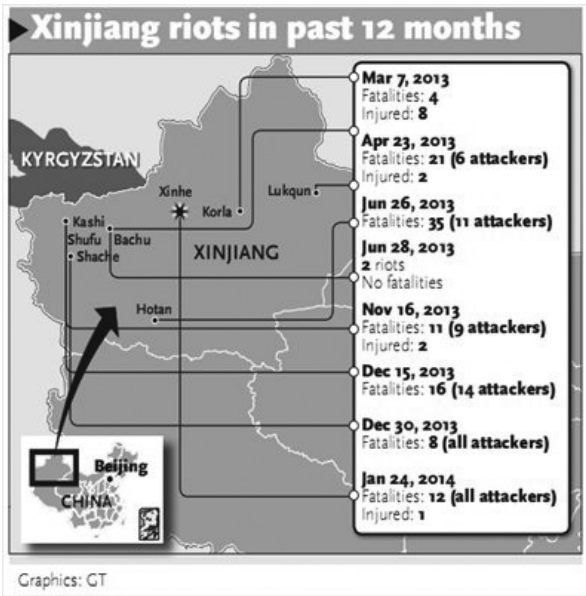


Image from globaltimes.cn

## APPENDIX C



Image from [www.npr.org](http://www.npr.org)

### ADDITIONAL WORKS CONSULTED

- Chu, Ben. "China's \$50bn Spending Spree on New Silk Road." *The Independent* (2013).
- Cohen, Jerome. "A Conversation with Sikyong Lobsang Sangay." *Council on Foreign Relations* (2013).
- "Discrimination, Inequality, and Poverty- A Human Rights Perspective." *Human Rights Watch* (2012): 1-27.
- Hoshur, Shohret. "Tiananmen Crash May Have Been a 'Revenge Attack.'" *Radio Free Asia* (2013).
- Lu, Zheng and Xiang Deng. "China's Western Development Strategy: Policies, Effects and Prospects." *Munich Personal RePEc Archive* (2008): 1-26.
- "Regional Autonomy for Ethnic Minorities in China 2005." *Information Office of the State Council of the People's Republic of China* (2005).
- Tiezzi, Shannon. "US Releases Last Uyghur Chinese Prisoners from Guantanamo Bay." *The Diplomat* (2014).
- "White Paper on Development and Progress in Xinjiang." *China Daily* (2009).
- "Xinjiang." *Australian Center on China and the World: The China Story* (2012).



# Global Decriminalization of and Tolerance for Homosexuality

– Jim Martinez

## ABSTRACT

*Across the globe, states have differing laws regarding the treatment of lesbian and gay individuals and even those perceived as homosexual compared to heterosexuals. These laws limiting homosexual rights range from marriage substitutes, different ages for sexual consent, imprisonment, to potentially death. This paper explicitly addresses the latter two issues. Interconnection exists between the decriminalization of and tolerance for homosexuality and can be interchangeable in that one might follow the other, depending upon the political, social, and cultural aspects that comprise the society of a given state. My recommended solution encompasses the decriminalization of and tolerance for homosexuality at the international and regional levels, while also examining how nongovernmental organizations (NGOs) and native activists can promote positive change at the community and state level.*

## OVERVIEW AND BACKGROUND

Since the creation of the United Nations (UN) after World War II ten international human rights instruments and subsequent monitoring committees have emerged. These instruments arose from shifts in public opinion on various issues, such as offering equal services to persons with disabilities. Article 1 of the Universal Declaration of Human Rights similarly stows liberty and equality in rights to all human beings. The UN Human Rights Council is a forum for discussing all issues related to human rights and the council routinely investigates UN member states' progress therein with the Universal Periodic Review (UPR).<sup>1</sup> Among the human rights issues, the UPR examines the rights bestowed upon and treatment of lesbian and gay individuals.

The UN Charter does not explicitly mention protection based on sexual orientation nor do the ten human rights instruments or the Universal Declaration of Human Rights. In 1994 the Human Rights Committee – the monitoring body for the International Covenant on Civil & Political Rights –

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<sup>1</sup> UN General Assembly, *A/RES/60/251*,  
3 April 2006, Page 3.

ruled in favor of Nicholas Toonen in his case against the Tasmanian province of Australia noting that the provincial government's sodomy laws prohibiting intercourse between men in private violated his human rights on the basis that they subjected him to imprisonment due to his homosexuality and infringed on his right to privacy.<sup>2</sup> This ruling founded the notion that discrimination based on sexual orientation violates international law. UN High Commissioner for Human Rights, Navi Pillay, claims that "other UN human rights treaty bodies dealing with other areas of human rights law such as torture, children's rights, economic, social, and cultural rights, and the discrimination against women" entrenched the principle of equal protection to lesbian and gay peoples.<sup>3</sup> Commissioner Pillay's comment refers to the torture of individuals, withholding of medical assistance to children and persons with HIV/AIDS, or "corrective rape" of lesbians because of the individual's homosexuality. The trend in recent years shifted towards public support for equal protection for lesbian and gay individuals and encouragement for UN member states to abolish discrimination based on sexual orientation from the UN Secretary General, special rapporteurs, and other high-ranking officials.<sup>4</sup>

Although 126 states had laws criminalizing homosexuality in 1789, beginning in the 1960s the majority of these states began reversing their position.<sup>5</sup> According to a recent Pew survey most European Union (EU) states as well as many Latin American states have accepting views on homosexuality, whereas "In sub-Saharan Africa, at least nine-in-ten in Nigeria (98%), Senegal (96%), Ghana (96%), Uganda (96%) and Kenya (90%) believe homosexuality should not be accepted by society."<sup>6</sup> This paper focuses solely on how regional

body dialogue and development aid can incentivize states to decriminalize homosexuality, while also considering solutions that promote tolerance for homosexuals – that their ability to live free from persecution remain protected – through religious leaders' support and NGO support for native-run civil society efforts.

## POSSIBLE SOLUTIONS

### ***Approach 1: Add "sexual orientation" Protection to the UN Charter***

Article 55.c in the Charter of the United Nations states that the UN shall promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."<sup>7</sup> Adding "sexual orientation" to this article would reinforce UN member states' commitment to non-discrimination policies. Article 108 outlines that two thirds of the member states in the General Assembly and consent of all five permanent members of the Security Council must adopt any amendment to the charter.<sup>8</sup> Presently this means that 129 of the 193 members must vote in favor of the amendment including the People's Republic of China, France, the Russian Federation, the United Kingdom, and the United States. Even if 129 UN member states voted in favor of an amendment adding "sexual orientation", diplomatic pressure on the Russian Federation continues given the Kremlin's unanimous consent to ban the dissemination of homosexual propaganda in 2013.<sup>9</sup> Furthermore, a study in 2007 by the International Lesbian and Gay Association (ILGA) found that eighty-five UN member states on five continents had national laws criminalizing sodomy and/or same-sex intercourse.<sup>10</sup> Some states do not enforce such laws, but their very existence implies sanctioned inequality. Passage of this

2 University of Minnesota Human Rights Library. Toonen v. Australia, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994).

3 UN HUMANRIGHTS. (2011, JULY 27). How gay rights debate began at UN.

4 OHCHR, UNAIDS, UNDP, WHO. *The United Nations Speaks Out: Tackling Discrimination on Grounds of Sexual Orientation and Gender Identity*. April 2011.

5 Rodgers, et al. Where is it illegal to be gay?. 10 February 2014.

6 "The Global Divide on Homosexuality" Pew Research Global Attitudes Project.

7 *Charter of the United Nations*. Chapter IX: International Economic and Social Co-Operation. Article 55.

8 *Charter*. Chapter XVIII: Amendments. Article 108.

9 Marc Bennetts. "Russia's anti-gay law is wrong – but so is some criticism from the west" 4 February 2014.

10 "State-sponsored homophobia: a world survey of laws prohibiting same-sex sexual acts between consenting adults", International Lesbian, Gay, Bisexual, Transgender and Intersex Association (ILGA), Brussels, May 2011. (pg. 4).



amendment would require that UN member states protect sexuality minorities, but such a change proves improbable until more states repeal their discriminatory laws at the national level.

### **Approach 2: Add “sexual orientation” to Ten International Instruments**

Ten human rights international instruments established through the UN contain human rights clauses that define the applicability and scope of their doctrine to all persons without distinction to sex, age, religion, language, origin, race, and other status. Due to the political atmosphere of the time, the authors refrained from specifying “sexual orientation” in the list to ensure states would sign and ratify, accede, or become successions to the agreements. States have not and still do not protect homosexuals because they do not apply the “other status” to them. In a letter to the President of the Human Rights Council on behalf of the Organization of Islamic Cooperation (OIC) in concern to an upcoming panel on Discrimination and Violence based on Sexual Orientation and Gender Identity, Pakistan noted that OIC members “are even more disturbed at the attempt to focus on certain persons on the grounds of their abnormal sexual behavior...”<sup>11</sup> Appendix 1 identifies specific clauses in each document needed for amendment and the Articles that explain the procedure for submitting amendments, while appendix 2 lists 55 states with laws criminalizing homosexuality and the instruments that their governments have agreed to. Prior alterations to the instruments that warranted a vote took years to implement due to the number of parties required for passage. Even if this amendment gained enough support to become binding, states criminalizing homosexuality would not sign or ratify them. Nevertheless, lesbian and gay persons comprise portions of the groups in each of the ten instruments experiencing maltreatment across the world so their rights merit protection.

### **Approach 3: EU Development Aid Contingent on Recipients’ Human Rights Laws**

Article 21.1 of the Charter of Fundamental Rights of the European Union clearly states, “Any discrimination based on any ground such as...sexual

orientation shall be prohibited”.<sup>12</sup> Yet, the majority of the 55 states listed in appendix 2 receive aid from the EU. For example, between 2008-2013 Angola received 13.233 billion Euros in aid for economic reform, social development, food security, and regional integration.<sup>13</sup> To better develop human rights in such states the EU must take steps to ensure that aid recipients promote equality among sexualities. Contributing aid based upon the repeal of laws criminalizing homosexuality stands as a principle measure to this end. Article 2.1.b.iv in the financing instrument Regulation (EU) No 235/2014 promotes the rights of lesbian and gay persons while Article 2.3 states that such measures “shall be implemented in the territory of third countries or shall be directly related to situations arising [therein]”.<sup>14</sup> The implementation strategy currently being formulated by the European Commission for the regulation of aid must require human rights adherences to receive funds. Incentivizing the 55 states, as well as the development organizations and individuals with development projects operating in their borders, with aid in exchange for non-discrimination policies will contribute to sexuality equality at the regional, national and local levels.

### **Approach 4: Increased Dialogue in Regional Bodies**

In 2008 the General Assembly of the Organization of American States (OAS) unanimously passed a resolution titled “Human Rights, Sexual Orientation, and Gender Identity”, calling for states to document violence generated towards individuals based on their perceived or self-identified homosexuality.<sup>15</sup> Subsequent resolutions resolved to dismantle national legislation that infringe on the rights of lesbian and gay persons and investigations on the safety of human rights

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12 Charter of the Fundamental Rights of the European Union. (C 364/13).

13 European Commission. EuropeAid. Country Strategy Papers. Angola. (pg. 2)

14 European Parliament & European Council. “Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide”. Pg. 85-94. *Official Journal of the European Union*. Volume 57, L77. 15 March 2014.

15 Organization of American States, Department of International Law. *Orientación Sexual*. 2012

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11 UN Watch. “Letter from UN’s Islamic group to UNHRC President Opposing Panel on Violence Against Gays”. 17 February 2012.

defenders just to name a couple. Inclusivity for diverse sexualities such as in the EU appears inevitable for OAS members. The Association of Southeast Asian Nations (ASEAN) and the African Union (AU) need similar resolutions to those passed in the OAS and founded in the EU Charter. A survey conducted by the EU Agency for Fundamental Rights suggested that "EU Member States should collect statistical data on at least the number of incidents pertaining to hate crime reported [toward homosexuals] by the public and recorded by the authorities, the grounds on which these offences were found to be discriminatory, the number of convicted offenders and the type of sentence imposed".<sup>16</sup> Instructive and comprehensive trainings for law enforcement on lesbian and gay persons' reluctance to report acts of discrimination remain key to achieving this end. Future regional efforts should include dialogue about protecting sexual orientation in their respective regional charters and human rights councils that currently offer none. This gives an opportunity for states supporting non-discrimination to positively influence proximal states amidst likely politically charged discourse.

#### ***Approach 5: Gain Religious Leaders' Support for Tolerance of Homosexuals.***

Pope Francis recently stated that he does not judge gay priests, a move that disseminates tolerance to every Catholic, especially those that embrace papal decrees.<sup>17</sup> Although the church still considers homosexual acts a sin and vehemently opposes gay marriage, it also teaches that all human beings have the right to be treated with dignity and respect. Acceptance of homosexuals occurs in states, especially in Latin America, where predominantly catholic citizens reside. Anglican Archbishop Emeritus Desmond Tutu recently supported the UN Free & Equal campaign. At the campaign's launch in Capetown, South Africa, Tutu offered his opinion on the issue of lesbian and gay inequality saying, "I oppose such injustice with the same

passion that I opposed apartheid".<sup>18</sup> His opinion resonates well with Christians in Africa, though the necessity for more support from religious leaders holds high importance. In regards to Islamic persons, the religion "is often split by nationality, resulting in some ethnic differences with respect to overseeing Mosques and establishing rules of conduct for different communities" and teachings of conservative or liberal ideals often varies by each imam khatib.<sup>19</sup> This holds significant implications on the approval of homosexuality in predominantly Islamic states in sub-Saharan and Middle Eastern states. Religious leaders in these regions need encouragement to progressively soften their stances opposing lesbian and gay persons and move towards acceptance if not mere tolerance of such people.

#### ***Approach 6: Increased International NGO Support for Native-Run Civil Society Efforts***

International NGOs serve as highly influential stakeholders in the effort to raise approval for and decriminalization of homosexuality. The International Gay and Lesbian Human Rights Commission (IGLHRC) collaborates with native activists in various states to collect data on human rights abuses targeted at homosexuals. The IGLHRC publishes "shadow reports" on states' progress to implementing UN human rights instruments in regards to protecting homosexuals. For example, in 2012 the IGLHRC's report on Guatemala underscored "The failure to provide concrete, disaggregated statistics around LGBT violence and discrimination permits the Guatemalan authorities to ignore, and sometimes even misrepresent, homophobic... abuse."<sup>20</sup> Local activists play a vital role in helping this and similar organizations in their regional and global endeavors to pressure state human rights policy. At the national, provincial, and municipal levels, international NGOs should empower native activists with funding and support while taking appropriate steps to avoid perceived

18 United Nations. Human rights leaders speak out for LGBT equality. 17 September 2013.

19 Richard S. Balkin, Watts, Ali. A Conversation About the Intersection of Faith, Sexual Orientation, and Gender: Jewish Christian, and Muslim Perspectives. *Journal Of Counseling & Development*, 92(2), 190.

20 IGLHRC. Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report. 09 May 2012.

16 FRA – European Union Agency For Fundamental Rights. *EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey: Results at a glance.* (pg. 14).

17 Rachel Donadio. "On Gay Priests, Pope Francis Asks, 'Who Am I to Judge?'" 29 July 2013.


social imperialism by Westerners. Just this April police detained a Ugandan employee of Makerere University's Walter Reed Project on suspicion of leading homosexual training activities.<sup>21</sup> The Kampala police might have engaged surveillance on the project due to the partnership with U.S. military HIV research, though the details of the investigation remain unknown. Regardless, this situation pontificates how the presence of foreign organizations can exasperate the dire conditions that homosexuals face in states that criminalize sexual minorities.

## RECOMMENDED COURSE OF ACTION

Achieving tolerance for lesbian and gay persons and the decriminalization of homosexuality may seem prolonged and pessimistic, but inevitable progression surely lies ahead. Just as the ten human rights instruments came into existence amidst differing political and social values, so will the movement towards sexuality equality. Considering the various arguments both supporting and opposing such a contentious topic remains important in selecting a course of action to the immediate betterment of lesbian and gay people in states across the globe. The recommended solution includes international NGO support for native activists, religious leaders' encouragement for tolerance, EU development aid contingent on human rights adherences, and continued dialogue at regional organizations.

Native lesbian and gay activists rely on financial and material support from international NGOs such as the ILGA and IGLHRC. Activists also depend on protection measures in the event that they become subject to violent acts. NGOs in turn present accurate and detailed accounts of human rights infringements to regional and global forums. Native activists must promote sexuality equality to their own neighbors, family members, community leaders, and national legislatures for the stigma of human realities to dissolve. Foreigners fulfilling this role can irritate worse climates than those presently residing in states with significant opposition to

homosexuals. Religious leaders have the potential to positively impact such states where religiosity plays a critical role in the livelihood of the populous by encouraging acceptance.<sup>22</sup> Societal tolerance of diverse sexualities proves absent to the individuals currently being persecuted for their homosexuality. Accepting the existence of homosexual individuals must occur prior to any additional advances within states throughout the globe.

EU member states have the most inclusive human rights protections for homosexuals in the world and should require that aid recipients hold the same standards. Along with financial incentives, the European Commission's implementation strategy must also assist with relevant legislative support to recipients that wish to repeal discriminatory laws and law enforcement training guidelines about interacting with lesbian and gay people that have suffered homophobic abuse. Though an amendment to the UN Charter and ten international human rights instruments presently remains unfeasible, dialogue in regional organizations in regard to homosexuals should continue to transpire. The realization that lesbian and gay rights merit the same protection as other human rights issues by all states regardless of strong personal beliefs will be achieved gradually. 

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<sup>21</sup> Elias Biryabarema. "Uganda police detain U.S.-funded health project staffer over gay law". Reuters. 04 April 2014.

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<sup>22</sup> See Appendix 3

## APPENDICES

### APPENDIX 1

#### *Ten International Human Rights Instruments*

<b>Acronym</b>	<b>Full Name</b>
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on the Economic, Social and Cultural Rights
ICCPR	International Covenant on the Civil and Political Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CAT*	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CRC	Convention on the Rights of the Child
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CPED	International Convention on the Protection of All Persons from Enforced Disappearance
CRPD	Convention on the Rights of Persons with Disabilities

\*The UN considers the optional protocol to CAT as the tenth international human rights instrument.

#### *Amending International Instruments by Adding "sexual orientation" to Protection Clause*

<b>Agreement</b>	<b>Non-Discrimination Clause</b>	<b>Article with Amendment Procedure</b>
ICERD	Preamble para. two	Art. 23
ICESCR	Preamble para. four, & Art. 2	Art. 29
ICCPR	Preamble para. four, & Art. 2	Art. 51
CEDAW	Para. four	Art. 18
CAT	Preamble para. five	Art. 29
CRC	Preamble para. four, & Art. 2	Art. 50
ICMW	Art. 1 & 7	Art. 90
CPED	Art. 13.7	Art. 44
CRPD	Preamble.P, Article 8.B	Art. 47

## APPENDIX 2

### *States Criminalizing Homosexuality & International Human Rights Instruments*

State	ICERD	ICESCR	ICCPR	CEDAW	CAT	CRC	ICMW	CPED	CRPD
<u>Laws against gay expression</u>									
1. Russian Federation	R	R	R1-	R1	R-	R23	-	-	R-
<u>Imprisonment</u>									
1. Afghanistan	R	R	R--	R-	R	R23	-	-	R1
2. Algeria	R	R	R1-	R-	R	R23	R	N	R-
3. Angola	N	R	R1N	R1	NN	R23	-	-	--
4. Bangladesh	R	R	R--	R1	R-	R23	R	-	R1
5. Belize	R	N	R--	R1	R-	R23	R	-	R-
6. Bhutan	N	-	---	R-	--	R23	-	-	N-
7. Botswana	R	-	R--	R1	R-	R23	-	-	--
8. Burundi	R	R	R--	R-	R1	R23	-	N	NN
9. Cameroon	R	R	R1-	R1	R-	R2N	N	N	NN
10. Egypt	R	R	R--	R-	R-	R23	R	-	R-
11. Eritrea	R	R	R--	R-	--	R23	-	-	--
12. Ethiopia	R	R	R--	R-	R-	R-3	-	-	R-
13. Ghana	R	R	R1-	R1	R-	R-N	R	N	R1
14. Guinea	R	R	R1-	R-	R-	R23	R	-	R1
15. Guyana	R	R	R1-	R-	R-	R23	R	-	N-
16. India	R	R	R--	R-	--	R23	-	N	R-
17. Jamaica	R	R	R1-	R-	--	R23	R	-	R-
18. Kenya	R	R	R--	R-	R-	R2N	-	N	R-
19. Kuwait	R	R	R--	R-	R-	R23	-	-	R-
20. Lebanon	R	R	R--	R-	R1	R-N	-	N	NN
21. Liberia	R	R	RN2	R-	R1	R-N	N	-	R-
22. Libya	R	R	R1-	R1	R-	R23	R	-	N-
23. Malawi	R	R	R1-	R-	R-	R23	-	-	R-
24. Malaysia	-	-	---	R-	--	R23	-	-	R-
25. Morocco	R	R	R--	R-	R-	R23	R	R	R1
26. Mozambique	R	-	R-2	R1	R-	R23	R	N	R1
27. Myanmar	-	-	-	R-	--	R23	-	-	R-
28. Namibia	R	R	R12	R1	R-	R23	-	-	R1
29. Oman	R	-	---	R-	--	R23	-	-	R-
30. Pakistan	R	R	R--	R-	R-	R23	-	-	R-
31. Papua New Guinea	R	R	R--	R-	--	R--	-	-	R-
32. Qatar	R	-	---	R-	R-	R23	-	-	R-
33. Senegal	R	R	R1-	R-	R1	R23	R	R	R-
34. Sierra Leone	R	R	R1	R-	R-	R23	N	N	R-
35. Solomon Islands	R	R	---	R1	--	R-N	-	-	NN
36. South Sudan	-	-	---	--	--	---	-	-	--
37. Sri Lanka	R	R	R1-	R1	R-	R23	R	-	N-
38. Swaziland	R	R	R--	R1	R-	R23	-	N	R1
39. Syrian Arab Republic	R	R	R--	R-	--	R23	R	-	R1
40. Togo	R	R	R1-	R-	R1	R23	N	N	R1
41. Trinidad & Tobago	R	R	R--	R-	--	R--	-	-	N-
42. Tunisia	R	R	R1-	R1	R1	R23	-	R	R1

## APPENDIX 2 (CONT.)

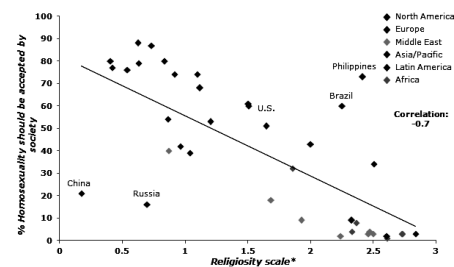
43. Turkmenistan	R	R	R12	R1	R-	R23	-	-	R1
44. Uganda	R	R	R1-	R-	R-	R23	R	N	R1
45. United Arab Emirates	R	-	---	R-	R-	R--	-	-	R-
46. Uzbekistan	R	R	R12	R-	R-	R23	-	-	N-
47. Zambia	R	R	R1-	R-	R-	R-N	-	R	R-
<b>Death Penalty</b>									
1. Iran (Islamic Republic of)	R	R	R--	--	--	R-3	-	-	R-
2. Mauritania	R	R	R--	R-	R1	R-3	R	R	R1
3. Nigeria (varies by state)	R	R	R--	R1	R1	R23	R	R	R1
4. Saudi Arabia	R	-	---	R-	R-	R23	-	-	R1
5. Somalia (varies by state)	R	R	R1-	--	R-	NN	-	-	--
6. Sudan	R	R	R--	R-	N-	R23	-	-	R1
7. Yemen	R	R	R--	R-	R-	R23	-	-	R1
<b>Overall Parties</b>	<b>176</b>	<b>161</b>	<b>167</b>	<b>187</b>	<b>154</b>	<b>193</b>	<b>47</b>	<b>42</b>	<b>143</b>
<b>2/3 Needed</b>	<b>118</b>	<b>108</b>	<b>112</b>	<b>126</b>	<b>104</b>	<b>130</b>	<b>32</b>	<b>28</b>	<b>96</b>
<b>Without Parties*</b>	<b>126</b>	<b>117</b>	<b>121</b>	<b>135</b>	<b>114</b>	<b>140</b>	<b>30</b>	<b>36</b>	<b>103</b>

\*Assumes that states listed with "R" would vote against "sexual orientation" protections

Key:	
"R"	= ratification, accession, or succession
"1", "2", & "3"	= ratification, accession, or succession of 1st, 2nd, and/or 3rd Optional Protocol to the agreement (where relevant)
"--"	= nonparticipant in main agreement or optional protocol(s)
"N"	= signatory but no ratification, accession, or succession (applies to Optional Protocol(s) as well)

## APPENDIX 3

### Less Tolerance for Homosexuality in More Religious Countries



\* Religiosity is measured using a three-item index ranging from 0-3, with "3" representing the most religious position. Respondents were coded as "3" if they believe faith in God is an essential part of their lives; "2" if they pray at least once a day; and "1" if they pray at least once a week. The mean score for each country is used in this analysis. Religiosity scores for the U.S., Britain, France, Germany, Spain and Japan are from the Spring 2011 Global Attitudes Survey.

