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WORKING TOWARD WORLD PEACE IN NON-INTERNATIONAL ARMED CONFLICT: IN A WORLD OF UNCERTAINTY, TERRORISM, AND DISAGREEMENTS, IS IT POSSIBLE?

Victoria Carlton[*]

I. INTRODUCTION

Since the end of World War II (WWII), the idea and concept of war has changed, technology has advanced, and disseminating information is instantaneous. The world is different. The Westphalian international system (up until WWII) divided and created the nation states that make up, for the most part, the geographical boundaries of the world as it is today. In the Westphalian international system, nation states "were hermetically isolated from each other and were the only international legal persons,"[1] and "considered as the only meaningful actor[s] within world affairs," especially when considering territory, wars, and the governance of people.[2] After WWII, even though most of the geographical lines remained, the world began to dramatically change and move into a post-Westphalian international system (1945–present). In a post-Westphalian international system, there is recognition of "a spectrum of actors – individuals, NGOs, corporations, cities, regions, states, and international organizations."[3] In the post-Westphalian international system, non-state actors[4] became more prevalent, featuring a spectrum of actors that includes terrorists, cartels, mercenaries, and organized opposition groups within nation states.[5] The recognition of non-state actors on the international stage has expanded international law and interactions of state actors with small organizations.

In this post-Westphalian international system, the increase in globalization[6] has created social and technological changes that are re-

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[1] ERIC ENGLE, IDEAS IN CONFLICT INTERNATIONAL LAW AND THE GLOBAL WAR ON TERROR 1 (2013) (noting that the Westphalian international system spanned from 1685–1945).

[2] *See* Farida Lakhany, *How Important are Non-State Actors*, 59 PAK. HORIZON, 37 (2006).

[3] ENGLE, *supra* note 1, at 1.

[4] M. Cherif Bassiouni, *The New Wars and the Crisis of Compliance with the Law of Armed Conflict by Non-State Actors*, 98 J. OF CRIM. L. & CRIMINOLOGY, 711, 715–16 (2008) ("[N]on-state actor is applied to non-governmental groups who directly or indirectly engage in support of non-governmental combatants in non-international and purely conflicts. These groups take a variety of forms, including: (1) Regularly constituted groups . . . ; (2) Non-regularly constituted groups of combatants . . . ; (3) Spontaneously gathered groups who engage in combat or who engage in sporadic acts of collective violence . . . ; (4) Mercenaries acting as an autonomous group or as part of other groups of combatants; and (5) Expatriate volunteers who engage for a period of time in combat or in support of combat operations, either as separate units or as part of duly constituted or ad hoc units.").

[5] *Id.*

[6] David Held et al., *Globalization*, 5 GLOBAL GOVERNANCE, 1, 483 (1999) [hereinafter Held] ("Globalization: n. a process (or set of processes) that embodies a transformation in the spatial organization of social relations and transactions, generating transcontinental or interregional flows and networks of activity, interaction, and power."); Alan Tidwell & Charles Lerche, *Globalization*

defining the world, and today there are "political transformation[s], which could be as important as the creation of the nation-state; the exclusive link between geography and political power has now been broken."[7] The changing and developing world after WWII was faced with a responsibility to form an international system of laws that would bind nations, non-state actors, and individuals during times of peace and conflict. The purpose was to create an international system to build relationships and peaceful conflict resolution capacity to avoid another devastating world war. The United States and the world, as a whole community, should be working towards a world where non-international armed conflicts are managed and controlled effectively.

This Comment explores the options for the international community to reform the current approach to ending non-state actors and ways to proactively stop future non-international armed conflicts from arising. To resolve non-international armed conflicts, it is necessary to address the grievances within reason, and establish international cooperation in the prevention and punishment of non-state actors. Additionally, resolving current non-international armed conflicts is to work towards solving future threats and becoming proactive in educating, alleviating poverty, and changing the mindset of foreign affairs.

Part I of this Comment introduces the meaning of non-international armed conflict and the insufficiencies in the law of armed conflict. Part II addresses why the coercive approach of employing arms is not working to end non-international armed conflicts. Part III examines two successful approaches for what is working to end non-international armed conflicts and how we can continue these approaches in current conflicts and those that may arise in the future. Lastly, Part IV advocates for a strategy of peace that suggests a more theoretical approach for proactively ending future non-international armed conflicts.

A. The Creation of an International Governing Organization: The United Nations

At the time of WWII, the division between nations who supported the "Allies"[8] against those who opposed the "Axis"[9] powers illuminated the lack of regulation in war and the need for change. Just months before World War II ended, on April 25, 1945, in San Francisco, California, "46 nations met to discuss the creation of the United Nations, an international

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and Conflict Resolution, 9 INT'L J. OF PEACE STUD. 47, 47 (2004) (Additionally, "[g]lobalization, understood broadly, is an accelerator of social change.").

    [7] Held, *supra* note 6, at 487.

    [8] The Allies consisted of the United States of America, Britain, France, the Union of Soviet Socialist Republic (Russia), Australia, Belgium, Brazil, Canada, China, Denmark, Greece, the Netherlands, New Zealand, Norway, Poland, South Africa, and Yugoslavia.

    [9] The Axis powers were Germany, Italy, Japan, Hungary, Romania, and Bulgaria.

organization intended to maintain peace between nations." [10] A few weeks later, at the conclusion of this conference, on June 26, there was unanimous approval for the charter that created the UN, coinciding with the end of the war on the European front. [11]

The UN Charter gives clear direction for member states: [12] "We the peoples of the United Nations [are] determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind." [13]

The creation of the UN developed a working organization that had a mission statement for peace and for regulating the use of force. "The general situation prevailing was paradoxical: with the creation of the United Nations and the codification of human rights, greater efforts than ever were being made to establish a new world order." [14] The worldwide feeling of tragedy from the events of WWII influenced a need and desire for peace. The creation of the UN was a way for member states to internationally unite with other states to prevent future war and crimes. Additionally, the creation of the UN established a regulatory body to create, amend, and enforce international laws.

B. Post-WWII and the Geneva Conventions

The post-WWII world was motivated to make changes to the current Laws of Armed Conflict since "[t]here were a number of weaknesses in the pre-WWII treaties. They only protected the forces of states who were party to the treaties, and the fact that the treaties were not universally adopted meant there were significant gaps in coverage during World War II." [15] In the aftermath of WWII, the doubts about the treaties' capacity to successfully enforce international laws evaporated with the success of the war crimes' tribunals against the Axis powers. Eventually, four new conventions were proposed in Geneva, Switzerland. [16] The Geneva Convention of 1949 and the Additional Protocols are what make up the

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[10] The Learning Network, *April 25, 1945 Conference to Form U.N. Meets as Allied Forces Near Victory Over Nazis*, N.Y. TIMES (Apr. 25, 2012, 4:07 AM), http://learning.blogs.nytimes.com/2012/04/25/april-25-1945-conference-to-form-un-meets-as-allied-forces-near-victory-over-nazis/?_php=true&_type=blogs&_r=0.

[11] *Id.*

[12] From 1946 to the current day there are 193 Member States of the United Nations. *See Member States of the United Nations*, UNITED NATIONS, http://www.un.org/en/members (last visited Mar. 8, 2014).

[13] U.N. Charter Preamble.

[14] Resource Centre, *The ICRC since 1945: the Geneva Conventions of 1949*, INT'L COMMITTEE OF THE RED CROSS (Mar. 5, 2005), http://www.icrc.org/eng/resources/documents/misc/icrc-genevaconventions-revision-1949.htm.

[15] GEOFFREY S. CORN ET AL., THE LAW OF ARMED CONFLICT AN OPERATIONAL APPROACH 44 (2012).

[16] *Id.* (quoting those conventions were: "(1) Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (GWS); (2) Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (GWS Sea); (3) Convention (III) Relative to the Treatment of Prisoners of War (GPW); and (4) Convention (IV) Relative to the Protection of Civilian Persons in Time of War (GCC)") *available at* http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/.

Law of Armed Conflict (also referred to as International Humanitarian Law (IHL)).

