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Hegemony and the Humanitarian Challenge: the United States' Legitimation of Contested Violence

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HEGEMONY AND THE HUMANITARIAN CHALLENGE:
THE UNITED STATES' LEGITIMATION OF CONTESTED WEAPONS

by

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THE UNITED STATES' LEGITIMATION OF CONTESTED VIOLENCE

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ABSTRACT

Bonds, Eric (Ph.D., Department of Sociology)

Hegemony and the Humanitarian Challenge: The United States' Legitimation of Contested Violence

Thesis directed by Associate Professor Liam Downey

This research project studies the United States as a hegemonic power, or, in other words, as a nation that exerts disproportionate influence in shaping the contours of the international economic and political system. In order to promote the global accumulation of capital and secure critical geopolitical goals, a hegemonic power must wield military violence while also demonstrating the moral leadership necessary to earn the assent of a critical mass of nations. But which of these is most fundamental to U.S. hegemony, coercion or consent? Structural perspectives in sociology suggest that the capacity to use unrestrained military violence is much more important to the U.S. government than compliance with international humanitarian norms. Constructionist perspectives, on the other hand, suggest that, in pursuit of hegemony, the United States will respect international normative restraints and relinquish its ability to use certain types of violence.

This dissertation presents several rival explanations, or theoretical pathways, that exist along a spectrum between strong constructionist and strong structuralist positions. Evidence from three case studies on U.S. policy development regarding chemical weapons, torture, and landmines is presented and used to adjudicate between these competing models. As a whole, this research indicates that the United States is unwilling to abdicate militarily effective forms of violence in order to comply with humanitarian norms. U.S. officials, however, attempt to obscure the often stark divide between humanitarian standards and actual military policies by

employing several legitimating strategies, which are identified in the course of this research. These techniques include the use of *humanitized technology*, *humanitizing discourse*, *defensive categorization*, and *surrogacy*.

whomever it was who leaked these documents for increasing our understanding about the terrible

consequences of this war.

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INTRODUCTION

The United States has a long history of fighting wars overseas and utilizing state violence to accomplish economic and geopolitical goals. Nonetheless, the current historical moment may be unprecedented. Right now the U.S. maintains a strong military presence in both Iraq and Afghanistan, carrying out military operations in both countries on a daily basis. Despite these two substantial military commitments, the U.S. recently undertook sustained aerial attacks against government forces in Libya along with ongoing, though less frequent, attacks against suspected terrorists and insurgents in Pakistan and Yemen. Perhaps most worrying, many notable social theorists predict that the United States will become even more likely to utilize its military power against rival states in the near future, as the U.S. competes for declining reserves of natural resources (Klare 2002; 2008), seeks to maintain its preeminent place in the world-system hierarchy despite challenges from countries with more productive economies (Wallerstein 2003), and hands over more and more political decision-making from elected officials to military bureaucracies (Johnson 2004).

In this historic context, it is extremely important for scholars and citizens alike to ask whether, and how, the United States can be compelled to protect unarmed persons in its foreign wars. One strategy among many others stands out in terms of historical precedent: for more than a century members of international civil society and interested governments have come together in attempts to develop universal norms to constrain state violence and protect civilians. Beginning with the Geneva Conventions, instituted between 1886 and 1929, the majority of nations in the world convened to find common agreement that governments should never

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intentionally target civilians with violence and should not torture prisoners of war or otherwise subject them to cruel or humiliating treatment. While the Geneva Conventions were violated en masse during World War Two, the nations of the world again affirmed the principles of the treaties in the War's aftermath. Since that time, there have been a number of successive attempts to restrain state violence in the interest of protecting unarmed persons during war. Examples include the United Nations 1975 Convention Against Torture, the 1993 Convention on Chemical Weapons, the 2002 Rome Statute of the International Criminal Court (created to prosecute genocide, crimes against humanity, war crimes, and crimes of aggression), the 1997 Landmine Ban Treaty, and most recently the 2008 Convention on Cluster Munitions.

It remains an open question, however, to what extent these global efforts in norm development and treaty-making have restrained the military violence of the United States, which has much more combined economic, political, and military power than any other nation in the world today. This inequality between states likely means a great deal in terms of norm compliance because, for instance, less powerful states in the Global South may be more vulnerable to international sanction and so feel greater compulsion to act in accord with humanitarian standards. And even relatively well-positioned states, for instance those in Europe, may have greater "freedom" to join and abide by humanitarian treaties when under the umbrella of the military force of the United States.

In order to account for this international inequality, I utilized the world-systems concept of hegemony. A hegemonic nation, by definition, is one that exerts disproportionate influence in shaping the contours and movements of the global economic and political system (Arrighi 2010). This power is primarily dependent upon economic strength (Wallerstein 2004). But having the world's most productive economy or having the capacity to control global finance is not, in

itself, all that is required to exercise hegemony. A nation must translate its economic strength into military and political/cultural power. Through brute military force, a hegemonic power can maintain the subordination of peripheral states and fend off challenges from other nations with territorial or economic ambitions. Just as important, through cultural/political power, a hegemonic nation demonstrates "intellectual and moral leadership," and otherwise gains the assent of a critical mass of the world's nations by making a convincing case that it is advancing universal interests (Arrighi 2010). A hegemonic nation, then, exerts disproportionate influence in shaping the world-system through a combination of consent and coercion.

The United States emerged as a hegemonic power at the end of World War Two,[1] and remains as such today. While its hegemony is in decline (Arrighi 2010 and Wallerstein 2003), the U.S. maintains the world's most powerful military and continues to disproportionately benefit from global financial and trade systems. Hegemony, I will show in the course of this dissertation, puts the United States in a bind in terms of compliance with international norms. On one hand, the U.S. must utilize global military force in order to exercise hegemony, and so has an interest in rejecting normative constraints on the effective use of violence. On the other hand, in order to exercise hegemony, the U.S. must also gain the assent of adjunct states by demonstrating that its leadership serves more than its own narrow interests, but is in fact universally beneficial (Arrighi 2010). So, in this regard, the U.S. need to demonstrate moral or ideological leadership may provide strong incentive for U.S. policy-makers to avoid using stigmatized forms of violence and to otherwise comply with global normative expectations.

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[1] This differentiates the United States from other powerful nations like China, India, the Russian Federation, France, and the United Kingdom, which—despite their individual strengths—have not been able to exert disproportionate influence in the governance of the contemporary world political and economic system in ways that primarily suited their own interest.

This, of course, raises the question of how the U.S. responds to the development of humanitarian norms that seek to curtail state violence in the interest of human rights. Does the United States move its policies on war and violence into closer accord with international norms? Or does the United States instead seek to maintain its ability to utilize militarily effective violence even if it contravenes humanitarian standards and treaty obligations? And if the U.S. opts against adjusting its policies, how does it attempt to justify its use of internationally condemned forms of violence? In other words, in the pursuit of hegemony, which is more important: coercion or consent? Through a series of case studies on U.S. military policy development, this dissertation will provide some answers to these questions.

INTRODUCTION TO THE THEORETICAL MODELS

In order to understand how the United States responds to global humanitarian norms, I lay out several potential pathways, or courses of action, that the U.S. government may take when faced with the dilemma of complying with international standards or using militarily effective, even if universally reviled, forms of violence. These pathways can be thought of as existing along a continuum from strong constructionist perspectives that stress the capacity of global political culture to shape state policy on the one side to strong structural perspectives that expect a hegemonic nation like the United States to seek and utilize militarily effective violence regardless of international humanitarian norms on the other side (See Table 1). The first model along this spectrum draws from the world polity school, a strong constructionist perspective that is based on the premise that a global political culture exists independently of any one nation (Boli and Thomas 1997). According to world polity theorists, this global culture—comprised of shared principles, norms, and legal codes—has the capacity to shape the policies of nation-states

(Meyer 2010; Meyer et al 1997), because a state's legitimacy is dependent upon its ability to live up to international standards and expectations (Koo and Ramirez 2009). From this strong constructionist perspective, then, U.S. hegemony is dependent upon its ability to preserve its legitimacy among the community of nations, and so the United States is expected to comply with international norms prohibiting forms of violence that are considered to be particularly egregious or harmful.

Table 1
Range of Potential U.S. Responses to Humanitarian Norms

Strong Constructionist Models	World Polity (General Compliance with Norms)
	Social Movement and Humanitarian Advocacy
	Hegemonic Constructivism (Strong)
	Humanitized Technology (Authentic)
	Hegemonic Constructivism (Weak)
	Humanitized Technology (Inauthentic)
	Symbolic Legitimation
Strong Structuralist Models	Structural Militarism (No Attempt Made to Achieve Legitimacy)

The next potential pathway—based on the work of Hafner-Burton and Tsutsui (2005), Keck and Sikkink (1998), and Price (1998b)—anticipates that the United States government will

not, in most situations, voluntarily adopt policies in congruence with international humanitarian norms for the sake of preserving its international legitimacy in the exercise of hegemony. Instead, international humanitarian norms have the capacity to influence policy when social movement actors, grass roots organizations, and well-positioned humanitarian allies in Congress pressure the U.S. government to conform to international standards. According to this model, then, the United States will need to use global military force in order to exercise its hegemony. But its ability to do so is dependent, to some extent, upon the acquiescence of domestic humanitarian challengers. Consequently, according to this model, the U.S. government is likely to comply with international humanitarian norms in order to achieve domestic legitimacy, but only when domestic humanitarian advocates have successfully mobilized and forced it do so.

Another constructionist model, which I call hegemonic constructionism, puts U.S. hegemony and international inequality front and center. This model contends that militarily, politically, and economically powerful nations like the United States have a greater capacity than other nations to shape global political culture (Price 1997). Consequently, adherents of this perspective anticipate that the United States, as a hegemonic nation, will attempt to construct and enforce global humanitarian norms as a means of constraining the potentially militarily effective violence of less powerful states. In other words, preventing nations in the Global South from committing certain acts of violence—such as using indiscriminate weapons like landmines or chemical weapons—may further increase the military power of the United States. A strong version of this perspective, based on the work of Price (1997), anticipates what I term a "boomerang effect," in which the United States will itself eventually abide by the humanitarian norms it has helped create. A weaker version of this perspective, and one that more closely resembles a structuralist model, anticipates a "double-standard effect," in which the United

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States violates certain international standards even as it attempts to pressure other nations to comply.

Somewhere in between the strong and weak hegemonic constructionist pathways is another model that emphasizes the role of what I call humanitized technology in bridging the gap between military utility and humanitarian ideals in global political culture. This model builds from the insights of Rejali (2007) and anticipates that the United States, in response to humanitarian norms, will adjust its military policies to require new technologies that make state violence less overtly cruel or less deadly to civilians, or at least to make them appear as such. In one version, then, this model is a compromise pathway, by which the U.S. government would implement real and substantive policy changes in response to humanitarian norms, while at the same time refusing to relinquish militarily effective forms of violence. However, I also leave open the possibility that, more in accord with structuralist perspectives, new policies requiring humanitized technologies might only create superficial changes and so do little to ameliorate the consequences of state violence to unarmed persons. Such an outcome would, in other words, closely approximate a pathway of symbolic legitimation. (For this reason, on the spectrum between constructionist and structuralist models, I make the further distinction between "authentic" and "inauthentic" pathways of humanitized technology.)

The symbolic legitimation model is strongly influenced by the structural theories of Arrighi (1994), Tilly (1990) and Wallerstein (2005), whose work all suggests that the United States, in the service of capital accumulation and in pursuit of geopolitical power, will not abandon militarily effective weapons in response to humanitarian challenges. Purely structural accounts imply that U.S. officials will make little effort to legitimate their violations of international norms. A more nuanced approach agrees that the U.S. is unlikely to give up

effective weapons, but also anticipates that the U.S. will seek to symbolically legitimate

violations of international norms through several strategies: d*efensive categorization,* the use of

humantizing discourse, and *surrogacy*. Through the strategy of defensive categorization, U.S.

officials deny that a type of violence used by the military is the same as types of violence that

have been elsewhere condemned. By using a humanitizing discourse, U.S. officials attempt to

legitimate contested forms of violence by stressing the precautions taken to avoid humanitarian

harm and, going even further, by claiming that the use of such violence may in fact have

humanitarian benefits. And, through surrogacy, U.S. officials direct, or rely upon, a client state

to carry out contested acts of violence that serve the foreign policy interests of the United States

government.

OVERVIEW OF THE DISSERTATION

In order to understand how the United States responds to humanitarian norms, and in order to

assess the theoretical models introduced in the preceding chapter, I conduct three case studies of

U.S. policy development, examining the topics of chemical weapons, torture, and landmines. I

have selected these specific forms of violence because they are particularly egregious from a

humanitarian standpoint and there are especially strong and well-recognized global humanitarian

norms regarding each. Moreover, each of these three case studies highlights different

legitimating strategies. The study on chemical weapons underscores the importance of defensive

categorization in defending contested forms of violence. The study on torture examines how

surrogacy is used as a legitimating tool. And the case on the development of U.S. landmines

policy demonstrates the value of humanitized technology.

Throughout each of these case studies, I use archival documents to first piece together a chronology of U.S. policy changes, wherever possible seeking to identify policy dilemmas in which U.S. officials were required to choose between complying with international norms by giving up an effective form of military violence on the one hand, or choosing to maintain the capacity to use such violence despite international and domestic opprobrium. I also present the rationales made by officials to justify their choices. I then use this evidence to assess the theoretical models and determine which ones best explain the empirical outcome.

While the cases, taken together, demonstrate the utility of structural perspectives, this support is not entirely one-sided or unambiguous. The cases do show, for example, that humanitarian norms, once fully developed, can have a bearing on U.S. policies of military violence, sometimes due to the capacities of domestic humanitarian opposition, often with well-positioned allies in Congress. The case studies also demonstrate the value of the hegemonic constructionist models, in that U.S. policy-makers have consistently sought to use humanitarian norms as a means of constraining the violence that may be used by other states and potential enemies. The evidence here, however, is that the U.S. has often exempted itself from international humanitarian norms—by for instance using chemical weapons, practicing torture, or maintaining landmines in its arsenal—even while urging other militaries into compliance. This is to say that the evidence from these case studies typically supports a weak version of the hegemonic constructionist model.