PEW RESEARCH CENTER Q27.

Source: "The Global Divide on Homosexuality", Pew Research, 2013.

## ADDITIONAL WORKS CONSULTED

Balkin, R.S., R.E. Watts, and S.R. Ali. A Conversation About the Intersection of Faith, Sexual Orientation, and Gender: Jewish, Christian, and Muslim Perspectives. *Journal of Counseling & Development*, 92(2), (2014): 187-193.

Miller, Alice M. and Mindy J. Roseman. Normalizing Sex and Its Discontents: Establishing Sexual Rights in International Law. *Harvard Journal of Law & Gender*, Summer, 2011, Vol.34(2) (2001): 313-375.



# Balancing Protected Area Management and Indigenous Rights in Latin America

– Jamil Sepulveda

## ABSTRACT

*During the past few decades, protected areas have spread across Latin America. An exclusionary approach has been the conventional model to protected areas, forcing indigenous peoples off lands they traditionally occupied. After investigating several options, this paper proposes an indigenous-centered model incorporating (1) mutual trust in government/NGO partnerships, (2) clear outlining of partnership goals and (3) involvement of indigenous peoples in the decision-making process. While biosphere reserves comprise a zoning system with areas designated for both biodiversity preservation and human settlement, strict conservation is not always feasible. Another approach analyzed involving private protected areas is practical when governments fail to recognize indigenous rights. Lastly, government-backed indigenous territories have been largely successful when funding is available and legal protection is enforced. Research findings suggest that indigenous-managed protected areas are more successful in preserving biodiversity than strict preservation, thus serving as a viable alternative to the traditional exclusionary model.*

## OVERVIEW AND BACKGROUND

Latin America is a region of stark contrasts from both an ecological and sociopolitical standpoint. Ecologically, the region has an abundance of natural resources, containing 40% of the planet's biological diversity.<sup>1,2</sup> Culturally, Latin America is rich in terms of the mosaic of indigenous cultures and tribes that inhabit the region, which comprise between 10% and 12% of its total population.<sup>3</sup> There is no official agreed-upon definition for the term indigenous; however this report uses the framework the United Nations developed based on social, historical,

- 1 UNEP. State of Biodiversity in Latin America and the Caribbean. Regional Office for Latin America and the Caribbean, Panama City: UNEP, 2010.
- 2 G. Castro, I. Locker, V. Russel, L. Cornwell, and E. Fajer. Mapping Conservation Investments: An assessment of Biodiversity Funding in Latin America. Washington, D.C.: Balmar Solutions in Print, 2000, 10.
- 3 Gillette Hall and Andrew Patrinos. "Indigenous Peoples, Poverty and Human Development in Latin America: 1994-2004." The World Bank, 2004: 2.

economic and self-identity characteristics. View Appendix A for the complete framework. Bolivia, Peru, Mexico, Ecuador and Guatemala have the highest indigenous populations, with up to half of some states' population recognized as indigenous (see Appendix B).<sup>4</sup> In addition, indigenous peoples in Latin America are among the poorest ethnic group and social inequalities are pervasive.<sup>5</sup> Many of these indigenous groups are dispersed throughout rural zones, with a large number living in squalid conditions.<sup>6</sup>

During the past three decades, conservation movements have swept across Latin America with the establishment of extensive protected areas.<sup>7, 8, 9</sup> For instance, between 1990 and 1997 the coverage of protected areas doubled in Bolivia, Colombia, Ecuador and Peru.<sup>10</sup> Complicating this matter is the fact that indigenous groups living throughout tropical forests in Latin America often coincide with the boundaries of protected areas.<sup>11</sup> Some studies estimate that up to 85% of the protected areas in Latin America are inhabited.<sup>12</sup> In spite of the creation of protected areas, the mismanagement of ecosystems and widespread social inequalities in Latin America continue to contribute to some of the

world's highest rates of deforestation.<sup>13</sup> In addition, during the 1990s, "paper parks"—parks that existed often only to satisfy certain stakeholders, neither achieving conservation aims nor enforcing their laws—were a widespread occurrence.<sup>14</sup> Many early parks lacked the personnel or financial resources to be effective, thus leading to poor management.<sup>15</sup>

A key challenge to the creation and management of protected areas is the many ways governments, stakeholders and environmental groups interpret the goals of conservation. It wasn't until the late 1990s that some conservation organizations began to recognize the importance of working with indigenous cultures living near areas of high biological diversity.<sup>16</sup> Traditionally, conservation meant strict preservation with no human intervention. As a result of exclusionary policies like this, many indigenous groups were physically removed from lands they traditionally occupied. In order to create a consistent protected area framework, the International Union for the Conservation of Nature (IUCN) developed a series of categories (categories I through VI) ranging from strict conservation with absolutely no human intervention to sustainable use of natural resources with limited human activities.<sup>17</sup> See Appendix C for an overview of the IUCN protected area categories. While strict protection suggests the highest possible level of conservation, it directly conflicts with indigenous peoples who inhabit these lands.<sup>18</sup>

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4 See Appendix A.

5 UNEP. State of Biodiversity in Latin America and the Caribbean. Regional Office for Latin America and the Caribbean, Panama City: UNEP, 2010.

6 Hall and Patrinos, 1-2.

7 George Wittemyer, Paul Elsen, William T Bean, A Coleman, O Burton, and J S Brashares. "Accelerated Human Population Growth at Protected Area Edges." *Science* 321 (July 2008): 123-125.

8 Zimmerer, Karl S., and Eric D Carter. "Conservation and Sustainability in Latin America and the Caribbean." *Conference of Latin Americanist Geographers Yearbook* (University of Texas Press) 27, no. 1 (2002): 207-228.

9 Susan Calafate Boyle. "Opening Minds: interpretation and conservation." *Museum International* 56, no. 3 (2004): 85-93.

10 Karl S. Zimmerer and Eric D Carter. 207-228.

11 Marcus Colchester. "Conservation policies and indigenous peoples." *Environmental Science and Policy* 7 (2004): 145-153.

12 *Ibid.*, 145.

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13 Luciana Porter-Bolland, Edward A Ellis, Manuel R Guariguata, Isabel Ruiz-Mallén, Simoneta Negrete-Yankelevich, and Victoria Reyes-García. "Community managed forests and forest protected areas: An assessment of their conservation effectiveness across the tropics." *Forest Ecology and Management* 268, no. 2 (2012): 6-17.

14 K. Brandon, K. Redford, and S. Sanderson. *Parks in Peril: People, Politics and Protected Areas*. Covelo: Island Press, 1998.

15 George Holmes. "The Rich, the Powerful and the Endangered: Conservation Elites, Networks and the Dominican Republic." *Antipode* 42, no. 3 (2010): 624-646.

16 Avecita Chicchón. "Working with Indigenous Peoples to Conserve Nature: Examples from Latin America." *Conservation and Society* 7, no. 1 (2009): 19.

17 IUCN. IUCN Protected Areas Categories System. January 2014. [http://www.iucn.org/about/work/programmes/gpap\\_home/gpap\\_quality/gpap\\_pacategories/](http://www.iucn.org/about/work/programmes/gpap_home/gpap_quality/gpap_pacategories/) (accessed 14 April, 2014).

18 See Appendix D for a comprehensive list of the negative impacts of protected areas on indigenous peoples.



## POSSIBLE SOLUTIONS

### **Approach 1: Biosphere Parks and Ethnic Reserves**

In recent decades, biosphere reserves have become a practical alternative to strict protection areas (IUCN Category Ia).<sup>19</sup> A zoning system in which a protected area is divided in multi-use and conservation-only protected areas is the basis for these types of reserves.<sup>20</sup> There is usually a core protected area with a series of buffer zones allowing for other uses. The core area is normally off limits to human activity and all development is completely restricted.<sup>21</sup>

The buffer zones include areas for small-scale agricultural use and other zones where some economic activity is allowed, yet restricted to some extent. Lastly, there may be a zone that allows for some human occupation.<sup>22</sup> Yasuni National Park and the Huaorani Ethnic Reserve in Ecuador, which together make up the Yasuni Biosphere Reserve, are one example of a biosphere reserve.<sup>23</sup> In this reserve, the Huaorani Ethnic Reserve constitutes one of the buffer zones in which the Huaorani are able to maintain their lifestyle and utilize the resources. A key issue with biosphere reserves is many of them—including the Yasuni Reserve—were initially created without first consulting the indigenous groups occupying them.<sup>24</sup>

### **Approach 2: Private Protected Areas**

Few scholars have recognized the development of private protected areas and their potential for achieving conservation objectives while simultaneously encouraging indigenous management. Traditionally, the state has been the primary creator and enforcer of public protected

areas.<sup>25</sup> In Chile, protected area management is a complicated process and a large amount of land is under private ownership.<sup>26</sup> Therefore, Chile offers a unique case study in which over 500 private protected areas offer another method by which to achieve conservation.<sup>27</sup> Private protected areas are the result of multiple actors: entrepreneurs, conservation organizations, businessmen and corporations.<sup>28</sup>

In some cases, conservation interests coincide with indigenous interests, allowing for the formation of a partnership. For example, the Golden Spring Lumber project in Chiloé and a highway project in Valdivia led to the creation of private protected areas in which both indigenous communities and conservation groups supported their creation.<sup>29</sup> While it is easy to celebrate these achievements, it was only in recent decades that conservation organizations began to include indigenous communities in conservation, recognizing their cultural and historical ties to the land.<sup>30</sup> Empowering indigenous communities is only the first step conservation organizations such as The Nature Conservancy (TNC) or the World Wildlife Fund (WWF) have taken in harnessing political and technical support for these groups.<sup>31</sup>

### **Approach 3: Indigenous Territories**

Current literature recognizes the importance of indigenous groups to manage their own resources and livelihoods.<sup>32, 33</sup> Other literature often refer to Indigenous territories interchangeably as “communal territories” or “community managed

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19 IUCN. [http://www.iucn.org/about/work/programmes/gpap\\_home/gpap\\_quality/gpap\\_pacategories](http://www.iucn.org/about/work/programmes/gpap_home/gpap_quality/gpap_pacategories)

20 Ibid.

21 Ibid.

22 Ibid.

23 Chicchón, 18.

24 Ibid., 18.

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25 J. Ervin, N. Sekhran, A. Dinu., S. Gidda, S. Vergeichik, J. Mee. Protected Areas for the 21st Century: Lessons from UNDP/GEF's Portfolio. New York: United Nations Development Programme and the Convention on Biological Diversity, 2010, 11.

26 Laura E. Meza. “Mapuche Struggles for Land and the Role of Private Protected Areas in Chile.” *Journal of Latin American Geography* 8, no. 1 (2009): 150.

27 Ibid., 150.

28 Ibid.

29 Ibid., 155.

30 Chicchón, 19.

31 Meza, 158.

32 Marcus Colchester. “Conservation policies and indigenous peoples.” *Environmental Science and Policy* 7 (2004): 145-153

33 Porter-Bolland et al., 6-17.

territories,” highlighting the importance of a human-centered approach to conservation.<sup>34,35</sup> However, the interests of large corporations and other extractive enterprises pose a challenge for indigenous people, who often lack the political resources to protect themselves.<sup>36</sup> The development of indigenous territories is the latest and most inclusive approach to balancing protected area administration and indigenous rights.<sup>37</sup>

Nevertheless, the underlying principal is the indigenous community manages their lands as they wish, often with the political and/or technical support of either the state or a conservation organization (or both).<sup>38</sup> In this regard, the indigenous communities can elect to open up their reserves to sustainable economic activity while maintaining their traditional lifestyle. Bolivia offers an example of state-supported community-based forestry initiatives with the creation of Communal Territories of Original Inhabitants (TCOs).<sup>39</sup> The establishment of TCOs relinquished land management to indigenous communities and allowed them the authority to formalize their land rights. While these approaches to conservation and land tenure have been mostly successful, there have been a number of setbacks along the way ranging from exploitation and undermining of indigenous groups to conflict of interests.<sup>40,41</sup>

## RECOMMENDED COURSE OF ACTION

It is recommended to develop a policy consistent with indigenous decision-making and land management practices. Three key qualities

this policy should incorporate to be successful include: (1) mutual trust and understanding of the partnership, (2) a clear outline of goals of each party, and (3) the ability for the indigenous community to be a fundamental part of the decision-making process. While strict forest management has been the traditional approach for resource preservation, organizations such as TNC and WWF have crafted specific policies for working with indigenous peoples—something that did not exist several decades ago.<sup>42</sup>

Traditionally, indigenous communities have not benefited from negotiating with outsiders. Many of the first conservation projects ignored indigenous interests in decision-making, further widening the gap between indigenous communities and conservation groups.<sup>43</sup> Developing trust does not happen over night, but conservation organizations and policy makers can encourage this process by defining the nature of their partnership from the onset.<sup>44</sup> Ensuring the indigenous community understands the relationship is the first step in developing an amicable alliance.

It is important both the indigenous group and policy makers have a clear understanding of their goals. For instance, resource preservation may be the primary objective of policy makers while the indigenous community may have the objective of preserving their traditional way of life. In this respect, conservation interests have the potential to align with indigenous interests as preservation—whether it's of livelihoods or biological diversity—can lead to common ground.<sup>45</sup> Simply outlining the goals of each group will help to ensure there are no misunderstandings or unintended consequences of the alliance.<sup>46</sup>

Lastly, the indigenous community needs to be an active participant in the decision-making process. Conservation literature recognizes the importance

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34 Colchester, 147.

35 Porter-Bolland et al., 6.

36 Darcy Victor Tetreault and Carlos Federico Lucio López. “Jalisco: pueblos indígenas y regiones de alto valor biológico.” Translated by Jamil Sepúlveda. *Espiral* 18, no. 51 (2011): 195.

37 Porter-Bolland et al., 6.

38 Chicchón, 18.

39 Constituyente Soberana. ¿Qué son las TCOs? Translated by Jamil Sepúlveda. March 9, 2009. [http://www.constituyentesoberana.org/3/noticias/tierra/012010/010110\\_1.html](http://www.constituyentesoberana.org/3/noticias/tierra/012010/010110_1.html) (accessed April 14, 2014).

40 Colchester, 147.

41 Holmes, 628.

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42 Colchester, 148-149.

43 Chicchón, 15.

44 *Ibid.*, 17.

45 Colchester, 151.

46 Tetreault and López, 195.

of local people in conserving biological diversity.<sup>47</sup> Over the years, conservation organizations have attempted to preserve natural resources using a variety of different models, but according to Nelson and Chomitz, the most successful models combine local peoples' interests with resource planning efforts.<sup>48</sup> Other studies (Chicchón, Tetreault and López) mirror this claim; Tetreault and López purport that the human footprint left behind from indigenous communities is usually much less than that of other groups such as oil companies and other extractive corporations.<sup>49</sup> As this paper has identified, the gap between conservationists and indigenous communities exacerbates deeply-rooted inequalities. Therefore an indigenous-centered approach provides a viable alternative to traditional conservation practices. 

## ADDITIONAL WORKS CONSULTED

- Coombs, Brad, Jay T Johnson, and Richard Howitt. "Indigenous geographies II: The aspirational spaces in postcolonial politics – reconciliation, belonging and social provision." *Progress in Human Geography* (Sage Publications, Ltd) 37, no. 5 (2012): 691-700.
- Jamal, Tazim, and Amanda Stronza. "Collaboration theory and tourism practice in protected areas: stakeholders, structuring and sustainability." *Journal of Sustainable Tourism* 17, no. 2 (2009): 169-189.
- San Juan, Cesar, and Yosu Ortego. "Conflictos socioambientales y áreas protegidas en América Latina: Contextos y métodos de intervención en el caso boliviano." *Intervención Psicosocial* 9, no. 2 (2000): 247-258.
- Leisher, Craig, Jerome Touval, Sebastiaan M. Hess, Timothy M. Boucher, and Louis Reymondin. "Land and Forest Degradation inside Protected Areas in Latin America." *Diversity*, November 13, 2013: 779-795.
- IWGIA. Indigenous Peoples in Latin America - a general overview. <http://www.iwgia.org/regions/latin-america/indigenous-peoples-in-latin-america>.

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47 Andrew Nelson and Kenneth M Chomitz. "Effectiveness of Strict vs. Multiple Use Protected Areas in Reducing Tropical Forest Fires: A Global Analysis Using Matching Methods." *PLoS ONE* 6, no. 8 (August 2011):9.

48 Ibid.

49 Tetreault and López, 178.

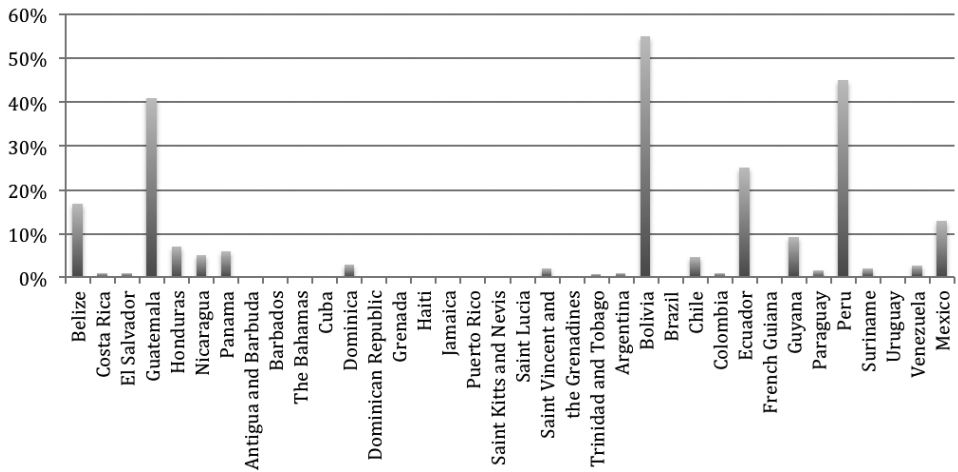
## APPENDICES

### APPENDIX A: UN FRAMEWORK FOR DEFINING INDIGENOUS PEOPLES

Indigenous people are largely recognized for their unique traditions, social, cultural, economic and political characteristics that are distinct from those of the dominant societies in which they live. According to the UN, indigenous peoples have retained distinctive characteristics which are unmistakably different from those of other segments of the national populations. Rather than develop a comprehensive definition of indigenous peoples, the UN uses the fundamental criterion of self-identification as underlined in a number of human rights documents. Therefore, a modern understanding of the term is based on the following characteristics:

- Self-identification as indigenous peoples at the individual level and accepted by the community as their member.
- Historical continuity with pre-colonial and/or pre-settler societies
- Strong link to territories and surrounding natural resources
- Distinct social, economic or political systems
- Distinct language, culture and beliefs
- Form non-dominant groups of society
- Resolve to maintain and reproduce their ancestral environments and systems as distinctive peoples and communities.

### APPENDIX B: PERCENTAGE OF INDIGENOUS POPULATION PER COUNTRY<sup>50</sup>



<sup>50</sup> CIA World Factbook. The World Factbook. <https://www.cia.gov/library/publications/the-world-factbook/> (accessed April 14, 2014).

APPENDIX C: ADAPTED SUMMARY OF IUCN PROTECTED AREA CATEGORIES<sup>51</sup>

IUCN Category	Primary Objective	Human activity allowed?
Ia	Protected areas that are strictly set aside to protect biodiversity and also possibly geological/geomorphological features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values. Such protected areas can serve as indispensable reference areas for scientific research and monitoring. The Wolong Nature Reserve, China is an example of this.	<p><b>None to minimal human activity.</b></p> <p>Pristine areas preferred. Settlement strongly discouraged.</p>
Ib	Protected areas that are usually large unmodified or slightly modified areas, retaining their natural character and influence, without permanent or significant human habitation, which are protected and managed so as to preserve their natural condition. Serengeti National Park Wilderness Area is an example of this.	<p><b>Minimal human activity.</b></p> <p>Free of modern infrastructure (roads, pipelines, cell towers, etc.) Livestock grazing by nomadic people okay, but intensive grazing discouraged.</p>
II	Large natural or near natural areas set aside to protect large-scale ecological processes, along with the complement of species and ecosystems characteristic of the area, which also provide a foundation for environmentally and culturally compatible spiritual, scientific, educational, recreational and visitor opportunities. Yellowstone National Park is an example of this.	<p><b>Some human activity.</b></p> <p>Human management necessary for enforcing protected status. Core zones where visitor numbers controlled, some areas with little or no activity.</p>
III	Protected areas set aside to protect a specific natural monument, which can be a landform, seamount, submarine cavern, geological feature such as a cave or even a living feature such as an ancient grove. They are generally quite small protected areas and often have high visitor value. Montserrat National Park in Spain is an example of this with its iconic Monastery.	<p><b>Mixed use. Some human management required.</b></p> <p>These protected areas are small—often monuments—so human settlement isn't an issue.</p>
IV	Category IV provides a management approach used in areas that have already undergone substantial modification, necessitating protection of remaining fragments, with or without intervention. Many category IV protected may include fragments of an ecosystem which may not be self-sustaining and will need regular, active interventions to address the requirements of particular species or to maintain habitats, but this is not a requirement of the category.	<p><b>Some human activity.</b></p> <p>There may be buffer zones and humans may be allowed in certain areas.</p>

<sup>51</sup> Adapted from: IUCN, 2014.