Two distinguished types of IHL emerged as it was developed. The first type of IHL is International Armed Conflict. International Armed Conflict is defined in Article 2 of the Geneva Convention as applying to "all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them."[17] The second type of IHL is Non-International Armed Conflict, defined in Article 1 of Additional Protocol 2 as "tak[ing] place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups."[18]

The International Committee of the Red Cross (ICRC), an organization that helps others understand armed conflict, explains the two distinguished types of IHL in simpler and clearer terms:

> **International armed conflicts** exist whenever there is *resort to armed force between two or more States*. **Non-international armed conflicts** are *protracted armed confrontations* occurring between governmental armed forces and the forces of one or more armed groups, or between such groups arising on the territory of a State [party to the Geneva Conventions]. The armed confrontation must reach a *minimum level of intensity* and the parties involved in the conflict must show a *minimum of organisation*.[19]

Additionally, Kathleen Lawland [20] further clarifies what a non-international armed conflict is:

> A non-international (or "internal") armed conflict refers to a situation of violence involving protracted armed confrontations between government forces and one or more organized armed groups, or between such groups themselves, arising on the territory of a State. In contrast to an *international* armed conflict, which opposes the armed forces of States, in a *non-international* armed

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[17] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field art. 3, Aug. 12, 1949, *available at* http://www.icrc.org/ihl/WebART/365-570005?OpenDocument.

[18] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), June 8, 1977 [hereinafter Protocol II], *available at* http://www.icrc.org/applic/ihl/ihl.nsf/ART/475-760004?OpenDocument.

[19] ICRC, HOW IS THE TERM "ARMED CONFLICT" DEFINED IN INTERNATIONAL HUMANITARIAN LAW? at 5, Int'l Committee of the Red Cross (ICRC) Opinion Paper (2008) (emphasis added).

[20] Former head of the ICRC.

conflict **at least one of the two opposing sides is a non-State armed group**.[21]

International armed conflicts continue to occur. However, since WWII, there is recognition of 1) an increase in non-international armed conflicts; 2) an increase in non-state actor groups; and 3) an increase in non-state actor groups' involvement in armed conflicts. Since the September 11 attacks on the United States,[22] the increased involvement of non-state actors subsequently increased awareness of these changes and highlighted the complexity of stopping and preventing non-international armed conflicts.

International armed conflicts with non-state actors are less predictable than armed conflicts between state actors, because there are more ways to identify and contact state-actors as well as leverage state-actors to end armed conflict. Complex difficulties arise when working towards peaceful ends in armed conflict with a non-state actor, including identifying the non-state actor, getting to a point of negotiations, and discovering the non-state actor's interests and leverage points; thus, it is harder to achieve peaceful talks or obtain leverage in negotiations.

The likelihood of peace talks with terrorist organizations that engage in armed conflict is much more difficult, and getting to a point of negotiations where leaders of terrorist groups come together to discuss different outcomes is nearly impossible in the modern age of transnational terrorist organizations. The world has changed and armed conflict is an ever-changing mechanism that "is not stagnant,"[23] but instead continues to change as new types of armed conflicts arise.[24]

The attacks that occurred on September 11, 2001, are a prime example of the unpredictability of a non-state actor. Although Al Qaeda was a known terrorist organization, the attack on the World Trade Center was a devastating and surprising event.[25] The United States based its response to capture, imprison, and charge individuals on international law on Article 147 of Convention (IV) relative to the Protection of

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[21] Interview with Kathleen Lawand, Former Head of the ICRC, Int'l Committee of the Red Cross, in Geneva, Switzerland (Oct. 12, 2012) (emphasis added), *available at* http://www.icrc.org/eng/resources/documents/interview/2012/12-10-niac-non-international-armed-conflict.htm; *see also* Protocol II (A non-international armed conflict "take[s] place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.").

[22] Referred throughout this Comment as "United States, " rather than "U.S."

[23] CORN et al., *supra* note 15, at 518.

[24] *Id.* ("Not surprisingly, the law does not always fit the new circumstance with precision, and at times it may seem like the square peg of an old law is being shoved into the round hole of a new problem. Among the emerging and developing LOAC [[Law of Armed Conflict)] issues, the question that has most vexed the United States in the past decade is how the LOAC applies to the fight against international terrorism."). This need for change in the law of armed conflict is very specific to international terrorism because it is so prominent, but it is also very applicable to all future non-state actors who become involved in armed conflicts.

[25] *Id.* at 519.

Civilian Persons in Time of War**,** and the United States passed new domestic laws in response to the attack, such as 18 U.S.C. § 2441 – War Crimes and the Authorization for Use of Military Force (also referred to as AUMF).[26] Here, international law only defines what grave breaches are considered under IHL, but the majority of reliance is based on the domestic laws passed by the United States.

Thus, the current international laws of armed conflict and the domestic laws of nation states to prevent non-international armed conflicts are insufficient, and "[t]here is a substantial lack of clarity in the legal norms that convey obligations to those who are to abide by the law, particularly with respect to the legal status of combatants in conflicts of a non-international character and those engaged in purely domestic conflicts."[27]

II. ENDING NON-INTERNATIONAL ARMED CONFLICT: WHAT IS NOT WORKING

Establishing a point of peace seems out of reach, considering that the international community has no control over the actions of non-state actors. This is a valid concern, but in order to solve the problem of non-international armed conflict, states need to modify their self-defense tactics after receiving attack.[28] Changing the way the United States and other states react to non-state actors' attacks can lead to movement and progression towards peaceful solutions and outcomes. Reacting swiftly and violently is effective up to a certain point, but long-lasting solutions require changes to the self-defense measures, approaches, and ways of thinking of a state in response to attacks.

In the case of September 11, for example, the United States reacted quickly as information came in. In fact, on September 11, just fifteen minutes after the attacks on the World Trade Center, the United States intercepted a conversation of a known Al Qaeda member referring to the attacks, and by 2:40 p.m. Defense Secretary Donald H. Rumsfeld believed he had enough intelligence to find those involved.[29] However, the information seems to show that Rumsfeld, and others ignored contrary intelligence and sought some sort of entity to blame, i.e. notes from a meeting that occurred the day of the attacks, which read: "Now, nearly one year later, there is still very little evidence Iraq was involved in the Sept. 11 attacks. The conflicting information did not matter to Rumsfeld. 'Go massive,' the notes quote him as saying. 'Sweep it all up.

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[26] Authorization for Use of Military Force, Pub. L. No. 107–40, 115 Stat. 224, 224–25 (2001).

[27] Bassiouni, *supra* note 4, at 794 ("Combatants covered by Common Article 3 are not given POW status. They are subject to national law and can therefore be charged and punished as common criminals. Protocol II encourages giving such combatants amnesty except for war crimes.").

[28] 115 Stat. at 224–25. An example of self-defense tactics was the immediate response of the United States after September 11 to enact the Authorization for Use of Military Force.

[29] Joel Roberts, *Plans For Iraq Attack Began On 9/11*, CBS NEWS (Sept. 4, 2002, 4:10 PM), http://www.cbsnews.com/news/plans-for-iraq-attack-began-on-9-11/.

Things related and not.'"[30] Even though there was strong information that linked Al Qaeda to the attacks, there was still a strike being prepared for Iraq.[31] The United States reacted irrationally, from both a lack of information and a willingness to ignore the contrary intelligence it did have.

The United States reacted with a war on terrorism. At the time, its reaction seemed justified, reasonable, and likely to stop further attacks. To some extent, it worked. Al-Qaeda today is significantly weakened and the Taliban is no longer the governing body of Afghanistan. However, even with those achievements, ten years after the attacks on the United States, the war on terror continues with no definite end date. Al Qaeda is still committing acts of terror, and other terrorist organizations like the Islamic State in Iraq and Syria (ISIS),[32] are rising up around the world. War and retribution cannot bring about peace. Identifying failed approaches of the past can help states, as an international community, work towards better sustainable solutions that can invoke a peaceful ending in many non-international armed conflicts.