More importantly, these cases all show that there is often a chasm between U.S. policy and international humanitarian norms. The cases on torture and landmines indicate that U.S. officials may work to bridge this divide through humanitized technology by requiring certain technical specifications to practices of violence in order to make them seem less deadly or less

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overtly cruel. The fact that these policy changes were also made to satisfy military objectives

just as much humanitarian objectives, however, more closely approximates the symbolic

legitimation model. These cases further establish that U.S. policy makers, rather than giving up

the ability to use contested forms of violence, work to obscure the divide between practices and

norms through the legitimating techniques of surrogacy, humanitizing discourse, and defensive

categorization. This point is most clearly made in the cases on chemical weapons and torture.

So, taken together, while the cases do show that constructionist theories can shed important light

in efforts to understand U.S. policy development, the evidence as a whole tends to substantiate

theoretical models that emphasize social structure. In making these arguments, I contribute to

literatures in the study of the political-economy of the world-system, political sociology, and the

sociology of war, peace, and conflict.

These contributions will be made evident in the following chapters. In Chapter Two, I

more fully develop the theoretical models that I have briefly presented here. In Chapter Three, I

describe my methods of data collection, case construction, and evaluation. Chapter Four

presents a case study on U.S. chemical weapons policy, which shows that, contrary to

conventional understandings, the United States has used chemical weapons as a form of military

violence from the 1960s to the present. The use of this widely condemned weapon has been

primarily legitimated through defensive categorization and the use of a humanitizing discourse.

Chapter Five is a case study of U.S. policy on torture in the "War on Terror," during which U.S.

officials created an official policy relying on humanitized technologies of violence, which they

described as "enhanced interrogation techniques." During this period the U.S. also relied on

Iraqi forces that regularly practiced torture in their effort to crush an insurgency and sectarian

war, while U.S. officials simultaneously denied any connection to, or responsibility for, this

torture through techniques of surrogacy. Chapter Six provides an examination of U.S. policy

development regarding landmines, which shows that while U.S. officials sought to construct a

global norm stigmatizing the use and export of these weapons, the United States government has

not yet complied with the new humanitarian accord. The U.S. government, the chapter shows,

has sought to disguise this contradiction by requiring new humanitized technologies in the form

of "smart" or self-detonating landmines. The final chapter of the dissertation provides a

comparison of the different cases in order to draw out further lessons about when international

norms matter in U.S. policy development and, when they do not, how U.S. officials work to

legitimate policies on military violence that violate global humanitarian standards.

Chapter 2

**THEORETICAL FRAMEWORK: HEGEMONY, VIOLENCE, AND THE
HUMANITARIAN CHALLENGE**

The United States holds a unique position in the world today. As a hegemonic nation, it has the

capacity to disproportionately benefit from global resource extraction and global agreements on

trade and finance.[1] This hegemony, according to world-systems scholars, is maintained not only

through economic and financial power, but through global military force and through its ability

to naturalize its domination through cultural leadership. U.S. hegemony, in other words, is

achieved through military violence, but this violence must be broadly deemed legitimate.

Humanitarian efforts in the last 100 years have, however, sought to delegitimate some forms of

state violence, particularly that which harms unarmed persons. So, the question is raised, how is

the United States likely to respond?   Sociologists drawing from different theoretical perspectives

are likely to give different answers. Those drawing from constructionist perspectives anticipate

that the United States, in pursuit of hegemony, is more likely to conform to international

humanitarian norms in the interest of preserving its legitimacy. Those drawing from stronger

structuralist perspectives anticipate, on the other hand, that the U.S. will disregard international

norms whenever compliance would limit the use of effective military violence.

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[1] Both Arrighi (1994) and Wallerstein (2004; 2005) have pointed out that the U.S. is a
hegemonic power in decline. While this is certainly true, its ability to exercise global economic,
political, and military leadership is yet to be supplanted by another nation. But even if the U.S.
could no longer be considered a hegemonic power today, this would matter very little to the
theoretical models that will be introduced in this chapter, as the U.S. would still be a nation with
ambitions of hegemony and so would continue to attempt to exercise disproportionate influence
in the world-system through both coercion and consent.

Of course, because these two theoretical paradigms stress different aspects of the world, neither can adequately explain it alone. Consequently, the goal of this chapter is to synthesize key aspects of the paradigms into a more comprehensive theoretical framework that I will use throughout this dissertation. First, I discuss the United States as a hegemonic power, while also examining the central role state violence has played in the achievement of U.S. economic and geopolitical goals. I then discuss how, traditionally, war and violence have been legitimated. Next, I argue that relatively new international humanitarian campaigns, in the context of the "human rights revolution," have sought to restrain states' use of certain kinds of violent force. In the remainder of the chapter, I propose several potential pathways by which the United States, as a hegemonic nation-state, may respond to humanitarian norms, ranging from strong constructionist to strong structural perspectives but also including several intermediate models.

HEGEMONY, STATE VIOLENCE, AND THE UNITED STATES

"Hegemony," according to Wallerstein (2004: 58), creates within the world economic and political system, "the kind of stability within which capitalist enterprises, especially monopolistic leading industries, thrive." A hegemonic power is one that governs this relatively stable period of capital accumulation and stands to benefit most from it (Arrighi 2010). During this period, a hegemonic power disproportionately shapes and enforces the global rules of commerce, such that it can capitalize on unequal terms of trade. Undertaking a survey of the historical development of global capitalism, Arrighi (2010) identifies three main hegemonic powers that have governed the capitalist world-system since its origin: the Dutch, the British, and the United States.

A nation's ability to exercise hegemony is dependent first and foremost upon its economic strength. But economic power alone does not ensure hegemony. In order to become

hegemonic, a nation must translate its economic strength into military and cultural/political power (Wallerstein 2004). There are several reasons why military force is particularly important. First, global capitalism developed along with the expansion of colonialism across the globe, a process that divided the world into core and periphery (Wallerstein 2004). Dominant nation-states, from this perspective, developed their economies based on the resources and labor from peripheral zones, mainly in colonies and former colonies. Hegemonic nations have used military force and/or the threat of force to create and maintain these unequal relationships and ward off competition from other core states (Jorgenson 2009; Wallerstein 2004; Wilkinson 2008). In doing so, hegemonic states utilize violence to secure access to valuable resources such as oil and other mineral resources around the globe that are necessary for the continuous accumulation of capitalism[2] (Clark and Foster 2009; Downey, Bonds, and Clark 2010). Hegemonic states also utilize violence to secure access to inexpensive labor in peripheral zones along with markets to sell manufactured goods[3] (Wallerstein 2004). Finally, because capitalism is crisis-prone, states may fight foreign wars in attempt to spur domestic economic growth in depressed or stagnating economies (Harvey 2004). In other words, hegemonic nations might wage war and occupy other countries as a means of creating new opportunities for investment that would not otherwise be present in times of economic decline (Harvey 2004).

While hegemonic states fight wars and commit violence in the service of global capital accumulation, they also do so simply to maximize state power and geopolitical control. Arrighi (2010) theorizes that hegemonic states, or rival states that seek to impose their own dominance

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[2] Importantly, these resources are not only essential to the accumulation of capital in the modern economy but also for the state's very ability to wage war (Johnson 2006; Yergin 1991).

[3] Hegemonic states do not only utilize violence to maintain inequalities between core and periphery, but also fight wars against other rivals in order to maintain exclusive access to the markets and natural resources of peripheral zones (Wallerstein 2004).

on the international system, utilize violence to achieve two complimentary, but potentially contradictory logics of power: that through capital accumulation (described above) and through territorial expansion. This insight borrows from state-centered political sociologists, who argue that those who control men with weapons will conquer others if they can (Tilly 1990). Utilizing territorial logics to power, rulers amass armies to mount conquests or otherwise maximize their influence across the globe, and to simultaneously ward off potential invaders from other domains (Tilly 1990). Hegemonic nations and their rivals utilize violence to pursue both territorial and capitalistic logics to power, often in ways that are complementary, both enhancing state power and promoting global capital accumulation. However, according to Harvey (2005: 29) "in practice the two logics frequently tug against each other, sometimes to the point of outright antagonism." Taken together, the main point is that, historically, a nation that hopes to exercise hegemony must exercise military violence to achieve domination, regardless if this violence is used in service or territorial or capitalistic logics of power. An understanding of hegemony means that war and violence are literally built into the social organization of the contemporary world. A brief survey of U.S. hegemony and violence in the contemporary era makes this point clear.

From the 1870s forward, British hegemony was in decline and was steadily supplanted by the United States, an outcome that was made decisive by the outcomes of the two world wars (Arrighi 2010). But even before the U.S. came to govern the world-system, it had a long history of using state violence in the interests of promoting capital accumulation and maximizing territorial control (Arrighi 2010; Pellow 2008). The U.S. state was, after all, created as an exclusionary institution to be used by men of European ancestry to protect and enhance their power over women, Africans and their descendants, and Native Americans (Pateman 1988; Mills

1997). Through colonization, U.S. elites utilized violence and the threat of violence to extend power across the continent, forcibly dispossessing Native Americans and Mexican-nationals of their land (Horsman 1983). Reaching further still, since the Monroe Doctrine of 1823, U.S. elites have also sought to project military power across the globe (Pellow 2008).

At the end of World War Two, the United States emerged as the world's hegemonic power (Arrighi 2010). In order to maintain hegemony, the U.S. military has fought in wars and employed violence, overtly and covertly, across the globe since the beginning of the Cold War (Blum 2000). Today, the U.S. maintains a global military presence in 700 overseas bases and large Navy flotillas (Johnson 2004). The U.S. is now conducting—or has recently conducted—ground and aerial military operations in Libya, Iraq, Yemen, Pakistan, and Somalia along with fighting a full-scale war in Afghanistan. But in utilizing military violence to promote state power and capital accumulation, U.S. officials have likely sought to avoid undermining the other component of hegemony, the cultural power that is derived from the ability to make a convincing case that U.S. power is universally beneficial. In other words, this violence required legitimation in terms of what is "good" and "right" in times of war.

STATE VIOLENCE AND LEGITIMATION

The concept of hegemony means more than economic and military domination. Rather, according to Gramsci (1971: 28) hegemony is "the power associated with dominance expanded by the exercise of intellectual and moral leadership."[4] To Arrighi (2010: 28), who built on Gramsci's work, a hegemonic nation governs through both coercion and consent, where "coercion implies the use of force, or credible threat of force, [and] consent implies moral

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[4] While Gramsci (1971) was writing to refer to domestic hegemony, Arrighi expands the concept to refer to relations between states in a system of sovereign nations.

leadership." A nation's ability to exercise political leadership, to govern through consent, is

dependent upon its ability to credibly claim that its power and global leadership serves more than

its own narrow economic or political interests, but that its governance in fact serves the general

interest of nations in the inter-state system or otherwise enhances the universal well-being of

humankind (Arrighi 2010). Taken together, this means that a dominant nation must exercise

military force to promote capital accumulation and achieve geopolitical goals, but in order to

exercise hegemony, this violence must be broadly deemed legitimate within the international

system of nations.

A state policy is legitimate, according to a Weberian perspective, when it is oriented to or

consistent with commonly upheld "maxims" or rules (Weber 1924/1978). More generally,

sociologists pursuing Weber's interest in legitimation argue that it occurs when a state action is

"seen as consonant with norms, values, and beliefs that individuals presume are widely shared,

whether or not they personally share them" (Johnson, Dowd, and Ridgeway 2006: 55). In

utilizing state violence in the service of hegemony, state officials have a need to achieve both

international and domestic legitimacy. Securing international legitimacy is important for a

hegemonic state in order to exercise leadership that appears to serve the general interests of all

nations.

Securing domestic legitimacy is also important because fighting wars is immensely

resource intensive for states, requiring major allocations of tax revenue and human labor. States

are thus continuously faced with the problem of extracting these resources and labor from

civilian populations (Tilly 1990). Of course, a hegemonic state already has at its disposal

tremendous coercive powers it can bring to bear in order to tax and conscript (Tilly 1990). But it

is likely that these efforts are eased and coercive force is made less necessary to the extent when

wars and state violence are deployed in ways that are deemed legitimate by broad sectors of the citizenry. This, in Western societies, is typically contingent upon long-held ideals of the "just war."

Western norms regarding the "just war," or *jus ad bellum*, were largely shaped by Catholic theologians of the Middle Ages and Enlightenment, along with early secular scholars and lawyers (Howard 1994). Through the ages, just wars have been typically defined as those which are fought for a noble or righteous cause, for instance in self defense, only after every attempt was taken to reconcile differences through diplomatic means and otherwise avoid fighting (Howard 1994). Norms regarding just wars have typically recognized "the adversary as a human being possessing certain fundamental rights" (Howard 1994: 3). Much thinking regarding the "just war" in the Middle Ages and Enlightenment, which still holds sway today, asserted that military forces should restrain themselves from slaughtering unarmed civilians and that, while an enemy in possession of arms could be justifiably killed, "once he was disarmed he regained all the rights due to him as a child of God or a member of civil society" (Howard 1994: 3).

In medieval and early modern practice, however, these normative tenets typically had little bearing on actual military behavior, especially during siege warfare when a captured city was often plundered, destroyed, and its residents massacred (Parker 1994). Moreover, these moral restraints were never intended to apply to non-Christians, non-Europeans, rebelling civilians-in-arms, or to members of other armed non-state groups, whom it was understood could be murdered man, woman, and child with no moral qualm (Howard 1994). Wars throughout the world today are no less barbaric in terms of civilian deaths. In fact, they may be more so by some measures: while one out of every ten casualties in World War One was a civilian, nine out

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ten casualties were civilians in the wars at the end of twentieth century (Bourke 2006; Kassimeris 2006). The first wars fought by the U.S. in the twenty-first century have followed this trend: of the more than hundred thousand killed by violence during the invasion and occupation of Iraq, the overwhelming majority where civilians. Even in World War Two, the recent war fought by Americans most likely to be considered a "just war," hundreds of thousands of civilians were deliberately targeted and killed, for instance in the fire bombings of Dresden and Tokyo or in the nuclear bombing of Hiroshima and Nagasaki. U.S. wars, like practically all wars, fail to meet the criteria of a "just war" when given closer scrutiny.

Despite the terrible truth of war—that civilians are regularly targeted and deliberately massacred—ideals of the "just war" remain important tenets of Western thought, providing the normative basis for a number of international treaties designed to protect noncombatants in war. This is, therefore, a real contradiction that the United States, as a hegemonic nation, must manage: on the one hand it must legitimate wars as being for worthy causes and efforts that will not result in the massacre of unarmed persons; whereas, on the other hand; actual wars result, almost across the board, in exactly these kinds of outcomes. Western states, including the U.S., have traditionally managed this outcome through two techniques: dehumanization and the production of ignorance.