V	A protected area where the interaction of people and nature over time has produced an area of distinct character with significant ecological, biological, cultural and scenic value: and where safeguarding the integrity of this interaction is vital to protecting and sustaining the area and its associated nature conservation and other values. Unique or traditional land-use patterns, e.g., as evidenced in sustainable agricultural and forestry systems and human settlements that have evolved in balance with their landscape.	<p><b>Human activity allowed.</b></p> <p>Human intervention is expected. V does not prioritize research, but it can offer opportunities to study interactions between people and nature. People are the stewards of the landscape.</p>
VI	Protected areas that conserve ecosystems and habitats, together with associated cultural values and traditional natural resource management systems. They are generally large, with most of the area in a natural condition, where a proportion is under sustainable natural resource management and where low-level non-industrial use of natural resources compatible with nature conservation is seen as one of the main aims of the area.	<p><b>Human activity allowed. Sustainable use is encouraged.</b></p> <p>Local people live in or near this category. Sustainable use of natural resources is viewed as a means to achieve nature conservation.</p>

**APPENDIX D: COLCHESTER'S LIST OF NEGATIVE EFFECTS OF PROTECTED AREAS<sup>52</sup>**

- Denial of rights to land.
- Denial of use of and access to natural resources.
- Denial of political rights and the validity of customary institutions.
- Kinship systems disrupted.
- Settlement patterns disorganized.
- Informal social networks, fundamental to the local economy, lost.
- Undermining of livelihoods, loss of property, no compensation.
- Poverty.
- Disruption of customary systems of environment management.
- Enforced illegality. People become 'poachers', 'encroachers' and 'squatters' on their own land and are subject to petty tyrannies by park guards.
- Forced resettlement.
- Leadership systems destroyed, for if the community leaders accept the relocation they are accused of betraying their people, but if they resist they are proved powerless. Forced resettlement presents a no-win situation to community leaders.
- Symbolic ties to environment broken.
- Cultural identity weakened.
- Intensified pressure on natural resources outside the protected areas.
- Popular unrest, resistance, 'incendiarism', social conflict and ensuing repression.

<sup>52</sup> Colchester, 147.



# Overcoming Legal and Political Impediments to Freedom of Speech in Europe

– Tyler Smotherman

## ABSTRACT

*In an effort to protect people groups perceived as vulnerable to discrimination and prevent certain types of social harm, Europe has developed a pattern of criminalizing so-called “hate-speech”. This is the case even when the speech is used for political purposes with no direct link to any specific illegal action, social harm, violence, or victim. The United States has recognized that these hate-speech laws are creating a growing atmosphere of intimidation in Europe and are often used to restrict and punish peaceful expression deemed offensive. While several potential solutions exist, only a policy of viewpoint absolutism is both practical and truly protective of free speech. By adopting this policy, European nation states will be able to maintain a peaceful society without the use of coercive and undemocratic hate-speech prohibitions that blemish what is otherwise a generally impressive record of civil liberties protection in Europe.*

## OVERVIEW AND BACKGROUND

Grave threats to civil liberties continue to exist well into the 21st century, even in the developed nation-states of Europe. Due to several court rulings, international treaties, and national legal policies there are significant legal and political impediments to free speech in Europe. While other types of speech suppression pose problems as well, “speech” here will mean “spoken or written words, particularly those used for political purposes”. Keenly aware of the region’s unique past with racial and religious violence, including the Holocaust, modern Europe has sought to protect the rights of vulnerable people groups and proscribe certain types of socially harmful speech. Thus, Europe has developed a pattern of criminalizing so-called “hate-speech”, even when it is used for political purposes with no direct link to any specific illegal action, violence, or victim. The U.S. Commission on International Religious Freedom states that European “limits on freedom of conscience and hate-speech laws are creating a growing atmosphere of intimidation”<sup>1</sup> and are often “used to restrict and punish peaceful expression deemed

<sup>1</sup> “Annual Report 2013”. United States Commission on International Religious Freedom, 281.

offensive”.<sup>2</sup> Most European nations have generously interpreted and deferred to UN conventions, such as the ICCPR and ICERD, creating and enforcing legal bans on types of unpopular or offensive speech (see Appendix 3). Likewise, the governmental organs of the Council of Europe (COE), including the Parliamentary Assembly, Committee of Ministers (COM), and the European Court of Human Rights (ECtHR), have interpreted and enforced the European Convention on Human Rights (ECHR) in such a way as to significantly limit the free speech rights of Europeans. See Appendix 1 for the COE’s approach, the ECtHR’s hate-speech jurisprudence, and examples of Europeans who have been targets of speech suppression laws. Laws and norms criminalizing hate-speech and defamation are problematic for a number of reasons. Their origin and character are inherently anti-democratic, as evidenced by the strong support for hate-speech prohibitions by the Soviet Union and other totalitarian states during the ICERD and ICCPR debates (see Appendix 3).<sup>3</sup> European anti-hate-speech laws are almost always vaguely worded, full of subjective elements, and rarely require a victim.<sup>4</sup> Hate-speech bans are also ineffective, arbitrarily enforced and, ironically, inherently discriminatory.<sup>5</sup> This is evidenced by their allowing the government to determine which categories of people deserve hate-speech protection (e.g. racial minorities but not obese or disabled citizens) and which topics of discussion are inherently so offensive or false as to merit criminalization (e.g. often speech of evangelical Christians and right-wing politicians).<sup>6</sup> Hate-speech laws often hurt minority expression and further advantage the majority by reinforcing popular conceptions of political correctness and social acceptability. They also can lead to further radicalization of fringe groups by pushing them underground and cause legitimate dissenters to self-censor, creating a chilling effect that inhibits the democratic process.<sup>7</sup> In order to balance the

right of freedom of speech with the legitimate political and human rights of at-risk groups to be free from the criminal actions of hate-based violence and harassment, reform is needed.

## POSSIBLE SOLUTIONS

### ***Approach 1: Retention and Expansion of the Status Quo***

European policymakers could keep and expand the status quo of content restrictions and category-based protections to protect more vulnerable groups and address claims of arbitrariness and subjectivity in application of hate-speech laws. This is the first solution that comes to mind due to the tendency of states to favor stability and simplicity over restructuring themselves. Expanding protections from hate-speech would ostensibly accomplish the goals of protecting all vulnerable people groups, preventing hurtful words from leading to social harm, and allowing the state to instill and promote the common moral and cultural values it desires. However, like speech absolutism mentioned next, the key characteristics of expansive prohibition inherently lead to extreme results. As opposed to the almost anarchic consequences of speech absolutism, expansive hate-speech prohibition would quickly lead towards totalitarian results. Some observers are already distressing that, especially in regards to European bans on religious speech, “[i]t may not be too long before persecution is the word being used to describe the phenomenon”.<sup>8</sup> In an effort to include all groups desiring protection from hateful or insulting speech, the state would necessarily have to proscribe almost all controversial or contentious speech. Likewise, this approach would give the government, rather than civil society, control over labeling and punishing ideas as socially harmful or “low-value”, setting an undemocratic precedent of criminalizing merely “the requisite guilty mind” rather than illegal actions.<sup>9</sup>

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2 Ibid., 283.

3 Jacob Mchangama. “The Sordid Origin of Hate-Speech Laws”. *Policy Review*. Issue 170 (2012), 50-54.

4 Paul B. Coleman. *Censored: How European “Hate-speech” Laws are Threatening Freedom of Speech*. (Vienna. Kairos Publications, 2012), 8.

5 Ibid., 9.

6 Ibid., 9.

7 Eric Heinze. “Viewpoint Absolutism and Hate-speech” *Modern Law Review* 69:4 (2006), 560-569.

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8 Paul B. Coleman. “European Faith Made Private” *First Things: A Monthly Journal of Religion and Public Life*. Issue 234 (2013), 25.

9 Stefan Sottiaux. “‘Bad Tendencies’ in the ECtHR’s ‘Hate-speech’ Jurisprudence” *European Constitutional Law Review* 7:1 (2011), 60.



### **Approach 2: Free Speech Absolutism**

The second approach to the issue is a policy of free speech absolutism. COE bodies and individual states could declare that, in order to protect free speech, any type of speech including commercial, hateful, and what German constitutional jurisprudence calls “low-value speech”, must be permitted at any time, in any location, regardless of the social, psychological, or physical consequences.<sup>10</sup> This approach is not currently being implemented as policy by any modern government in Europe or elsewhere, and its rather extreme libertarian nature makes it unlikely to catch on in democratic-socialist Europe. Yet, although impractical, speech absolutism could be feasible and has strong support among philosophers and legal authorities like U.S. Supreme Court Justices Douglas and Black. Thinkers as diverse as Kant, Mill, Rawls, and Dworkin have also used some form of deontological theory to argue “that free expression is not merely a means to an end, but is a good in itself, a freedom presupposed by the concept of autonomous citizenship”.<sup>11</sup> The strengths of free speech absolutism are consistency, simplicity, blindness to content, and respect for freedom of speech as an inalienable right. Yet, these strengths are also its weaknesses when taken to the extreme. For example, they prevent government from proscribing speech which may lead to imminent violence or illegal activity as well as annoying, loud speech in the middle of night. Free speech absolutism is so concerned with shielding all speech from government judgment and restriction that it makes it difficult for the state to protect other legitimate rights and interests of its citizenry.

### **Approach 3: Reduced Application of Status Quo Policies**

Thirdly, European political and judicial bodies could continue believing it is “necessary in...democratic societies to sanction or even prevent all forms of expression which spread, incite, promote, or justify hatred based on intolerance”, but only impose

criminal penalties in the rarest of circumstances.<sup>12</sup> This policy would balance condemning discriminatory ideas and blatant falsehoods with the inherent right of all citizens to voice their opinions, however unpopular, while allowing their assertions to compete in “the marketplace of ideas”.<sup>13</sup> If COE member states, as Europe is defined in this paper, were to adopt a version of the consequentialist marketplace approach, wherein the best ideas are those that survive open debate but are only justified insofar as they contribute to truth, states could edge the debate further towards truth and tolerance through legal condemnation of hate-speech, and yet still respect open discourse by refusing to apply criminal penalties except in the most extreme situations.<sup>14</sup> Thus, the state stands for its assumed societal values (e.g. diversity, tolerance, and multiculturalism) without leaning to such an extent on the heavy-handed tool of punishing citizens for the expression of their beliefs. Yet, while less imposition of penalties dilutes the poison of the problem, it does not eliminate it. Having impotent laws on the books is inconsistent and poor legal policy, inviting society to distrust and disrespect the legal system. Non-imposition addresses some of the impediments to free speech in practice but not in principle, pushing the problem down the road and leaving the door open for governments to once again start putting their citizens in prison for speech crimes.

### **Approach 4: Defined Terms and a Uniform Incitement Test**

Creating a universal definition of “hate-speech” and “incitement to discrimination, hostility, or violence” could reform hate-speech prohibitions without undermining their core tenants. The ECtHR admits that “[t]here is no universally accepted definition of the expression ‘hate-speech’”.<sup>15</sup> By defining what exactly is meant by the ambiguous terms in anti-speech codes and by creating a uniform test by which judicial bodies can assess alleged speech crimes, there is the potential to minimize restrictions while still criminalizing non-

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12 “July 2013: Hate-speech”. European Court of Human Rights (ECtHR).

13 Heinze, 553.

14 *Ibid.*, 553.

15 ECtHR, 1.

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10 Erik Bleich. “The Rise of Hate-speech and Hate Crime Laws in Liberal Democracies”. *Journal of Ethnic and Migration Studies* 37:6 (2011), 921.

11 Heinze, 553.

violent hate-speech. Temperman's conception of hate-speech as "speech that threatens the rights and freedoms of others" versus other "forms of extreme speech that fall short of that category", such as blasphemy of religions, is one possible framework for a common definition.<sup>16</sup> Concerning "incitement", while a European uniform incitement test would likely not be comparable to the U.S. "clear and present danger" model, it very well could "include the conditions of likelihood and imminence [to incite non-violent discrimination or hostility], which are both important aspects of the [U.S. Supreme Court's] First Amendment Brandenburg test".<sup>17</sup> See Appendix 2 for an exposition of the development of the current American approach to hate-speech, including the clear and present danger test. While still criminalizing peaceable speech, a uniform set of defined terms and a common test for incitement would reduce the discrimination, arbitrariness, and over-application of hate-speech laws by equally applying the law to all people guilty of speech that has a demonstrable link to "discrimination, hostility, or violence".

### **Approach 5: Viewpoint Absolutism**

Thus far, only free speech absolutism has fully protected the essential right of free-speech, but it is extreme and advocated by few today, even in the more libertarian United States. However, where it goes too far, viewpoint absolutism compromises while still upholding the core principle of tolerance for all thoughts, opinions, and ideas, especially as they relate to politics. Viewpoint absolutism, based on a version of civic republicanism, acknowledges the legitimacy of speech restrictions, so long as they apply equally to all types and topics of speech (e.g. permit issuance for outdoor rallies, noise ordinances, and captive-audience restrictions).<sup>18</sup> At the same time, viewpoint absolutism rejects any coercive attempt by government to place content restrictions on what can be spoken, regardless of its present unpopularity or supposed inconsistency with societal values, unless it may lead to imminent violence and is thus unable to be

countered or proved false through civil discourse in time to prevent measurable physical harm. This is similar to the current American legal approach to free speech rights, which many believe "has always been the citadel of free expression" (see Appendix 2).<sup>19</sup> Viewpoint absolutism in Europe is completely consistent with government sponsored "non-coercive measures for combating intolerance, such as educational, media, interfaith and similar initiatives, [and] other human rights norms, including non-discrimination and equal access to justice".<sup>20</sup> Yet, in regards to freedom of speech, the viewpoint absolutist acknowledges that "[h]uman rights are not human rights if extended only to those who believe in human rights".<sup>21</sup>

## **RECOMMENDED COURSE OF ACTION**

If European policymakers are to truly respect freedom of speech and avoid draconian bans on speech content with no demonstrable connection to criminal acts, it is clear that the status quo is no longer viable in any form. Nevertheless, order and liberty must be kept in balance with reasonable regulations. Thus, speech absolutism tips the scales too far in the other direction. Left with the two more reasonable solutions, a narrower incitement test and a policy of viewpoint absolutism, the question becomes the following: Is criminalizing expressed opinion, especially that which is used to convey political and religious viewpoints peacefully and having no direct connection to illegal actions, compatible with an open and democratic government? The answer is assuredly, no. A policy of viewpoint absolutism represents the best potential for protecting the fundamental human right of free speech while at the same time counteracting blatant hatred, discrimination, and falsehood through more appropriate and effective means.

Viewpoint absolutism should be initiated by the COE, including through ECtHR case law, COM recommendations, and Parliamentary Assembly resolutions. It could be introduced and adopted in the same way the status quo came about, through the influence of supranational organizations in

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16 Jeroen Temperman. "Freedom of Expression and Religious Sensitivities in Pluralist Societies: Facing the Challenge of Extreme Speech" *Brigham Young University Law Review* 2011:3 (2011), 757.

17 Sottiaux, 61.


18 Heinze, 546-548.

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19 Bleich, 922.

20 Heinze, 580.

21 *Ibid.*, 574.

creating human rights norms that are eventually integrated into the legal and political systems of individual nation states. Similar to what the United States has done, the COE should recommend that European nations not recognize the competence of the ICERD to address individual complaints while remaining parties to the convention and supporting it in the abstract. Likewise, European nations should remain parties to the ICCPR but use official understandings, reservations, and declarations to limit its scope and narrowly define "discrimination, hostility, or violence" to only include the possibility of citizens being prosecuted for illegal acts, rather than words without any direct and imminent connection to measurable physical harm. The COE should encourage European nations to pursue appropriate prosecutions without the use of undemocratic hate-speech laws, instead using existing legal and human rights norms like non-discrimination laws, harassment laws, and civil suits for libel or slander. The strict enforcement of these laws will be accepted due to the democratic legitimacy stemming from truly open debate and citizens' rights to express their unpopular views through means other than criminal action. Likewise, the COE should recommend that governments increase the use of non-coercive measures such as education programs, media influence, and inter-faith/race initiatives to combat discrimination and hatred. These remedies are in a unique position to succeed in Europe given most European nations' democratic-socialist model where the state exercises greater societal and cultural influence and can easily "bind itself to comprehensive, proactive programmes for promoting tolerance".<sup>22</sup> In combination with non-coercive anti-hate initiatives and strict enforcement of existing laws, viewpoint absolutism will allow Europe to eliminate its anti-democratic speech prohibitions and regain its position as a global leader in the promotion and preservation of human rights for all people, regardless of their distasteful political opinions. 

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22 Ibid., 579.

## APPENDICES

### APPENDIX 1

#### ***The European Approach: Selected Hate-Speech Rulings of the ECtHR***

The European Court of Human Rights admits that there "is no universally accepted definition of the expression 'hate-speech'" yet states that it "has identified a number of forms of expression which are to be considered offensive and contrary to the [European Convention on Human Rights]".<sup>23</sup> For example, the ECtHR "has decided that 'hate-speech' is not protected by [the ECHR], and the same court has also sanctioned the seizure and censorship of 'blasphemous' films and books that insult religious feelings".<sup>24</sup>

The ECtHR is reinforced in this philosophy of criminalizing offensive speech by the actions and resolutions of other governmental bodies within the Council of Europe as well. These include the Committee of Ministers (Recommendation No. R 97(20) on hate-speech, 1997), the Parliamentary Assembly (Recommendation 1805 on "blasphemy, religious insults and hate-speech", 2007), and the European Commission against Racism and Intolerance (General Policy Recommendation No. 7 on "national legislation to combat racism and racial discrimination", 2002).<sup>25</sup> In the above-mentioned recommendation, the COM defined hate-speech very broadly to include racism, xenophobia, and even "aggressive nationalism".<sup>26</sup> Furthermore, it called upon member states to legally combat "hate-speech...promoting racial hatred, xenophobia, anti-Semitism or other forms of discrimination or hatred based on intolerance".<sup>27</sup> Heinze points out that in many European nations, "other forms" is often "extended to any number of [offensive statements such as]...claiming

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23 ECtHR, 1.

24 Jacob Mchangama. "Censorship as 'Tolerance'" *National Review* 62:13 (2010), 37.

25 ECtHR, 9.

26 "October 1997: Recommendation No. R (97)20 of the Committee of Ministers to Member States on 'Hate-speech'". Council of Europe Committee of Ministers.

27 Heinze, 544.

that heterosexuality is morally superior to homosexuality".<sup>28</sup>

The European Court of Human Rights claims that it maintains a balancing approach, making a distinction between "genuine and serious incitement to extremism" and "the rights of individuals (including journalists and politicians) to express their views freely".<sup>29</sup> It applies Article 17 of the ECHR, "prohibition of the abuse of rights", when it determines that the comments amount to hate-speech and thus "negate the fundamental values of the Convention". Conversely, the Court uses Article 10 and 11, exceptions to free speech including for "the protection of health or morals", when it desires to restrict free speech but cannot, even through the most flexible aspirationalist legal interpretation, call the comments in question "hate-speech".<sup>30</sup> Recent ECtHR cases from European countries dealing with various types of hate-speech include:

**Garaudy v. France (June 2003)** — The ECtHR upheld the conviction, including a 240,000 franc fine and suspended jail sentence, of a prominent French philosopher and political activist for publishing a book alleged to contain holocaust denial. The Court stated that "denying crimes against humanity was one of the most serious forms of racial defamation of Jews and of incitement to hatred of them".<sup>31</sup> The Court then espoused its own expertise in judging science and history when it stated that "disputing the existence of clearly established historical events [does] not constitute scientific or historical research".<sup>32</sup>

**Norwood v. the United Kingdom (November 2004)** — The ECtHR upheld the conviction of a British man for "aggravated hostility towards a religious group" for displaying a picture of the Twin Towers burning with the words "Islam out of Britain-Protect the British People".<sup>33</sup> Although clearly a political statement with no incitement to violence, the Court used Article 10

to deem this unprotected speech because it was incompatible with "tolerance, social peace and non-discrimination".<sup>34</sup>

**Feret v. Belgium (July 2009)** — The Court upheld the conviction of incitement to racial discrimination of a Belgian politician for distributing leaflets with slogans such as "Stand up against the Islamification of Belgium" and "Send non-European job-seekers home".<sup>35</sup> He was sentenced to community service and disqualified from holding political office for 10 years. In a ruling chocked full of political censorship, elitism and paternalism, the ECtHR declared that his comments were illegal because they were "liable to arouse feelings of distrust, rejection or even hatred towards foreigners, especially among less knowledgeable members of the public".<sup>36</sup> In his dissent, Judge Andras Sajó rightly pointed out the vague and arbitrary standards by which hate-speech is defined when he asserted that "content-based restrictions" against the "spirit of the Convention...do not offer clear standards and are open to abuse. Humans, including judges, are inclined to label positions with which they disagree as palpably unacceptable and therefore beyond the realm of protected expression".<sup>37</sup>

**Vejdeland and Others v. Sweden (February 2012)** — The ECtHR upheld the conviction of several individuals for distributing leaflets in upper secondary schools contending that homosexuality was a "deviant sexual proclivity" and had "a morally destructive effect on the substance of society".<sup>38</sup> The Court admitted that these statements were not "a direct call to hateful acts" yet still "constituted serious and prejudicial allegations" and were thus illegal.<sup>39</sup> The Court then took it upon itself to make moral and religious judgments in regards to homosexuality itself by admonishing the offenders to view "discrimination based on sexual orientation [just] as serious as discrimination based on race,

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34 *Ibid.*, 4.

35 *Ibid.*, 2.

36 *Ibid.*, 2.

37 Roger Kiska. "Hate-speech: A Comparison Between the European Court of Human Rights and the United States Supreme Court Jurisprudence" *Regent University Law Review* 25:107 (2012), 150.

38 ECtHR, 5.

39 *Ibid.*, 5.

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28 *Ibid.*, 544.

29 ECtHR, 1.

30 *Ibid.*, 1.

31 *Ibid.*, 5.

32 *Ibid.*, 5.

33 *Ibid.*, 4.

origin, or colour”.<sup>40</sup> As with the European Union Fundamental Rights Agency’s multiple definitions of hate-speech (i.e. speech “motivated by prejudice... because of a particular characteristic” and “disrespectful public discourse”),<sup>41</sup> this expansion of protected categories of people demonstrates the never-ending “slow creep” towards censoring any person who dares hurt the feelings or offend the sensibilities of another.<sup>42</sup>

## APPENDIX 2 THE AMERICAN APPROACH

### *Development of the U.S. Supreme Court’s Hate-Speech Jurisprudence*

While the United States certainly has something to learn from its European cousins regarding human rights, at least on the issue of protecting freedom of speech, the contemporary American approach is leaps and bounds ahead of the European model. The European model concerning speech prohibition is unfortunately shared by most other democratic nations such as Canada and Australia. Of course, many less democratic nations hardly respect free speech at all. Thus, the defender of free speech is left to look to the American model for guidance. However, the United States was not always the staunch protector of free speech it is today. The current stringent protections of unpopular or offensive speech in the United States went through a legal gauntlet over the last century to get to where they are now. However, after much open debate in the legal community and among society, free speech, even that which some may call “hate-speech”, is now solidly enshrined in U.S. legal precedent, as evidenced by the large majorities and unity among both legal conservatives and liberals in the relevant U.S. Supreme Court cases for the last 45 years. “In this context, Ronald Dworkin recently commented: ‘The United states stands alone even among democracies in the extraordinary degree to which its constitution protects freedom of

speech and of the press”.<sup>43</sup> The following selections highlight important Supreme Court of the United States (SCOTUS) cases dealing with hate-speech litigation. For Europe, there is something to be learned from the pattern of continuing to enfranchise speech rights as a democratic society matures.

**Schenk v. United States (1919)** — A unanimous SCOTUS established the “clear and present danger” test for restricting speech. They stated that the “question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree”.<sup>44</sup> This was the “first important and substantial explication of free speech” in the history of the United States after numerous unchallenged instances of abuses (e.g. Seditious Act of 1798 and restrictions related to the American Civil War).<sup>45</sup>

**Abrams v. United States (1919)** — Abrams saw the Court distance itself from the clear and present danger language in favor of a bad tendency test when it convicted communist activists of espionage for advocating their views. This was a legal blow to free speech rights that would linger in U.S. constitutional law for several decades due to “the Red Scare” and WWII. The bad tendency test is an approach from English common law that asks whether the words have a tendency to bring about evil consequences as opposed to bringing about an immediate substantive harm.<sup>46</sup> In a dissenting opinion in a later similar case (Dennis v. US, 1951) Justice Black lamented that “[p]ublic opinion being what it now is, few will protest the conviction of these Communist petitioners” but offered the hope that “when present pressures, passions, and fears subside, this or some later Court will restore the First Amendment liberties to the high preferred

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43 Sionaidh Douglas-Scott. “The Hatefulness of Protected Speech: A Comparison of the American and European Approaches” *William and Mary Bill of Rights Journal* 305:7 (1999), 3.