A. The Coercive Approach (Carrying a Big Stick)

Teddy Roosevelt's Big Stick philosophy, "Speak softly and carry a big stick,"[33] later extended to foreign affairs; this initially implied that the United States should have strong diplomacy backed by a strong navy, but today the ideology could be extended to any branch of the military.[34] The term is a double-edged sword, because although the philosophy allows mammoth military organizations to protect a nation like the United States, it also uses the fear of being attacked or other coercive behaviors to encourage diplomacy and honest working relationships with other states. This approach has a strong likelihood of creating inauthentic and shallow relationships with these states.

The "coercive approach works with using *negative sanctions*, mostly by employing military and police enforcement."[35] However, using negative sanctions is less likely to work and more likely to encourage further conflict. Negative sanctions include:

> [Being] severely punished either by killing them or
> putting them in prison, possibly after torturing them.

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[30] *Id.*

[31] *Id.*

[32] CNN Library, *ISIS Fast Facts*, CNN (November 17, 2014), http://www.cnn.com/2014/08/08/world/isis-fast-facts/ (last visited Nov. 29, 2014). ISIS was a creation from Al Qaeda, when leader Abu Ayyub al-Masri in 2006 "announce[d] the creation of Islamic State in Iraq (ISI), and establishe[d] Abu Omar al-Baghdadi as its leader." *Id.*

[33] Julie A. Oseid, *The Power of Zeal: Teddy Roosevelt's Life and Writing*, 10 LEGAL COMM. & RHETORIC: JALWD 125, 147 (2013).

[34] *Id.* at 196.

[35] BRUNO S. FREY, DEALING WITH TERRORISM: STICK OR CARROT? 27 (2004) (emphasis added).

> This response is based on immediate and strong retribution and addresses the most urgent problems created by a terrorist [or other type of non-state actor] attack. Th[is type of] response is 're-active' in so far as it is incident-related.[36]

The coercive approach is a method used to deter an adversary from acting in a certain way or to manipulate their cost-benefit analysis to generate a desired result.[37]

This Comment will discuss three distinct examples of coercive approaches in different conflicts and how this course of reaction failed. The first example is the immediate reaction of the United States after September 11 to open Guantanamo Bay, and to use coercive tactics on alleged Al Qaeda members believed to be involved in carrying out the September 11 attacks. The second example is the conflict between the Ireland Republican Army (IRA) terrorist organization and the United Kingdom over the dispute in Northern Ireland and its desire for independence. Lastly, the third example is the Russo-Chechen conflict over Chechnya's desire for independence from Russia, and the development of a terrorist organization in response to Russia's use of force to regain strength in Chechnya. In each of these situations, the conflict between the state and non-state actors only worsened in response to the coercive tactics used.

1. Ending Terrorism One Prisoner at a Time: Guantanamo Bay, Cuba

The United States has used coercive techniques in its approach with Guantanamo prisoners since the period after President Bush's declaration of the war on terror.[38] This approach somewhat continues to be the United States' approach to the war on terror. In the aftermath of September 11, President Bush, with advice from his administration's lawyers,[39] opened Guantanamo Bay and sent detainees to the prison where allegedly the "worst of the worst"[40] detainees were being kept. The coercive tactics used at Guantanamo Bay, whether by detaining

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[36] *Id.*

[37] Liraz Margalit, *Coercive Approach and Decision Making Models*, 1 (2011) *available at* http://ssrn.com/abstract=1974141.

[38] President George W. Bush, Address to the United States of America (Sept. 11, 2001) (transcript *available at* http://www.washingtonpost.com/wp-srv/onpolitics/transcripts/bushaddress_091101.htm) ("America and our friends and allies join with all those who want peace and security in the world and we stand together to win the *war against terrorism*.") (emphasis added).

[39] *See* Memorandum for the President, from Alberto R. Gonzales, Attorney General (Jan. 25, 2002) *available at* http://www.cfr.org/terrorism-and-the-law/application-geneva-convention-prisoners-war-conflict-al-qaeda-taliban/p11893; *see also* Memorandum for Alberto R. Gonzales, Counsel to the President, from Jay S. Bybee, Assistant Attorney General (Aug. 1, 2002) *available at* http://www.justice.gov/olc/docs/memo-gonzales-aug2002.pdf (describing torture and what constitutes extreme acts, sever pain, and mental anguish).

[40] Associated Press, *Cheney: Gitmo holds the 'worst of the worst'*, NBC NEWS (June 6, 2009), http://www.nbcnews.com/id/31052241/ns/world_news-terrorism/t/cheney-gitmo-holds-worst-worst/.

alleged terrorists or by using torture tactics to gain secret information, did not end the armed conflict or solve the core issues behind the terrorist attacks. The war on terror continues twelve years after its initiation; Al Qaeda is still functioning, not at the same capacity as before the war, but at a capacity where it is still a serious threat in some areas of the world.[41] Swift, coercive tactics did not effectively create a peaceful ending to the war on terror.

After September 11, the United States rapidly reacted to capture Al Qaeda and Taliban affiliates to the point where some of those captured were not even linked with either organization. A report about Guantanamo detainees gathered from government-released documents found that:

> Fifty-five percent (55%) of the detainees are not determined to have committed any hostile acts against the United States or its coalition allies. Only 8% of the detainees were characterized as al Qaeda fighters. Of the remaining detainees, 40% have no definitive connection with al Qaeda at all and 18% have no definitive affiliation with either al Qaeda or the Taliban. The Government has detained numerous persons based on mere affiliations with a large number of groups that in fact, are not on the Department of Homeland Security terrorist watch list. Moreover, the nexus between such a detainee and such organizations varies considerably.[42]

This type of reactive, coercive approach leads to inaccuracy, like the situation of the detainees who were not connected to or part of the planning of the September 11 attacks, and has not been a consistent, successful tactic to end non-international armed conflicts. The domestic laws like the AUMF have been insufficient to create transparency and support between the states where these individuals are citizens. Strengthening the relationship between the home states of these detainees would change the dynamic, and could eventually lead to the United States shutting down Guantanamo. Without that, communication and cooperation between the United States and home states for releasing these detainees is going to continue to be very difficult and dangerous.

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[41] *See* Abdulrahman al-Masri, Michele Chabin, Mona Alami, & Sarah Lynch, *Al-Qaeda hasn't gone away, and is gaining*, USA TODAY (Jan. 8, 2014), http://www.usatoday.com/story/news/world/2014/01/07/al-qaeda-spread/4358845/.
[42] MARK DENBEAUX ET AL., REPORT ON GUANTANAMO DETAINEES: A PROFILE OF 517 DETAINEES THROUGH ANALYSIS OF DEPARTMENT OF DEFENSE DATA, 2–3 (2006).

2. Early, Violent Beginnings Between the United Kingdom and Northern Ireland

Ireland, or parts of Ireland, has been in conflict with the United Kingdom since the late 1600s.[43] From 1919 to 1922, the Irish War of Independence and partition of Ireland occurred.[44] The partition of Ireland transpired after negotiations came down to England's ultimatum to Ireland, to either sign an agreement or face war with England in three days.[45] After the negotiations, the parties signed the Anglo-Irish Treaty, providing that England recognize the independence of twenty-six southern counties.[46] In return, England kept the six northern counties.

Shortly thereafter, rising tensions in Northern Ireland continued, due to the inequalities and discrimination against Catholics in "electoral rights, housing, and employment."[47] The violence and unhappiness with the state of the nation and the lack of human rights only escalated from there, with civil rights protests continuing up until the notorious Bloody Sunday of 1972.[48] During Bloody Sunday, the police arrested 2,000 people without trial, and seventeen people died while protesting the arrests. Subsequently, in a civil rights march to oppose the arrest, thirteen men died from being shot and fourteen others were injured.[49] Overall, it is estimated that "[b]etween 1969 and 1999, almost 3,500 people died as a result of political violence in Northern Ireland."[50] The conflict continued as members of the IRA began to bomb different locations in England. The conflict resulted in the United Kingdom enacting the Prevention of Terrorism Act,[51] which allowed for individuals who were suspected of terrorist actions to be detained for forty-eight hours without being charged with the possibility of an extension of up to five days if done so by the Secretary of State.[52]

For instance, the Guildford Four[53] and Maguire Seven[54] were taken into custody, without being formally charged per the new Prevention of

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[43] *Northern Ireland Conflict*, HISTORY, http://www.history.co.uk/shows/soldiers-stories/articles/northern-ireland-conflict (last visited Nov. 29, 2014) [hereinafter *Troubles*].