Through processes of dehumanization, state officials and other elites may portray enemy soldiers—and often civilians—as subhuman, inhuman, or as being barbarous and outside the bounds of civilization (Dower 1993; Steuter and Wills 2008). Such treatment of others may pave the way for mass violence waged against unarmed persons, for instance by increasing the likelihood that military commanders and soldiers, filled with hatred and contempt, will commit acts of violence against noncombatants and by lowering the likelihood that, if such attacks occur,

they would be sanctioned at home (Dower 1993). In this way, state officials may use techniques

of dehumanization as a means of obscuring the contradictions between ideals of the "just war,"

and the horrible realities of actual warfare.

Dehumanization is aided and abetted in Western societies like the United States by long-

standing ideals of white supremacy. For instance, the United States' territorial development as a

nation occurred through a series of wars against Native Americans and Mexicans that were

legitimated through "manifest destiny," or the idea that a fictive but nonetheless glorified racial

group called Anglo-Saxons were a chosen people preordained to conquer and govern the entire

North American continent (Horseman 1983). These notions of white supremacy facilitated the

dehumanization of Native Americans, who were portrayed as being savage, inferior, expendable,

and/or doomed to annihilation during America's military campaign to dispossess them of their

land (Horseman 1983). Likewise in World War Two, Japanese Americans were portrayed as

being both ape-like subhumans and superhuman warriors who would stop at nothing to kill[5]

(Dower 1993). These portrayals justified, in Dower's (1993) apt phrase, the "war without

mercy" waged by the United States.[6] In the Vietnam War, soldiers and the U.S. public were

socialized to think of Vietnamese as "gooks," and as being otherwise less than human (Keen

1986; Steuter and Wills 2008). Most recently, Afghani and Iraqi militants—real or suspected—

have been cast as carriers of a powerful but irrational "Islamofacism," and as such are

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[5] While the U.S. state also sought to dehumanize German soldiers in World War Two, these
attempts were not nearly as vicious as those attempts made to dehumanize the Japanese (Dower
1993). This is likely due to longstanding notions of white supremacy, but also may have not
been as necessary, considering that the U.S. war in Europe against Nazi Germany more clearly
matched conceptions of the "just war," whereas the war against Japan was more clearly a battle
between two superpowers over colonial territory and geopolitical control.

[6] Dower (1993) also shows how the Japanese state drew on age-old notions of Japanese racial
superiority to justify their own "war without mercy" on Chinese, Philippine, Indonesian, and
American soldiers and civilians.

dehumanized as violent religious zealots that, according to the portrayal in some popular media and by high-ranking U.S. officials, must be exterminated (Steuter and Wills 2008).

Beyond dehumanization, and what might properly be called the demonization, of enemies and civilians, the United States has legitimated violence against unarmed civilians through state secrecy and the production of ignorance. Freudenburg and Alario (2007) argue that a population's shared belief in the legitimacy of a state policy is only one of the means, and probably not the most important means, by which states may achieve legitimation. Freudenburg and Alario are more interested in the ways that states maintain legitimacy by enacting policies that escape public awareness, even if such policies undermine or contradict the interests, norms, or ideals of large segments of the public. This, Freudenburg and Alario (2007: 146) argue, is "the 'dark side' of legitimation—which depends heavily on evading attention." Following this line of thinking, the United States is likely able to maintain the legitimacy of militaristic policies through secrecy to prevent the public from becoming fully aware of the consequences of state violence. This production of ignorance is often times made easier by the fact that U.S. forces may be committing violence in distant places away from the public eye.

Wars, after all, do terrible things to human populations and to individual human bodies that are hard to reconcile with ideals of the "just war." The U.S. invasion of Iraq, for instance, caused the deaths of at least one hundred thousand people and created millions of refugees. Many of those killed, including children, died when bullets or shrapnel from bombs tore into their bodies, causing fatal amounts of blood loss and/or organ failure. To the extent the American public remains unaware of the humanitarian consequences of U.S. military policies, they are less likely to oppose state violence and American militarism, and the more likely these policies will retain their legitimacy.

To bring this all together, the United States is structurally predisposed to war due to its dominant position in the world economic and political system. But, if the U.S. is to exercise hegemony, this violence must be broadly deemed legitimate. Traditionally, U.S. state violence has been legitimated through long-standing and widely-shared ideals of the "just war," something that typically requires the dehumanization of enemies and the suppression of information regarding the actual human costs of war. These tactics of legitimation are, however, confronted with relatively new humanitarian challenges that insist on the humanity of all persons (countering the dehumanization of enemies) and focus attention on wars' humanitarian impacts (diminishing ignorance and increasing public awareness). These humanitarian challenges, described in the next section, require additional responses from the U.S. government, which will be the focus of the dissertation.

STATE VIOLENCE AND THE HUMANITARIAN CHALLENGE

Beginning in the late 1800s, states sought to formalize conceptions of the "just war" by introducing legal restraints on warfare, for instance to secure protections for captured or wounded soldiers, to protect civilian populations, to enact universal prohibitions on certain weapons, and even to promote disarmament and limit the sizes of militaries and amounts of armaments[7] (Roberts 1994). While efforts toward disarmament failed, multilateral treaties emerged that have since come to be called the "Laws of War." These international agreements resulted in bans on certain kinds of weapons, such as explosive bullets (The Saint Petersburg Declaration of 1868), poisonous or asphyxiating gases (the Hague Convention of 1869 and the Geneva Protocol of 1925), and—more quaintly—the practice of dropping explosives from

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[7] While civil society groups also participated in this process (Finnemore 1996), there is no evidence that states were acting in response to grassroots political pressure.

balloons (the Hague Convention of 1869). During this period states also came to more general agreements on the conduct of war in the four Geneva Conventions instituted between 1886-1929. All four conventions share a common article that noncombatants, including civilians and wounded or captured soldiers, must not be killed, tortured, or otherwise subjected to humiliating or degrading treatment (Blau and Moncado 2007). While the Geneva Conventions, in terms of protections for civilians, were violated by all sides in World War Two, they were reaffirmed after the War by the vast majority of nations.

Efforts to protect unarmed persons in war have been bolstered by what scholars have called the "human rights revolution" to describe successful international and national efforts to affirm the value of human life and to codify norms regarding the relationship between persons and the state. Since the 1970s, the human rights revolution has resulted in the establishment and broad ratification of a number of important treaties, including treaties that affirm political, economic, and cultural rights and ban racial discrimination (Blau and Moncado 2007). Within this context of the "human rights revolution," states, human rights organizations, and the United Nations have sought to strengthen protections for civilians in times of war. For instance the United Nations convened a new Convention Against Torture, which—unlike the Geneva Conventions—requires that states bring criminal proceedings against officials who have tortured others along with other requirements intended to create additional openness and accountability (Convention Against Torture 1984). Outside the UN framework, states have created further agreements to ban the possession and production of chemical weapons (the Geneva Protocol of 1925 was interpreted as only banning the first use of these weapons), landmines, and cluster munitions.

These efforts raise two important questions: First, can international agreements—which in effect formalize universal moral standards—compel the U.S. government to protect the basic rights of civilians and detained combatants in war, i.e. the rights of civilians not to be killed or injured in war and the rights of all persons not to suffer torture or cruel and degrading behavior? Second, if these efforts cannot successfully force the U.S. to abide by universal humanitarian norms, how then do U.S. officials attempt to legitimate condemned forms of violence? In the remainder of this chapter I will lay out several possible courses of action U.S. officials may take in response to effective humanitarian challenges of state violence. These models draw in various degrees from constructionist and structural theories.

RESPONDING TO HUMANITARIAN CHALLENGES: DEVELOPING AND LEGITIMATING POLICY

As previously described, there is a tension between consent and coercion inherent to the United States' exercise of hegemony in the contemporary world-system. This tension becomes especially problematic when new humanitarian norms emerge and are made universal that stigmatize or condemn certain forms of militarily effective acts of violence. A strong constructionist theory expects that, when confronted with such a challenge, the United States will abdicate universally condemned forms of violence, despite their military utility, in order to comply with global norms and preserve the ability to govern the world system by maintaining the acquiesce of other states. To the contrary, a strong structuralist model anticipates that a hegemonic power like the United States will opt for coercion, and—paying little heed to global humanitarian norms—will retain its ability to utilize militarily effective violence despite international condemnation. Reality, of course, is likely somewhere between these two extremes. As such, in this section I present eight potential pathways that exist along a

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continuum, with strong constructionist models at the beginning of the spectrum and strong

structuralist models at the other.

The World Polity School

The world polity school is strongly influenced by social constructionism, which—in the realm of

international relations—maintains that the nations and people of the earth are integrated and

interconnected to the extent that there exists a global political culture of shared principles, norms,

standards, institutions, and legal codes (Boli and Thomas 1997). This global political culture,

theorists in the perspective argue, is adopted by nation-states, strongly influencing—if not

determining—how they behave (Meyer et al 1997). Furthermore, this school of thought insists

that global political culture is not fixed, but can change over time and, as a result, produce

subsequent changes in nation-state development and behavior.

Theorists in this perspective argue that transnational advocacy networks play an

important role shaping, diffusing, and enforcing global culture (Boli and Meyer 1997). They are

"more or less authoritative transnational bodies employing limited resources to make rules, set

standards, propagate principles, and broadly represent 'humanity' vis-à-vis states and other

actors" (Boli and Meyer 1997: 172). They are often comprised of international non-

governmental organizations (INGOs), domestic advocacy groups, churches, labor unions, and

actors within domestic and international governmental institutions (Boli and Meyer 1997; Keck

and Sikkink 1998). As such, they "socialize" states in world culture by bringing "new ideas,

norms, and discourses into policy debates, and serve as sources of information and testimony"

(Keck and Sikkink 1998: 2). To some world polity theorists, INGOs can change global political

culture and, therefore, change the ways states behave simply by developing new norms and transmitting them across the world (Boli and Meyer 1997; Koo and Ramirez 2009).

Once formalized as part of global political culture and adopted as official policy by some states, international norms may then influence state development across the world as one nation after another follows suit through memetic replication (Reed and Adams 2011). As such, these global norms become new standards of legitimacy by which states are judged by other nations and their own citizens (Wotipka and Tsutsui 2008). States therefore change policy to "comply with changing international standards as to what constitutes a proper and legitimate nation-state" (Koo and Ramirez 2009: 1331). A nation that does not conform to global political culture, according to these theorists, courts illegitimacy (Koo and Ramirez 2009).

In regard to human rights and state violence, theorists and researchers from the global polity school contend that, despite states' tendencies toward military violence and their regular violations of human rights, they can be "civilized" by humanitarian norms as they forgo violent practices in order to boost or maintain legitimacy. From this perspective, for example, countries obey human rights laws, join treaties, or create human rights institutions in order to live up to global cultural expectations (Koo and Ramirez 2009; Wotipka and Tsutsui 2008). Finnemore (1996), for example, describes how the International Committee of the Red Cross was able to change the ways national policy-makers thought about wounded soldiers and medical workers on the battlefield in the late nineteenth century. This in turn changed states' behavior at war as they agreed to provide medical assistance to enemy combatants and agreed not to target ambulances or hospitals on the battlefield (Finnemore 1996).

Generally undertaking broad comparative works, research from the global polity school says little about international economic and political inequalities, or the unique position of the

United States in relation to the world's other nations. But by taking these issues into account, it is possible to develop a theoretical model that makes use of the premises and worldviews of social constructionism and the global polity school to explain how the United States, as a hegemonic power, may respond to humanitarian challenges of militarily effective violence. A hegemonic nation, as previously discussed, must govern not through economic dominance alone, but through political power (attaining the consent of the governed) and military force (violent coercion). A global polity school model would emphasize the former and downplay the latter. The model anticipates that, because a hegemonic power must demonstrate moral leadership and must create a credible case that it can represent universal interests, it will sacrifice some forms of militarily effective violence in order to conform its own policies to that of global political culture. If global civil society organizations are able to transform global political culture by introducing and universalizing new humanitarian norms, then this model expects that the United States' policies on military violence will come into conformance over time.[8] Tannenwald (2007) makes this sort of argument in her attempt to explain why the United States has not used nuclear weapons since World War Two, even when it had no fear of nuclear retaliation.

In the aftermath of World War Two, strong normative prohibitions were developed against the use of nuclear weapons, which according to Tannenwald (2007) had a real impact on U.S. policy. In terms of evidence, she points to the Korean War, when the United States had an effective nuclear monopoly, and to the Gulf War as two instances when the U.S. might have utilized nuclear weapons with little-to-no fear of nuclear retaliation. The U.S. instead opted not to use these weapons, according to Tannenwald, because anti-nuclear diplomacy at the United Nations and a powerful anti-nuclear citizens' movement had successfully delegitimated the

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[8] I will compare this model along side other models in a table near the end of this chapter, and will more succinctly lay them out in Chapter Three.

weapons. The use of nuclear weapons in these instances, according to Tannenwald, would mean that the U.S. would be cast outside the bounds of "civilized" international society and would have to pay substantial international political costs that outweighed any immediate military benefits the U.S. would accrue from use of the weapon. In other words, if the U.S. did use nuclear weapons in the Korean War or the Gulf War, it would have remained the world's foremost military power but would have lost the political power to exercise global economic and political/cultural leadership. Another constructionist argument, which will be described in the next section, puts a much greater emphasis on humanitarian advocacy and social movement activism.

The Humanitarian Advocacy and Social Movement Model

While many social scientists deeply care about, and are heartened by, the development of international humanitarian norms, they nonetheless remain skeptical that these changes in global humanitarian culture are in themselves enough to change the violent practices of militarily powerful nations like the United States (Blau and Moncado 2005; Keck and Sikkink 1998). To these scholars, the development and diffusion of humanitarian norms only becomes significant in terms of policy when mass movements or sympathetic politicians exert power in attempts to restrain military violence. This is true in the United States, as will be discussed later in this section, but may also be true internationally. For example, in one exemplary cross-national comparative analysis, Hafner-Burton and Tsutsui (2005) found that a country's signing of a human rights treaty does not automatically mean that the country will adhere to it. However, treaty signing eventually makes a country more likely to comply over time because, the researchers suggest, it empowers human rights NGOs and other civil society organizations to

more effectively challenge their government's bad behavior (Hafner-Burton and Tsutsui 2005). In other words, international norm development and adoption is important, but only in as much as it empowers domestic political actors to exert pressure on political and military elites.