44 Lee Epstein and Thomas G. Walker. *Rights, Liberties, and Justice: Constitutional Law for a Changing America*. (Thousand Oaks, CA. CQ Press, 2013), 201.

45 *Ibid.*, 198.

46 *Ibid.*, 205.

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40 *Ibid.*, 5.

41 Coleman, *Censored*, 6.

42 Bleich, 929.

place where they belong in a society".<sup>47</sup> After the Court dabbled further in other less permissive legal theories on free speech such as the bad tendency test, Ad hoc rights balancing, fighting words doctrine (as elucidated in *Chaplinsky v. NH*, 1942), and the preferred freedoms doctrine, the arrival of the liberal Warren Court era in 1953 finally brought US free speech law solidly back into the fold of the clear and present danger test.

**Brandenburg v. Ohio (1969)** — In *Brandenburg*, a unanimous Court "closed the door on the long series of repressive expression rulings" when it protected the rights of the Ku Klux Klan to express their views, including the issuance of vague threats towards Jewish and black Americans as well as the US Federal Government.<sup>48</sup> Clearly returning to a clear and present danger doctrine, the Court stated that "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action".<sup>49</sup>

**National Socialist Party v. Skokie (1977)** — SCOTUS ruled that a town with a high percentage of Jewish residents could not restrict the marching and speech of a Neo-Nazi organization. The invalidation of Skokie's ordinance, which prohibited "dissemination of any material...which promotes and incites hatred against persons by reason of their race, national origin, or religion", was essentially "the death knell for group libel provisions" in the United States.<sup>50</sup> The Court further ruled that, while subsequent legal action due to violence or a breakdown in public order might be permissible, prior restraint of speech due to these fears is unconstitutional.

**R.A.V. v. City of St. Paul, Minnesota (1992)** — A 9-0 Supreme Court reinforced the Skokie decision and effectively closed the door completely on hate-speech bans in the United States. In invalidating St. Paul's anti-hate-speech ordinance, the Court ruled that the law was defective because it singled out

a particular kind of speech and thus "violated the principle that laws regulating expression must not discriminate on the basis of content".<sup>51</sup> While opposed by some interest groups such as the NAACP, the ruling was praised by the American Civil Liberties Union, an undeniably progressive advocate for minority rights, which echoed Justice Brandeis' statement in *Whitney v. CA* (1927) that "the remedy [for hateful speech] is more speech, not enforced silence".<sup>52</sup>

**Snyder v. Phelps (2011)** — An 8-1 SCOTUS upheld the [clearly hateful and offensive] protests of the Westboro Baptist Church because they followed all existing local ordinances and "fully complied with police guidance".<sup>53</sup> The Supreme Court reiterated its belief that "the point of all speech protection... is to shield just those choices of content that in someone's eyes are misguided, or even hurtful".<sup>54</sup> The ECtHR would do well by the free speech rights of Europeans to take note of that philosophy.

### APPENDIX 3 INTERNATIONALIZING SPEECH RESTRICTIONS

#### *Hate-Speech Language in the UDHR, ICCPR, and ICERD*

Much of the justification for hate-speech bans in Europe stems from certain interpretations and applications of international law, such as the previously mentioned UN International Covenant on Civil and Political Rights (ICCPR) and the UN International Convention for the Elimination of all Racial Discrimination (ICERD). Much like Europe, while a champion of human rights in some areas, the United Nations' record regarding freedom of speech is marginal at best. In fact, even as early as the 1940s, hate-speech was being used to justify restricting freedom on an international level. Danish human rights expert Jacob Mchangama asserts that the "voting record reveals that startling fact that the internationalization of hate-speech prohibitions in human rights law owes its existence

47 *Ibid.*, 222.

48 *Ibid.*, 224.

49 *Ibid.*, 224.

50 Bleich, 923.

51 Epstein and Walker, 258.

52 *Ibid.*, 254.

53 *Ibid.*, 261.

54 *Ibid.*, 261.

to a number of states where both criticisms of the prevalent totalitarian ideology as well as advocacy for democracy were strictly prohibited”.<sup>55</sup>

**UDHR (1948)** — While the United Nation’s Universal Declaration of Human Rights (UDHR) “and its progeny, the European Convention on Human Rights, are guarantors of human rights against the State” and do “not give rights to the State but rather burden it with supporting rights”, they have conversely been construed to “give the State license to experiment with social values and fundamental rights by being the arbiter of what is acceptable speech and, therefore, also acceptable opinion”.<sup>56</sup> The UDHR does not include a duty to prohibit hate-speech but the issue was repeatedly discussed during the seven drafting stages. While most western European nations strongly defended freedom of speech alongside the United States, the Soviet Union and its allies fought hard and continuously for the inclusion of specific limitation clauses on freedom of speech within Article 19, which addresses freedom of expression, and elsewhere. They specifically, and not surprisingly, believed that the “UDHR should guard against the fascists existing in all European countries except the ‘peoples’ democracies’ (i.e. the communist countries)”.<sup>57</sup> Hate-speech was clearly being used as a tool of social and political control by the Soviet Union to protect “against agitation in favor of capitalism and liberal democracy”.<sup>58</sup> Fortunately, these attempts were met with limited success as the final draft of the UDHR contains only general limitation clauses in Articles 7 and 29. However, these articles, which limit “incitement to discrimination” and lack of “respect for the rights and freedoms of others”, can be interpreted to restrict speech perceived as offensive, hateful, or discriminatory.<sup>59</sup>

**ICCPR (1966)** — The drafting stages of the International Covenant on Civil and Political Rights once again revealed the oppressive nature and ulterior motives behind government hate-

speech bans. The first draft of the ICCPR’s Article 20 was limited to prohibiting hate-speech “that constitutes an incitement to violence”.<sup>60</sup> Yet, the Soviet Union and its puppet states, Poland and Yugoslavia, thought this insufficient and pushed for prohibiting “incitement to hatred”.<sup>61</sup> Communist proponents used arguments similar to some used today in justifying the need for hate-speech bans: WWII, the Holocaust, and the evils related to colonialism and anti-immigrant sentiment. The final wording of Article 20 states: “Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence shall be prohibited by law”.<sup>62</sup> It was adopted in the Third Committee of the General Assembly with 52 votes in favor, 19 against, and 12 abstentions. The 52 nations “in favor were primarily the communist states of Eastern Europe, as well as non-Western countries with very questionable human rights records such as Saudi Arabia, Haiti, [and] Sudan” while those opposed were “almost all Western liberal democracies” including many who now have repressive hate-speech laws such as the United Kingdom.<sup>63</sup> Eleanor Roosevelt found Article 20 “extremely dangerous” and Sweden, contrary to its current outlook, argued that “the effective prophylaxis lay in free discussion, information, and education” rather than coercive restrictions on speech.<sup>64</sup> The debates and votes on Article 20 of the ICCPR demonstrate just how much Western Europe has slowly and steadily fallen from its position as a staunch defender of free speech and expression.

**ICERD (1965)** — The International Convention for the Elimination of all Racial Discrimination (ICERD) is another tool used by advocates of banning hate-speech. Article 4 of the ICERD, whose provisions were drafted after ICCPR Article 20, mandates that “the ratifying States [s]hall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred [and] incitement to racial discrimination”.<sup>65</sup> This is even more far-reaching than Article 20 of the ICCPR

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60 *Ibid.*, 50.

61 *Ibid.*, 50.

62 Temperman, 742.

63 Mchangama, “The Sordid Origin...”, 51.

64 *Ibid.*, 51.

65 *Ibid.*, 52.

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55 Mchangama, “The Sordid Origin...”, 51.

56 Kiska, 116-117.

57 Mchangama, “The Sordid Origin...”, 48.

58 *Ibid.*, 48.

59 *Ibid.*, 48.

because it includes “all dissemination of ideas” and requires the criminalization, rather than only the prohibition of hate-speech. Debate over ICERD Article 4 once again revealed a split between liberal western democracies (supported by Latin America) and those mostly undemocratic nations such as the Soviet Union and her allies. While western opposition to Article 4 was somewhat weaker than opposition to ICCPR Article 20 and the UDHR limitation clause, several delegations made strong principled stands for freedom of speech, the most eloquent of which came from the Colombian representative. As part of his impassioned defense of free speech, he stated:

“To penalize ideas, whatever their nature, is to pave the way for tyranny, for the abuse of power...As far as we are concerned, as far as our democracy is concerned, ideas are fought with ideas and reasons; theories are refuted with arguments and not by resort to the scaffold, prison, exile, confiscation or fines...Moreover, we believe that penal law can never presume to impose penalties for subjective offences...Here, therefore, is one voice that will not remain silent while the representatives of the most advanced nations in the world vote without seriously pondering on the dangers involved in authorizing penalties under criminal law for ideological offences”.<sup>66</sup>

With the adoption of ICERD Article 4, European states abandoned their principled opposition to international hate-speech bans and, as a result, the 1970s saw the beginning of a dramatic increase in new or expanded hate-speech laws in Europe. “In fact, European states that only fifty years ago found hate-speech laws dangerous and arbitrary have today become active proponents of such laws, albeit on different grounds and for nobler purposes than the nondemocratic states they opposed during the Cold War”.<sup>67</sup> Stemming in large part from the above-mentioned provisions of international law, hate-speech prohibition may be one of the last enduring legacies of European communism and is a scar on the face of European civil liberties.

## ADDITIONAL WORKS CONSULTED

- “Advocating for Religious Liberty, the Sanctity of Life, and Marriage and Family Around the World.” [alliancedefendingfreedom.org](http://alliancedefendingfreedom.org). Alliance Defending Freedom.
- “ECLJ Deeply Concerned After Spanish Government Censors Freedom of Expression/Religion of Catholic Media Group.” [eclj.org](http://eclj.org). European Center for Law and Justice, 06 Jul 2010.
- Harris, Mike. “Time to Step Up: The EU and Freedom of Expression.” [IndexonCensorship.org](http://IndexonCensorship.org). Index on Censorship, December 2013, 1-46.
- Mchangama, Jacob. “No Blasphemous Miming Here”. *National Review Online* (2014).
- Van Blaricum, Christopher D. “Internet Hate-speech: The European Framework and the Emerging American Haven”. *Washington and Lee Law Review* 62(2005), 781-831.
- Waldron, Jeremy. “Dignity and Defamation: The Visibility of Hate”. *Harvard Law Review* 123:7 (2010), 1596-1657.

66 Kiska, 119.

67 Mchangama, “The Sordid Origin...”, 54.





# Albinism in East Africa: Ending Discrimination through an Analysis of Traditional Witchcraft Practices

– Lindsay Short

## ABSTRACT

*The ritualistic killings and attacks of persons with albinism in East Africa is an increasing human rights issue that calls for immediate international attention. The attacks are a result of strong beliefs in traditional religions including witchcraft practices. Albino body parts are being sold at skyrocketing prices; utilized by witchdoctors and their clientele as amulets and charms to bring prosperity and wealth. Tanzania, where as many as 1 in 2,000 people has albinism, is at the forefront of the issue having more reported attacks and killings than any other state. Beyond the obvious human rights violations, the discrimination and exclusion of this group of people is taking a toll on the development progress of East African states in the sectors of human security, education, and health. This paper analyzes the intricate relationship between the ritualistic killings of persons with albinism and the traditional religious practices of East African states and provides possible solutions for addressing the issue.*

## OVERVIEW AND BACKGROUND

As of March of 2014 there have been a total of 128 reported killings and 126 reported attacks against persons with albinism throughout 23 countries in Africa, (see Appendix A for graph).<sup>1</sup> These reported killings date back as far as the early 1990s, becoming more frequently reported within the past ten years. Attacks include mutilations, violence, kidnappings, and attempted kidnappings. The majority of attacks take place in East Africa: predominately occurring in Tanzania and its border countries of Burundi, the Democratic Republic of the Congo, and Kenya. Frequently, persons with albinism (PWA) are ostracized from their communities as a consequence of lack of education of their genetic condition. Furthermore, PWAs are targeted by witchdoctors and their clientele for ritualistic killings. A strong belief rooted in traditional healing practices is that the use of PWA body parts in traditional medicines will bring prosperity and fortune to its possessor.<sup>2</sup> Attacks

<sup>1</sup> Under the Same Sun. *Reported Attacks of Persons with Albinism*.

<sup>2</sup> Under the Same Sun. *Persons with Albinism: Killed for "Muti"*.

often go unreported due to the “taboo” nature of the witchcraft traditions, attacks taking place in rural settings, overburdened police forces, police and government corruption, and few prosecutions against perpetrators to date.<sup>3</sup>

Albinism is caused by an inherited recessive gene that results in a partial or complete loss of melanin.<sup>4</sup> Thus PWA lack pigmentation of hair, eyes, and skin rendering them vulnerable to vision impairment and skin cancer. It is estimated that in Tanzania as many as 1 in 2,000 people have albinism.<sup>5</sup> Even though albinism is common there remains a lack of knowledge on the condition, resulting in myths and superstitions that dehumanize and discriminate against PWA. Myths and superstitions are heavily influenced by the belief in traditional religions.

Traditional religions including beliefs in witchcraft are fundamental in most, if not all, African states. Witchcraft helps to shape a society’s world view and provides an explanation for suffering, injustice, and elements outside of one’s comprehension or control.<sup>6</sup> Even with the expansion of Catholicism, Christianity, and Islam into many African states; traditional African religions still remain an intrinsic part of society and culture. Ignorance and myths surrounding PWA combined with strong beliefs in witchcraft in both rural and urban areas of East Africa make PWA susceptible targets for ritualistic killings. This is true particularly in Tanzania. A study initiated by Pew Forum stated that over 90% of Tanzanian’s population believes in witchcraft (see appendix B for graph).<sup>7</sup> No other African state comes close to this; Cameroon has the second highest with a little over 70% of its population believing in witchcraft.

The prospect for individual success of PWA is severely hampered due to their lack of social opportunities within health, education, and

work sectors. This, in return, negatively affects the development status of East African states as a whole. More importantly, the discrimination against and attacks of PWA is a direct violation of the right to “life, liberty, and security of person” as outlined in Article 3 of the Universal Declaration of Human Rights.<sup>8</sup> This is a crucial issue which calls for immediate action by state governments, the AU, and international and state organizations. The issue can effectively be addressed by providing proper education on albinism, increasing national and international legislative measures, ensuring rapid and fair judicial trials and the prosecution of violators, and increasing documentation and monitoring methods of PWA.

## POSSIBLE SOLUTIONS

### ***Approach 1: Educating Communities on Albinism as a Genetic Condition***

In order to end discrimination of PWA it is necessary to address the fallacy of myths associated with albinism through education of PWA, their families, and the general populations throughout Tanzania and other states in West Africa. Modern myths of PWA are extremely dehumanizing and justify discrimination and acts of violence against PWA. These myths include the belief that albinism is contagious, that PWA are ghosts which disappear and never die, that having sex with a woman with albinism will cure AIDS, and that magical charms or potions created from the body parts of PWA bring prosperity and success to its owners.<sup>9</sup> In order to break down these fallacies at an early stage it is beneficial to provide genetic counselors in all medical centers, rural and urban. This would provide for an early understanding of the genetic condition and reduce occurrences of infanticide and abandonment. Educating the communities at large would be best addressed coming from specialized and local Associations for Albinos at the local level. Specialized associations have the resources and power to implement lasting change through the utilization of awareness campaigns

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3 Dan Gilgoff. “As Tanzania’s Albino Killings Continue, Unanswered Questions Raise Fears” *National Geographic* (2013).

4 The Vision for Tomorrow Foundation. “The Vision for Tomorrow Foundation.” Last modified 2014.

5 Under the Same Sun. *Children with Albinism in Africa: Murder Mutilation and Violence*. (pg. 10)

6 Lucy Mair. *Anthropology and Social Change*. (New York. Humanities Press INC. 1969), 185-186.

7 Pew Research Center. *Tolerance and Tension :Islam and Christianity in Sub-Saharan Africa*.

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8 The United Nations: *The Universal Declaration of Human Rights*. (Art.3)

9 Under the Same Sun. *Children with Albinism in Africa: Murder Mutilation and Violence*. (pg. 18)

and the ability to lobby state governments for the equal rights and treatment of PWA.<sup>10</sup> For example the Zimbabwe Albino Association reported that 60-70% of urban populations in Zimbabwe are now aware that albinism is a genetic condition due to strong campaigning techniques, media coverage, and the involvement of local governments in the process of education of albinism.<sup>11</sup>

### **Approach 2: Increasing Social Opportunities for PWA**

To become inclusive and functioning members of society, persons with albinism should be provided with social opportunities in the education, health, and employment sectors. In response to insufficient education and job options, PWA become entrenched into a life cycle of poverty. Restrictions of education possibilities result in the inability to find work later on in life. These restrictions placed on PWA are consistently interrelated and have drastic implications for the development of East African states.<sup>12</sup> Therefore, schools need to provide necessary adjustments to properly accommodate children with albinism, particularly in response to vision impairment as a condition of albinism. Adjustments need to be implemented beginning at the primary school level and continuing until the university level. Similar adjustments need to be implemented within the job market, creating equal opportunity for PWA. Constant inclusion of persons with albinism in their communities will aid in the destruction of myths and superstitions which surround them. In doing so, communities throughout East Africa can become more sensitized to PWA and lead to the elimination of dehumanization and discrimination of persons with albinism.

### **Approach 3: Increasing State and International Legislative Measures**

Guaranteeing the prevention of attacks on PWA is important to eliminating all forms of discrimination. Creating preventative measures is best achieved when addressed through both state and international legislative measures. In September of 2013, the United Nations Human Rights Council adopted A/HRC/Res/24/33 titled "Technical cooperation for the prevention of attacks against persons with albinism." The resolution calls for states to "adopt specific measures to protect and preserve the rights to life and to security of persons with albinism."<sup>13</sup> This initiative places the primary responsibility in the hands of State governments. In 2009 Tanzania began implementation of The Witchcraft Act which declared any form of witchcraft to be illegal and punishable by law. Witchcraft and acts of witchcraft include representing oneself as a witch, making, using, possessing, or selling any witchcraft instruments. This act includes the illegalization of traditional healers as well as the illegalization of the utilization of magical charms and potions.<sup>14</sup> Under the terms of the Witchcraft Act any utilization of body parts originating from persons with albinism is deemed unlawful and punishable by law. Through the ban on witchcraft and forms of traditional healing the Tanzanian government attempts to end persecution of PWA by means of threat of potential imprisonment and the possibility of the death sentence for the murder of any person with albinism.<sup>15</sup>

### **Approach 4: Ensuring Rapid and Impartial Judicial Trials**

Increasing state legislative measures can only be effective if states respond to violations of legislation with rapid and impartial judicial trials. East African states, primarily Tanzania, are under strong international and national pressure to respond to the violation of human rights of PWA

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10 Charlotte Baker, Patricia Lund, Richard Nyathi, and Julie Taylor. "The Myths Surrounding People with Albinism in South Africa and Zimbabwe." *Journal of African Cultural Studies*. no. 2 (2010): 177.

11 Baker et. al., 178

12 United Nations General Assembly: *Persons with albinism. Report of the Office of the United Nations High commissioner for Human Rights*. (A/HRC/ 24/57) (pg. 14).

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13 United Nations Human Rights Council: *Technical cooperation for the prevention of attacks against persons with albinism*. (A/HRC/Res/24/33).

14 Principle Legislation of Tanzania : *The Witchcraft Act*.

15 Deborah Fahy Bryceson, Jesper Boose Jonsson, and Richard Sherrington. "Miners' magic: artisanal mining, the albino fetish and murder in Tanzania" *The Journal of Modern African Studies* 48:3 (2010), 373-374.

through the provision of equal and effective legal protection against crimes of discrimination and violence.<sup>16</sup> The African Commission on Human and Peoples' Rights among others has directly called upon State parties to effectively address the reoccurring issue of impunity to persons responsible to crimes against PWA.<sup>17</sup> To properly do so will require speedy investigation of the court cases as well as trial of all parties responsible for the abuse and murder of PWA. The three main actors typically included in the criminal case are the traditional healer or witchdoctor, person or persons responsible for the attack or murder, and the person or persons purchasing or utilizing the charms or potions containing the body parts of the PWA. Unfortunately most arrests and persecutions are mainly of the actors directly responsible for the death or attack of the PWA. Witchdoctors and their clientele are rarely, if ever, prosecuted.<sup>18</sup> Increased monitoring of court proceedings by international and national civil society watchdogs will provide for rapid and fair trials of all actors responsible. Involvement of civil societies is an indispensable component of providing proper prosecution of all actors involved in crimes against persons with albinism; because these organizations have the financial resources and expertise to perform monitoring of legal activities while remaining impartial to judicial trials.<sup>19</sup>

#### ***Approach 5: Enhancing Documentation and Monitoring Methods of PWA***

Far too many attacks and murders of persons with albinism go unreported. The lack of reporting is a direct result of poor birth and death documentation of PWA, inadequately staffed and funded police forces, police and government corruption, and the pattern of attacks and murders occurring in rural areas. Currently, throughout many East African countries, documentation of births and deaths of children with albinism is extremely deficient.

Proper documentation of both births and deaths is instrumental in providing essential information on infanticide and abandonment of children with albinism.<sup>20</sup> Implementation of commissioned special task forces is necessary to combat inadequate and corrupt police forces. Task forces specializing in the investigation and monitoring of crimes against PWA can improve documentation and reporting mechanisms. Employing these task forces to rural communities can also increase reported incidents of attacks. The Tanzanian government implemented new measures within their police departments in 2009 to prevent further attacks. Tactics included keeping lists of PWA to guarantee wellbeing of individuals, providing cell phones to PWA linked with a direct hotline to task forces to be used in case of attempted attacks, and sending officers undercover to locate illegal trading of body parts of PWA.<sup>21</sup> Increasing human resources in rural areas, where crimes are most prominent, is vital to ending the attacks and murders of persons with albinism.

## **RECOMMENDED COURSE OF ACTION**

Combating the discrimination of and attacks against persons with albinism needs to be addressed from a preventative strategy versus a restorative strategy. Thus, providing proper education on the genetic condition of albinism in combination with increasing social opportunities provided to PWA is the preferred solution. At its core, discrimination and the violation of human rights of people with albinism is a direct result of the continued traditional religious practices throughout East Africa. Traditional belief systems and traditional healing practices are a compulsory part of creating the world views of East African states. Value placed upon these traditions needs to be considered and handled with cultural sensitivity when determining how education programs should be implemented. Complete eradication of traditional systems will be unbeneficial due to interconnected ties to all aspects of culture and society. Instead, it is necessary to promote the humanization of PWA and initiate widespread education programs on

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16 Stacy Larson. "Magic, Mutilation, and Murder: A Case for Granting Asylum to Tanzanian Nationals with Albinism" *Pace University* (2011), 9.

17 The African Commission on Human and Peoples' Rights: *Resolution on the Prevention of Attacks and Discrimination Against Persons with Albinism*. (2013) (ACHPR/Res.263)

18 Bryceson, 370

19 (A/HRC/24/57)(pg.11).


20 (A/HRC/24/57)(pg. 10).

21 Larson, 6

the genetic condition while allowing traditional practices which do not continue to bring harm to individuals.