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] Kristin Archick, *Northern Ireland: The Peace Process*, CONG. RESEARCH SERV. RS21333, 1, 1 (2014).

[48] *Troubles*, *supra* note 43.

[49] *Id.*

[50] Archick, *supra* note 47, at 1.

[51] Prevention of Terrorism (Temporary Provisions) Act, 1974, c. 56 (U.K.) (stating, "An Act to proscribe organisations concerned in terrorism, and to give power to exclude certain persons from Great Britain or the United Kingdom in order to prevent acts of terrorism, and for connected purposes.").

[52] *Id.* at pt. III(7)(2).

[53] The Guildford Four included: Gerard Conlon, Paul Michael Hill, Patrick Armstrong, and Carole Richardson.

[54] The McGuire Seven included: Anne Maguire, Patrick Maguire (father), Patrick Maguire (son and just fourteen years old), Vincent Maguire, Sean Smyth, Patrick O'Neill, Patrick "Giuseppe" Conlon.

Terrorism Act.[55] The Guildford Four were accused of carrying out IRA bombings[56] in England, and the Maguire Seven were accused of possessing chemicals involved in making bombs for possible IRA attacks. Eventually, they were all convicted and sent to prison for these alleged crimes, later to be released and pardoned after being found innocent.[57] In particular, the Guildford Four confessions were obtained by using coercive techniques, such as physical and mental torture.[58] The accusations caused protests and conflict, and further deteriorated relations between the IRA and the United Kingdom. The United Kingdom's reaction to the IRA attacks caused it to mishandle the interrogations and prosecution.[59] Through coercive tactics that were unsuccessful and inaccurate, the United Kingdom amplified anger and rioting in Northern Ireland.

In the early beginnings of the conflict between the United Kingdom and Ireland, the non-state actors (IRA) acted in deadly and unpredictable ways. The IRA's dangerous attacks continued for decades before giving way to a peaceful solution. The IRA's use of violence and the response by the United Kingdom helped make both sides aware that something needed to change. Additionally, the conflict created international awareness and concern. Negotiations and the eventual signing of a peace agreement ended Northern Ireland's conflict, and will be discussed further in Part III.

3. Russo-Chechen War: Involvement of Non-state Actors in an Armed Conflict

At the end of the Cold War and the disbanding of the Union of Soviet Socialist Republics (USSR) in 1991, "fifteen constituent union republics were proclaimed sovereign, independent states, and recognized by the international community bestowing upon them an acceptance, status, and legitimacy barely dreamt of even three years earlier."[60] Chechnya did not receive any type of explicit independence at the end of this dissolution, but Chechnya formally announced its independence from Russia and furthermore stated that it was never willingly a part of Russia.[61] Even though Chechnya declared independence from Russia, the

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[55] The Guildford Four and Maguire Seven were among the first detained and held without charge under the new Act.

[56] *Guildford Four are cleared*, HISTORY, http://www.history.com/this-day-in-history/guildford-four-are-cleared (last visited Nov. 29, 2014). These attacks occurred "[o]n October 5, 1974, an IRA bomb killed four people in a Guildford pub frequented by British military personnel, while another bomb in Woolwich killed three. British investigators rushed to find."

[57] *Id.*

[58] *See id.*

[59] *Id.*

[60] Gail W. Lapidus, *Contested Sovereignty: The Tragedy of Chechnya*, 23 INT'L SECURITY, 5, 5 (1998).

[61] *See* Saeed Ahmed, *How Chechen rebels threaten Russian stability*, CNN (Mar. 29, 2010), http://www.cnn.com/2010/WORLD/europe/03/29/chechnya.explainer/.

lack of declaration for this independence from Russia caused major conflict. Russia intentionally did not grant Chechnya independence, since Chechnya was and still is far too valuable to Russia. The rich amount of oil in the Caucasus region leaves an interest too strong for Russia to relinquish its control over Chechnya.

After this declaration in November 1991, Russian President Boris Yeltsin sent troops to Chechnya; however, President Dzhokhar Dudayev, the first President of the Chechen Republic of Ichkeria [62] and a former Soviet Air Force General, placed a blockade on Chechnya's troops at the airport, forcing Yeltsin to eventually pull out. [63] President Dudayev continued to speak out against Russia, and in 1964, "Moscow-backed rebels attack[ed] Grozny with tanks and artillery. Rebels pull[ed] back the next day after street fighting [with Chechnya forces] and Dudayev claim[ed] victory." [64] President Yeltsin then issued this warning: "Chechnya is a republic within the Russian Federation . . . . We have no moral right to stand aside and watch this bloodshed. The situation poses an extreme danger to stability and peace in our society." [65] Soon thereafter, Russian forces entered the conflict. A bloody and violent war ensued, and by 1997 Russia and Chechnya conceded to peace treaty discussions.

The peace discussions seemed successful at the time, but the treaty signed by both sides did not address the grievances of Chechnya. Chechnya desired full autonomy, and independence was still just that, a desire.

> Russia formally maintain[ed] that Chechnya is and must remain part of the Russian federation; Chechnya says it is already fully independent. The [peace] agreement, which stipulated that a decision on Chechnya's status should be deferred for five years, *did not resolve that critical issue*, and today's documents *also deliberately skirted any definition of its sovereignty*. [66]

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[62] *Chechen Republic of Ichkeria*, STANFORD UNIVERSITY, http://www.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/369 (last updated Feb. 19, 2014) ("The Chechen Republic of Icherikia was the secessionist and internationally unrecognized government of Chechnya. It was formed after the collapse of the Soviet Union in 1991.").

[63] Lee Hockstader, *Russia Pours Troops Into Breakaway Region*, WASH. POST (Dec. 12, 1994), http://www.washingtonpost.com/wp-srv/inatl/longterm/russiagov/stories/chechnya121294.htm.

[64] *Id.* (explaining the phrase "Moscow-backed rebels" was coined because it was believed that "Moscow adopted a thinly veiled policy of helping armed Chechen insurgents seeking to topple Dudayev.").

[65] Michael Specter, *Yeltsin Threatens Action on Warring Secessionist Area*, N.Y. TIMES (Nov. 30, 1994), http://www.nytimes.com/1994/11/30/world/yeltsin-threatens-action-on-warring-secessionist-area.html.

[66] Alessandra Stanley, *Yeltsin Signs Peace Treaty With Chechnya*, N.Y. TIMES (May 13, 1997), http://www.nytimes.com/1997/05/13/world/yeltsin-signs-peace-treaty-with-chechnya.html (emphasis added).

The Russian approach was a paradigmatic coercive approach to ending the rebels uprising; immediately after Chechnya declared independence, Russia retaliated with force against those declarations. Russia's focus was not on making amends, but to secure its interest over Chechnya's natural resources. At all costs, Russia needed to prevent Chechnya gaining independence and Russia losing control over the natural resources in Chechnya from occurring.

The peace did not last long. "In its initial stages, the Republic of Ichkeria focused on the independence of Chechnya from the Russian Federation."[67] In 1999, Chechen rebels and Russian troops at the border between Daegstan and Chechnya ran into more conflicts.[68] Soon after, a bomb exploded near military apartments in Daegstan, and Vladimir Putin, the new Russian president at the time, deployed forces back into Chechnya because he believed that Chechen rebels were to blame for these explosions.[69] Putin used coercive tactics against Chechen rebels and suspected terrorists to deplete the armed forces as efficiently as possible. Although complete war is no longer transpiring in Chechnya, hostility against Russia still persists.