In the United States, the Vietnam War and its vast oppositional movement in the United States is perhaps one example of successful humanitarian advocacy. This movement successfully cast aside the legitimacy of Vietnam as a "just war," being fought for a supposedly noble cause in which civilians were largely spared. The anti-war movement was also disruptive, both threatening the status quo at home and posing challenges to the military's ability to conscript soldiers and command their complete obedience overseas (Gilbert 2001). But the anti-war movement may not be the most appropriate example because it was not entirely "humanitarian," in the sense that much of it was fueled by the draft and the deaths of American soldiers, not just the mass violence that was being indiscriminately visited upon the people of Vietnam. A better example might be the U.S. anti-nuclear movement.

Though never as disruptive and powerful as the antiwar movement, anti-nuclear activists in the U.S. did mount a mass movement, organizing some of the largest protest marches in U.S. history and exerting pressure on the electoral process (Wittner 2009). While the U.S. movement never achieved its ultimate goal of achieving nuclear disarmament, working alongside antinuclear activists in the Soviet Union and Europe, the movement did successfully press U.S. policy-makers to work for and comply with global norms banning aerial testing of nuclear weapons and some reductions on total numbers of nuclear weapons (Wittner 2009). These policy changes were initially resisted by U.S. military and political elites, pointing to the capacity of social movements to place at least some limited humanitarian restraints on U.S. military policy.

The two foregoing examples indicate that mass movements can, to some extent, restrain U.S. military power in the service of humanitarian norms. But such movements are the exception, rather than the rule, in U.S. policy-making. In the absence of mass mobilizations, human rights organizations must typically work with sympathetic members of Congress in order to fulfill any hope of influencing U.S. military policy. While the U.S. Congress, as a whole, enacts policies in that best suit the needs of wealthy Americans (Domhoff 2006), its membership is not entirely monolithic. Human rights organizations, other nonprofit organizations, and social movement groups attempt to educate congressional allies by conducting studies and providing testimony regarding the humanitarian impacts of U.S. state violence and by demonstrating the viability of policy alternatives. Armed with this knowledge, sympathetic members of Congress may attempt, by attaching amendments to legislation or holding up foreign policy-related bills in committees, to push the U.S. government toward the adoption of global humanitarian norms. Such attempts may have very real, even if relatively minor, consequences.

Taken together, this model emphasizes that, while the United States uses military violence—or at least the threat of violence—to exercise global hegemony, it may also face domestic pressures when this violence is inconsistent with global humanitarian standards. When the U.S. government commits egregious violations of international humanitarian ideals, it may face disruptive social movements that make the mobilization of labor and money for global military dominance more challenging. At the very least, well positioned members of Congress, allied with human rights organizations, may push the U.S. military to curtail forms of violence outside the bounds of international respectability. In both cases, the U.S. government— according to this constructionist model—may move its policies on military violence into compliance with international humanitarian norms to achieve greater domestic legitimacy. The

next model introduced here posits that the U.S. government may comply with international humanitarian accords because it actually enhances U.S. military power.

Hegemonic Constructionist Models (Strong and Weak)

One of the founders of the world polity school, Meyer (2010), acknowledges that not all people, organizations, and nations have equal capacity to shape global political culture. There is a "directionality" to global culture, in the sense that it may primarily emanate in Western nations and then disperse throughout the world. Building from this insight, I develop two further models—a strong version and a weak version—which I call "hegemonic constructionism." From the perspective of these models, a hegemonic nation has much greater capacity than peripheral nations to shape global political culture, which means that a hegemonic power can help construct international humanitarian norms and compel weaker nations to adopt the new standards. In this way, a hegemonic nation may further increase its own military power by effectively preventing nations in the periphery from utilizing some types of militarily effective violence. A strong version of hegemonic constructionism anticipates that there is, what I call, a "boomerang effect," in which a hegemonic nation—having successfully constructed a global humanitarian norm—must also abide by the new standard and relinquish its own ability to use the types of violence that the new norm forbids.

This model builds from Price's (1995, 1997) scholarship, in which he makes the argument that Western nations have not used chemical weapons since World War One due to the strength of a supposed "chemical weapons taboo" in global political culture. In Chapter Four I examine U.S. chemical weapons policy and critique Price's argument, which I believe is incorrect or at least glosses over many important details. But for now, what matters is Price's

(1995) argument that Western nations identified chemical weapons as being extremely dangerous in the arsenals of nations in the Global South that could pose a credible nonnuclear deterrent to invasion by Western forces. As such, Western nations, including the United States, sought to stigmatize chemical agents as weapons of mass destruction and as "weapons of the weak" (Price 1997). As for themselves, Western nations—according to Price (1995, 1997) willingly agreed to eliminate chemical weapons from their own arsenals in order to convince non-western nations to do the same.[9]

Contrary to this strong model, a weak version of hegemonic constructionism anticipates that inequality is so great between the nations of the world that, even while a hegemonic nation may play an important role in constructing an international humanitarian norm, it may have the capacity to resist complying with the new standard. So, while the strong model anticipates a "boomerang effect" compelling the United States to comply with an international humanitarian norm of its own making, the weak model anticipates that the United States has some capacity to maintain actual military policies that diverge from its own humanitarian advocacy. The weak model, in other words, identifies a divide between humanitarian rhetorical and actual military policies, something which may be mediated or obscured through what I call humanitized technologies of violence or other more symbolic legitimating techniques.

The Humanitized Technologies of Violence Models

A hegemonic nation must exercise global power through both consent and coercion. But which of these forms of power, the ability to gain the assent of the governed or the ability to utilize

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[9] To Price (1997), chemical weapons certainly are horrible, indiscriminate weapons. But he argues that they are not any more horrible or indiscriminate than many other weapons introduced to the world during World Wars One and Two.

military domination, is more important to a ruling hegemon? The global polity model, the

humanitarian advocacy and social movement model, and a strong hegemonic constructionist

model all anticipate that, for different reasons, the United States—as a hegemonic power—will

sacrifice some forms of militarily effective violence in the interest of legitimacy. Strong

structuralist models, on the other hand, emphasize the importance of military violence in order to

maintain or achieve hegemony. World-systems theorists (Arrighi 2010; Wallerstein 2004a,

2004b), Marxists (Clark and Foster 2009; Harvey 2004), and state-centered theorists that study

U.S. international military domination (Johnson 2004; Klare 2002) all stress the fundamental

importance of the U.S. government to wield military violence in order to achieve foreign policy

objectives. It can thus be inferred then that structuralist theories stress the importance for the

United States—like any other hegemon or competing hegemon—to utilize effective violence

regardless of normative restrictions. The next three models I have developed draw heavily from

these structuralist theories, but attempt to provide more nuanced accounts that also recognize a

hegemonic power's need for international and domestic legitimacy.

One of the ways the United States, as a hegemonic nation, may balance its need to utilize

militarily effective violence with international normative expectations is through the use of

humanitized technologies of violence. The concept being introduced here builds from theoretical

contributions made by Rejali (2007: 25), who argues against a "simple political realism" that

dismisses the capacity of global humanitarian norms to influence state policy. Rejali (2007)

documents the rise of what he calls "clean torture" or "stealth torture," such as the use of stress

positions, sensory deprivation, electrocution, and other means of torture that do not leave lasting

physical evidence on the body of victims. "Clean torture," to Rejali, is attractive to nation-states

because it allows them to utilize a means of violent coercion against detained persons, but

simultaneously allows states to more easily evade the attention and criticism of human rights organizations and other groups that threaten to impose democratic accountability.

In making his account of the rise of "clean torture," Rejali is arguing in favor of a more sophisticated political realism. "Even repressive states know," he contends, "that bad publicity and human rights monitors can undermine the legitimacy, commerce, and foreign aid on which they depend. Stealth torture is one practice that helps states bridge this gap"[10] (Rejali 2007: 26), Other examples of humanitized technologies of violence include police use of electric "tazers," which allow officers to disable persons by administering powerful electrical shocks, while also making police officers less vulnerable to charges of brutality and excessive use of force (see Rappert 2003). "Smart bombs" and other precision weapons may also constitute a type of humanitizing technology because they allow state officials to use militarily effective high explosives while simultaneously allowing them to stress the care taken to avoid harming civilians (see Singer 2009).

Building on these insights, the humanitized technology model anticipates that the United States, as a hegemonic nation, will attempt to develop and/or institute new technologies in order to balance its structurally necessitated need to utilize effective violence alongside a need to comply, or at least to appear to comply, with international humanitarian norms. I break this model into two further possibilities. The first, what I call an "authentic" pathway, anticipates that the U.S. government will not give up universally condemned forms of violence, but will instead implement new technologies to make this violence less deadly or less overtly cruel. I refer to such technologies as being "humanitized" to stress that they are, after all, referring to

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[10] While I study U.S. policy on torture in Chapter Five and, ultimately, disagree with Rejali's contention that there has been a "global transformation in the means of torture," I also recognize the importance of his theoretical insights.

techniques of violence and can therefore never in themselves be made humane, even if created and implemented in response to a humanitarian challenge. While the use of humanitized violence is, according to this "authentic" model, a legitimating strategy, it is not simply a rhetorical or discursive technique, as a strong structural position would expect. It is a real shift in the use of state violence made by the United States in order to balance the tensions between consent and coercion inherent to the exercise of hegemony.

I want to also leave open the possibility, however, that new policies requiring humanitized technologies may be superficial and may do very little to actually address the humanitarian consequences of state violence. This further possibility is captured by an "inauthentic" humanitized technology pathway. This model, in other words, is closely akin to other structuralist perspectives that expect the U.S. will not adhere to international humanitarian restraints if it means giving up effective forms of violence.

The Symbolic Legitimation Model

While strong structuralist theories suggest that the U.S. will remain steadfast in its use of effective military violence regardless of humanitarian challenges, studies in this perspective do not attend to issues of potential normative restraints in global political culture. One of my goals in the course of this dissertation is to fill this gap in the literature. I do so by proposing two further theoretical models. The first, called the "structural militarism" model, predicts that global political culture and issues of legitimacy matters so little that humanitarian norms have little-to-no impact on state behavior in pursuit of global dominance. The second, more nuanced model, which I call the "symbolic legitimation" pathway, agrees that the United States' need to utilize militarily effectives violence is more important than its need to comply with global

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humanitarian standards in pursuit of hegemony. But, according to this model, the U.S. still has a

strong interest in at least creating the appearance that it respects global normative restraints in

war. Consequently, the United States is expected to symbolically legitimate contested policies of

violence through three main techniques—defensive categorization, the use of humanitizing

discourse, and surrogacy—which will be described below.

Defensive Categorization: Social constructionist analyses have long demonstrated that the

meanings of objects and actions are not fixed (Blumer 1969; Mead 1932). Quite the contrary,

meaning is something that is subjected to ongoing negotiation. Different actors with differing

political goals will engage in contests over meaning, and those with greater power and resources

have a much greater chance of prevailing in such conflicts (Bonds 2007; Heiner 2010). This

means that what is and what is not an internationally condemned or prohibited act of violence is

not entirely clear-cut, but is also a matter of interpretation and an arena for potential political

contest. Through the legitimating tactic of "defensive categorization," state officials attempt to

make the case that a certain act of state violence is quite different and altogether separate from

another stigmatized category of violence, even if humanitarian advocates—or even a reasoned

analysis—suggest otherwise.

Defensive categorization is most effectively practiced by state officials when new or

altered technologies of violence are introduced that differ, even if in minor ways, from those

initially condemned by humanitarian norms and international humanitarian agreements. The

technique emphasizes those aspects of the new weapon that are different from earlier

technologies, while ignoring or downplaying similarities between the two. In practicing

defensive categorization, the "newness" of contested techniques and technologies need not be

that new at all. State officials often have the capability to take advantage of the vagaries of

collective memory, which is often quite limited and is never a complete or "objective"

representation of historical events (Rejali 2007). For instance, the limitations of collective

memory and remembrance means that, though the United States prosecuted Japanese officials for

war crimes for, in part, subjecting prisoners to water boarding (which involves restraining

prisoners and choking them with water), U.S. officials could—several decades later—argue that

its own use of water boarding was not a form of torture but was simply a "new" technique of

"enhanced interrogation" (Wallach 2007).

Humanitizing Discourse: Studies of world political culture have identified the problem of

"decoupling," which refers to instances in which affirmations of global culture do not necessarily

translate into actual changes in a state's behavior (Meyer 2010). For instance, Cole (2009) found

that countries are more likely to adopt a human rights accord the less likely it is to be enforced,

which indicates that there is likely an important divide between a state's affirmation of human

rights and its actual policies. More to the point, Hafner-Burton and Tsutsui (2007) [11] show that

governments that regularly commit human rights abuses are just as likely as other states to have

signed the UN Covenant on Civil and Political Rights and the International Convention Against

Torture. Significantly, this research finds that there is no evidence to conclude that, as a whole,

the human rights practices of repressive regimes improve after signing human rights accords

(Hafner-Burton and Tsutsui 2007). It does mean, according to Hafner-Burton and Tsutsui, that

repressive regimes may sign humanitarian accords in an attempt to deflect attention from actual

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[11] This is a different study than Hafner-Burton and Tsutsui's 2005 study, which found evidence
to support the contention that international agreements can strengthen domestic social
movements efforts to force their nations to comply with international humanitarian norms.

human rights practices. This has much to do with a legitimating strategy that I call the use of a humanitizing discourse.

There are several ways that state officials may attempt to use a humanitizing discourse in order to legitimate contested forms of violence. Through most of these efforts, state officials attempt to recall and reassert ideals of the "just war." They may do so, for instance, by utilizing euphemisms and technical jargon to refer to the death and destruction caused by war, a technique Bourke (2006: 29) aptly describes as the use of "the language of civility employed in the art of killing." A classic example is, of course, the phrase "collateral damage," spoken to refer to unarmed and innocent persons killed in a military strike.

Officials may also use humanitizing discourse to stress the extreme care the U.S. military takes to avoid humanitarian harms when using contested weaponry. Of course, such claims are often misleading and may simply not be true. One example is, in the run-up to and during the United States' first attack on Iraq during the Persian Gulf War, officials placed tremendous emphasis on the precision weapons used by the military and their ability to "pin-point" targets and avoid civilian harms (Singer 2009). These representations did not acknowledge, however, that "smart bombs" were only a small fraction of the total number of bombs dropped in Iraq, which resulted in many civilian deaths (Broughton 1996).