Communicating the facts of albinism as a genetic condition at the time of birth to families of children with albinism is essential. Early childhood education is best achieved through the employment of genetic counselors and nurses within medical facilities, urban and rural.<sup>22</sup> To further secure the potential of PWA, family genetic counseling should continue throughout adolescence. Providing sources of knowledge and understanding to individuals with albinism, as well as their families, is influential in combating infanticide and child abandonment. These education initiatives will be best accepted by the target communities if addressed through local specialized associations versus outside Western associations. Increasing specialized associations for albinos has potential to deconstruct and eradicate dehumanizing and harmful myths of PWA throughout East African communities. The Zimbabwe Albino Association illustrated that effective awareness-raising campaigns and involvement of local government can tackle the issues of exclusion and discrimination surrounding persons with albinism.<sup>23</sup> States have the responsibility to provide these necessary education programs to their communities.<sup>24</sup>

Increasing social opportunities in education, health, and job sectors will further integrate PWA into their communities and allow them to become contributing members to their societies. Prime Minister of Zimbabwe, Morgan Tsvangirari, declared that discrimination of PWA should be tackled as a national issue through prioritization of creating equal opportunity within education and job markets.<sup>25</sup> This includes providing special accommodations for PWA. Inclusion of PWA in these social sectors will continue to dispel myths as well as allow PWA to escape the cycle of poverty in which they are typically emerged. Thus, increasing social opportunities for PWA would further advance the development status of East African states.

Dispelling fallacies of myths associated with albinism through education initiatives and increasing social opportunities remain the best solutions to eliminate forms of discrimination against persons with albinism. The power of family and community within East African states cannot be underestimated as a means to eradicating the discrimination of PWA.<sup>26</sup> "Re-humanizing" persons with albinism is essential to ending discrimination and ensuring their right as functioning and inclusive members of society. 

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22 Baker et. al., 171

23 Baker et. al., 178

24 (A/HRC/24/57) (pg. 17).

25 Nelson Sibanda. "Albinism a national issue: PM" *The Zimbabwean*. (2013) (pg.2)

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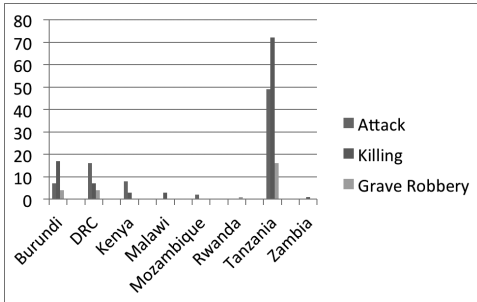
26 Baker et. al., 173

## APPENDICES

### APPENDIX A

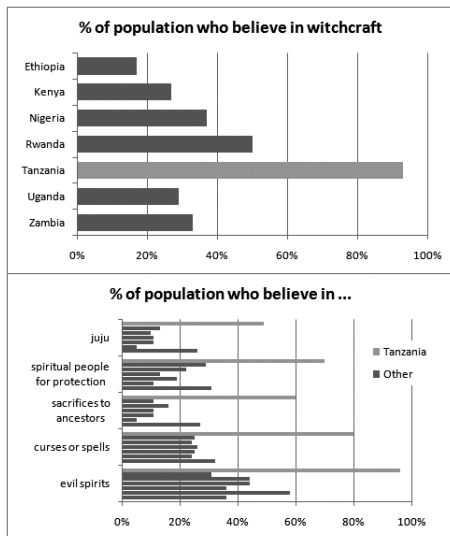
#### Reported Attacks of PWA Up Until 2013

This graph was made with information provided from a report by the NGO Under the Same Sun titled Reported Attacks of Persons with Albinism. The graph portrays the attacks and killings of PWA of countries which surround Tanzania.



### APPENDIX B

Graph taken from <http://blog.daraja.org/2010/04/93-believe-in-witchcraft-in-tanzania.html> but based on information from footnote 7.



## ADDITIONAL WORKS CONSULTED

- Baker, Charlotte; Lund, Patricia; Nyathi, Richard; and Taylor, Julie. "The Myths Surrounding People with Albinism in South Africa and Zimbabwe." *Journal of African Cultural Studies*. no. 2 (2010): 169-181.
- Bryceson, Deborah Fahy; Jonsson, Jesper Boose; and Sherrington, Richard. "Miners' magic: artisanal mining, the albino fetish and murder in Tanzania" *The Journal of Modern African Studies* 48:3 (2010), 353-379.
- Gilgoff, Dan. "As Tanzania's Albino Killings Continue, Unanswered Questions Raise Fears" *National Geographic* (2013), 1-6.
- Larson, Stacy. "Magic, Mutilation, and Murder: A Case for Granting Asylum to Tanzanian Nationals with Albinism" *Pace University* (2011), 3-28.
- Stein, Phillip; Stein, Rebecca. *The Anthropology of Religion, Magic and Witchcraft*. (New Jersey: Pearson Education, Inc., 2011), 136-140 and 214-218.
- Under the Same Sun. *Children with Albinism in Africa: Murder Mutilation and Violence*. (pg.10-50)
- United Nations General Assembly: *Persons with albinism*. Report of the Office of the United Nations High commissioner for Human Rights. (A/HRC/ 24/57) (pg. 3-18).



# The Looming Threat of an Avian Influenza Pandemic from China

– Ketura Meyer

## ABSTRACT

*The world has suffered from several influenza pandemics and currently faces the threat of an avian influenza pandemic. Avian influenza has spread globally resulting in the deaths of hundreds of humans and millions of poultry. Due to China's significant people and poultry populations and its limited capacity to respond to the virus, China represents a potential source of a future pandemic. In order to prevent this looming threat from becoming a reality, China needs to improve regulation and biosecurity of its poultry production and transportation systems. China has realized the importance of mitigation and timely responses and has welcomed the assistance of the World Health Organization. China's implementation of this solution to improve its production and transportation systems will not only reduce the risk of a future pandemic but will also benefit China's international image, food chain quality, and poultry farm economy.*

## OVERVIEW AND BACKGROUND

The threat of influenza pandemics still plagues countries around the globe. Three major pandemics in the 20th century and one mild pandemic in the 21st century demonstrate the possible danger and rapid global transmission of influenza.<sup>1</sup> The Spanish influenza of 1918, Asian influenza of 1956, and Hong Kong influenza of 1968, affected countries around the world and resulted in up to fifty million deaths.<sup>2</sup> The 2009 H1N1 influenza (swine flu) did not result in as many deaths, but did spread worldwide within a few weeks.<sup>3</sup> Avian influenza appeared just before the turn of the century and has spread to at least fifty-five countries.<sup>4</sup> <sup>5</sup>Since 2003, the World Health Organization (WHO)<sup>6</sup> has reported 650

1 "Influenza Pandemics - history."Public Health England.

2 "Influenza Pandemics - history."Public Health England.

3 Risk Management Solutions, Inc. *Learning from the 2009 H1N1 Influenza Pandemic.* (pg. 1)

4 Longde Wang, Yu Wang, Shuigao Jin, Zunyou Wu, Daniel P. Chin, Jeffrey P. Koplan, and Mary Elizabeth Wilson, "Emergence and control of infectious diseases in China" *The Lancet* 372:9649 (2008), 1600.

5 See Appendix 1

6 See Appendix 2

cases of avian influenza among humans resulting in 386 deaths worldwide.<sup>7</sup> While avian influenza does not currently transmit from human to human, the virus could mutate and cause a serious threat due to the ease of global spread and the human lack of immunity to the virus.<sup>8</sup> One of the more recent strains, H7N9, has developed a greater capacity for infecting humans than its predecessor H5N1.<sup>9</sup> The H7N9 strain has a fatality rate of 20-30%.<sup>10</sup>

Globalization has enabled influenza viruses to travel worldwide within 24 hours.<sup>11</sup> Thus, a single country's health issues can become global issues.<sup>12</sup> To avoid the global spread of avian influenza, countries must respond to outbreaks immediately and should contact the international community.<sup>13</sup> Because Vietnam delayed in reporting its avian influenza outbreak, the virus had time to spread beyond the country's capacity to control it.<sup>14</sup> In addition to death and infection, a pandemic outbreak in avian influenza results in significant economic costs.<sup>15</sup> It negatively affects poultry supply chains through direct poultry loss, restricted local and international market access, reduced poultry demand, and reduced worker productivity.<sup>16</sup>

<sup>18</sup> <sup>19</sup> Reduced tourism, due to negative publicity about an influenza outbreak, also hurts the economy.<sup>20</sup> The next avian influenza pandemic will likely originate in rural China due to the fact that this area has a growing number of backyard poultry farms and less capacity to respond to the virus.<sup>21</sup> <sup>22</sup> Despite recent mitigation efforts, China still has a long way to go before it can effectively combat avian influenza.<sup>23</sup> In order to prevent the emergence of an influenza pandemic, China must, in cooperation with the international community, continue to improve its ability to detect and control the spread of the virus.

After receiving criticism for lack of transparency and delayed response during the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak, China has shown a willingness to cooperate with WHO and the international community.<sup>24</sup> <sup>25</sup> China realized that this cooperation could result in a number of benefits, including an improved international image.<sup>26</sup> WHO represents an international organization with extensive experience in mitigating the avian influenza virus. Given China's vulnerability and undeveloped systems, China, assisted by WHO, will need to develop and implement effective mitigation strategies to reduce the spread of avian influenza.<sup>27</sup>

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7 "Cumulative number of confirmed human cases for avian influenza A(H5N1) reported to WHO, 2003-2014." World Health Organization.

8 "Avian influenza." World Health Organization.

9 "China halts poultry trading after H7N9 cases spike: mass culling ordered in Hong Kong." *Shanghai Daily*.

10 "China halts poultry trading after H7N9 cases spike: mass culling ordered in Hong Kong." *Shanghai Daily*.

11 Bernice Raveche. *Appendix 9A. International public health diplomacy and the global surveillance of avian influenza.* (pg.456)

12 L.H. Chan, P.K. Lee, and G. Chan, "China engages global health governance: Processes and dilemmas" *Global Public Health* 4:1 (2009), 2.

13 Chan et al, 3.

14 Wang et al, "Emergence and control," 1600.

15 Nicholas V. Thomas, "The Regionalization of Avian Influenza in East Asia: Responding to the Next Pandemic(?)" *Asian Survey* 46:6 (2006), 923.

16 Euston, Quah, Raymond, Toh. *Cost-Benefit Analysis: Cases and Materials.* (Taylor and Francis, 2011), 154.

17 Dirk U. Pfeiffer, Martin J. Otte, David Roland-Holst, and David Zilberman, "A One Health Perspective on HPAI H5N1 in the Greater Mekong Sub-region" *Comparative Immunology, Microbiology and Infectious Diseases* 36 (2013), 316.

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18 Marguerite Pappaioanou, and Marie Gramer, "Lessons from Pandemic H1N1 2009 to Improve Prevention, Detection, and Response to Influenza Pandemics from a One Health Perspective" *ILAR Journal* 51:3 (2010), 276.

19 Quah et al, 156.

20 Ibid., 156.

21 Center for Strategic and International Studies (CSIS). *China's Capacity to Manage Infectious Diseases Global Implications.* (pg. 44-45)

22 Thomas, 930.

23 Chan et al, 13.

24 "Severe Acute Respiratory Syndrome (SARS)." PubMed Health.

25 John R. Clifford, Erika Elvander, Bates Gill. *China's Response to Avian Flu: Steps Taken, Challenges Remaining, and Transparency.* Washington, DC. U.S. Government Printing Office, 2006), 13.

26 Chan et al, 6, 15.

27 Huang, Yanzhong. "Pursuing Health as Foreign Policy: The Case of China" *Indiana Journal of Global Legal Studies* 17:1 (2010), 118.



## POSSIBLE SOLUTIONS

### **Approach 1: Improving Biosecurity**

Response strategies will not eliminate the virus or its spread in the long run.<sup>28</sup> Since poultry farms in China represent a significant segment of the economy, China should seek to enhance farm biosecurity as a longer-term preventative strategy.<sup>29</sup> Biosecurity encompasses all measures that serve to prevent the development or spread of a disease.<sup>30</sup> Due to its broad definition, all the following solutions in this paper qualify as specified subcategories of biosecurity. While implementing these measures takes time and may meet resistance in terms of changing social behavior, biosecurity measures have demonstrated success through the establishment of infection-free farms in North America, the Netherlands, Australia, Thailand, and Hong Kong.<sup>31 32</sup> These farms achieved these results through compliance with biosecurity or a combination of biosecurity and vaccination.<sup>33</sup> China and Southeast Asian countries have begun following advice from international organizations to improve farm biosecurity.<sup>34</sup> To avoid the daunting task of changing all farm practices, China should first seek to target larger farms.<sup>35</sup> Improvements in these farms would have more feasible implementation and economic returns for the investment.<sup>36 37</sup> Biosecurity comes in incremental steps and may vary, depending on the context.<sup>38</sup> China should seek to create a solid method for increasing biosecurity by molding polices to specific contexts and building new practices on existing behaviors.<sup>39</sup> This includes providing farmers with reasonable time spans,

28 Raveche, 468.

29 L. D. Sims. "Lessons Learned from Asian H5N1 Outbreak Control" *Avian Diseases* 51:1 (2007), 176.

30 "National Avian On-Farm Biosecurity Standard." Canadian Food Inspection Agency.

31 Raveche, 468.

32 Sims, 176.

33 *Ibid.*, 176.

34 Pfeiffer et al, 314.

35 *Ibid.*, 317.

36 Sims, 176.

37 Pfeiffer et al, 315.

38 Pfeiffer et al, 315.

39 *Ibid.*, 315.

training, and capital for implementing the new practices.<sup>40</sup>

### **Approach 2: Vaccination Programs**

Vaccines have played an important role in mitigating outbreaks of avian influenza by protecting susceptible poultry, workers, rural livelihoods, and food security.<sup>41 42 43</sup> Between 2002 and 2010, over 113 billion doses of avian influenza vaccine were used to treat over 130 billion birds in fifteen countries.<sup>44</sup> In 2003, Hong Kong used vaccines and succeeded in avoiding infection on farms and in markets.<sup>45</sup> On the other hand, poorly selected or wrongly applied vaccines facilitate virus spread and mutation.<sup>46</sup> In China farmers have sold fake, substandard, or unlicensed vaccines, which led to silent (non-symptomatic) spreading of the virus, vaccine-resistant virus strains, and impaired surveillance.<sup>47 48</sup> Vaccine development time and costs, mutating virus strains, labor-intensive application, and follow-up monitoring pose as obstacles to vaccine use.<sup>49 50 51 52</sup> Due to delayed development, the vaccine for the 2009 H1N1 pandemic had minimal impact.<sup>53</sup> After 2005, Vietnam sought to implement a comprehensive vaccination campaign but only managed to achieve moderate coverage and failed to eradicate the infection.<sup>54</sup> As the most populous country

40 *Ibid.*, 315.

41 Diana L. Noah, James W. Noah. "Adapting Global Influenza Management Strategies to Address Emerging Viruses" *Physiol Lung Cell Mol Physiol* 305 (2013), 114.

42 Sims, 178.

43 David Swayne, Gounalan Pavade, Keith Hamilton, Bernard Vallat, Kazuaki Miyagishima. "Assessment of national strategies for control of high-pathogenicity avian influenza and low-pathogenicity notifiable avian influenza in poultry, with emphasis on vaccines and vaccination" *OIE Scientific and Technical Review* 30:3 (2011), 859.

44 Swayn et al, 858.

45 Sims, 178.

46 Raveche, 463.

47 Chan et al, 13.

48 Thomas, 935.

49 Noah, 108.

50 Pfeiffer et al, 317.

51 Sims, 178.

52 Raveche, 463.

53 "Influenza Pandemics - history." *Public Health England*.

54 Pfeiffer et al, 315.

with the largest number of poultry,<sup>55</sup> China faces considerable hurdles to implementing a comprehensive vaccination program.<sup>56</sup> However, China could benefit from the use of vaccination that only targets specific higher risk groups. Targeted vaccination has lower costs and still reduces risk.<sup>57</sup> Furthermore, the “cost-benefits” of targeted vaccination will help reduce the likelihood of sub-standard vaccination. Targeted vaccination can serve as a preventive or as an emergency response measure until China can implement other solutions.<sup>58 59</sup>

### **Approach 3: Culling as a Response Strategy**

Culling or slaughter of infected poultry serves as a common response to eliminate or reduce the spread of avian influenza. As recent as January 2014, Hong Kong discovered infection in poultry imports from China and responded by culling 20,000 chickens.<sup>60</sup> Culling effectively eliminated the avian influenza in Korea and Japan in 2003-2004.<sup>61</sup> Korea and Japan's success depended on early detection and the fact that the infection existed in concentrated and controlled areas.<sup>62</sup> If avian influenza has already spread throughout a country, culling will fail to eradicate the disease as neighboring regions could reintroduce the virus.<sup>63</sup> Despite culling forty million poultry in Vietnam, the infection reemerged.<sup>64</sup> Since avian influenza has persisted in China for some time, China cannot rely solely on culling to eliminate or reduce the spread of the virus. Besides ineffectiveness, mass culling of poultry results in significant financial losses. After responding to an outbreak of the virus by culling forty-four million birds, Vietnam realized that such large scale culling lacked feasibility and thus sought to revise its mitigation strategies.<sup>65</sup> However, restricted

culling, in combination with other eradication strategies, has the potential to reduce these costs and more effectively stunt the spread of avian influenza.<sup>66 67 68</sup> Hong Kong successfully combatted avian influenza in 2002-2003 by implementing restricted culling in combination with vaccination, quarantine, and surveillance.<sup>69</sup> Thus, to effectively respond to outbreaks, China should implement restricted culling as a supplement to other eradication strategies.<sup>70</sup>

### **Approach 4: Improving Farmer Participation and Compliance**

China will fail to effectively identify and respond to outbreaks in avian influenza without the active and timely participation of poultry farmers. Improving participation constitutes a preventative mitigation strategy. This participation does not always come easily, especially when mitigation threatens the farmer's livelihood and results in significant losses.<sup>71 72</sup> In the past Indonesia and Vietnam have culled infected flocks and provided little if any compensation.<sup>73 74</sup> This led to some farmers hiding or selling off infected poultry.<sup>75 76</sup> Farmers may avoid reporting infection of their flock to prevent the culling of all the community or neighboring poultry.<sup>77</sup> Political motives can also result in hiding infection as exemplified by Vietnam's unwillingness to report an outbreak during the preparation for the Southeast Asian Games.<sup>78</sup> To encourage early detection, the Chinese government should give farmers incentive to report infections.<sup>79</sup> By providing sufficient compensation for culled flocks and economic loss, the Chinese

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55 See Appendix 3

56 Sims, 178.

57 Pfeiffer et al, 317.

58 Swayn et al, 859.

59 Sims, 179.

60 “H7N9 bird flu virus: Hong Kong culls 20,000 chickens,” BBC News.

61 Sims, 177.

62 Ibid., 177.

63 Ibid., 177.

64 Sims, 177.

65 Pfeiffer et al, 314-315.

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66 Sims, 177.

67 Ibid., 177.

68 Pfeiffer et al, 310.

69 Sims, 177.

70 Pfeiffer et al, 310.

71 Clifford et al, 8.

72 Raveche, 462.

73 Thomas, 927.

74 Raveche, 462.

75 Sims, 178.

76 Raveche, 462.

77 Sims, 177.

78 Thomas, 926.

79 Pfeiffer et al, 315.

government would build trust with the farmers and promote participation. As a further measure, the government should keep reported outbreaks under an anonymous name to protect a farmer's future trade and poultry sales.<sup>80</sup> This anonymity would keep the public in the dark but allow the government to take proper mitigation or regulatory measures to ensure that the farmer improves the situation and seeks to avoid a future incident. Farmers who report outbreaks or suspicions of infection should also receive guarantees that inspectors will evaluate the situation before implementing any drastic measures.

### **Approach 5: Improving Hygienic Practices**

Avian influenza's ability to spread to other poultry and humans through contact with infected poultry or contaminated areas necessitates implementing proper hygiene as a preventative measure.<sup>81 82</sup> Lack of hygiene contributes to the spread of disease in China. Inappropriate use and handling of dead pigs contributed to the infection of 214 people and 39 deaths among rural Chinese farmers.<sup>83</sup> While this disease outbreak resulted from a disease in pigs rather than from avian influenza in poultry, it effectively demonstrates the dangers that can stem from lack of hygiene and disease knowledge. To reduce the likelihood of a similar scenario occurring among poultry workers, China should ensure that people and poultry facilities maintain appropriate hygiene practices. In general, people who work directly with poultry should frequently wash their hands, avoid hand-to-face contact, and change clothes after working with poultry.<sup>84</sup>  
<sup>85</sup> When working with sick or dead poultry, people

should wear protective masks and gloves.<sup>86</sup> Facilities and markets should keep the area, cages, and equipment clean.<sup>87 88</sup> The Chinese government should use television, cell phones, and the internet to increase people's awareness of proper hygienic practices and to alert people to the danger of housing poultry in homes.<sup>89 90</sup> To avoid sustained proximity of poultry and humans and to eliminate poultry feces in homes, people should keep poultry in separate living quarters.<sup>91</sup> Markets, poultry facilities, and homes could also improve hygiene by properly disposing of unneeded poultry parts. Finally, China should hire inspection officials to help enforce continued use of these practices.

### **Approach 6: Regulating Open Bird Markets**

The centrality of open bird markets in Asian culture, preferences, and traditions facilitates the spread of avian influenza.<sup>92 93</sup> Infected poultry spread the virus directly through contact or indirectly by contaminating the environment.<sup>94</sup> Since markets serve as the crossroads for farmers, merchants, and consumers, avian influenza could easily spread throughout the country and infect many

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80 Pappaioanou et al, 277.

81 Pfeiffer et al, 313.

82 Peipei Song, Jufeng Xia, Jianjun Gao, Lingzhong Xu, Yong Huang, Linong Yao, Wei Tang. "Measures to combat H7N9 virus infection in China: Live poultry purchasing habits, poultry handling, and living conditions increase the risk of exposure to contaminated environments" *BioScience Trends* 7:4 (2013), 169.

83 Center for Strategic and International Studies (CSIS). *China's Capacity to Manage Infectious Diseases Global Implications*. (pg. 45)

84 Scientific Task Force on Avian Influenza and Wild Birds. *H7N9 Low Pathogenic Avian Influenza: situation update 30 April 2013*. (pg 3)

85 Pappaioanou et al, 277.

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86 Nijuan Xiang, Ying Shi, Jiabing Wu, Shunxiang Zhang, Min Ye, Zhibin Peng, Lei Zhou, Hang Zhou, Qiaohong Liao, Yang Huai, Leilei Li, Zhangda Yu, Xiaowen Cheng, Weike Su, Xiaomin Wu, Hanwu Ma, Jianhua Lu, Jeffrey McFarland, Hongjie Yu. "Knowledge, Attitudes and Practices (KAP) Relating to Avian Influenza in Urban and Rural areas of China" *BMC Infectious Diseases* 10:34 (2010), 6.

87 Pfeiffer et al, 313.

88 Vincent Martin, Xiaoyan Zhou, Edith Marshall, Beibei Jia, Guo Fusheng, Mary Ann Franco-Dixon, Nicoline DeHaan, Dirk U. Pfeiffer, Ricardo J. Soares Magalhães, Marius Gilbert. "Risk-based Surveillance for Avian Influenza Control Along Poultry Market Chains in South China: The Value of Social Network Analysis" *Preventive Veterinary Medicine* 102 (2011), 203.

89 Xiang et al, 6.

90 Jinpei Li, Ruifang Fan, Yonggang Li, Xun Li. "China's Efforts at Avian Influenza Treatment and Prevention" *BioScience Trends* 3:1 (2009), 1.

91 Song et al, 170.

92 Martin et al, 197.

93 Ricardo J. Soares Magalhães, Xiaoyan Zhou, Beibei Jia, Fusheng Guo, Dirk U. Pfeiffer, Vincent Martin. "Live Poultry Trade in Southern China Provinces and HPAIV H5N1 Infection in Humans and Poultry: The Role of Chinese New Year Festivities" *PLOS ONE* 7:11 (2012), 2.