From 2004 to 2007, the former separatist government (Republic of Ichkeria) became associated with terrorist organizations across the Northern region of Chechnya. Later, President Doku Umarov, the last President of the Republic of Ichkeria, dismantled[70] the Republic and created the Caucasus Emirate.[71] The Caucasus Emirate is a violent organization that the United States classifies as a terrorist organization.[72] The development of conflict in Chechnya, particularly after the USSR dissolution, indicates the pitfalls of the coercive approach to ending non-international armed conflict. Chechen rebels caused more violence and spawned an active terrorist organization that continues to threaten Russia's national security.[73] If Russia initially considered allowing Chechnya its independence and initially worked with the Chechen government towards a peaceful solution, the subsequent conflict

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[67] *Chechen Republic of Ichkeria*, *supra* note 62.

[68] *See Chechnya profile*, BBC NEWS, http://www.bbc.com/news/world-europe-18190473 (last updated Dec. 9, 2014).

[69] *See* John Russell, *Terrorists, bandits, spooks and thieves: Russia demonization of the Chechens before and since 9/11*, 26 THIRD WORLD Q. 101, 106 (2005).

[70] *See id.* Publicly, the Republic was dismantled, but there is still suspicion that it has moved underground.

[71] *See id.*

[72] Media Note, Designation of Caucasus Emirate, Office of the Spokesman, U.S. Dep't of State (May 26, 2011) *available at* http://www.state.gov/r/pa/prs/ps/2011/05/164312.htm.

[73] *Id.* For example the US Department of State has stated the following instances of terrorism incurred by Caucasus Emirate "use[ ] bombings, shootings and attempted assassinations to provoke a revolution and expel the Russian government from the North Caucasus region. David M. Herzenhorn, *Americans Traveling to Winter Games Cautioned*, N.Y. TIMES (Jan. 10, 2014), http://www.nytimes.com/2014/01/11/sports/olympics/americans-traveling-to-winter-games-cautioned.html?_r=0. Just recently, "The [U.S. State D]epartment also noted that Doku Umarov, the leader of the Caucasus Emirate, a Muslim separatist group designated by the United States as a terrorist organization, threatened in July to attack the [2014 Sochi] Olympics."

witnessed in the first and second Russo-Chechen wars could have been decreased dramatically or avoided entirely.

Each of these examples, Al Qaeda, the IRA, and Chechnya rebels, shows that the coercive approach in a non-international armed conflict is not effective. Coercive tactics proved unsuccessful; therefore, the ideology that carrying a "big stick" solves foreign affairs works is disproven. Furthermore, using a diplomatic façade while using underlying coercive tactics only creates further cynicism and disbelief in peaceful resolutions during armed conflict. If there is a desire for peace with non-state actors, it is essential for states to take a different approach towards threats, on-going disputes, and non-state actors' future attacks.

III. ENDING NON-INTERNATIONAL ARMED CONFLICT: WHAT DOES WORK

Conflict resolution between groups of people is difficult, specifically when different people within groups want different results. However, there are solutions that will work to end current and future-armed conflicts. This Comment proposes two successful conflict resolution tactics with successful history in ending past non-international armed conflicts. The first tactic is to address grievances to diffuse tensions with non-state actors. The second tactic is to promote international cooperation and to focus international community efforts to work towards peaceful solutions and international treaties that bind states to work together to stop non-state actors involved in armed conflict.

A. Addressing Grievances

There are two types of non-state actor grievances. First, there are grievances that can be addressed and the wrongs made right. Second, there are irrational grievances that have reached a point of such extremity that it would be impossible to right those wrongs. Addressing grievances of non-state actors does work when the grievances fall in the first category. However, it is important to recognize that there are situations when it is not feasible to end non-international armed conflicts.

There are two criteria for reaching a peaceful conclusion to non-international armed conflict through addressing grievances. First, in order to use this approach, the non-state actor's mission, purpose, and goals must be rational and legitimate. This would mean that the non-state actor has a clear objective that would be possible to solve through negotiation. Second, there must also be a hierarchal system within the non-state actor's organization where negotiations with leaders are possible. If both criteria are met, then addressing the grievance is plausible as a peaceful means to end non-international conflict, i.e. the

agreement that was made in the Northern Ireland conflict, and possibly the Russo-Chechen conflict.

This Section discusses both types of grievances and the different approaches to resolving those grievances. Additional discussion of irrational grievances is found in Parts III (B), discussing international cooperation, and Part IV, examining other strategies of peace.

1. Wrongs That Can Be Made Right

The method used for working in complex business and governmental relationships can also work when addressing the grievances of non-state actors. The root causes of many non-state actors' grievances are "poverty, social inequality and exclusion, dispossession and political grievance, oppression and human rights abuse, population explosion, and demographical factors."[74] Once the root cause and the non-state actor's platform are understood, the involved state can take action to address the situation.

Coming to a mutual agreement in conflicting situations can be difficult, but being able to address the issue and work towards a middle ground is possible. Stephen Covey postulates that middle ground can be reached in a "Win/Win frame of mind and heart that constantly seeks mutual benefit in all human interactions. Win/Win means that agreements or solutions are mutually beneficial [and] mutually satisfying . . . [and therefore, parties] see life as a cooperative, not a competitive arena."[75] A Win/Win approach does not mean that a state should give into every grievance a non-state actor has, but the mindset is to work towards a solution where "all parties feel good about the decision and are committed to the action plan."[76] Superficial or one-sided agreements that meet the needs of either party or only one party set the agreement up for failure. In contrast, addressing the grievances of non-state actors through a Win/Win solution where both the state and the non-state actor are committed to succeeding together will often end an armed conflict or prevent it in the first place.

In the conflict with Chechnya, Russia did not take the Win/Win solution route. The Russians wanted to militarily dominate and control Chechnya to maintain access to natural resources, rather than create a cooperative framework to work towards a peaceful resolution. Part of the Win/Win mindset initially requires both sides to seek mutual benefit. Neither side may get everything it aspires to, but seeking a mutual benefit means both sides are willing to negotiate to reach a consensus through negotiation.

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[74] Edward Newman, Exploring the "Root Causes" of Terrorism, 29 STUDIES IN CONFLICT & TERRORISM, 751 (2006).
[75] STEPHEN COVEY, 7 HABITS FOR HIGHLY EFFECTIVE PEOPLE: POWERFUL LESSONS IN PERSONAL CHANGE 207 (2005).
[76] *Id.*

By comparison, an example of where the Win/Win solution worked is the Northern Ireland conflict. After decades of destruction, anger, and hostilities between Northern Ireland and the United Kingdom, both sides nurtured a desire for peace talks. At the end of 1997 and beginning of 1998, the idea of peace was still a very remote idea, but there was some hope: "multi-party talks had been established in June 1996; Irish Republican Army (IRA) paramilitaries had restored their ceasefire in July 1997; and, by September of that year, the political representatives of the republican and loyalist paramilitaries were engaged in the talks at Stormont in Belfast."[77] Obviously, both sides held doubts that they could come to an agreement, but finally on Good Friday, April 10, 1998 negotiations produced an agreement that was acceptable to both parties.[78]

Disagreements in the beginning of negotiation talks, specifically the "Ulster Unionist team's [unhappiness] with some of the detail, particularly the sections dealing with the decommissioning of paramilitary weapons and the release of paramilitary prisoners [required extra attention]. A personal assurance from Tony Blair to UUP leader David Trimble smoothed these last ripples of discontent."[79] Both sides compromised and replaced the Anglo-Irish Agreement with a new British-Irish Agreement, which included the right of the Irish people to ultimately decide if they wanted to be a part of a united Ireland or Great Britain. [80] Additionally the agreement, overall, included peaceful arrangements to address future disagreements between Northern Ireland and the United Kingdom by establishing the "Northern Ireland assembly with a power-sharing executive, new cross-border institutions involving the Irish Republic[,] and a body linking devolved assemblies across the United Kingdom with Westminster and Dublin."[81]

The agreement established a democratically elected, power-sharing assembly in Northern Ireland. [82] The agreement also established Ministerial Council between Northern Ireland and Ireland to work through issues that involved both Northern and Southern Ireland.[83] The most significant achievement was the establishment of the British-Irish Council comprised of representatives from "the British and Irish Governments, devolved institutions in Northern Ireland, Scotland and Wales, when established, and, if appropriate, elsewhere in the United Kingdom, together with representatives of the Isle of Man and the

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[77] *Good Friday Agreement*, BBC HISTORY, http://www.bbc.co.uk/history/events/good_friday_agreement (last visited Mar. 15, 2014).