United States officials may also use a humanitizing discourse in defense of contested forms of violence by stressing alleged humanitarian benefits. Some historical examples can illustrate this point: For one, U.S. officials have attempted to justify torture by claiming that it is necessary in order to obtain time sensitive information from terrorists or enemies that can be

used to save lives[12] (Rejali 2007; Sands 2008). Furthermore, wars are increasingly justified in

recent times as being fought in the interest of human rights and democracy (Bricmont 2006). So,

for instance, while the United States initially justified the Iraq War as being waged in self-

defense due to Saddam Hussein's chemical weapons capabilities, when no chemical weapons

were found, the war was justified as being fought to bring democracy to the people of Iraq and to

protect them from a ruthless tyrant. Likewise, the Afghanistan war has at times been legitimated

as being fought to liberate the Afghani people—particularly women—from the reprehensible

human rights practices of the Taliban, never mind that many U.S. allies in Afghanistan—and for

that matter, around the world—have equally poor human rights records (Bricmont 2006).

This particular type of a humanitizing discourse is an example of diversionary reframing

(see Freudenberg and Alario 2007), in which U.S. officials hope to change the topic of debate

from the actual humanitarian impacts of war and state violence to the promised humanitarian

benefits of a war or conflict. Diversionary reframing may also be practiced by U.S. officials

when they attempt to divert attention from the death and suffering caused by U.S. violence to the

death, suffering, and human rights abuses committed by U.S. enemies. For instance, Hooks and

Mosher (2005) describe how U.S. officials sought to change the public focus from U.S. torture in

the wake of the Abu Ghraib scandal, caused when images of horrible acts of violence committed

by U.S. soldiers at the prison were shared with the public. Secretary of Defense Donald

Rumsfeld told reporters, "does it rank up there with chopping someone's head off on television?

It doesn't." Senator James Inhofe stated that the tortured persons depicted in the Abu Ghraib

photos are "murderers, they're terrorists, they're insurgents. Many of them probably have

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[12] U.S. officials have not, however, presented the public with one example where this is the case.
Most researchers who study state use of torture contend this is a very poor way to obtain
actionable intelligence since those being tortured tend to tell their torturers whatever it is they
imagine the torturer wants to hear (Rajali 2007; Sands 2008).

American blood on their hands" (quoted in Hook and Mosher 2005: 1630). Beyond the use of defensive categorization and a humanitizing discourse, U.S. officials may attempt to legitimate contested forms of state violence through surrogacy.

Surrogacy: Through this legitimating technique, the United States can direct other governments to utilize weapons or violent practices that may breach international humanitarian norms, often supplying these governments with contested weapons and a means of deployment. Surrogacy provides the United States plausible deniability by allowing it to argue that it is not ultimately responsible for any violations of international humanitarian norms. For instance, during the Cold War era, the United States provided military training, weapons, and funding to states and paramilitaries in Central America that violated long-standing international norms by committing torture and by massacring civilians (Chomsky 1985). While doing so, these states and militaries were not only acting to achieve their own goals, but also acting to further U.S. geopolitical and economic interests (Chomsky 1985).

More recently, leaked diplomatic cables between the Yemeni government and the U.S. revealed that Yemeni officials were willingly claiming responsibility for missiles fired into the country by the U.S. aimed at insurgent groups (Amnesty International 2010). This was certainly in the interest of the Yemeni government, which did not have to disclose to its citizens that the United States was directly attacking rebels within its borders and infringing on Yemeni sovereignty. This was also in the interest of the United States, which did not have to take responsibility for the cluster bombs it fired through Cruise missiles that killed 41 civilians, including fourteen women and twenty-one children, in one 2009 attack (Amnesty International 2010). In this way, through surrogacy, U.S. officials can—directly or indirectly— utilize forms

of contested violence while reducing public scrutiny, thereby limiting the same degree of humanitarian challenge it might face if it carried out these acts more overtly.

SUBSTANTIVE AND SYMBOLIC PATHS TO LEGITIMACY

U.S. wars and violence, like those in all Western nations, have traditionally been legitimated with the idealization of a "just war," fought for noble ends and in ways that minimize death and harm to unarmed persons. The fact that modern industrial wars necessarily result in the killing of thousands, at times millions, of civilians, which is at odds with notions of a "just war," is obscured through the dehumanization of enemies and through the production of ignorance, through which domestic and international publics may be kept in the dark about the human consequences of mass violence. Global humanitarian efforts, particularly because they insist on the universal personhood of civilian victims of war and because they seek to inform publics about wars' terrible effects, pose a real challenge to these traditional legitimating techniques.

The United States, in this context, is put in a bind. With the world's most powerful military, the U.S. can exercise tremendous violence to achieve geopolitical and economic goals in the contemporary world. However, if the United States hopes to exercise hegemony, and not just military dominance—that is by making a convincing case that U.S. power is universally beneficial and does not only serve the narrow interests of U.S. elites—it must employ violence in ways that are broadly deemed legitimate. Differing sociological models, drawing in various degrees from constructionist and structuralist theories, predict different responses from the United States when confronted with humanitarian challenges. These perspectives are summarized in Table 2.

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Table 2
Summary of Models of U.S. Response to Humanitarian Challenges

Model	Type of Legitimacy	Expectation (between humanitarian norms and military utility)
Global Polity	International	Norm compliance
Humanitarian Advocacy	Domestic	Norm compliance
Hegemonic Constructionist (strong)	International	Norm compliance
Humanitized Technology (authentic)	International and domestic	Compromise between norm compliance and military utility
Hegemonic Constructionist (weak)	International	Rhetorical affirmation of norm, violation of norm in policy
Humanitized Technology (inauthentic)	International and domestic	Appearance of compromise between norm compliance and military utility
Symbolic Legitimation	International and domestic	Violation of norms in policy, cloaked through legitimating techniques
Structural Militarism	None	Norm has no bearing on state policy

The models which draw most heavily from social constructionism—including the global polity model, the humanitarian advocacy and social movement model, and the strong hegemonic constructionist model—all anticipate that the United States will move its military policies into alignment with global humanitarian standards. From these perspectives, complying with normative constraints on violence is in the interest of U.S. hegemony. Structural theories suggest that the ability to exercise militarily effective violence is more important to a globally

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dominant power like the United States than acting in compliance with international norms. The strongest structural model anticipates that humanitarian norms do not matter at all. A more nuanced structural theory predicts that the United States will act to legitimate its use of contested forms of violence through the techniques of defensive categorization, the use of humanitizing discourse, or through surrogacy. The U.S. may further seek to achieve legitimation by requiring new technologies to make state violence less cruel or harmful to civilians, or at least appear to be so. In the course of the remainder of this dissertation I will adjudicate between these models by studying the empirical cases of U.S. policy development regarding chemical weapons, torture, and landmines.

Chapter 3

METHODS

In this dissertation I utilize a case study approach, based on archival data, to understand the development and legitimation of U.S. policies on weapons and violence. Ultimately, I accomplish two goals. First, I adjudicate between the constructionist and structuralist models described in the preceding chapter in order to understand if the United States, in the pursuit of hegemony, will alter its policies on military violence to bring them into closer accord with international normative expectations, or if the U.S. will instead remain steadfast in using universally condemned forms of violence. Provided that the results confirm the latter, I work to further understand how the U.S. seeks to legitimate policies on military violence that are contrary to global humanitarian ideals. In this section I will describe my methodological approach to theory testing, narrative construction, and case analysis. I will also discuss some important limitations of the study.

ASSESSING THE THEORETICAL MODELS

Case study methodologies can be very effective at assessing the potential value or inadequacies of rival theoretical models (Flybjerg 2001; George and Bennett 2005; Yin 2009). In order to evaluate competing explanations, Yin (2009) advocates the use of the straightforward analytic strategy of "pattern matching," through which one operationalizes competing theoretical perspectives into a series of predicted events, which are then compared to actual case histories. In developing and articulating testable rival theoretical positions, Mahoney (2000: 412) urges case study researchers to pay particular attention at identifying causal mechanisms, which "can

be defined as the processes and intervening variables through which an explanatory variable exerts a causal effect on an outcome variable." Attention to causal mechanisms, in other words, allows a researcher to develop and assess nuanced theoretical models that postulate different causal pathways between events that may lead to a similar outcome[1] (George and Bennet 2005). Taken together, the logic of this method of analysis is to compare nuanced theoretical models with the historical record in order to ascertain which predictions are borne out and, therefore, which theoretical perspectives are best supported by the empirical evidence (Yin 2009).

Following the pattern matching approach, I have operationalized the expectations from social constructionist perspectives and more structurally oriented theories on global political culture and state violence into eight testable pathways, which were discussed in the previous chapter. I developed these models through an iterative process, advocated by Yin (2009), in which I began my research project with a few much simpler theoretical propositions but, after spending some time in data collection and evaluation, went back to account for other rival explanations I had not initially anticipated and to develop more nuanced models. The final set of theoretical predictions are operationalized as follows:

The Global Polity Model: Humanitarian norms can shape U.S. policy on wars and violence, due primarily to the United States' need to maintain international legitimacy.

Evidence needed to substantiate model: The United States abdicates a form of militarily effective violence in order to comply with a well-recognized international norm (without the presence of

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[1] For an example, the global polity and strong hegemonic constructionist models both anticipate a relationship between an international norm and state policy, but for different reasons. For the global polity school, this has to do with the power of the norm itself, whereas this has much to do with military advantage from the hegemonic constructivism model.

strong pressure exerted from a domestic social movement or humanitarian activists with powerful Congressional allies).

The Humanitarian Advocacy and Social Movement Model: Humanitarian norms can shape U.S. policy on wars and violence due to social movement pressure and the United States' need to maintain domestic legitimacy to mobilize resources and labor for war.

Evidence needed to substantiate model: The United States abdicates a form of militarily effective violence in order to comply with a well-recognized international norm due to the pressure exerted from a social movement or humanitarian activists with powerful Congressional allies.

The Strong Hegemonic Constructionist Model: The United States will advocate for the formalization of a humanitarian norm in order to control the violence and military power of nations in the Global South. In so doing, the United States will eventually abide by the norm.

Evidence needed to substantiate model: It is possible to identify the "boomerang effect," in which the U.S. advocates for and then abides by a humanitarian norm when it gives up its ability to use a type of militarily effective violence.

The Weak Hegemonic Constructionist Model: The United States will advocate for the formalization of a humanitarian norm in order to control the violence and military power of nations in the Global South. The United States, however, will not abide by the new norm.

Evidence needed to substantiate model: The United States advocates that other states comply with a humanitarian standard, but does not comply with the standard itself by abdicating a militarily effective form of violence.

T**he Humanitized Technology of Violence Model (Authentic):** The U.S. will seek to achieve a compromise between norm compliance and the ability to maintain militarily effective force by requiring new technologies to make contested forms of violence less cruel and less harmful to civilians in war.

Evidence needed to substantiate model: The humanitized technology implemented by the U.S. has the real capacity to eliminate or reduce humanitarian problems, *and* the implementation of this policy is motivated out of humanitarian concern (i.e. these technologies are not simply more effective forms of military violence given a humanitarian packaging).

The Humanitized Technology of Violence Model (Inauthentic): The U.S. will maintain its capacity to utilize militarily effective forms of violence despite international and domestic condemnation, but will also seek to ameliorate humanitarian concerns by implementing technologies that may make contested forms of violence appear to be less brutal or less harmful to civilians.

Evidence needed to substantiate this model: The humanitized technology required by a new U.S. policy has little capacity to actually reduce the harms caused by a contested type of military violence, and/or the implementation of this policy is not motivated primarily out of humanitarian concern (i.e. the new policy may simply require a new technology that makes the form of violence more militarily effective, though it is given a humanitarian packaging).

The Symbolic Legitimation Model: The United States will not abdicate a militarily effective form of violence despite the existence of a well-recognized humanitarian norm that condemns its

use. U.S. officials will work, however, to legitimate this contested form of violence through the techniques of defensive categorization, surrogacy, and humanitizing discourse.

Evidence needed to substantiate the model: The existence of a universal norm that condemns a particular kind of violence does not inhibit the U.S. from using it. But U.S. officials will attempt to obscure the gap between the humanitarian norm and its military policy.

The Structural Militarism Model: The United States will not abdicate a militarily effective form of violence despite the presence of well-recognized humanitarian norms.

Evidence needed to substantiate the model: The U.S. uses an internationally condemned form of violence and makes no effort to hide or legitimate its use.

In order to adjudicate between these competing models through the logic of pattern matching, I conducted historical/archival research to chart out the development of U.S. policy and its legitimation. I sought out the evidence needed substantiate each of these various models, paying particular attention to the development of humanitarian norms (formalized by widely-accepted international treaties); the humanitarian advocacy of the U.S. government, social movement actors, or nongovernmental organizations; the military effectiveness of particular types of weapons; and potential legitimating techniques. I organized this evidence into case narratives for my three topics of study, which I then used to evaluate the merits of the rival theoretical models. (Data collection and narrative construction are more fully discussed later in the chapter). I did so with the understanding that these predicted pathways are not necessarily mutually exclusive, but that the evidence I collected may affirm some combination of two or more models.

Evaluating theoretical models based on case study research necessarily involves some discretion on the part of the researcher (Yin 2009). However, such discretion can be limited when the case study researcher includes data that is contradictory to his or her overall research conclusions, such that readers have ample opportunity to assess the validity of the researcher's conclusions (Flyvbjerg 2001). Yin (2009) further recommends that case study researchers work to anticipate counterarguments to their initial evaluations of the data. Doing so might require the researcher to reevaluate his or her conclusions. At the very least, doing so may assist the researcher in making a stronger case by raising potential objections to his or her arguments within the study, but then demonstrating that they pose no real challenge to his or her conclusions. When case study researchers follow these recommendations, according to Flyvbjerg (2001: 82), they "typically report that their preconceived views, assumptions, concepts, and hypotheses were wrong and that the case material has forced them to revise their hypotheses on essential points." This is all to say that, by undertaking a conscientious method that is disciplined by the presence and plausibility of rival explanations, a case study researcher can minimize the possibility that his or her discretion has biased the research findings toward verification or falsification of particular theories. I can say that using this model of case analysis and following this model in the course of this dissertation research has led me to revise my own initial expectations and has certainly challenged some of my own preconceived notions.

The three cases I selected—on chemical weapons, torture, and landmines—are well-suited for my research purposes because the international norms that condemn each are so broadly accepted, at least in the sense that they have been formalized into international treaties

that have been ratified by the great majority of nations in the world.[2] By undertaking the three

case studies, as opposed to evaluating one case, I can achieve literal and theoretical replication of

my findings (Yin 2009). Through literal replication, one case study can be used to confirm the

results of another study, and as such provide much more support for the dissertation's cumulative

findings than would be possible with one study (Yin 2009). More importantly, through

theoretical replication, multiple cases can be used to support the findings of a larger research

project even if the outcomes of individual studies are not the same, provided of course that these

findings differed because of predicted and theoretically consistent reasons (Yin 2009). Through

theoretical replication, then, a researcher can draw out and explain differences between cases

while simultaneously demonstrating the value of a single theoretical framework. In conclusion,

by using the pattern matching method of analysis, I adjudicate between constructionist and

structuralist models of state policy development. In completing this dissertation, I also study the

legitimation of universally condemned forms of violence.