94 Pfeiffer et al, 313.

people.<sup>95</sup> <sup>96</sup> China has sought to limit exposure by closing bird markets or moving them out of densely populated areas.<sup>97</sup> However, this has met with resistance as evidenced by the continued use of open bird markets in Zhanghai, Jiangsu, and Zhejiang.<sup>98</sup> While closing down markets can reduce human infection and virus spread, it also affects livelihoods, poultry prices, and trade outlets.<sup>99</sup> <sup>100</sup> As an alternative preventative strategy, China should ensure that markets comply with appropriate hygienic measures. These would include improved ventilation, regulated slaughtering locations, and enhanced biosecurity.<sup>101</sup> <sup>102</sup> Markets should keep cages clean, process manure, and disinfect equipment and materials.<sup>103</sup> Markets should also establish quarantine areas and regular spot checks.<sup>104</sup> In order to reduce the spread of infection, markets should limit poultry stay-time to one day.<sup>105</sup> Larger markets should adhere to stricter levels of biosecurity. Inspection officials should regularly check markets to ensure that they comply with regulations. Improved market conditions would reduce virus spread and human exposure. Thus, rather than eliminating these markets, China should increase biosecurity by improving market hygiene and inspections.<sup>106</sup>

### **Approach 7: Regulating Trade and Transportation Systems**

Trade and transportation of poultry can contribute

to the spread of avian influenza in China.<sup>107</sup> Trade has the potential to concentrate poultry from many areas into small markets or transportation facilities and then to disseminate the poultry to surrounding areas.<sup>108</sup> <sup>109</sup> This cycle of concentration and spread of poultry could lead to contamination of multiple flocks, farms, poultry workers, merchants or consumers.<sup>110</sup> Uncontrolled trade can also undermine early virus identification and control.<sup>111</sup> To remedy this situation, China should control and regulate poultry movement through markets and ensure that transport systems maintain proper hygiene and biosecurity.<sup>112</sup> <sup>113</sup> In order to limit exposure and transmission of the virus among poultry and people, birds should only stay in certain containment zones or markets for no more than a day.<sup>114</sup> <sup>115</sup> To reduce virus spread in trade networks and farms, countries should follow Thailand's successful example of using biosecurity to establish infection-free zones and holding areas.<sup>116</sup> <sup>117</sup> Furthermore, to reduce the creation of informal flows, China should allow cross-border trade to remain open.<sup>118</sup> By keeping cross-border trade open and by encouraging multilateral coordination, China will succeed in more effectively monitoring and isolating incoming flocks.<sup>119</sup> <sup>120</sup> China should also apply this tactic to reduce informal flows in local and provincial market trade and transportation systems. With proper controls and biosecurity measures applied to transportation and trade, China can enhance its ability to keep the avian influenza virus under control.

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95 Yong Wang, Zhiben Jian, Zhenyu Jin, Hua Tan, Bing Xu. "Risk Factors for Infectious Diseases in Backyard Poultry Farms in the Poyang Lake Area, China" *PLOS ONE* 8:6 (2013), 7.

96 Martin, 197.

97 Song et al, 170.

98 Song et al, 170.

99 Kim M Pepin, James O Lloyd-Smith, Colleen T Webb, Karen Holcomb, Huachen Zhu, Yi Guan, Steven Riley. "Minimizing the Threat of Pandemic Emergence from Avian Influenza in Poultry Systems" *BMC Infectious Disease* 13:592 (2013), 1.

100 Sims, 180.

101 Robin Goodwin, Shaojing Sun. "Early Responses to H7N9 in Southern Mainland China" *BMC Infectious Disease* 14:8 (2014), 2.

102 Song et al, 170.

103 Martin, 203.

104 Song et al, 170.

105 Pepin, 1.

106 Song et al, 170.

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107 Pfeiffer et al, 313.

108 Martin, 203.

109 Pfeiffer et al, 313.

110 Ibid., 313.

111 Sims, 180.

112 Raveche, 463.

113 Pfeiffer et al, 317.

114 Pepin, 1.

115 Martin, 203.

116 Pfeiffer et al, 317.

117 Sims, 176.

118 Pfeiffer et al, 317.

119 Li et al, 1.

120 Pfeiffer et al, 317.

### **Approach 8: Providing Education**

Rapid identification and reporting of avian influenza must occur for China to effectively deal with an outbreak. However, people, particularly in rural areas, may fail to identify or report an infection due to insufficient knowledge about the virus, lay beliefs, local practices, or cultural perceptions.<sup>121 122 123</sup> Since public awareness and participation serve as a preventative measure and a much needed foundation for controlling avian influenza, China should provide education regarding avian influenza symptoms, breeding grounds, preventative measures, and hygiene.<sup>124 125</sup> Accurate educational information with regular updates will improve public response and reduce misunderstanding, panic, and confusion.<sup>127 128</sup> Timely and reliable information increases public trust in the government.<sup>129</sup> Training and education could also increase the influence public health leaders have on state-level policies.<sup>130</sup> This influence could indirectly result in improved mitigation strategies.<sup>131</sup> In 2006, China's "Beijing Declaration" sought to improve public education and awareness by promoting partnership with community-based nongovernmental organizations (NGOs).<sup>132</sup> The International Federation of Red Cross and Red Crescent Societies (IFRC) seek to serve national and community needs in China by improving influenza education, awareness, hygiene, and prevention in rural backyard poultry farms.<sup>133</sup> China should continue to expand this effort and encourage

further cooperation with NGOs. With improved knowledge and practices among its citizens, China can more effectively identify, report, and respond to avian influenza.

### **Approach 9: Providing Infrastructure and Training**

Lack of infrastructure and qualified technicians severely limit China's ability to provide timely identification and reports of avian influenza.<sup>134</sup> While China has already achieved success in these areas by extensively funding projects to build public health infrastructure, train staff, increase lab space, provide advanced equipment, and provide internet connectivity, many facilities and personnel still lack the ability to respond effectively.<sup>135 136 137</sup> China needs to expand its aid and support to provide rural areas with the training and equipment they need to mitigate avian influenza.<sup>138</sup> Staff training could primarily occur through online programs enhanced with periodic, in-person instruction from skilled professional.<sup>139</sup> Third Millennium Ministries, an organization that produces and publishes digital multimedia curriculum, offers a prime example of the global reach and accessibility that online education programs can have.<sup>140</sup> The ability of online resources to use videos enables programs to provide practical visual demonstrations. Online programs provide an effective means to reach poor and isolated people with affordable or free training. International collaborative projects can improve education in China by providing training for health professionals and donating funds.<sup>141</sup> China should

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121 Clifford et al, 14.

122 Raveche, 462.

123 Goodwin, 2.

124 Thomas, 934.

125 Clifford et al, 14.

126 Li et al, 1.

127 Thomas, 934.

128 Goodwin, 5-6.

129 Goodwin, 5.

130 Chongjian Wang, Sheng Wei, Hao Xiang, Jing Wu, Yihua Xu, Li Liu, Shaofa Nie. "Development and Evaluation of a Leadership Training Program for Public Health Emergency Response: Results from a Chinese Study" *BMC Public Health* 8:377 (2008), 7.

131 *Ibid.*, 7.

132 Clifford et al, 14.

133 "Avian Influenza." International Federation of Red Cross and Red Crescent Societies.

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134 22 Thomas, 933.

135 Zijian Feng, Wenkai Li, Jay K. Varma. "Gaps Remain in China's Ability to Detect Emerging Infectious Diseases Despite Advances Since the Onset of SARS and Avian Flu" *Health Affairs* 30:1 (2011), 127.

136 Wang et al, "Emergence and control," 1604.

137 Clifford et al, 14.

138 C. Wang, H. Xiang, Y. Xu, D. Hu, W. Zhang, J. Lua, L. Sun, S. Nie. "Improving Emergency Preparedness Capability of Rural Public Health Personnel in China" *Public Health* 124 (2010), 343.

139 Food Safety and Inspection Service, USDA. "Notice of Funding Opportunity With the Food Safety and Inspection Service for Food Safety and Defense Training for Spanish-Speaking Plant Owners and Operators" *Federal Register* 73:123 (2008), 36036.

140 "Biblical Education. For the World. For Free." Third Millennium Ministries.

141 Wang et al, "Emergence and control," 1602.

increase utilization of this type of aid to teach local staff how to operate equipment, identify and report issues, as well as manage avian influenza and other infectious diseases.<sup>142</sup> The government should also periodically visit sites to monitor activities, provide support, and maintain equipment.

### **Approach 10: Monitoring Migratory Birds**

Several major bird migration routes<sup>143</sup> cross over China. Since these routes also overlap other major migration routes, migratory birds could contribute to the global spread of the virus.<sup>144</sup> China's many free-ranging, open yard, or semi-closed backyard poultry farms in rural areas present ready opportunities for intermingling and virus transmission between domestic poultry and wild birds.<sup>145 146</sup> In turn, wild birds could carry the virus to other nations along the migratory paths. Fortunately, little evidence exists to validate claims regarding migratory birds' contribution to the spread of avian influenza.<sup>147</sup> Findings that poultry exports caused the spread of the avian influenza virus to Africa nullified the claims that the spread had occurred through bird migration.<sup>148</sup> Since migratory and wild birds do not pose an immediate threat, countries should restrain inaccurate media hype and should not let mitigation in this sphere detract from efforts directed at more pressing issues.<sup>149</sup> However, since migratory birds could serve as virus conduits in the future, it would benefit countries to promote closed-farming practices or otherwise prevent mixing of domestic poultry and wild birds.<sup>150 151</sup> Humans should also take proper precautionary measures when in contact

with wild migratory bird populations.<sup>152</sup> Wild bird surveillance and monitoring should continue so that countries can identify any potential threats of virus spread through these bird populations.<sup>153</sup> With these preventative measures in place, China will reduce the potential for avian influenza to spread by means of migratory bird populations.

## **RECOMMENDED COURSE OF ACTION**

The Chinese government should mitigate avian influenza by setting up multiple poultry checkpoint facilities to aggregate disjunct market, production, and transport systems. This recommended solution represents a preventative and behavior changing response that combines aspects from a number of the possible solutions mentioned above including: the improvement of biosecurity; hygiene; open bird markets regulation; transportation and trade systems; as well as infrastructure and training. "By promoting risk sharing supply chain relationships, such as contracting, certification, and traceability, individual agents can contribute to a local commons of lower disease risk, more credible product quality, and higher value added across low income networks extending from farmers to consumer households."<sup>154</sup> To implement this strategy, each area within range of 100 farms should host a checkpoint facility. Farmers within range, who wish to sell poultry beyond their neighborhood, must adhere to required biosecurity standards and bring their poultry to this facility. This facility could transport live or processed poultry to a higher-level facility that connects to downstream markets. Each facility must adhere to biosecurity and surveillance standards. This will protect poultry workers and ensure organized, infection-free processing and transportation of poultry. It will also disrupt infection persistent cycles, reduce infection in markets, and limit virus spread.<sup>155</sup> Consumers could purchase live or processed poultry from these facilities and will face less risk of

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142 Ibid., 1604.

143 See Appendices 4 and 5

144 Li et al, 1.

145 Song et al, 170.

146 Wang et al, "Risk Factors for Infectious Diseases," 7.

147 Scientific Task Force on Avian Influenza and Wild Birds. *H7N9 Low Pathogenic Avian Influenza: situation update 30 April 2013.* (pg 1, 3)

148 Thomas, 931.

149 Scientific Task Force on Avian Influenza and Wild Birds. *H7N9 Low Pathogenic Avian Influenza: situation update 30 April 2013.* (pg 1-2)

150 Thomas, 926.

151 Scientific Task Force on Avian Influenza and Wild Birds. *H7N9 Low Pathogenic Avian Influenza: situation update 30 April 2013.* (pg 3)

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152 Ibid., (pg 3)

153 Scientific Task Force on Avian Influenza and Wild Birds. *H7N9 Low Pathogenic Avian Influenza: situation update 30 April 2013.* (pg 3)

154 Pfeiffer et al, 316.

155 Martin, 204.

infection. The facilities will have access to internet reporting systems or the China Information System for Disease Control and Prevention (CISDCP) to maintain effective communication regarding infection.<sup>156</sup> Facility staff will receive proper training and have adequate equipment and infrastructure. Farmers will make their farms more biosecure so that they can benefit from using these facilities and access bigger markets. Hong Kong and the Greater Mekong sub-region have already successfully implemented biosecurity to enable poultry production and marketing chains to combat avian influenza.<sup>157 158</sup>

China has demonstrated its ability and willingness to make significant advances in its mitigation capabilities and to cooperate with WHO. Since China has considered WHO an indispensable global authority, China will likely accept WHO's recommended avian influenza mitigation strategies.<sup>159</sup> WHO should advocate that China model this poultry production network strategy on the corresponding framework of the United States Department of Agriculture (USDA).<sup>160</sup> The USDA not only provides an example of how to set up and maintain the logistical process of regulation, but also has a system set up to support the development and advancement of rural and small-scale poultry production networks.<sup>161</sup> By supporting and incorporating small poultry farms into a national network, China will improve rural capacity to detect and respond to avian influenza in a timely manner. This will help farmers maintain their livelihood and improve their poultry production and marketing capabilities.<sup>162</sup> In conclusion, these recommended changes to China's rural poultry sector and national poultry trade network will greatly reduce the risk of a future pandemic by limiting the national and global spread of avian influenza. 

## ADDITIONAL WORKS CONSULTED

- China Mission Report. "China—WHO Joint Mission on Human Infection with Avian Influenza A (H7N9) Virus." (pg. 1-51)
- Huang Yanzhong. "Pursuing Health as Foreign Policy: The Case of China" *Indiana Journal of Global Legal Studies* 17:1 (2010), 105-146.
- Kaufman, Joan A. "China's Health Care System and Avian Influenza Preparedness." *The Journal of Infectious Diseases*. 197:1 (2008), s7-s13.
- World Health Organization. "Avian Influenza A (H7N9) Response: AN INVESTMENT IN PUBLIC HEALTH PREPAREDNESS." (pg. 1-42)
- World Health Organization. "China—WHO Country Cooperation Strategy 2013–2015." (pg. 1-33)
- World Health Organization. "Country Cooperation Strategy at a Glance." (pg. 1-2)
- World Health Organization. "Influenza Pandemic Plan. The Role of WHO and Guidelines for National and Regional Planning." (pg. 1-66)
- World Health Organization. "Responding to the avian influenza pandemic threat." (pg. 1-18)

156 NBR Center for Health and Aging. *China Information System For Disease Control and Prevention (CISDCP)*. (pg 5)

157 Sims, 178.

158 Pfeiffer et al, 316.

159 Yanzhong, 118.

160 See Appendix 6

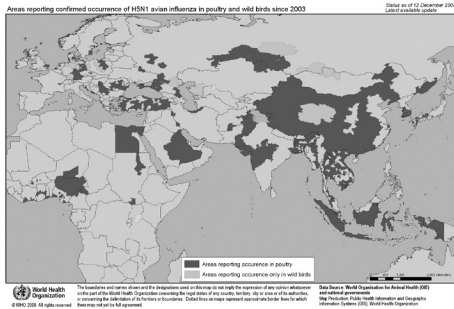
161 "Rural and Community Development." United States Department of Agriculture.

162 "Rural and Community Development." United States Department of Agriculture.

## APPENDICES

### APPENDIX 1

#### Map of Avian Influenza Spread in Poultry and Wild Birds<sup>163</sup>



### APPENDIX 2

#### World Health Organization

The United Nations based World Health Organization provides "...leadership on global health matters, shaping the health research agenda, setting norms and standards, articulating evidence-based policy options, providing technical support to countries and monitoring and assessing health trends."<sup>164</sup>

### APPENDIX 3

#### Top Five Countries with the Most Chickens<sup>165</sup>

	COUNTRY	NUMBER OF CHICKENS (2008)	NUMBER OF CHICKENS (2004)
1	China	4,602,278,000	4,214,748,000
2	United States	2,059,000,000	1,970,000,000
3	Indonesia	1,483,160,000	1,247,640,000
4	Brazil	1,200,000,000	1,100,000,000
5	Mexico	504,300,000	425,000,000

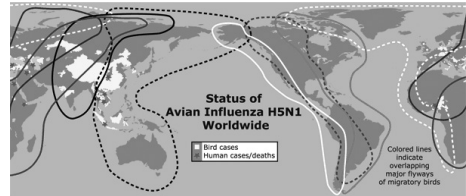
163 "Areas Reporting Confirmed Occurrence of H5N1 Avian Influenza in Poultry and Wild Birds Since 2003." World Health Organization.

164 "About Who." World Health Organization.

165 "The Top 5 Countries with the Most Chickens." Noel J. Riggs, Steve B. Scott.

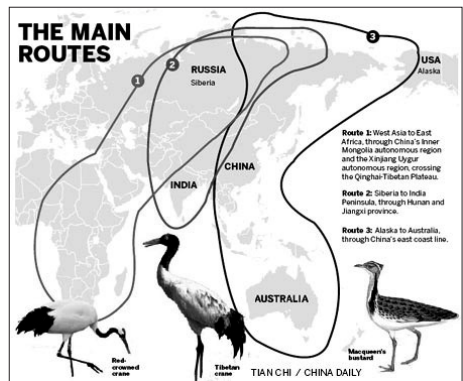
## APPENDIX 4

#### Avian Influenza Cases and Worldwide Bird Migration Routes<sup>166</sup>



### APPENDIX 5

#### Three Main Bird Migration Routes<sup>167</sup>



### APPENDIX 6

#### USDA

The United States Department of Agriculture (USDA) mission statement declares that the USDA provides "...leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on sound public policy, the best available science, and efficient management."<sup>168</sup>

166 "Avian Influenza: News and Information." UC Davis News Service.

167 "Death flight for birds on night of the hunter." Yang Wanli (China Daily).

168 "Mission Statement." United States Department of Agriculture.





# Healing Medical Tourism for the Benefit of All between the U.S. and Latin America

– Hannah Davis

## ABSTRACT

*Medical Tourism, the travel of patients to receive medical procedures abroad, has increased over the past decades. This article covers the problem of medical tourism between the United States and Latin America, and provides solutions to solve the problem. The history of medical tourism between the United States and Latin America has changed over the past decades; in previous incidences affluent Latin Americans sought out care in the US, but now frugal Americans seek out care in Latin American countries. The issue at hand is that there is no regulation of this industry. Possible solutions include, a complete ban on the industry, education of the industry, prosecution of medical tourists, diminish insurance coverage, and cooperative policies. My proposed solution is a hybrid of a combination of education and cooperative policies, this solutions is the best move towards a regulated medical tourist industry between the US and Latin America.*

## OVERVIEW AND BACKGROUND

Medical tourism is not a new concept to our society. The concept of traveling for health benefits developed during the time of the ancient Greeks. Ailing Greeks traveled to Epidaunia to seek the guidance of the healing god Asklepios, who shared remedies to them in their dreams.<sup>1</sup> Medical tourism has rapidly grown from just traveling to “take in the waters” to traveling for full blown medical procedures. From this speedy evolution of the medical tourism industry, critical policy issues now affect all countries from the United States to Latin America.<sup>2</sup>

Policy issues surrounding modern medical tourism refers to a vastly different kind of medicinal tourism. According to the WTO General Agreement on Trade in Services, medical tourism falls under mode two, “consumption abroad”.<sup>3</sup> Medical Tourism is not

- 1 Bookman, Milica Z. (2007). *Medical Tourism in Developing Countries*. New York: Palgrave Macmillan. 4-5
- 2 Connell, John. (2011). *Medical Tourism*. Massachusetts: University of Sydney Australia Press. 12-13.
- 3 World Trade Organization (2008). General Agreement on Trade in Services: Briefing Notes. Webpage.

"health tourism"; a medical tourist is a person traveling abroad for the sole purpose of seeking medicinal services.<sup>4</sup> The issue here is not that act of "medical tourism" but that there is a complete lack of regulation of the industry between all Latin American countries and the United States.

Early trends of medical tourism during the twentieth century covered affluent people of developing countries who sought out advanced health services in developed countries.<sup>5</sup> Currently the western hemisphere is experiencing people who seek out affordable medical care abroad, comparative medical prices are listed in Appendix C. Cuba during the nineteen nineties was the leading Latin American country in medical tourism; they drew in thousands of frugal Americans who sought out medical services, please refer to Appendix D for medical services map.<sup>6</sup> Data is scarce in Medical Tourism, but tens of thousands of patients are reported to have traveled to South America for medical procedures and treatment with these numbers reoccurring annually since the early two thousands.<sup>7</sup> The rapid expansion of this industry, has surpassed what policy makers have been able to accomplish within the same time span concerning medical tourism.

The World Tourism Organization's "Global Code of Ethics for Tourism", recognizes the legitimacy of traveling for health purposes.<sup>8</sup> However the medical tourism industry is not entirely "legitimate" with every aspect, which causes issues for policy makers. The lack of regulations between countries of Latin America and the United States cause severe issues for patients, medical providers, and all governments involved. This has resulted in exploitation of patients, unrecognized medical malpractice, illegitimate medical procedures and hospitals, and poor medical records. There are attempts to effectively control the industry of medical tourism by individual associations and organizations but the lack of collaboration between countries restricts their accomplishments. Without

regulations patients face the dangers of medical misconduct, financial exploitation, and improper (or even fatal) post operative care. The demand of affordable medical care is not an industry that could be quickly disintegrating by any means. Medical tourism should not be worked against by governments or organizations, but worked with to ensure safety, security, and legitimacy for all those involved.

## POSSIBLE SOLUTIONS

### **Approach 1: Complete Ban**

Individual countries have their own policies concerning medical practices within their borders, and the same applies to medical tourism. One approach that can be taken by any Latin American country or the United States could be a complete ban on any form of medical tourism within their borders. A ban at this measure has not been accomplished by any country, however a ban on aspects of medical tourism have been attempted. Pakistan, India, and the Philippines have implemented a complete ban on "Transplant Tourism".<sup>9</sup> For further clarification on "Transplant Tourism" please reference Appendix E.

The concept of eliminating the problem all together, could appear to be a positive solution. However neither India, Pakistan, nor the Philippines saw any end to the gruesome market for organs and transplants. On the contrary black markets sprung up to deliver a supply to the high demand.<sup>10</sup> An all together ban on the industry of medical tourism would surely result in the same negative outcomes. These effects resulted in harmful solutions for the fraught people seeking care, and to those desperate enough to provide products.

A complete ban on an industry like "transplant tourism", or medical tourism only harms those who are most at risk in the first place. This solution results in a lack of protection to those seeking care, and for those who provide in the services.<sup>11</sup> The

4 See Appendix A

5 See Appendix B

6 Connell, J. 49

7 Bookman, M. 3.

8 World Tourism Organization. (2014). Global Code of Ethics for Tourism: Art. 2, Sec. 4.

9 Connell, J. pg. 140

10 Connell, J. pg. 141

11 Cohen, Glenn. (2013). Transplant Tourism: The Ethics and Regulations of International Markets for Organs. *Journal of Law, Medicine & Ethics*, 41 (1), 276.

consequences are at the end of the day undesired for all characters involved.

### **Approach 2: Education**

Education on the subject matter of Medical Tourism includes those who provide medical care and those who seek medical attention. Patients who consider traveling for medical procedures should have information readily available for them, to ensure a secure and successful experience. The same information should be known by physicians; medical histories and proper procedures that will ensure the success of doctors as well as the patients. The lack of medical records prior and post procedures highly affects both patient and provider.<sup>12</sup>

When there is a lack of recorded medical information for the patient to reference they misunderstand their destination country, which leads to lack of understanding of "consent" and procedures.<sup>13</sup> When consent is questioned or procedures are misunderstood mal-practice suites are brought against the medical provider, who was likely as misinformed as the patient. When information is transparent and available to both parties then medical tourism can be successful.