[78] *Id.* ("At 5.30pm on Friday 10 April 1998, George Mitchell stated: 'I am pleased to announce that the two governments and the political parties in Northern Ireland have reached agreement.'").

[79] *Id.*

[80] The Northern Ireland Peace Agreement, 3, N. Ir.-U.K., Apr. 10, 1998, [hereinafter Peace Agreement] *available at* http://peacemaker.un.org/uk-ireland-good-friday98.

[81] *The Good Friday Agreement in full*, BBC NEWS (Dec. 9, 2004, 1:47 PM), [hereinafter Good Friday Agreement] http://news.bbc.co.uk/2/hi/uk_news/northern_ireland/4079267.stm.

[82] *Id.*

[83] *See id.*

Channel Islands."[84] Both sides reconciled their setbacks and met on middle ground to find a solution where both parties agreed to the action plan.

This compromise was a long process and required both sides to shift their paradigm of seeing the relationship as a competitive arena to a cooperative arena. Without that paradigm shift, this agreement would not have been possible. After the treaty was signed, Northern Ireland voted and approved the agreement and has remained united with the United Kingdom.[85] This majority agreement further solidified the commitment by both parties to agree to peace. Ultimately, both parties "committed to the action plan."[86] In fact the agreement states:

> We are committed to partnership, equality and mutual respect as the basis of relationships within Northern Ireland, between North and South, and between these islands. . . . We reaffirm our total and absolute commitment to exclusively democratic and peaceful means of resolving differences on political issues, and our opposition to any use or threat of force by others for any political purpose, whether in regard to this agreement or otherwise. . . . We acknowledge the substantial differences between our continuing, and equally legitimate, political aspirations. However, we will endeavour to strive in every practical way towards reconciliation and rapprochement within the framework of democratic and agreed arrangements. We pledge that we will, in good faith, work to ensure the success of each and every one of the arrangements to be established under this agreement.[87]

This statement recognized "substantial differences"[88] on each side, but the tone was clearly the desire for a successful outcome. Each side gave a little to reach this point. The outcome did not fully reflect what each side wanted, but it met the Win/Win solution concept where both sides were willing to give and take in order to reach a cooperative outcome.

The agreement further fits the Win/Win concept by committing to the plan of action, particularly the following commitment:

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[84]   *Id.*   The   full   agreement   also   *available   at* http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/07_12_04_ni_agreement_02.pdf.
[85] The agreement "recognise[d] the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland." Peace Agreement, *supra* note 80, at 3.
[86] COVEY, *supra* note 75, at 207.
[87] Peace Agreement, *supra* note 80, at 2.
[88] *Id.*

> The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.[89]

The Northern Ireland agreement is not perfect, and there are remaining IRA affiliates who still carry out small attacks since the signing, but this agreement placed the decision in the hands of those living in Northern Ireland. Northern Ireland's citizens also have the option to choose citizenship in either Ireland or the United Kingdom.[90] The agreement returned autonomy to Northern Ireland and addressed its grievances. Northern Ireland and the United Kingdom shared a bloody and violent journey, but through the willingness of both sides to negotiate, and the United Kingdom's willingness to address the grievances of Northern Ireland, both parties were able to agree on a peaceful outcome that continues to enjoy relative success.

2. Irrational Grievances: Modern International Terrorism

In contrast to grievances that can be addressed, there are situations of armed conflict where the opposition's grievance is too irrational for a state(s) to engage with it in negotiation. For example, the international terrorist organization Al-Qaeda, and its extreme positions continue to make it nearly impossible for the United States or any other state to respond to its demands or grievances.

Al-Qaeda is different from past terrorist organizations; it is part of a new age of "'modern' terrorist groups" who "are not hierarchical [and] do not have clear territorial objectives."[91] Modern terrorist organizations "may conceive of themselves as tied to a civilian group, but that connection is arguably much more tenuous than that of the Irish Republican Army to Northern Irish Catholics."[92] Furthermore, Al-Qaeda "lack[s] clear objectives to negotiate, does not have a command structure to negotiate with, and has no incentive to act reasonably because it is not advancing the interests of any civilian population."[93] In fact, Al-Qaeda's core mission is this:

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[89] *Id.*

[90] *See Irish citizenship through birth or descent*, Citizens Information, http://www.citizensinformation.ie/en/moving_country/irish_citizenship/irish_citizenship_through_birth_or_descent.html (last visited Dec. 1, 2014).

[91] Erin Creegan, *Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Treatment of Terrorist Combatants (Protocol IV)-A Proposal*, 41 CAL. W. INT'L L.J. 345, 369 (2011).

[92] *Id.*

[93] *Id.*

The overthrow of the godless regimes and their replacement with an Islamic regime. Additional goals include the following:

> 1. Gathering information about the enemy, the land, the installations, and the neighbors.
> 2. Kidnaping enemy personnel, documents, secrets, and arms.
> 3. Assassinating enemy personnel as well as foreign tourists.
> 4. Freeing the brothers who are captured by the enemy.
> 5. Spreading rumors and writing statements that instigate people against the enemy.
> 6. Blasting and destroying the places of amusement, immorality, and sin; not a vital target.
> 7. Blasting and destroying the embassies and attacking vital economic centers.
> 8. Blasting and destroying bridges leading into and out of the cities.[94]

Al-Qaeda desires to replace Western governments with Islamic regimes and acts to do so coercively, even violently. This is neither obtainable nor reasonable. Its demands to coercively end Westernized beliefs, Christianity, and/or other religions would be impossible for most states to concede. Creating a Win/Win solution with an organization like Al-Qaeda would be very difficult because its demands are too irrational.[95]

These types of grievances would leave the United States (and other states) unable to commit to any type of action plan. Additionally, this would be a war of beliefs and ideas with neither of the two sides being able to come to a peaceful agreement. This stands in contrast to the IRA's more rational grievances that could be addressed and amends that could be made. Further, at this point, negotiation is impossible with Al-Qaeda because 1) there is no clear hierarchal structure; and 2) there are no talking points for grievances that could be addressed. Ultimately to address the grievances, the state involved in the armed conflict has the responsibility to recognize the need and possess a desire for there to be peaceful negotiations. The non-state actor has the responsibility to have rational objectives that can be accomplished.

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[94] DECLARATION OF JIHAD, THE AL QAEDA MANUAL, (English Trans.) *available at* http://www.justice.gov/ag/manualpart1_1.pdf. This manual was found in an Al Qaeda member's home after a police raid.

[95] Creegan, *supra* note 91, at 369–70. ("Even if there are political objectives, such as the creation of a world Islamic state, the objectives are wildly unrealistic at best, and do not conceive of real, immediate political change.").

B. International Cooperation

Historically, states have been reluctant to give any legitimized legal status to rebels or to recognize rebel movements.[96] When rebels "[took] up arms against states, states preferred to deal with them under their national law, trying them as common criminals. In this case against Al-Qaeda, the resort to force itself would be illegal, and the rebels would be tried for war crimes even without any other violation of international humanitarian law."[97] Furthermore international law precluded other states from interfering with internal conflicts for fear of imposing on the sovereignty and autonomy of a state.[98] But with no restrictions for states, like the case here, problems arose with inhumane treatment of the opposition within international armed conflict and there was a demand for "some sort of an *international response*."[99]

An international response for non-international armed conflicts would include creating laws, treaties, and limits for states to agree to and follow when dealing with non-state actors. Additionally, these international treaties would require states to share information with other states when dealing with violent, international non-state actors. Information sharing is important for international cooperation because it can aid in getting to the heart of the conflict and reaching peaceful solutions. An ideal world would be a place where each state is working in unison with other states towards peaceful solutions in situations of non-international armed conflict; however, this is currently not the case and so adjustments have to be made.