STUDYING TACTICS OF LEGITIMATION

To study tactics of legitimation, I primarily used methods of frame analysis. According to

Goffman (1974: 10) "definitions of a situation are built up in accordance with principals of

organization which govern events… and our subjective involvement in them; frame is the word I

use to refer to such of these basic elements." Reese (2010: 17) describes frames as cultural

principles that "work symbolically to structure the social world." Frame analysis is a widely-

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[2] The Convention on Chemical Weapons has been ratified by 188 states. The Convention
Against Torture and Other Cruel, Inhuman, or Degrading Treatments or Punishments has 147
state parties. And the International Mine Ban Treaty has been fully recognized by 156 nations.
(To give some context, the United Nations has 192 member states.)

used social science methodology in which researchers identify the ways that political actors attempt to communicate their preferred meanings of issues and events (D'Angelo and Kuypers 2010). This method of analysis calls attention to the ways actors highlight or feature certain aspects of the world as a means to attain political goals, but ignore or disregard other features of the world that are not consonant with their political interests. Using frame analysis, I examined how U.S. officials attempt to legitimate contested weapons by arguing that they have humanitarian benefits or fall outside the definition of categories of violence that have been outlawed by international norms and conventions. I further pointed to humanitarian harms that such violence may create that are excluded from official discourse, despite being relevant and necessary to a public understanding of any U.S. policy. Attention then, or inattention, to politically salient details must be studied in any analysis of legitimation (Freudenberg and Alario 2007). In order to study the legitimation of contested forms of violence and evaluate the merits of constructionist and structuralist models, I build case narratives from archival data.

DATA COLLECTION AND NARRATIVE CONSTRUCTION

I constructed the case studies presented in this dissertation based on data collected from several archival collections, supplemented with historical newspaper searches and other academic research on the relevant topics. The archival documents I examined are publically available and include White House memos, meeting notes, and press conference transcripts; Department of Defense reports, analyses, and "incident records;" congressional testimony; and reports and investigations from human rights organizations. The study on chemical weapons policy benefits from the release of the internal records of the Kennedy, Johnson, and Nixon administrations that, if not for the passage of time, would otherwise be classified. I found these documents in the

collections of the Vietnam Center and Archive, the Department of State's Office of the Historian

archive, and the John F. Kennedy Presidential Library archive. The case study of U.S. policy on

torture benefits from the unsanctioned release of more than 400,000 separate "incident reports,"

known as the "Iraq War Logs," that have been compiled into a searchable datasheet and made

publically available by the organization *Wikileaks*. I searched for terms such as "torture" and

"abuse" and "beating" in order to identify relevant records in this very large database. Finally,

the case study on U.S. policy regarding landmines lacks the same sort of internal documents that

benefited the investigations of policies on chemical weapons and torture. But in constructing

this particular case, I was able to take advantage of the excellent work completed by a coalition

of human rights organizations that produce the annual *Landmine & Cluster Munition Monitor*,

which documents year-to-year changes in policies on these weapons for the nations of the world

and includes official state justifications for those policies.

In each of these case studies, I supplemented data collection from primary sources by

conducting newspaper archive searches. Doing so had two main benefits. First, these newspaper

accounts were useful to confirm my initial understandings of the chronology of events I gathered

from the primary texts. Second, newspaper searches provided accounts of the ways U.S.

officials attempt to frame the use of contested weapons and other related policy developments. I

utilized LexisNexis Academic searches whenever possible to collect relevant newspaper articles.

However, because the LexisNexis database begins in 1980, I used ProQuest Historical

Newspaper searches, which—while not as comprehensive as LexisNexis—holds archives of

major American newspapers for much earlier periods of time.

Finally, my research benefited from several important academic works, including *The

Chemical Weapons Taboo* by Price (1997), *Operation Ranch Hand: The Air Force and*

Herbicides in Southeast Asia 1961-1971 by Buckingham (1982)—an official U.S. Air Force history on the use of chemical weapons in Vietnam—and Rejali's (2007) encyclopedic and terrifying book *Torture and Democracy*. While my own conclusions differ from those made by these authors, I nonetheless benefited from their scholarship. Each book drew my attention to important events and primary source documents, while also providing me important theoretical insights that deserved consideration.

As I collected data I simultaneously evaluated and organized it. I gave each document a close reading through content analysis, which, according to Berg (2009: 338), is the "careful, detailed, systematic examination and interpretation of a particular body of material in an effort to identify patterns, themes, biases, and meanings." I then entered and organized the data into separate databases for each case, including separate categories for source, description of events, and full-text excerpts of official statements and newspaper quotes (Yin 2009). After evaluating this data in relation to its theoretical significance, and after coding the various legitimating attempts I identified, I used these spreadsheets to write case narratives to report my findings. While doing so, I kept in mind that the goal of narrative construction is not to grossly simplify reality or to select information that substantiates one theoretical perspective over another. Rather, my goal in data collection and narrative construction was, as advocated by Flyvbjerg (2001: 84), to capture "all the complexities and contradictions of real life." It was through this process that I constructed and evaluated my case studies, which—as I will demonstrate—proved to be a very effective means of theory testing and theory building. But it is important to note that this method, like all methods of social research, has limitations.

METHODOLOGICAL LIMITATIONS

A case study methodology based on historical/archival research is certainly an appropriate way, if not the only practical means, to study the development and legitimation of U.S. policies on weapons and violence. Nonetheless, this approach has several notable limitations. First, I was obviously limited to archival documents that are publically available. Governmental secrecy is a major obstacle in this line of research; it is important to remember, after all, that secrecy is one strategy of legitimation. I have no doubt that relevant documents to these studies remain classified, especially in regard to the cases on torture and landmines. However, the leak of the "Iraq War Logs" was of great benefit to my research on torture and to public understanding more generally. There is some hope that, in the "age of Wikileaks," governmental secrecy will be more difficult for U.S. officials to preserve and will be a boon to researchers such as myself.

Additionally, while the case study method is an effective tool that can be used to demonstrate weaknesses in an existing theory, like all scientific methods, it cannot be used to definitively prove the validity of a competing explanation, despite potentially providing strong evidence in its favor. What this means, in the context of this research project, is that I cannot definitively prove that legitimation is an effective causal mechanism that allows the U.S. government to effectively neutralize humanitarian challenges in order to maintain its ability to use militarily effective forms of violence in the pursuit of hegemony. This is all to say that I cannot answer this important question: does legitimation work?

While I cannot answer this question, through the course of this research I can, however, point to multiple instances in which each of the previously described legitimation strategies were used by U.S. officials. The consistent use of these strategies indicates that while it may not work every time for every person, like advertising, it may work enough of the time for enough people

to be effective. Whether or not official attempts to legitimate violence work, I hold that it is an important topic of study regardless, if only out of a democratic impulse to understand the operation of one's own government and to educate the public about its workings.

This point brings up another limitation of the research. I am studying U.S. policy development and legitimation, and so my findings cannot be extended to nation-states in general. Policy development and legitimation are likely very different in countries with other cultures and other histories. Nevertheless, focusing on the United States alone is, of course, warranted because it is a hegemonic power, or at the very least has pretensions to hegemony, and so maintains the most powerful military in the world, which it often uses and keeps constantly deployed across the globe. This means that U.S. policies on violence are not only a concern for U.S. citizens because they affect millions of people around the world. But, as a citizen of this nation and as a student pursuing my education during an especially violent time in U.S. history, I feel a special obligation to focus attention on my own country and the ways its military force is legitimated, along with considering potential ways its violence may be constrained.

Chapter 4

DEFENDING CHEMICAL VIOLENCE:
THE UNITED STATES' USE AND LEGITIMATION OF TOXIC WEAPONS

It is widely presumed that the United States, like all Western nations, disavowed the use of

chemical weapons in the aftermath of World War One and has not used them since. A case

study of U.S. policies on the use of chemically toxic weapons[1] shows a more complicated

history, one which presents a real puzzle to social scientists (see Table 3). On one hand, the

United States seems to have acted in accord with the very strong and nearly universal

humanitarian norms that condemn the use of chemical weapons. First, the U.S. signed the

Geneva Protocol in 1925, which prohibits nations from being the first to use chemical weapons

in war, and later ratified the accord in 1975. More recently, the U.S. ratified the Chemical

Weapons Convention of 1993, which is a stronger treaty that requires nations to eliminate their

chemical weapons stockpiles.[2] Perhaps more importantly, the United States has not used

chemical agents intended to kill enemy soldiers through asphyxiation or by causing chemical

burns, as was done during World War One[3]. This evidence then does seem to provide some

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[1] I define a chemical weapon as one that is used primarily for its chemically toxic
properties. While the lead in bullets or the depleted uranium in anti-armor shells is
chemically toxic, both are obviously used in war for other purposes and so do not
constitute chemical weapons.

[2] While the United State has not fully complied with its treaty obligations under the Chemical
Weapons Convention by destroying its chemical weapon stockpiles, it has decommissioned these
weapons and has destroyed approximately 70% of the stored chemicals (Osborne 2010).
Continued destruction of the remaining stockpiles is ongoing (Osborne 2010).

[3] The U.S. did use white phosphorous in 2004 during the Iraq War, which may indeed constitute
the use of a prohibited weapon according to international treaty obligations. Strictly speaking,
however, this would be considered the use of an incendiary weapon and not a chemical weapon

support for constructionist models that predict that global humanitarian norms can have a real

impact on state behavior.

TABLE 3
U.S. Policy on Toxic Weapons

Year	Event
1925	Signs Geneva Protocol, which prohibits the first use of "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices."
1941-1945	Refrains from using chemical weapons in World War Two.
1950-1953	Refrains from using chemical weapons in Korean War.
1961-1971	Uses large amounts of herbicides in Vietnam War as a defoliant and to destroy food crops.
1965-1972	Uses large amounts of incapacitating gases in Vietnam, including tear gas, enhanced tear gas, and nauseating agents.
1969-present	Supports drug crop eradication with herbicides in—at various times— Mexico, Burma, Pakistan, Guatemala, Panama, Belize, and Columbia.
1975	Ratifies the Geneva Protocol.
1997	Ratifies the Chemical Weapons Convention, which prohibits chemical warfare and commits all signatory nations to destroy their chemical weapons stockpiles. The Convention classifies incapacitants as prohibited weapons.

On the other hand, there is much evidence that is contrary to the expectations of

constructionist models, but more clearly substantiates those that emphasize social structure in

their explanations. The main evidence is that U.S. has used toxic weapons in its recent history,

in the form of irritant-type gasses used in Vietnam and in the form of herbicides regularly used

by the U.S. from the 1960s to the present time. The use of these gases in wars and conflicts meet

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because white phosphorous kills due to the intense heat it generates through combustion, and not
through its chemical toxicity (BBC 2005).

the definition of chemical weapons, which are, according to the Geneva Protocol, "asphyxiating, poisonous or other gases, and of all analogous liquids, materials or devices" (treaty text provided at ICRC 2011). This chapter shows that, when U.S. officials made the decision to use or continue to use herbicides and incapacitating gases in the Vietnam War, they were well aware that they would be violating humanitarian standards, but chose to disregard them in the interest of military utility. Even after the United Nations General Assembly eliminated any ambiguity in the text of the Geneva Protocol by declaring in 1969, with resounding support, that herbicides and incapacitating gases constitute chemical weapons banned by international agreement, the United States continued to use incapacitating gases through the remainder of the Vietnam War and has continued to use herbicides as a weapon up to the present day.

Taken together, this case study provides little outright support for a global polity pathway, which expects that a hegemonic nation like the United States will largely abide by long-established and well-recognized humanitarian norms in the exercise of hegemony. It does, however, provide some support for a humanitarian advocacy and social movement model, in that humanitarian and anti-war activists mounted important challenges to U.S. chemical weapons policy, eventually winning recognition from a presidential administration that herbicides and incapacitating gases used in war are types of chemical weapons. The chapter will show, however, that this recognition was quite limited due to the United States' continued use of the herbicides as a kind of military violence. There is greater support for a model of hegemonic constructivism.

Price (1995. 1997) argues in favor of the model that I call hegemonic constructivism when he theorizes that there is a very powerful chemical weapons "taboo" in global political culture that has had a real impact on state policy development. Price argues that attention to this

norm is necessary to explain why immediately lethal chemical weapons, of the sort used in World War One, have not been used since by Western nations and, more generally, why chemical weapons have been used so little in recent times. Price argues that this is not simply due to a supposed lack of military utility, as chemical weapons could be used very effectively by modern militaries to kill large numbers of people and sow fear and terror in an enemy population, which are outcomes often valued by military planners. And while the nations that used chemical weapons in World War One inadvertently exposed their own troops to the toxins, resulting in major casualties, this is not an inherent quality of chemical weapons because, with more advanced weaponry, they can be remotely delivered without fear of friendly exposure (Price 1997). Finally, Price contends that this so called "non-use" of chemical weapons is not simply due to fear of retaliation either, because there are numerous historical instances when a nation with the capability of using chemical weapons chose not to do so, even when there was no possibility of a retaliatory chemical attack.

To Price, the effectiveness of this norm has much to do with the political power of Western nations and their own military interests. Ever since a global norm stigmatizing chemical weapons was developed and formalized in global political culture, according to Price (1995: 95), it has "come to function as a symbol of the hierarchical relations of domination in the international system." The first nations to ban chemical weapons were "civilized" states and, as the global polity model might predict, non-Western states that sought too to become "civilized" also banned the weapons in emulation (Price 1995). In the latter half of the century, however, Western nations foisted this normative restraint on the rest of the world when they stigmatized chemical weapons as "weapons of the weak" and the "poor man's bomb." According to Price (1995, 1997), it made good military and geopolitical sense for Western states to pressure nations

in the Third World to abandon chemical weapons stockpiles, because such weapons could pose a real, non-nuclear, threat to Western military intervention.