This individual level of analysis for medical tourism can only be successful if paired with effectively enforced policies.<sup>14</sup> When paired with successful policies that can be ensured by an educated mass, the results of secure and transparent medical tourism information will emerge. Education alone will unfortunately be unsuccessful.

### **Approach 3: Prosecute Tourists**

Supply and demand are key factors in the growth of medical tourism between countries and their citizens. A way to approach this issue is by manipulating or regulating how the "demanders" are affected. A country could outlaw medical tourism within its borders, and a part of its regulation could include prosecution of the

tourists. Meaning if a medical tourist was caught with the intention or received illegal medical care in a country, they would be liable for prosecution by the country's government.

In the early two thousands Brazil approached medical tourism in this way. A tourist was prosecuted over the purchase of a kidney that was used later in his surgery.<sup>15</sup> However this case proved ineffective as the tourist returned back to the states without a conviction.<sup>16</sup> The responsibility of prosecution does not need to lie exclusively with the destination country; it can be played out by the home country as well. In the sub-category of "contraception, abortion, fertilization tourism",<sup>17</sup> countries who have outlawed procedures or therapies within this category are looking to prosecute returning citizens.<sup>18</sup>

Prosecutions by governments look to be too costly and are low priority for the United States and for the majority of countries in Latin America. The fruitfulness of the medical tourism market is too great for a country to waste resources on prosecution. Cuba is estimated to earn forty million dollars a year from medical tourism<sup>19</sup>, and medical tourism I reported as one of Mexico's most profitable economic activities.<sup>20</sup> Latin American countries cannot afford to lose the revenue brought in by medical tourism, and cannot afford to waste revenue on prosecution of medical tourists.

### **Approach 4: Diminish Coverage**

Placing regulation responsibility on the home country can be a non-invasive foreign policy approach for the United States and the countries south of it. If a government regulates health care coverage it would have a way to regulate medical tourism. If health insurance refuses to cover the costs of post operative care for a patient who

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15 Cohen, G. pg 279

16 Cohen, G. pg 280

17 See Appendix F

18 VanHoof, Wannes. Pennings, Guido. (Nov 2011). Extraterritoriality for cross-border care: Should states act against citizens travelling abroad for illegal infertility treatment?. *Reproductive Biomedicine Online*. 23(5). 546=554.

19 Bookman, M. pg 3

20 Bookman, M. pg 3.

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12 Ankler, Ashley E.; Feeley, Thomas H. (May/ Jun 2012). Estimating the risks of acquiring a kidney abroad: a meta-analysis of complications following participation in transplant tourism. *Clinical Transplantation*, 26(3), E232-41.

13 Lemoine, Dr. J.F. (24 March 2014). Ethics of Medical Tourism. *Medical Tourism Magazine*. Webpage.

14 Ankler, A. pg E240.

received a procedure abroad, this could deter medical tourism.<sup>21</sup>

This approach to health insurance is most effective with government controlled health programs, such as Medicare and Medicaid or other countries that provide free health care.<sup>22</sup> Post operative/procedure care can be regulated by denial of any copayment for pharmaceuticals, or physical therapy. Eliminating coverage of post operative drugs like pain killers or immunosuppressant drugs (for transplant patients) can be fatal. Affordable medical care is the leading factor in the quick development of medical tourism. However if post operative care outweighs this initial cost saving industry, than medical tourism between countries could be slowed.

Privatized health insurance providers however may not need to follow such regulations.<sup>23</sup> Depending on how the policy was written private insurance providers could choose how they approach medical tourism and post operative care. If there was two standards for different health insurance coverage and policies the effectiveness of this kind of policy towards medical tourism would be null.

### **Approach 5: Cooperative Policies**

The Joint Commission International (JCI) is a non-profit organization working towards regulations of hospital accreditation with countries all over the globe, including Latin America and the United States.<sup>24</sup> This organization works with health care providers to improve performance, safety, and overall medical quality.<sup>25</sup> This approach is a positive step into incorporating policy that works with the medical tourism industry instead of against it.

The JCI goes beyond, by cooperating with sister organizations in other countries, one of which is Caonsorcio Brasileiro de Acreditacao(CBA) in Brazil.<sup>26</sup> The relationship between JCI and CBA functions because, the CBA utilizes the standards

and regulations that are defined by JCI.<sup>27</sup> This kind of collaboration eliminates standards that contradict and it creates universality to the regulations applied to the hospitals and other medical providers in the United States and Latin America.

A visible and available network of information, standards, and regulations are provided by the JCI and can be assisted by the Medical Tourism Association. The MTA works hard to ensure secure and legitimate medical tourism by incorporating a set of standards that members must follow .<sup>28</sup> The organizations of JCI, MTA, and CBA are making the kind of policies that are needed for all aspects of medical tourism to move positively to the future in partnership with governments. However members of these organizations range from private to public medical entities, not entire country networks; which is currently the downfall of the medical tourism organizations .<sup>29</sup>

## **RECOMMENDED COURSE OF ACTION**

The method in which the world of medical tourism should be approached, cannot be limited to one basic form of the solutions provided. The method must be multifaceted in order for it to be successful in reaching across country borders. Cooperative policy with the promotion of education policies will be the most successful route for the United States and Latin American countries to reach a collaborative network of mutually secure medical tourism.

If we refer to the Patient Safety and Quality Improvement Act, signed into law by President George W. Bush in 2005. We can see the kind of policies we can expand, to incorporate into international policies between Latin America and the United States.<sup>30</sup> This act encourages medical providers to protect themselves and improve their

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21 Cohen, G. pg 281-282

22 Cohen, G. pg 282

23 Cohen, G. pg 282

24 Joint Commission International. 5 April 2014. Webpage.

25 Join Commission International. 5 April 2014 .Webpage.

26 Consorcio Brasileiro de Acreditacao.5 April 2014 .Webpage.

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27 Consorcio Brasileiro de Acreditacao. 5 April 2014. Webpage.


28 Medical Tourism Association. 10 March 2014. Webpage.

29 :MTA Members in Americas and Caribbean. 5 April 2014. Webpage.

30 Fasset, William E. (25 April 2006). Patient Safety and Quality Improvement Act of 2005. *Ann Pharmacother*;40(5), 917-24.

work by openly reporting mistakes.<sup>31</sup> These mistakes are reported to Patient Safety Organizations, that provide the information to those who are seeking medical care.<sup>32</sup> This kind of policy if applied internationally would provide the transparent information that patients and other medical providers would use to educate themselves.

JCI is a significant network of accredited hospitals and medical providers. If the network of JCI approved hospitals was expanded into a larger international network of accredited hospitals between the US and Latin America, the forward motion towards collaborative policies of medical tourism would be exponential. The number of members listed for MTA and JCI is extensive in Latin American countries and the United States, however in comparison to the number of medical providers in existence in those countries that list looks insignificant.<sup>33</sup>

The utilization of the Organization of American States would be a body in which regulations of policies concerning medical tourism would be enforced. Having a common governing body that the countries involved could refer to, would promote collaboration and universal policies that would apply to everyone. A combination of education and universal policies would be the best solution to issues brought by the unregulated world of medical tourism. Applying those policies and open information to a collective governing body such as the OAS, would create equality amongst all actors involved. 

## APPENDICES

### APPENDIX A

“Health tourism” refers to the broad statement of people who travel abroad to better their health. This can include visiting spas or going on meditation retreats. Though a valid form of tourism, health tourism does not spur the kind of controversy or policy issues that medical tourism does. Medical tourism includes medical treatments or procedures such as joint replacements, dental care, Lasik eye surgery, fertility treatments, and transplants.

### APPENDIX B

During the turn of the century and well into the fifties and sixties, affluent people of developing countries would seek out advanced medical care in Western Europe and the United States. This older trend was safer and experienced less risks. While medical tourism today attracts people who are looking for affordable medical treatments in developing countries that may not be accredited or legitimate.

### APPENDIX C

Procedure	USA	Colombia	Costa Rica
Heart Bypass	\$144,000	\$14,802	\$25,000
Spinal Fusion	\$100,000	N/A	\$11,500
Dental Implant	\$2,800	\$1,750	\$900
Rhinoplasty	\$8,000	\$2,500	\$4,500
Lasik (both)	\$4,400	\$2,000	\$1,800
Angioplasty	\$57,000	\$4,500	\$13,000
Gastric Bypass	\$32,927	\$9,900	\$12,500

\*Numbers are from Medical Tourism Association Webpage.

31 Fasset, W. pg 917

32 Fasset, W. pg 920

33 MTA Members in Americas and Carribean. 5 April 2014. Webpage.





# Making the BRICS Development Bank Functional

– Daniel McCarthy

## ABSTRACT

*The leaders of Brazil, Russia, India, China, and South Africa (BRICS) have decided to establish a BRICS-led New Development Bank (NDB), a Multilateral Development Bank comparable, but not identical, to the likes of the World Bank Group, and the African Development Bank Group to name a couple. The whole idea of setting up such a development bank aims at ending or marginalizing dominance of Western financial institutions such as the World Bank or IMF in policy matters of the emerging countries, and promoting South-South cooperation. In order to make the NDB functional, there are issues that need to be addressed including how the bank will be funded, and where and on what the NDB will spend its money. This paper addresses the different solutions the BRICS have to consider to address these issues, and proposes a recommended course of action to establish a fully functional New Development Bank.*

## OVERVIEW AND BACKGROUND

At their Fifth summit in Durban, South Africa in March 2013, the leaders of Brazil, Russia, India, China, and South Africa (BRICS) made the decision to establish a BRICS-led New Development Bank (NDB).<sup>1</sup> Along with the establishment of the NDB, the leaders decided to create a currency contingency fund to protect members' economies in times of crisis.<sup>2</sup> The decision to create the NDB comes at a time of a momentous shift of power from the US and Europe to emerging powers such as the BRICS, making the world less Western and more ideologically diverse.<sup>3</sup> The whole idea of setting up such a development bank aims at ending or marginalizing dominance of Western financial institutions like the World Bank or IMF in policy matters of the emerging countries,<sup>4</sup> and promoting South-South cooperation.

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1 See Appendix A for information on the establishment of the BRICS.

2 Appendix B explains the currency contingency fund.

3 Oliver Stuenkel. "The Financial Crisis, Contested Legitimacy, and the Genesis of Intra-BRICS Cooperation." *Global Governance* 19:4 (2013), 614.

4 "Preliminary Study on the Operating Model of the BRICS Development Bank." *Economic Forum*.

The NDB would be a Multilateral Development Bank (MDB) comparable, but not identical, to the likes of the World Bank Group, the African Development Bank Group, the Asian Development Bank, and the Inter-American Development Bank.<sup>5</sup> Currently, the World Bank and the International Monetary Fund (IMF) dominate development finance. These are both essentially Western institutions, which the BRICS feel do not share their priorities and stances when it comes to development policies. By creating their own MDB, the BRICS give themselves the opportunity to close the infrastructure development gap in their respective countries—the BRICS states have significant infrastructure requirements that total \$4.5 trillion over the next five years<sup>6</sup>—and boost trade and investment among member countries. Raising such finance will be easier and mutually beneficial to all BRICS members if it is done through their own MDB.

The decision to set up the NDB transformed the BRICS from an ad hoc grouping into a more institutionalized structure.<sup>7</sup> The BRICS summit declaration outlines a bank with an initial \$50 billion fund and a currency reserve agreement of \$100 billion to weather any future financial crisis.<sup>8</sup> Although the role of the bank and the initial contribution have been established, there are still many details to be worked out before the bank is fully functional. One of the biggest issues is how the bank is going to be funded. Understanding who should contribute how much is important due to the asymmetry within the BRICS grouping. A second big issue is where and on what the NDB will spend its money. Infrastructure development will be its main focus, but there are also the questions of whether spending will extend into other areas, and whether the bank will spend only within the BRICS. As the BRICS New Development Bank continues to evolve, finding solutions to these questions is essential to establishing a fully functional institution.

5 See Appendix C for definition and functions of MDBs.

6 “The BRICS Development Bank and Public Infrastructure Investment.” Human Sciences Research Council. (pg. 5)

7 Stuenkel, 621

8 “BRICS Bank: An Indian Perspective.” Economic Forum.

## POSSIBLE SOLUTIONS

### **Approach 1: Funding**

#### **Option 1: Equal Participation**

This option entails each of the BRICS contributing the same amount of money to the initial capitalization of the bank. This would make the bank small enough for all countries to afford equal participation and thus democratic governance. Reports suggest that the bank is likely to settle on this option, with each country contributing US\$10 billion, for an initial capitalization of US\$50 billion and a democratic governance structure.<sup>9</sup> This is much smaller than the World Bank, which has a capitalization of US\$223 billion and an annual budget of around US\$5 billion.<sup>10</sup>

The NDB is born out of frustration with the Bretton Woods Institutions, the World Bank and IMF. Both of these institutions are funded by unequal contributions from member states, and therefore have unequal voting power. This gives rich countries such as the US disproportionate influence.<sup>11</sup> The BRICS have all criticized this imbalance and call for reform of these institutions. Even though not all of the BRICS countries are dedicated to democratic principles domestically, their criticisms of the Bretton Woods institutions would be undermined if they did not embrace a democratic model for their NDB. A democratic model also makes it easier to facilitate the entry of other developing countries into the NDB if they decide they want to do that in the future. It is important to keep in mind that initial capital does not determine how much money the NDB will have available to spend. It acts as seed funding for the Bank, which would then raise more substantial amounts in capital markets, to pay for its operations.<sup>12</sup>

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9 Alexander Korablinov. “BRICS Agree on Development Bank Structure.” *Russia & India Report* (2013). [http://in.rbth.com/economic/2013/09/03/brics\\_agree\\_on\\_development\\_bank\\_structure\\_29035.html](http://in.rbth.com/economic/2013/09/03/brics_agree_on_development_bank_structure_29035.html)

10 Christopher Wood. “South Africa: The Way Forward for the BRICS New Development Bank.” *All Africa* (2014). <http://allafrica.com/stories/201403172410.html?viewall=1>

11 “IMF Members’ Quota and Voting Power, and IMF Board of Governors.” International Monetary Fund.

12 Wood



### **Option 2: Unequal participation**

This option is preferred by China, who calls for a capitalization of US\$100 billion, with it contributing the largest share.<sup>13</sup> The BRICS would have to accept different countries having differing contributions and unequal influence, but in doing so could create a larger and more powerful fund. With China contributing the largest share, it would have the most influence of the BRICS countries. This makes the other four countries nervous, as they are already critical of the disproportionate influence of countries such as the US in the World Bank and IMF.

If the BRICS agreed on a capitalization of US\$100 billion, with China contributing the most, they could take advantage of China's large economy and create a bank that could potentially have much more clout on the international stage than a smaller bank with equal contributions. The BRICS can be seen as having a "power multiplier" effect on each other. The power of the BRICS as a combined entity seems to be more powerful than the sum of its parts.<sup>14</sup> Therefore, if the BRICS let China carry the bank, the added power of the four other emerging economies can multiply the influence the NDB has at the global level.

### **Approach 2: Spending**

#### **Option 1: Spend only within the BRICS**

This option means focusing the spending of the NDB on infrastructure projects within the BRICS countries only. This seems to be a natural fit, as infrastructure is a problem in all five countries. As previously noted, the BRICS states have significant infrastructure requirements that total \$4.5 trillion over the next five years. Thus, the initial inclination of the BRICS seems to be to focus on domestic needs, at least at first.

The current multilateral banks, including the World Bank and the Asian Development Bank, fail to satisfy the financing needs of the BRICS in regional development and infrastructure projects.<sup>15</sup>

The reason for this is that it is not the main task of the existing multilateral financial institutions to support capital construction, especially large infrastructure development. The World Bank has shifted its work to target poverty alleviation programs mainly in Latin America and Africa. The Asian Development Bank has a very limited number of BRICS-specific projects, contributing only 8% of total investment in the BRICS countries.<sup>16</sup> It is unrealistic to expect financial institutions such as these to shift their focus to the BRICS to meet the financing needs in the region. It is therefore up to the BRICS to focus their spending on infrastructure projects within their own countries first.

#### **Option 2: Spend in other developing economies**

This option is particularly important for South Africa, as it is often viewed as representing the rest of the African continent in BRICS. They are thus most likely in favor of promoting NDB investment in the broader region. As five of the leading emerging economies in the world, it would be beneficial to the BRICS to invest in infrastructure projects in other developing countries as this would help strengthen their image as champions of the developing world. Also, all five countries already have very large domestic infrastructure spending projects, from both governments and local development banks, thus there is already substantial competition within BRICS for investments with high returns.<sup>17</sup>

In many of the less developed states, whether in Africa, Latin America, or East Asia, there is less competition and higher returns available. Many of these states offer the chance for transnational development projects, which are arguably more suited to the scale of funds potentially held by the NDB.<sup>18</sup> Investment in these countries would not be an act of charity by any means, it would just mean making investment decisions on hard economic considerations rather than national interest. In the long run, national interest is also likely to benefit, especially if investment projects catch the eye of the international community and act to unlock the type of vitally needed resources lying behind

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13 Ibid.

14 Sotiris Petropoulos. "The Emergence of the BRICS—Implications for Global Governance." *Journal of International & Global Studies* 4:2 (2013), 44

15 "Preliminary Study on the Operating Model of the BRICS Development Bank." Economic Forum.

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16 Ibid.

17 Wood

18 Ibid.


underdeveloped infrastructure in many less developed states.

## RECOMMENDED COURSE OF ACTION

For funding of the BRICS NDB, the choice of a US\$50 billion initial capitalization with each country contributing US\$10 billion is the best option for three reasons. First, the NDB is born out of frustration with the Bretton Woods Institutions, the World Bank and IMF, both of which are funded by unequal contributions from member states, and therefore have unequal voting power. If the BRICS responded by creating a development bank that was undemocratic itself, it would undermine their criticisms and their efforts for broader reform of global economic governance. Secondly, an equal contribution and participation model makes it easier to facilitate the entry of other developing countries, which will inevitably happen if the bank is successful. If voting rights in the bank were distributed based on the percentage of contribution to overall capital, then the entry of new members would require a renegotiation of voting rights and a shift in power.<sup>19</sup> Under the democratic model entry would be much easier. Any new country would simply have to match the US\$10 billion contribution and any entry conditions, and would then be free to join. Third, the initial capital does not determine how much money the NDB will have available to spend. As previously noted, initial capital acts as seed funding for the bank, which would then raise more substantial amounts in capital markets to pay for its operations.

Because of the significant infrastructure requirements that all five of the BRICS countries currently have, it is in their best interest to allocate some of the NDB's spending to infrastructure projects within the BRICS. But because each of the countries already have large domestic infrastructure spending projects, there is already substantial competition within BRICS for investments with high returns. Therefore, the NDB should not focus solely on spending within the BRICS, but should branch out to other regions. There is less competition and higher returns available in many

less developed states, whether in Africa, Latin America, or East Asia. Many of these countries offer the chance for transnational development projects, which are more suited to the US\$50 billion initial capitalization held by the NDB. Decisions on making investments in other developing countries would be made on hard economic considerations rather than national interest.

Following this course of action will give the BRICS-led NDB the best chance to function properly. By creating a bank with equal contribution and participation from each country, the BRICS uphold their criticisms of established financial institutions and efforts for broader reform of global economic governance. By spending on some development projects within the BRICS, and then branching out to other the developing countries, the BRICS can assert themselves as champions of the developing world and become more influential players on the global economic stage. 

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<sup>19</sup> Ibid.

## APPENDICES

### APPENDIX A

As of 2013, the five BRICS countries represent almost 3 billion people, with a combined nominal GDP of US\$16.039 trillion, and an estimated US\$4 trillion in combined foreign reserves. In 2001, Jim O'Neill, the recently appointed head of global economic research at Goldman Sachs, coined the term BRIC to refer to the major emerging economies of Brazil, Russia, India, and China. As an economist, O'Neill did not take any political aspects into account and devised the BRIC group based on economic indicators focusing on GDP growth rates, GDP per capita, and population size. Two years later in 2003, Goldman Sachs published a paper predicting that by 2050 BRIC economies would be larger in terms of US dollars than the G6 (US, Germany, Japan, UK, France, Italy).<sup>20</sup> The financial crisis of 2008 in the US led to a legitimacy crisis of the international financial system. The BRIC grouping wanted to make use of these dynamics and realized that the economic crisis in the US provided them with a unique opportunity to rally around an issue of great importance: the necessity to reform the international financial order.<sup>21</sup> This marked the beginning of BRIC summits, the start of multilateral cooperation between the countries, and the increase in their influence on the global financial stage. Working together to bring reform the international financial order had spillover effects into other sectors. Close cooperation in the area of finance created the trust that allowed ties to expand into fields such as education, science and technology, and defense. South Africa was added to the group in 2010, making it the BRICS.

### APPENDIX B

The currency contingency fund referred to is a financial safety net through the creation of a Contingent Reserve Arrangement (CRA) amongst BRICS countries. It is a pool of reserves to provide

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20 Goldman Sachs. "Dreaming With the BRICs: The Path to 2050." *Global Economics Paper No: 99* (2003), 1-2.

21 Stuenkel, 615

financial support to the five member countries in case of need. The CRA would help BRICS countries forestall short-term liquidity pressures and further strengthen financial stability. The CRA will have an initial size of US\$100 billion, with China committing US\$41 billion; Brazil, India, and Russia US\$18 billion each; and South Africa US\$5 billion.<sup>22</sup>

### APPENDIX C

MDBs are autonomous international financial entities that finance economic and social development projects and programs in developing countries primarily using money borrowed from world capital markets or contributed by governments of developed countries. Governments are the shareholders of the MDBs and are referred to as the members. Members include developing countries that borrow from the MDB as well as industrialized donor countries. Because of the favorable credit rating of MDBs, those that borrow funds from world capital markets are able to obtain more favorable loan terms than their borrowers could otherwise negotiate.<sup>23</sup> Thus, MDBs enable developing countries to access foreign currency resources on more advantageous terms than would be available to them solely on the basis of their own international credit standing.

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22 "G20 Summit Underway, BRICS Leaders Meet." BRICS Fifth Summit (2013). <http://www.brics5.co.za/g20-summit-underway-brics-leaders-meet/>

23 Jeffrey C. Steinhoff. "Multilateral Development Banks: Profiles of Selected Multilateral Development Banks." *United States General Accounting Office Reports GAO-01-665* (2001), 1-6

## ADDITIONAL WORKS CONSULTED

- Boas, Morten. "Governance as Multilateral Development Bank Policy: The Cases of the African Development Bank and the Asian Development Bank." *European Journal of Development Research* 10.2 (1998): 117-134.
- Jain, Subhash C. *Emerging Economies and the Transformation of International Business*. (Northampton, MA. Edward Elgar Publishing, Inc., 2006).
- Jayan, P.A. "BRICS: Advancing Cooperation and Strengthening Regionalism." *India Quarterly: A Journal of International Affairs* 68.4 (2012): 363-384.
- Mielniczuk, Fabiano. "BRICS in the Contemporary World: Changing Identities, Converging Interests." *Third World Quarterly* 34.6 (2013): 1075-1090.
- Nanwani, Suresh. "Holding Multilateral Development Banks to Account: Gateways and Barriers." *International Community Law Review* 10.2 (2008): 199-226.
- Nelson, Paul J. "Transparency Mechanisms at the Multilateral Development Banks." *World Development* 29.11 (2001): 1835-1847.
- Roberts, Cynthia. "Building a New World Order BRIC by BRIC." *The European Financial Review* (2011). [http://www.mid.ru/brics.nsf/8aab06cc61208e47c325786800383727/0076861093dc5f86c32578bc0045fca4/\\$FILE/Cynthia%20Roberts.pdf](http://www.mid.ru/brics.nsf/8aab06cc61208e47c325786800383727/0076861093dc5f86c32578bc0045fca4/$FILE/Cynthia%20Roberts.pdf)
- Unay, Sadik. "Reality or Mirage?: BRICS and the Making of Multipolarity in the Global Political Economy." *Insight Turkey* 15.3 (2013): 77-94.
- Van Agtmael, Antoine. "Think Again: The BRICS." *Foreign Policy* 196 (2012): 76-79.