One of the ways that states could achieve international cooperation and end terrorist activities of non-state actors is through *containment*. "The cold war strategy of containment would be a . . . better way to react to the problem of politicized violence committed by non-state actors."[100] This would require states to "isolate access points to and from potential terrorist bases such as airports, ports, roads[,] and trails at borders. Such access points should be policed by in-state police forces, not militarized by other countries' militaries."[101] Thus, instead of a state sending military factions to militarize these areas outside of its borders, a state would police its own borders. In the case of piracy in Southeast Asia, this same approach could be successful. This means that "[in h]elping states develop their own surveillance and enforcement capacities, long term,

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[96] RESPECTING INTERNATIONAL HUMANITARIAN LAW: CHALLENGES AND RESPONSES, INTERNATIONAL INSTITUTE OF HUMANITARIAN LAW 65 (Michael Veuthey & Gian Luca Beruto eds. 2013).
[97] *Id.*
[98] *See id.*
[99] *Id.* (emphasis added).
[100] ENGLE, *supra* note 1, at 151.
[101] *Id.*

and longer lasting, solutions will be possible."[102] This might not work in every situation because it requires states to take responsibility and not all states desire or have the resources to be part of an international cooperative to stop violent, non-state actors.

Encouragement and support of peaceful negotiations of other states dealing with non-international armed conflicts is another way to foster international cooperation. Even in the case of states that do not want to cooperate, if that state has a high-value relationship with another state that encourages proactive actions then the disinterested state is more likely to be cooperative.

For instance, during negotiations of the Good Friday Agreement with Northern Ireland, the United States strongly supported peaceful negotiations. Additionally, "[t]he Clinton Administration was instrumental in helping the parties forge the agreement, and the Bush Administration strongly backed its full implementation. U.S. officials welcomed the end to the IRA's armed campaign in 2005 and the restoration of the devolved government in 2007."[103] Support from other states can encourage states and non-state actors to seek Win/Win solutions where each side would be committed to solving conflicts through peaceful negotiations. The United States has continued its encouragement of the Northern Ireland Agreement, most recently by the Obama Administration.[104] For instance, "[i]n October 2009, then U.S. Secretary of State Hillary Clinton visited Northern Ireland, addressed the Assembly, and urged Northern Ireland's leaders to reach an agreement on the devolution of policing and justice."[105]

After WWII, the reasoning behind the UN Charter was to create an international cooperation to prevent future international conflicts, specifically international armed conflicts. This idea can be equally applied to non-international armed conflicts. International cooperation at this level would be a beneficial resource by encouraging and supporting peaceful reconciliations between states, as well as advising and helping states to create lasting solutions for future situations like enforcement and policing within their states.

IV. A STRATEGY FOR LONG-LASTING PEACE

The dynamics of war having changed the world makes the proactive prevention of future non-international armed conflicts necessary. The very dynamics of war have advanced technologically, and new swifter, deadlier armed attacks are occurring. There are three proactive methods, though not completely ideal for international cooperation and long-

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[102] Adam J. Young & Mark J. Valencia, *Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility*, 25 CONTEMP. SOUTHEAST ASIA, 269, 281 (2003).
[103] Archick, *supra* note 47, at 15.
[104] *Id.*
[105] *Id.*

lasting peaceful solutions that would be successful in preventing future non-international armed conflicts. The three approaches are: 1) alleviating poverty; 2) educating youth and creating community involvement projects for civilians; and perhaps the most challenging, 3) changing the mindset of how the United States and other states view foreign affairs and relationships with other states.

A. Alleviating Poverty Alleviates Armed Conflict

In many states poverty alleviation does not seem to be a possibility because the state has failed. A "failed state[106] is a state that does not achieve an effective domestic governance structure."[107] Poverty and crime go hand in hand: poverty increases as crime increases and vice versa. Crime rises when criminals believe that the benefits of committing the crime outweigh the negative consequences.[108] The creation of many violent non-state actors is the result of impoverished failed states:

> "Poverty of resources, combined with poverty of prospects, choices and respect, help enable terrorism to thrive." Poverty can breed resentment and desperation and support for political extremism. In addition, as well as providing grounds for grievance, poverty often means underdevelopment, poor or weak governance, or failed states, something that has been referred to as "back holes" within which fanaticism can emerge. Poor societies often make for weak states, which may not have the capacity to prevent terrorist activity or recruitment.[109]

For example, this has been the case "in such environments—such as Afghanistan, Sudan, Pakistan, Somalia, Georgia, Yemen, and Algeria— that local or transnational terrorist organizations can find a base of operations, a vacuum of authority, and a source of support." [110] Specifically in Afghanistan, Al-Qaeda was headed by Osama bin Laden at the time of its most successful international attack, September 11. In fact, Al-Qaeda top operatives were relatively wealthy individuals, like Osama bin Laden, or at least from the middle-class. The complexity of planning international crimes requires "management and technological skills found in the upper and middle classes[, while] also need[ing] foot-

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[106] ENGLE, *supra* note 1, at 139.
[107] *Id.* at 129. ("There are many examples of failed states: Somalia, Liberia, Rwanda, Bosnia, Cambodia, Chechnya and East Timor are all examples of states that failed or are failing.").
[108] *See* Haiyun Zhao, Zhilan Feng, & Carlos Castillo-Chávez, Mathematical and Theoretical Biology Inst., Ariz. State Univ., *The Dynamics of Poverty and Crime*, MTBI-02-08M, 225 (2005) *available at* https://mtbi.asu.edu/sites/default/files/Dynamics_Poverty_Crime.pdf.
[109] Newman, *supra* note 74, at 751 (citations omitted).
[110] *Id.*

soldiers who overwhelmingly hale from the poor and down-trodden."[111] Impoverished states with high populations of the downtrodden are ripe for violent groups to arise. To proactively end violent non-state actors' aggression, thriving poverty and its consequent effects must be reduced, thus reducing the large number of potential foot soldiers.

The popular idea of sending food and aid to eliminate poverty in impoverished states is not creating self-sufficient states and is not a viable, long-lasting approach to end poverty. Sending food and aid only encourages impoverished states to depend on the provider states and this can create a vicious cycle of long-term dependence.[112] A more viable approach is to share the necessary support and resources for impoverished countries to gain control over their economy and citizens. Providing support and resources for countries to gain control over their economy and citizens will reduce "the space and oxygen for terrorist groups to flourish."[113] How is it that states like the United States, a comparably young state in the Western World, is one of the top world powers? Self-reliance.

For a failed state to attain self-sufficiency the international community must encourage it to reduce or eliminate corruption and to use its reliable resources that are sustainable.[114] This places a responsibility on First World states to reduce the dependency of failed states on First World aid and resources and to begin to work towards sustainable economies in these failed states.[115] A failed state can then become self-reliant, as well as self-governing, and can enforce its laws among its criminals resulting in a lower likelihood of terrorist organizations or violent non-state actors.

B. Educating Youth and Increasing Community Involvement

Educating the youth in these failed states is a way to proactively prevent youth, the future generations, from joining these violent non-state actor groups and becoming *radicalized*. At present, failed states "lack the capacity for the types of education program[s] that might reduce support for terrorism."[116] Today's youth will lead the future generations. If the hope is for peace, then investing in today's youth will ultimately empower future leadership of these states.

Pope John Paul II expresses the importance of holding people to the standard they deserve and relates this standard to peace by saying: "[A]uthentic peace is only possible if the dignity of the human person is promoted at every level of society, and every individual is given the

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[111] *Id.* at 752.
[112] Dambisa Moyo, *Why Foreign Aid is Hurting Africa*, WALL ST. J, Mar. 21, 2009, http://www.wsj.com/articles/SB123758895999200083.
[113] Newman, *supra* note 74, at 751.
[114] *See* ENGLE, *supra* note 1, at 139.
[115] *Id.*
[116] Newman, *supra* note 74, at 751.

chance to live in accordance with this dignity."[117] For there to be authentic peace that is long-lasting there must be a revamp in these impoverished, failed states to provide education for every individual and begin setting up communities where people are held to a higher standard more in accordance with their dignity. This concept is difficult to envision and can be attributed to the lack of free thought and liberal education in some of these states; but if there can be a push towards education, in general, then this can positively lead to new directions. Especially in poorer areas of failed states, to improve education in these areas will improve the standard of living, which will in turn reduce crime. In fact, "[m]ost criminals begin their participation in illegal activities as juvenile or young adult offenders."[118] If the youth in failed states, where terrorism and violent non-state actors thrive, are given the ability to become educated in a non-biased educational system and encouraged to become involved in service to their communities at a young age, this might change the pattern of corruption and dishonesty in many failed states. Furthermore, changes in education will be crucial to alleviating poverty, as these states will need educated individuals to create future stable governments.