Price makes an argument that is closely akin to what I call a strong hegemonic constructionist model in that he contends that when the United States and other nations helped co-construct an international norm stigmatizing chemical weapons, they too became subject to the norm and consequently acted in accordance with the restraints it imposed. A strong model of hegemonic constructivism, in other words, anticipates what I call a "boomerang effect" to norm construction. But in making his argument that the U.S. became effectively subject to an international norm prohibiting the use of chemical weapons, Price (1995, 1997) ignores the United States' use of herbicides and incapacitating gases in Vietnam, and the later U.S. use of herbicides as an instrument of violence in its global "war on drugs." Taking these facts into account, the case study as a whole finds much more support for a weak version of hegemonic constructivism, which anticipates that a dominant nation like the United States will have some capacity to both pressure other countries to comply with a global norm while at the same time exempting its own military policies.

In this chapter I attempt to assess the value of these competing theoretical models by taking a fresh look at U.S. chemical weapons policy. The next section shows, through archival evidence, that the Kennedy and Johnson Administrations chose to use herbicides and incapacitating gases in the Vietnam War despite a clear awareness that doing so would be contrary to international humanitarian norms. The following section moves on to examine the United States' more recent use of herbicides, in combat zones and in the context of counter-insurgency campaigns, to destroy drug crops around the world, which I argue constitutes the continued use of a chemical weapon. Taken together, these sections show that there has often

been a divide between international humanitarian expectations and U.S. military conduct. This divide, the chapter further establishes, has been obscured by U.S. officials who have utilized three major legitimating techniques: surrogacy, humanitizing discourse, and—first and foremost—defensive categorization.

THE USE AND LEGITIMATION OF HERBICIDES IN VIETNAM

Despite having signed the Geneva Protocol of 1925 prohibiting the first use of chemical weapons in war, the U.S. Army Air Corps—later to become the U.S. Air Force—anticipated that chemical weapons would be widely used in the future, and that the chemicals would be primarily deployed by aircraft (Buckingham 1982). The Air Corps began preparing accordingly, designing, manufacturing, and purchasing equipment, conducting tests, and developing low-altitude spray techniques (Buckingham 1982). In so doing, "by the 1930s the Air Corps had discovered the basic principles of aerial chemical delivery which would guide the use of herbicides in the 1960s" (Buckingham 1982: 3). Moreover, the U.S. began purchasing equipment in the 1950s that would later be used in Vietnam (Buckingham 1982). Thus, being well-prepared, the U.S. military put forward a plan to the Kennedy Administration in 1961 to use herbicides to defoliate landscapes and to destroy food crops in Vietnam in response to the escalating war (Buckingham 1982).

The Joint Chiefs' of Staff official recommendation of this plan to President Kennedy is notable because it indicates an awareness that the use of herbicides may be considered chemical weapons and may be greeted with widespread disapproval by the nations of the world (Gilpatric 1961). The recommending memo, for example, states that: "The basic problem is to weigh the political/military effects within Vietnam, along with the possibility of adverse reaction outside of

Vietnam" (Gilpatric 1961). In the case of crop destruction, it states, "militarily, it may make a lot of sense..." but goes on to say that, however, "the use of chemicals to destroy crops is perhaps the worst application in the eyes of the world." For this reason, the memo gives two options. The first is,

> To avoid the use of the material wholly on the grounds of net adverse political reaction and, particularly of worldwide disapproval. On this, we have no clear judgment, since it depends on factors that can be best judged by the Department of State.

The second option is to "go ahead with a selective and carefully controlled program starting with the clearance of key routes, proceeding thereafter with food denial..." (Gilpatric 1961). After the Secretary State seconded the recommendation, President Kennedy quickly approved the use of herbicides to defoliate areas in Vietnam (Rusk 1961). These internal conversations are important evidence that, even though U.S. policy-makers acknowledged a worldwide political cost, they still decided to use a controversial weapon.

The Kennedy Administration, however, did not immediately approve the use of herbicides for crop destruction. Members of the Administration expressed much more concern that this particular use of herbicides would be violating a humanitarian norm and would be strongly condemned throughout the world. While the Department of Defense continued to advocate for crop destruction, it acknowledged that its main drawback "is in the psychological arena," and that it "will doubtless give rise to communist and some neutralist propaganda" (McNamara 1962). Edward R. Murrow, the director of the U.S. Information Agency, wrote to McGeorge Bundy, Kennedy's Assistant Secretary for National Security, urging restraint on use of herbicides, unless it is the only way to win the war. Murrow (1962) wrote,

> We have a tradition in this country of not using food as a weapon of war. Chemical and biological warfare are subjects which arouse emotional reactions at least as intense as those aroused by nuclear warfare… No matter how reasonable

> our case may be [to utilize chemicals to destroy food crops]. I am convinced that
> we cannot persuade the world—particularly that large part of it which does not
> get enough to eat—that defoliation "is good for you."

The Department of State eventually came to advocate against the use of herbicides to destroy food crops in Vietnam, arguing that any military benefit would be offset by the international condemnation that would result from violating an international norm against the use of chemicals to destroy food. Secretary of State Dean Rusk (1962), for instance, wrote to the President that, "The use of strange chemical agents, to destroy crops, strikes at something basic implanted in human beings (even if the people do not—as many will—fear that the chemical agents are also directly harmful to people)." Despite an awareness that the use of chemicals to destroy food would be condemned as violating international humanitarian norms, the Kennedy Administration eventually approved crop destruction missions in 1962. Both these developments, the Kennedy Administration's approval of herbicides for defoliation of landscapes and its approval of chemical crop destruction, provide evidence that though policy-makers knew there would be an international political cost, it was a price worth paying in order to utilize what they thought to be a militarily effective weapon.

Domestic and International Opposition to the Use of Herbicides in Vietnam

The above evidence shows that policy-makers in the Kennedy Administration were clearly concerned that using herbicides to destroy vegetation that could provide cover to enemies and to destroy food crops would cause international controversy and cause a political backlash. The concerns were soon confirmed. The public, and many members of the U.S. Congress, first learned about this use of chemical agents in Vietnam through an article published in the *St. Louis*

Post Dispatch, that in effect claimed the U.S. was engaged in chemical warfare in Vietnam. The

article stated that the U.S. was employing a,

> System of spraying the land with poison to kill plants that provide the
> Communist-led guerrillas with food and shelter. Officials hope it can be effective
> in helping starve out and flush out the enemy Viet-cong. Details are secret, but it
> is known that converted U.S. Air Force planes sweep across the countryside
> spraying poison from nozzles along their wings to destroy rice fields around
> insurgent strongholds and to strip the brush from roadsides where the enemy
> sometimes hides in ambush (quoted in Kastenmeier 1963).

Taken aback by this report, U.S. Senator Mike Mansfield entered the article into the

congressional record, along with other contemporary articles critical of U.S. military tactics in

Vietnam. Also moved by this article, U.S. House of Representative Member Robert

Kastenmeier wrote a letter of protest to President Kennedy, stating that he understood U.S.

policy on chemical weapons was to never use them, other than in retaliation for a chemical attack

made by an enemy. But, Kastenmeier (1963) wrote, the Kennedy Administration had evidently

altered this policy because,

> This country is at this moment engaged in the use of chemical weapons in South
> Vietnam, against persons who have neither the capability of using such weapons
> themselves, nor the ability to defend themselves from the use of such weapons by
> us.

Kastenmeier ended his letter by encouraging Kennedy to alter his administration's policy on

chemical weapons, so as to return to the policies of previous administrations, by pledging not to

use chemical weapons other than in self-defense.

While the Kennedy, Johnson, and Nixon Administrations would all face further criticism

from members of Congress, more public opposition came from antiwar activists and scientists.

The U.S. Antiwar Movement became a powerful force in domestic U.S. politics throughout the

late 1960s, which not only opposed the Vietnam War in general but also decried the use of

herbicides as a kind of military violence (Gilbert 2001). Opposition also came from well-

recognized and outspoken scientists during the era, who regularly petitioned the government and

otherwise spoke out against the military's use of herbicides and incapacitating gases in Vietnam,

specifically classifying them as chemical weapons[4] (Cohn 1968; New York Times 1966a;

Reinhold 1969; Ristrop 1967).

Importantly, the United States not only faced domestic opposition to its use of herbicides

and incapacitating gases, it also faced a profound rebuke from abroad in 1969, which came in the

form of a vote from the United Nations General Assembly on a resolution to formally interpret

the Geneva Protocol of 1925 as prohibiting "any chemical agents of warfare—chemical

substances, whether gaseous, liquid or solid—which might be employed because of their direct

toxic effects on man, animals, or plants" (quoted in Baxter and Buergenthal 1970: 865). The

vote on the resolution was 80-3, in which the only dissenting votes came from the United States,

its Australian ally also fighting in Vietnam, and Portugal, a country that had recently employed

herbicides in its war to maintain imperial control over its African colony of Angola (Baxter and

Buergenthal 1970). This vote demonstrated, as clearly as can be possible, that world opinion

condemned the U.S. use of herbicides and incapacitating gases as prohibited types of chemical

weapons (this will be further discussed later in the chapter). However, even when confronted

with this domestic and international humanitarian opposition, elite decision-makers did not

immediately conform U.S. policies to international standards. To the contrary, the U.S. military

continued using herbicides throughout its war in Vietnam. Faced with this division between

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[4] The Federation of American Scientists passed a resolution condemning the use of herbicides as
a violation of the Geneva Protocol as early as 1994 (AOR 2011). In one particularly notable
incident, in 1966 seven Nobel Prize winning scientists, along with other prominent colleagues,
signed and submitted a petition to President Johnson to stop using incapacitating gases and
herbicides in Vietnam, which they specifically called chemical weapons. They wrote that, "even
if it can be shown the chemicals are not toxic to man, such tactics are barbarous because they are
indiscriminate" (quoted in New York Times 1966a).

humanitarian standards and military policy, U.S. officials employed several legitimating strategies.

The Legitimation of Herbicides in Vietnam

Throughout the United States' war in Southeast Asia, and in response to both domestic and international humanitarian challenges, officials sought to defend the U.S. practice of spraying large amounts of herbicides to defoliate landscapes and destroy food crops using several strategies of legitimation, including defensive categorization, surrogacy, and by using a humanitizing discourse. Of these three strategies, defensive categorization may have been the most important. Through this technique, officials deny that the military is using a condemned form of violence. They attempt to make such denials convincing by stressing how different a contested form of violence is compared to other types of violence that are universally recognized as barbaric and impermissible. In the case of chemical weapons, officials sought to do this by claiming that the herbicides used in Vietnam were the same as those widely used for agricultural and industrial purposes around the world.

For instance, when the Chiefs of Staff presented their proposal to President Kennedy to use herbicides for defoliation and crop destruction in Vietnam, and asked for his approval, they were already practicing defensive categorization by claiming that the chemicals are "commercially produced in this country and have been used for years in industrial and agricultural plant growth clearance operations" (Gilpatrick 1961). Similarly, in preparation to legitimate the use of herbicides in war, a State Department functionary wrote the Director of the U.S. Information Agency stating that, "Publicity ought to emphasize the fact (I believe it is a fact) that the chemical agents involved are the same kind that are used by farmers against weeds"

(Neilson 1961). And in a subsequent memo sent out to prepare U.S. embassies for press inquiries regarding defoliation, the Department of State (1961) advised telling reporters that, the "operation involves use of material which are similar to those used everyday for clearing rights of way in the United States. As our people know from experience, these defoliants of the 2-4D variety [including Agent Orange] are not harmful to humans, animals, or the soil."

This rhetorical strategy would continue to be used throughout the war. One example of defensive categorization comes from a 1965 *New York Times* article, which reads, "Officials describe the crop destruction chemical as a commercial week killer, identical with a popular brand that many Americans spray on their lawns. It is not poisonous, and officials say that any food that survives its deadening touch will not be toxic or unpalatable" (Mohr 1965). Another example comes from a press conference held in 1968, in which U.S. officials told reporters,

> No chemical is in use here that has not been thoroughly tested and available on the American domestic market. [Officials] said that one of the agents sprayed from planes over Vietcong areas is a chemical popularly used to fight crabgrass in America (Lescazee 1968).

Again and again throughout the Kennedy, Johnson, and Nixon Administrations, archival evidence shows that officials claimed that the herbicides used in Vietnam were widely used and commercially available and, it is therefore implied, could not possibly be considered chemical weapons.

The logic of defensive categorization requires a very narrow interpretation of what constitutes a prohibited form of violence. In the case of chemical weapons, such a narrow interpretation means that a chemical weapon, in order to be defined as such, must cause direct, immediate, and intentional harm through exposure. The logic U.S. officials were relying on in their practice of defensive categorization was made explicit in a letter sent by the Kennedy Administration in response to Representative Kastenmeier's letter, which had—as mentioned

above—accused the U.S. government of using chemical weapons in Vietnam. In reply, Assistant Secretary of Defense William Bundy (1963) wrote that "in the Republic of Vietnam, the use of chemical and biological weapons has not occurred, and the compromise of moral principles has not been an issue." This was true, he explained, because,

> As you are aware, chemical warfare as defined by international law requires injury to the physical person of the enemy. The chemicals that have been used are weed-killers of the same types… used—especially by farmers—in the United States and other countries. They are commercially available in the United States and many other countries. They are not injurious to man, animals, or the soil (Bundy 1963).

Despite such claims, there are many reasons why herbicides, as used by the United States in the war in Vietnam, could be considered chemical weapons. Certainly, they were used for their chemical toxicity and could reasonably be considered "poisonous or other gasses" banned by the Geneva Protocol of 1925, as the United Nations General Assembly later determined and, as we will see, as the Ford Administration later acknowledged. The actual text of the Geneva Protocol does not include, after all, a stipulation that in order to be considered a prohibited chemical weapon, a toxic weapon used in war must cause direct harm to a person and could not also be a commercially available product, despite the Kennedy Administration's own interpretation of the treaty.

Regardless, while it is now known that these herbicides produced tremendous physical harms to the people of Vietnam—over successive generations—due to their carcinogenic and teratogenic effects, this was not common knowledge at the time.[5] But Kennedy Administration

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[5] The major manufacturers of 2,4,5-T, which is the major component of Agent Orange and other herbicides used by the government in Vietnam, were aware of the presence of dioxins in this widely-used herbicide, but they did not disclose this information to the public. While Dow Chemical claimed, in its legal defense against a lawsuit filed by Vietnam War veterans, that it told Secretary of Defense McNamara about dioxin contamination in 1965, this remains unsubstantiated (Chicago Tribune 1983).

officials must have known that destroying food crops with chemicals, in effect creating hunger

and potentially killing persons through starvation, was causing a kind of "injury to the physical

person of the enemy," and to civilians alike.[6] In this sense, using herbicides to destroy food

crops could constitute the use of a chemical weapon even by the Kennedy Administration's own

narrow interpretation. But such logic undermines the practice of defensive categorization, and is

therefore suppressed and certainly not made part of the official discourse.