# Economic Dependence on Eucalyptus, an Invasive Species, in Africa

– Molly Orr

## ABSTRACT

*Eucalyptus trees are one of the most widely grown tree species on the planet, yet they are native only to Australia. They provide many economic benefits, yet they are highly invasive. Eastern and Southern African nations depend on these trees for fuel wood, construction material, and as an energy source. However, this thirsty tree dries up groundwater supplies and sterilizes the ground around it so no other plants can grow. As Africa continues to develop, many farmers and nations are faced with the dilemma of economically depending on a species that harms the natural environment. For watersheds to stay healthy and farmers to keep their livelihoods, these harmful trees need to be replaced with indigenous species that provide the same economic benefits, but are natural to an area and beneficial to humans and the ecosystem.*

## OVERVIEW AND BACKGROUND

Alien invasive species (AIS) are simply any organism that is not native to an area, but was introduced by humans and has negative effects on the natural environment. Externalities of IAS are international issues- social instability, economic hardship, constraints on sustainable development, poverty alleviation, food security, and biodiversity conservation. Sometimes, however, invasive species in an area have economic benefits and are typically referred to as “introduced.” Of the cash crops of Africa- cocoa, coffee, sugar, peanuts, cotton, rubber, tea, palm oil, timber and tobacco, only Arabica coffee originated on the African continent. As 65% of the labor force relies on agriculture in Sub Saharan Africa,<sup>1</sup> commodity cash crops or agroforestry products are very important. Global demand for these goods traps farmers in a cycle of economic dependence and environmental destruction. In Madagascar, farmers arduously grow and harvest vanilla, a non-native tree that is threatening forests.<sup>2</sup> In Seychelles, cinnamon trees go rampant in the wild and are taking over forests,

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1 “Fact Sheet: The World Bank and Agriculture in Africa.” The World Bank Group. 2013. Web

2 Ali Alwahti, “A Taste of Vanilla.” TED Case Studies. 2001. Web.

but the people rely on them for an extra source of income.<sup>3</sup>

Colonial settlers introduced eucalyptus trees, among other hardwoods, in southern Africa in city gardens and in swamps to drain the water to reduce instances of malaria, as well as to provide a fast growing timber supply.<sup>4</sup> The Eucalyptus tree is utilized throughout Africa, mainly on the eastern seaboard and in the southern region. It remains a highly controversial tree species in the area, even concerning whether it is considered an invasive species or an introduced crop species.<sup>5</sup> Labeling it “invasive” suggests a desire to remove the plant and indicates negative aspects of the plant, while “introduced” implies that although it isn’t native, the benefits are great and it became naturalized to the ecosystem and economy.

Eucalyptus is the most widely grown tree species in Africa for various economic purposes. Both rural and urban dwellers rely on this fast growing hardwood tree for energy; an estimated 90% of the total energy consumed in Eastern Africa is biomass.<sup>6</sup> Rural people depend almost entirely on fuel wood as a light and energy source. Additionally, the lack of energy infrastructure in many areas requires urban people to buy wood or charcoal from plantations surrounding cities. The firewood is not used purely for households; the tobacco industry relies on burning eucalyptus to dry out the leaves before taking their crop to market.<sup>7</sup> The hardwood tree is often utilized in construction or industry as pulp, timber, and poles.

The Australian tree raises many concerns among environmentalists and local governments. It does not provide wildlife habitat, despite being touted as a natural forestland. Additionally, it requires much

more water than native species, thus negatively affecting groundwater and streams.<sup>8</sup> The leaf litter and soil hummus throughout eucalyptus plantations is toxic for other plants to grow due to chemicals in the eucalyptus and its high consumption of soil nutrients. Eucalyptus does not prevent soil erosion, and provides no food supplies.<sup>9</sup> This tree provides many economic benefits for a variety of people, but it also is damaging the natural environment and could potentially create food and water shortages.

## POSSIBLE SOLUTIONS

### **Approach 1: Improved Energy Infrastructure**

One of the root causes for the dependence on Eucalyptus trees is the lack of infrastructure for energy in Eastern Africa, as most of the energy supply comes from burning wood. New energy infrastructure projects would greatly reduce the need for large tree plantations. The Grand Renaissance Dam in Ethiopia will generate about 6,000 MW of energy that will begin supplying people all around Eastern Africa in 2015.<sup>10</sup> Large scale solar projects are in the works as well. However, only about 10% of rural populations in sub-Saharan Africa have access to electricity.<sup>11</sup> Solar, geothermal, and wind potential are great in Eastern Africa, especially in off-grid or mini-grid situations that would provide power for small communities,<sup>12</sup> but they are currently being underutilized. There is no need for a focus of large scale grid systems to electrify Africa- small scale, community based systems will provide enough energy for rural people. The Tanzanian government launched the Electricity Act in 2008, which opened up the power sector beyond the national utility

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3 Christoph Kueffer, “Invasive Alien Plants in the Seychelles: Lessons Learnt.” *Zwazo: Seychelles Conservation Magazine*. 2010

4 Robin W Doughty, *The Eucalyptus: A Natural and Commercial History of the Gum Tree*. Johns Hopkins University Press, 2000. Print.

5 Brett M Bennett, “A Contested Past and Present: Australian Trees in South Africa.” *Social Science Research Council, Essays from the Field*. 24 May, 2011.

6 Stephen Karekezi. “Poverty and Energy in Africa- A Brief Review.” *Energy Policy* Vol 30. September 2002.

7 John Madeley, *Big Business Poor Peoples: The Impact of Transnational Corporations on the World’s Poor*, Zed Books, 1999. Print

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8 Janine M Albaugh, Peter J. Dye, and John S. King, “Eucalyptus and Water Use in South Africa,” *International Journal of Forestry Research*, vol. 2013.

9 John A Stanturf, Eric D. Vance, Thomas R. Fox, and Matias Kirst, “Eucalyptus beyond Its Native Range: Environmental Issues in Exotic Bioenergy Plantations,” *International Journal of Forestry Research*, vol. 2013.

10 Oliver Joy, “Earth, Wind, and Water: Ethiopia Bids to Become Africa’s Powerhouse.” CNN 8 November 2013.

11 World Bank Group. *Lighting Africa*. Website. Accessed April 7, 2014.

12 See Appendix 1

and will encourage business investment.<sup>13</sup> If other African nations follow suit and work with US AID's Power Africa Initiative,<sup>14</sup> more Africans will have access to reliable electricity and the dependence on fuel wood will decrease.

### **Approach 2: Eucalyptus Replacement Programs**

Past programs to replace Eucalyptus with native species have been very successful. The Eucalyptus Replacement Phase in Cameroon,<sup>15</sup> organized and run by a NGO and local government, and the Entoto National Park Project in Ethiopia<sup>16</sup> should encourage other nations to do the same. Felling the trees can provide a short term income source from the lumber or wood products while the indigenous trees reach maturity. Fast growing and slow growing trees can be interplanted to balance short term needs and long term benefits, as well as provide a more natural setting for wildlife. Additionally, when the trees are cleared, other crops can be planted in those areas that were previously dry or sterile due to the eucalyptus. Furthermore, farmers who agree to do this should have their income supplemented to what it would have been when dependent on eucalyptus until the other trees mature and become profitable. As the trees mature and they can earn more money, the income supplements can be phased out. This plan can be implemented by government agencies, UN or AU bodies, or nongovernmental organizations that disperse seeds or plantings and communicate why the program is being executed, something that is often overlooked.

### **Approach 3: Strategic Planning of Eucalyptus Farms**

Many say that it is unrealistic to eradicate eucalyptus plantations throughout Africa because it is one of the most widely grown tree species. Eucalyptuses

are fast growing trees that are easily renewable and can lower Africa's increasing dependence on fossil fuels. However, new plantations should only be established in strategic areas. Using local knowledge and Geographic Information Systems (GIS),<sup>17</sup> water catchment systems and drainage basins can be mapped out to show the greatest potential for future eucalyptus plantations. Additionally, as fuel wood remains a major source of energy, plantations should be strategically placed near urban centers to reduce transportation costs. Once land use, soil type, population, and water catchment have been mapped, the areas that overlap are the suitable zones to plant eucalyptus plantations. The enforcement of this plan could prove difficult and potentially be a waste of time and money if farmers in rural areas continue to grow eucalyptus when no other option is available.

### **Approach 4: Genetically Modified Eucalyptus Trees**

Creating new species of Eucalyptus trees has the potential to produce reliable, commercially viable, and less environmentally damaging trees that can thrive in more diverse climates. The Tree Biotechnology Program, headed by the Forestry Institutes of Kenya, Uganda, and Tanzania, aims to create a hybrid clone that will improve the agroforestry industry in Eastern Africa.<sup>18</sup> Although eucalyptuses are heavy water consumers, they are one of the most water efficient biomass producers per unit of water.<sup>19</sup> Genetically modified, drought resistant clones, currently being researched, have the potential to address the main environmental concern that eucalyptuses require a lot of water. A current clone developed in Brazil grows up to 40% faster and produces more biomass.<sup>20</sup> A species being developed in southern Europe easily adapts to poor climate and soil conditions.<sup>21</sup> However, this plan is not likely feasible; genetically engineered crops are very expensive, and there is strong resistance

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13 International Renewable Energy Agency. *Africa's Renewable Future: The Path to Sustainable Growth*. 2013

14 "Fact Sheet: Power Africa." US Government: White House. 30 June, 2013. Web.

15 Oghaiki Asaah Ndambi and Stephen Ndzerem, "Local NGO's initiative for the replacement of eucalyptus forests by multi-purpose agro-forestry species in the grassland region of Cameroon." Small Scale Forestry and Rural Development. June 2006.

16 Kristin Underwood, "Eliminating Eucalyptus to Aid Ethiopia." *Treehugger*: 15 September, 2009.

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17 See Appendix 2

18 Kilimo Trust (2011) *Eucalyptus Hybrid Clones in East Africa; Meeting the Demand for Wood through Clonal Forestry Technology*. Occasional Paper No.1

19 Ibid.

20 Luke Geiver, "Eucalyptus developer begins final field trial" *Biomass Magazine*. 03 May, 2012.

21 Grupo Empresarial ENCE, S.A. *Sustainable Forest Management and Eucalyptus*. 2009

to genetically modified crops throughout Africa. Zambia bans all crops that are engineered outright.

## RECOMMENDED COURSE OF ACTION


The best solution is to adopt eucalyptus replacement programs that would phase out the invasive species and plant natives or non-aggressive species in their place. There are multitudes of native trees that can provide what eucalyptus does and others that provide even more. The best option would be to plant both fast growing and slow growing trees to diversify and not become reliant on a single species; namely the Baobab tree (slow growing), the Moringa tree (fast growing), and the Grevillea tree (fast growing).

The Grevillea tree is a very easy replacement for eucalyptus. It grows quickly, the trunk is straight and rot-resistant, yet requires much less water than eucalyptus species. The One Acre Fund in Tanzania is investing in a program to help farmers replace their eucalyptus plantations with grevillea, the species the farmers chose themselves.<sup>22</sup> As of now, many people rely on wood as a fuel and energy source, especially farmers who grow tobacco. Although energy infrastructure is improving, this tree can be the basic wood source until rural communities are not dependent on biomass.

Known as the Tree of Life, the Baobab tree provides humans with the three basic necessities- food, water, and shelter.<sup>23</sup> The bark is fire resistant and can withstand long and harsh droughts, a benefit in landscapes likely to be affected greatly by climate change. The bark of the tree can be used to make rope, roofing materials, and medicinal products, as well as a wood source. The large, hollow stem of the baobab stores thousands of liters of water, which can be tapped into. Moringa is an indigenous tree that is referred to as a "supermarket on a trunk."<sup>24</sup> This tree provides wood, paper, and liquid fuel. The soft, spongy wood of this tree burns cleanly with limited smoke or smell, making it

a healthier option than eucalyptus or other tree species. The Moringa tree has been proven to help treat water. Adding crushed Moringa seeds to water settles out particles and contaminants.<sup>25</sup> Both tree species have many health benefits, an asset to rural populations whose diet consists mainly of tubers and cereals.<sup>26</sup>

Both trees can be exported as cash crops to western nations. One of the newest health craze is about the baobab "superfruit," which has recently been approved by the FDA in the United States and by the European Union, and some say that it has the potential to be a \$1 billion a year industry. Various NGOs are working toward creating incomes based on baobab trees. In Malawi, PhytoTrade Africa encourages and assists women in harvesting the fruit and raising income to pay for healthcare, education, and necessities.<sup>27</sup> Moringa, a fast growing tree, has the potential to become a cash crop. Powdered Moringa leaves are now being sold in stores in western markets, and people are catching on to the benefits of the "miracle tree."

Energy infrastructure is improving in Africa, and soon there will be less demand for eucalyptus and other fuel wood trees. Therefore, replacing those trees with more viable, environmentally friendly species is vital to the future of rural communities. Eucalyptuses are relatively easy to eradicate and native species can provide much more benefits for the health, natural landscapes, and incomes of farmers. 

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22 Stephanie Hanson, "One Acre Fund Branches Out: The Grevillea Tree Program in Kenya," AgriLinks: USAID. July 6, 2012.

23 WorldWatch Institute, "Africa's Indigenous Crops." January 2011.

24 Ibid.

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25 "A Plant with Global Potential: Moringa, the Nourishing Tree." International Analog Forestry Network. 21 February 2014.

26 See Appendix 3

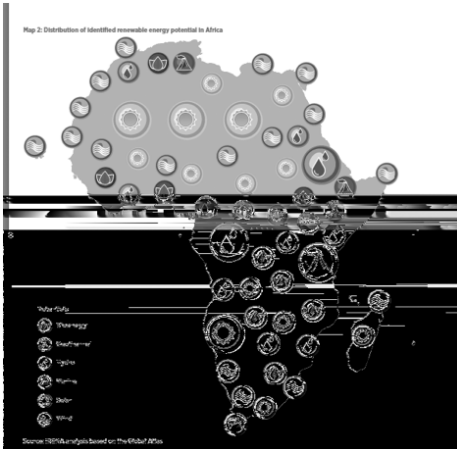
27 Nadia Arumugam, "The Superfruit That's Truly Super: Baobab Boosts Health, Poor African Families & Gin." Forbes Magazine. 24 August 2011.



## APPENDICES

### APPENDIX 1

This is a map of the potential renewable energies around Africa.



### APPENDIX 2

Geographic Information Systems (GIS) is a software program that uses data and map information to see patterns, analyze, manipulate, manage, and present geographical data. It has many applications for location based projects that require analysis, visualization, and dissemination of visual, geographical data.

### APPENDIX 3

Unlike the eucalyptus, both trees have edible fruit, leaves, and seeds. The leaves of the baobab are high in protein, and contain lysine, an important amino acid that is often missing in the diets of poor populations. The fruit of the tree contains antioxidants such as iron and potassium, Vitamins C and A, and calcium. It is said to be pro-biotic, good for digestion, brain and nerve function. The high levels of Vitamin A can benefit pregnant women and children by preventing blindness and birth defects. Moringa is rich in iron, calcium and potassium, supports the immune system, and has high levels of protein.





# Interview with U.S. Ambassador James Moriarty

*Ambassador James Moriarty joined the Foreign Service in 1975 and served as the United States Ambassador to both Nepal and Bangladesh as well as being the US point person for Security Council affairs with the National Security Council. In September 2014, he spent a week at the University of Idaho as the guest of the Martin Institute and Program in International Studies, during which time he guest-lectured in IS and Law classes, held office hours to visit with students, and provided insight on the balance of power in East Asia and on Obama Administration policies in the region. He sat down with the co-editors of the JMSIS for the following interview:*

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**Editors:** *In your time working abroad how would you describe the world view from the standpoint of Bangladesh, Nepal (and) Asia in terms of regards to development, economics and political structure?*

Ambassador Moriarty: Well, first thing you have to remember is every country has a slightly different perspective and every country tries to take a slightly different path as it goes about solving its own problems. Many of the countries of South Asia came out of a tradition of heavy government involvement in business and viewed business with a lot of suspicion. So particularly in India and Bangladesh you saw very strict parameters in which business could work; over time, I think a lot of this began to change. Both in India and Bangladesh (people) now understand the importance of business contributing to the country's development. In Singapore for example - probably the most successful Asian country - you saw exactly the opposite philosophy: that business was absolutely essential. Singapore was too small with too few resources to try and tackle things on its own and knew it had to trade and had to integrate with the outside world. That was the government's core philosophy, that the government was there to help regulate but most importantly to facilitate Singapore's tying into global trade.

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**Editors:** *Keeping that in mind and taking a step back in a sense, what is the role of the US from this standpoint?*

Ambassador Moriarty: Well, having worked in a lot of developing countries, I firmly believe that the US has to follow the model of Singapore to some degree which is to realize that the government's key role is to set the conditions for development. To put it more starkly, a country with bad polices is not going to achieve good development outcomes no matter how much money the outside world pours into it. So I do believe there are humanitarian crises when the whole world has an obligation to respond, but usually the US should invest its effort and time in countries that want to make progress; and if necessary try and work with countries that have some reluctance but do have genuine concern for their people, and help them work through the issues that prevent them getting their policies as right as possible.

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***Editors: You made a point in your last talk about Pax Americana.***

Ambassador Moriarty: Yeah, one thing that I would like to bring up here is that I'm an Asia expert and if you look at the amount of US contribution to Asia it has been huge in a number of ways. For example, Japan – we helped rebuild from scratch after WWII. Taiwan – we helped them get their polices right after the government fled there from mainland China. But the one thing we have provided for all of Asia for a long, long period since WWII has been the basic currency of stability and peace. You can't have too much development going on without stability and peace. Much of what we have done in East Asia is protect the commons, make it clear that ships would be able to sail through the South China Sea and that we wouldn't have deterioration in the security to a point that it would affect the economy.

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***Editors: You have held several positions working closely with China. Having this experience do you think the rise of China is more threatening or more promising to the US prospects in the region?***

Ambassador Moriarty: I think China's rise is the biggest question the US has to address over the next 20 -30 years. Over much of the past 10-15 years most folks hoped that rise would be within the existing system (and) that China would accept the system that benefited it. As I said we helped with this Pax Americana to facilitate trade but we also helped develop a trade system from which China benefited tremendously. It became the workshop of the world. That would not have happened if the outside world was not accepting exports from China. It would not have happened if there were not so much prosperity in the outside world - again something we helped with. Up until relatively recently there was a lot of hope that China's transition into the second great power of the world would be relatively smooth. There are more concerns now, I have more concerns as a China expert, as to whether things are going as smoothly as we had at all hoped. China is behaving more like a dissatisfied power that looks at a system that it didn't help create, and says. "Why should we be bound by these rules that we didn't have a part in making?" – and that is worrisome. Because

that dissatisfied attitude is appearing in a number of areas, particularly with respect to territorial disputes in the East China Sea, and the South China Sea, and with India, another big power. Here you have China in effect saying, "We view this territory as ours. You have to view it that same way." When you combine that with the increase in wealth, the continued increase in military spending by China - that creates concern. People have to work together with China to get more transparency on what China's goals are and to find out where mutual accommodation is possible China has to live with the rest of the world, too. China should not expect to be allowed to destroy a system from which people in many countries have benefited, without reaching agreement with those countries on a new system.

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***Editors: What is your view on the crises in Ukraine? Do you think this is similar to the breakup of the former Yugoslavia?***

Ambassador Moriarty: No, I think it is actually very different. The breakup of the former Yugoslavia was an eruption of the ethnic pride that had long existed in Yugoslavia, to some degree a return to borders that had existed before. Primarily the big difference is that it was a domestic outbreak of feeling. I don't think you could say that about what's happening in Ukraine. Granted you know if the Crimea had been asked two years ago, "Hey, what do you guys think, do you have an affinity for Russia?" probably a majority would have said yes. I don't know if that meant they would break off from Ukraine and go to Russia. I know that once Russia started getting involved in Crimea you were not going to have a legitimate referendum. You have to ask the question, "Why would it be legitimate to break off a part of Ukraine?" Russia had signed guarantees of Ukraine's sovereignty, Ukraine agreed to give up its nuclear weapons and now what's going on in eastern Ukraine no one can say it is a feeling of the domestic people. It's just gotten too weird, there are too many Russians involved, soldiers wanting to go on vacation toting their weapons, shells being lobbed from Russian territory into Ukraine. It's very different. The breakup of Yugoslavia was a domestic effort. This walks like, talks like, quacks like external interference.

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***Editors: In your experience, in cases where non state actors were a threat, are there strategies that you could see working to combat groups like ISIS?***

Ambassador Moriarty: Well, there are two things that you have to do. One is, you have to address the question of whether there are conditions that encourage groups that like that to get a hold, and then you have to try and address those conditions. But at the same time, maybe before, you actually have to address the capabilities of the group. Because as we have seen, once they have control over a geographical area they are extremely brutal; in fact, they are so brutal that over time perhaps they become self-limiting. [In these situations] people immediately turn off from them as a group but they are so brutal as a group that before they are removed from a territory a lot of lives are going to have to be lost. It is a group that will kill as many people as necessary to establish its rule. You've got to address that question, and you can't believe that they are going to go away, to sit down at a table and say, "Oh, yes, we were wrong. We killed innocent civilians so we will stop doing that if you do this or this." It's not going to happen. So you have got to address the conditions through which there might be some support for those people, acknowledging that there has to be some degree of force used as leverage, and maybe you will convince some of them to walk away from the group, but the hardcore supporters? You aren't going to change their minds.

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***Editors: On that same note, do you think ISIS will surpass Al-Qaeda? And if so, what do you foresee the consequences being?***

Ambassador Moriarty: That is hard for me to say. I'm not going to get into it too much, but I will say that once you gain territory the question is how do you retain territory, because you have become a target. When you are a terrorist group in small cells, it is actually easier to exist than when you have fairly large groups. The groups become targets. We can find them; the Syrian army can find them; the Turks can find them; and so in a way they have become a target that's easier to go after. They do right now have much more power than Al-Qaeda ever had. 10- 15 thousand, armed people controlling the lives of millions of people

... but I hope that we will find that once you control territory, it's hard for a brutal group like this to last very long. They are controlling thousands of square miles of territory with hundreds of thousands of people under their control. I hope that is a condition that is only temporary.

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***Editors: And finally, on a happier note, in regards to world politics, peace efforts and the like, what advice do you give this generation of international studies graduates and scholars? What should we focus on and how can we continue the work of our predecessors?***

Ambassador Moriarty: Engage and stay involved. Okay, you have asked me to address specifically international studies graduates. Even if you graduate in that field, there is no guarantee that you will be doing it 10 years from now, as you might end up diverted into another area or you might end up in a very specialized niche related to the international field. No matter what you end up doing over the next 10 years, though, remember that you are part of a very interconnected world. That decisions that get made not just in Washington but in Riyadh and Beijing, they are going to have a huge impact on your life going forward. You are going to go into the world with an advantage by understanding and having an interest in these events which help shape the community you are in, whether your community is Kellogg, Idaho; Taipei, Taiwan; Beijing, China; or Riyadh, Saudi Arabia. There will be a lot of opportunities, but this world is incredibly complex, and you should be out there trying to shape it. And anything you do in the international arena - because of the complexity, because everything feeds back - will be shaping that big, big environment in this complex and messy world that we have. 

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