Also, educating youth encourages community involvement by adults and youth to serve each other and create coalitions of programs to better the community. Community involvement brings accountability to one another and a support system for success. Increased community outreach will empower citizens to reach new levels of self-reliance and independence from crime. Furthermore, education and community involvement are proactive ways to prevent non-state actors' recruiting techniques and give individuals an opportunity to resolve their own grievances by changing their communities and leadership in those communities. Education is one of the paths to freedom that can breed self-reliance in poorer communities.

C. Changing the Mindset of Objectivity and War

As mentioned above, President Roosevelt's philosophy of carrying a "big stick" to force peace negotiations is a failed mindset. This has been a paradigm for many larger states with strong interests in smaller states. The larger state uses its power to coercively obtain the smaller state's resources, while representing its actions as "peaceful" negotiations. The mindset of the United States and other nations must change if there is to be peace. Nation states and non-state actors must discard old paradigms

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[117] Pope John Paul II, Message of Pope John Paul II for the Celebration of the World Day of Peace: Women: Teachers of Peace ¶ 1 (Jan. 1, 1995) [hereinafter Message of Pope John Paul II], *available at* http://www.vatican.va/holy_father/john_paul_ii/messages/peace/documents/hf_jp-ii_mes_08121994_xxviii-world-day-for-peace_en.html.

[118] Sebastian Galiani, Martín Rossi, & Ernesto Schargrodsky, *Conscription and Crime*, at 2, WPS4037 (2006) (Background Paper to the 2007 World Development Report).

of objectifying others and replace them with a new perspective as viewing others as people.

Previously some states have viewed citizens, non-state actors, etc., as objects to be used to reach a desired underlying purpose. For non-state actors, this occurs when goals are an array of wants like political gain, territorial gain, or even a demand for human rights protections and the objectivity is to surpass the nation state. When others are seen as objects, our hearts are at war, hatred is rampant, and others are just obstacles to hurdle or vehicles to help us navigate to what we want; other parties become irrelevant and therefore detachment of their needs occurs.[119] Seeing others as people will prevent the incitation of hatred, which "invariably escalates violence, engendering circularity and reciprocal self-justification."[120] But when others are seen as people, our hearts are at peace and the hopes, needs, cares, and fears of other parties are as real as our own.[121] To successfully negotiate peacefully with the opposition, parties must understand the other's "concerns and worries" just as much as their own.[122] From this point forward, the way to successfully and proactively resolve conflict in an authentically peaceful way is to change mindsets.

Referred to above, Russia's conflict with Chechnya is a specific example where a conflict worsened because one state viewed the other as an object and an obstacle to overcome in order to retain its interests in Chechnya's natural resources. Russia was not concerned with the hopes, needs, or cares of the Chechens; rather, it viewed them as a hurdle to retain the natural resources[123] within Chechnya. This view of Chechnya as an object furthered war, violence, and conflict. If there is to be success in avoiding non-international armed conflicts like that in Chechnya then there has to be a change in the collective society as well as the individual actor mindset. "Any human society, if it is to be well-ordered and productive, must lay down as a foundation this principle, namely, that every human being is a person, that is, his nature is endowed with intelligence and free will."[124]

Individuals, nation states, and society will not change because someone says it is important to do so. In fact it is impossible to change others. Change must come from within, and the only way to successfully change others is to change our own mindset. To do so, we must redirect our outlook, and instead of dealing with things that are going wrong, we must start helping things go right.[125]

The first step in helping things go right is to discard the approach of viewing others as an obstacle to gaining self-interests. To successfully

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[119] *See generally* THE ARBINGER INSTITUTE, THE ANATOMY OF PEACE 30 (2006).

[120] Bassiouni, *supra* note 4, at 780.

[121] *See* THE ARBINGER INSTITUTE, *supra* note 119, at 30.

[122] *Id.*

[123] Chechnya's natural resource is oil, a very valuable natural resource for Russia.

[124] Message of Pope John Paul II, *supra* note 117, ¶ 1.

[125] *See* THE ARBINGER INSTITUTE, *supra* note 119, at 202.

view others as individuals and not objects, it is very important to build the relationship with the opposing side. It is difficult to see someone as an object if we have taken the time to develop a relationship with her and become aware of her grievances and issues.[126]

The second step is to communicate with and educate the opposing party. "If a country doesn't clearly and persuasively communicate the reasons for the actions it is taking in the world community, it invites resistance to those efforts, whatever the context."[127] A specific example is the lack of transparency and lack of communication regarding the United States' actions toward Guantanamo and its detainees and its resistance to Guantanamo's objectives even in the face of other successes in the war on terror. Even in peaceful situations, communication and transparency is important. This translates into listening and learning about those with whom the state is trying to communicate. In fact, "[a] country's . . . leaders [should be] actively trying to learn about and from the people they are trying to communicate with."[128]

Third and finally, peaceful relationships occur when a state builds relationships with others who have influence over the opposition in the particular situation where there is conflict. This is similar to the United States' approach with North Korea by building a relationship with China who clearly has influence over North Korea. Up to this point, through its relationship with China, the United States has been able to prevent attacks by North Korea.[129] Having positive, authentic relationships with those of opposing viewpoints is beneficial because such relationships allow for more sincerity between both sides and a better ability to solve non-state actor conflicts when they do arise.

Preventing non-international armed conflicts is a complex problem, but the three approaches mentioned above: alleviating poverty; educating youth and encouraging community involvement in failed states; and changing the mindset of individuals, state actors, and non-state actors is the strategy for lasting peace that will proactively prevent future non-international armed conflicts.

V. CONCLUSION

The best solution for non-international armed conflict peace is for states to change their current conflict control approach to a more proactive and futuristic approach. States who are currently at peace should work to 1) maintain their stability, 2) educate their youth and younger generations to run stable, peaceful governments, and 3)

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[126] *See generally, id.* at 208–10.
[127] *Id.* at 205.
[128] *Id.* at 207.
[129] *See generally* Alexander Benard & Paul J. Leaf, *Modern Threats and the United Nations Security Council: No Time for Complacency (A Response to Professor Allen Weiner)*, 62 STAN. L. REV. 1395 n.219 (2010) (demonstrating China's influence over North Korea).

proactively prevent armed conflict through the three approaches mentioned in Part IV.

Also, those at peace can become involved in international cooperation to encourage peaceful negotiations within other states that are currently involved in non-international armed conflicts. However, the states currently involved in a non-international armed conflict can begin by addressing the grievances of those they are at war with and seek international cooperation to help end the conflict.

These approaches[130] are an appropriate method meant to protect civilians and states from future bloodshed and conflict. This Comment advocates for "sustainable peace in which the majority of people on this planet have access to enough resources to live dignified lives, where these people have enough access to education and health care, so that they can live in freedom from want and freedom from fear."[131] While there will always be conflicts between individuals and their governments, these methods are a way to prevent such conflicts from escalating to armed conflict, like the escalations of conflict in Northern Ireland, Chechnya, Al-Quaeda, or any other existing or future global conflict.

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[130] Addressing grievances, international cooperation, alleviating poverty, educating youth, promoting citizens to become actively involved in their communities, and changing the mindset of viewing others as objects.

[131] Jody Williams, Noble Peace Prize Winner, Address at Ted Conference: A Realistic Vision for World Peace (Dec. 2010) (transcript *available at* http://www.ted.com/talks/jody_williams_a_realistic_vision_for_world_peace/transcript).