U.S. officials consistently used defensive categorization to defend the United States' use

of herbicides in Vietnam. Judging by this consistency, the fact that it shows up again and again

in the historical record, U.S. officials likely deemed it an effective legitimating strategy. But it

was far from the only legitimating techniques U.S. officials used. They also sought to legitimate

the use of herbicides used to destroy food crops through surrogacy.

Legitimating Herbicides in Vietnam through Surrogacy

Through the legitimating strategy of surrogacy, the U.S. government directs other nations or

armed groups to utilize weapons or violent practices that may breach international humanitarian

norms. In addition, the U.S. government often supplies the weaponry and a means of deploying

it. In doing so, the U.S. government may be able to meet its own policy goals while also

reducing negative international or domestic political costs. Surrogacy, in other words, provides

U.S. policy-makers with the ability to plausibly deny that they are responsible for any violations

of international humanitarian norms committed by client states or armed groups, even when they

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[6] Members of the Kennedy Administration knew, for example, that the first major crop
destruction campaign had, by the military's estimate, destroyed enough rice to feed 1,000 people
for an entire year (Joint Chiefs 1963).

are acting in ways that suit U.S. geopolitical or economic interests. The U.S. has practiced surrogacy to legitimate its use of toxic weapons.

When U.S. policy-makers first decided to conduct herbicidal crop destruction missions in Vietnam, they elected to provision the Republic of Vietnam's military with the equipment and technical knowledge necessary to carry them out. A memo from the Department of Defense to President Kennedy, for instance, stated, "American participation would be as unobtrusive as possible and limited to technical advice and assistance" (McNamara 1962). So, while the first crop destruction missions utilized American supplied helicopters, herbicides, spray equipment, and technical advice, they were conducted by Southern Vietnamese pilots and soldiers (Joint Chiefs 1963). Direct surrogacy, however, was not a long-term practice in that, by 1964, the U.S. government began carrying out crop destruction missions in Vietnam and Laos itself because its fixed-winged aircraft could spray greater areas, had a longer range, and were not as vulnerable to enemy small arms fire compared to the U.S. supplied Vietnamese helicopters (Buckingham 1982). Regardless, officials claimed up until 1965—misleadingly—that U.S. aircraft were not involved in any crop destruction missions[7] (Raymond 1965). But U.S. officials did not only attempt to use strategies of defensive categorization and surrogacy to legitimate the use of herbicides in Vietnam, they also sought to use a humanitizing discourse.

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[7] U.S. crop destruction missions were, to some extent, an open secret by 1965 (Mohr 1965). But it was not until 1966 that the U.S. government took responsibility for the program, when it released an official statement in response to the hunger strike of a landscape architect living in New York, who demanded in his protest that the government inform the public about its crop destruction campaigns (New York Times 1966b).

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The Use of Humanitizing Discourse to Legitimate Herbicides in the Vietnam War

Through the use of a humanitizing discourse, U.S. officials attempt to legitimate contested forms

of violence by emphasizing the care taken to avoid civilian harms. This tactic was well-used

during the Vietnam War, where U.S. officials regularly stressed how careful military planners

were to avoid directly spraying civilians or their crops. For example, a press release distributed

by the Republic of Vietnam for U.S. reporters reads,

> Great care has been taken to select areas which would do most harm to Viet Cong
> insurgency and least harm to the local population… Occasionally, single houses
> or small hamlets were in areas sprayed, but as indicated above, herbicides were
> used which are nontoxic to humans, animals, and water (Republic of Vietnam
> 1963).[8]

Following this official lead, a news reporter for the New York Times wrote in 1965, "officials

say that elaborate pains are taken to prevent defoliants from falling on areas inhabited by friendly

civilians" (Beecher 1965). An article the following year states, "the key to the defoliation

question is discrimination. If the weapon is used discriminately, it can be effective. At least this

is the official appraisal here of the strictly technical aspects of the United States' defoliation

program... Defoliation is carefully controlled" (Oka 1966).

Officials also repeatedly stressed that care was taken to ensure that herbicides were only

used to destroy food crops in areas "known to be used to produce food for Vietcong military

units" (Mohr 1965). For instance, a question and answer sheet distributed by the State

Department to advise U.S. embassies around the world on how, among other things, to speak

about the military's use of herbicides included this hypothetical exchange:

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[8] In order to further stress the alleged safety of the herbicides in use, the press release goes on to
say that, "in at least one instance, when local people expressed the fear that herbicides had
rendered their water supply impotable, government military officers immediately drank water in
front of them" (Republic of Vietnam 1963).

QUESTION: How can you justify the deliberate destruction of rice fields and other crops by herbicide spraying? Isn't this taking food from the mouths of poor farmers and their families, and gaining nothing but hostility?

ANSWER: The destruction of rice fields and other crops impedes the Viet Cong. Crop destruction has taken place only in areas fully controlled by the Viet Cong for a considerable period of time. There the harvested foodstuffs, used solely by the Viet Cong, sustain the attackers in their military operations and their acts of terrorism against innocent civilians. Farmers in areas where crops are to be destroyed are warned in advance and given assistance if they leave such areas and come under GVN [Government of Vietnam] protection as refugees. (USIA 1967: 18)

Later attempts were made to convince the public that civilians were not harmed by the use of herbicides to destroy food crops because, officials stressed, the U.S. only targeted cultivated lands in "remote" areas. For example, an article from the New York Times states that crop destruction campaigns "are targeted on pockets of land cultivated by enemy troops in the largely unpopulated areas of central Vietnam. No food denial mission has been flown in an area with a government-registered population of more than 20 people per square mile, the officials said" (Lescaze 1968).

The humanitizing discourse used by U.S. officials, however, was not an accurate reflection of real world events. Recent geographical estimates—using archived flight records of spray missions—contradict claims that U.S. officials exercised a great deal of caution to avoid spraying civilians (Stellman et al. 2003). Quite to the contrary, records show that 3,181 hamlets were directly sprayed. Based on military estimates of the populations of these communities, a minimum of 2.1 million persons were underneath U.S. planes that were showering down Agent Orange and other herbicides[9] (Stellman et al. 2003). Further contradicting claims of care and discretion to avoid civilian harm, studies commissioned by the U.S. military itself during the

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[9] This estimate does not include the hundreds thousands of people who were directly sprayed while traveling along roads, working in fields, or otherwise outside their communities but still underneath U.S. planes.

Vietnam War demonstrated that herbicidal crop destruction campaigns largely impacted civilian

farmers (Bretts and Denton 1967). Internally, despite the military's humanitizing discourse,

officials acknowledged that "available evidence indicates that the civilian population in VC

[Vietcong] controlled areas bears the brunt of these operations" (Warren 1968: 27). So, taken

together, defensive categorization, surrogacy, and the use of a humanitizing discourse were all

used to legitimate the military's use of herbicides in Vietnam and Laos. Many of these same

tactics, as we will see, were also used to legitimate the use of incapacitating gases used in the

war.

THE USE AND LEGITIMATION OF INCAPACITATING GASES IN VIETNAM

Unlike the case of herbicides, the U.S. military began using incapacitating gases—which

includes tear gas, tear gas-like weapons, nauseating agents, and other nonlethal gasses—in

Vietnam without presidential knowledge. The Johnson Administration was, in fact, taken by

surprise in 1965 by the international controversy created after the U.S. military attacked villages

in the Boi-Loi Woods in an attempt to defeat the soldiers of the National Liberation Front[10]

active in the area while pushing civilians into "strategic hamlets," or government controlled

refugee camps. U.S. jets first bombed the area, then sprayed surrounding forests and rubber

plantations with herbicides, and then inundated the area with napalm and incendiary bombs in

an—ultimately unsuccessful—attempt to create a self-sustaining forest fire that would destroy

any tree that could provide enemy cover (Buckingham 1982). The campaign created an

international controversy. But this controversy did not, surprisingly, focus on the U.S. military's

total campaign of mass destruction in Boi Loi Woods. Rather, the controversy focused more

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[10] I use this term to describe communist and nationalist soldiers in Vietnam, rather than
"Vietcong," which is a term coined by the U.S. military.

specifically on the U.S. use of tear gases and other incapacitating agents on civilians to force them from their homes and villages in the midst of the campaign.

The Johnsons Administration quickly learned that the use of incapacitating gasses would be decried as the use of a chemical weapon, for instance through articles in major world newspapers such as France's *La Monde* (Frankel 1965), from congressional allies (Frankel 1965; Johnson 1965), and by officials in an allied government. The *New York Times*, for instance, reported that this is the "first time the U.S. has used gas in warfare since WWI" (Frankel 1965) and Democratic Senator Frank Morse told reporters that the tactic was "justly condemned by the general opinion of the civilized world" (quoted in Frankel 1965). U.S. Senator Mike Mansfield, a powerful Democratic ally in the Senate, made a more quiet protest in the form of a letter to the President, questioning whether the use of incapacitating gases may do more harm to the U.S. in regard to international opinion than any military advantages it could give in Vietnam [11] (Johnson 1965). The United States also faced criticism from members of Britain's governing Labor Party, which had otherwise been an important international supporter of the U.S. war in Vietnam. The protests of Labor Party Ministers of Parliament pushed the United Kingdom's Foreign Secretary Michael Stewart to arrange a meeting with President Johnson in order to express concerns about the United States' gassing of civilians in Vietnam. According to the U.S. ambassador to the U.K., who also attended the meeting,

> [Foreign Secretary] Stewart kept reverting to the uproar in Britain over the use of non-lethal gas by the South Vietnamese air force. The cable lines are hot with protests, petitions are pouring forth from MP's, Americans are being denounced for resorting to barbarous and horrible weapons (Bruce 1965).

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[11] In his letter, Mansfield also questioned the overall logic behind the ever-increasing military escalation in Vietnam (Johnson 1965).

In response to the international and domestic outcry over incapacitating gases in Vietnam, the Johnson Administration implemented a temporary ban to consider whether or not continued use should be approved. Though there was some dissension in the Administration, coming from Special Assistant for Science and Technology Donald Horning (Horning 1965), the administration as a whole—including the Secretary of Defense, the Secretary of State, and the Special Assistant for National Security—supported the continued use of incapacitating gases. Writing on behalf of the Joint Chiefs of Staff, McGeorge Bundy (1965) wrote the President, "There will be some international criticism, but even the *New York Times* is resoundingly with us on this. I do not worry you with the pros and cons because it seems to me that the common sense of the matter is so clear." Johnson soon gave his approval for the continued use of incapacitating gases in Vietnam.

Though these gases were in themselves nonlethal, they were primarily used by the U.S. military as a means of forcing suspected enemies out of bunkers, trenches, and other protected areas so they could be more easily killed by conventional weaponry. Used as such, the U.S. government determined that these gases were a very important military tool that would continue to be used despite ongoing international condemnation, objections from prominent scientific organizations, and protests from members of the U.S. Congress. In fact, the scientists and scientific organizations advocating against the use of herbicides in Vietnam were just as opposed to the use of incapacitating gases, which they also condemned as a type of chemical weapon (see Ristrop 1967). And it is important to remember that the UN resolution that explicitly categorized herbicides as prohibited weapons under the Geneva Protocol also, quite intentionally, also condemned incapacitating agents (Baxter and Buergenthal 1970). In response to this

humanitarian opposition, U.S. officials sought to obscure the gap between humanitarian norms and actual military policy.

The Legitimation of Incapacitating Agents in the Vietnam War

In attempts to legitimate the use of incapacitating gases in Vietnam, U.S. officials used the strategies of defensive categorization and humanitizing discourse. Through defensive categorization, officials claimed that such gases were simply "riot control gases" or tear gases commonly used by police around the world, and therefore could not plausibly be considered chemical weapons. For instance, when President Johnson met with the UK Foreign Secretary in an attempt to dampen down the international uproar after the U.S. military sprayed incapacitating gases on civilians in the Boi Loi Woods, he claimed that "the gas was one in common use by our own police forces, was frequently employed for quelling riots, and was stocked by many countries" (Bruce 1965). Likewise, Secretary of State Rusk (1965) gave a press conference after the incident and the resulting international uproar in which he stated,

> The shadow of gas warfare has been raised in connection with these incidents. That is not involved. We are not embarking upon gas warfare in Viet-Nam… We are not talking about gas that is prohibited by the Geneva Convention of 1925, or any other understandings about the use of gas. We are talking about a gas which has been commonly adopted by the police forces of the world as riot control agents—gases that are available commercially, and have been used on many occasions, some in this country; and on many occasions in other countries.

Later, in a 1965 press conference,

> Secretary of Defense Robert S. McNamara, acting as spokesman for the Administration, limited his comments to stressing the point that the gases used were commercially available riot-control agents widely used throughout the world in quelling civil disturbances (Margolis 1965).

U.S. officials would use this rhetorical strategy in successive years, and indeed throughout the war, to legitimate the use of incapacitating gases. For instance, a question and answer sheet put

out by the U.S. Information Agency, created to U.S. embassies around the world to help prepare

officials for press inquiries, includes this hypothetical dialogue:

> QUESTION: Why do you use poison gas against the other side? Don't you adhere to the Geneva Conventions which prohibit this kind of warfare?

> ANSWER: Neither the RVN [Republic of Vietnam] nor any of its allies has used poison gas… Tear gas is a nontoxic agent which police forces use for riot control in almost every country of the world as a means of limiting violence and casualties… Its use is not contrary to any Geneva Convention (USIA 1967: 19).

Archival evidence shows that the Johnson Administration, and later the Nixon

Administration, consistently sought to legitimate incapacitant-type gases by claiming that they

were commercially available and widely used for law-enforcement purposes, and therefore

should not be considered a type of weapon banned by the Geneva Protocol of 1925. There are

inconsistencies, however, with such claims-making. First, the actual context in Vietnam was

very different than that to which it was being compared: the U.S. was not using tear gas in police

actions but in military campaigns where it was simultaneously dropping bombs and firing

bullets. Second, the scale was very different between police use of tear gas—which implies

infrequent and sporadic use—and the regular and sustained use of incapacitants by the U.S.

military in Vietnam, which regularly deployed them by helicopter, high powered fans, and

through shells and bombs.[12] Finally, while the U.S. regularly claimed that these incapacitant

gasses were the same tear gasses used by police around the world, officials later acknowledged

that much of the gas used by the military was a "super" tear gas created to last longer in the

environment and was not actually used by police (Committee on Foreign Relations 1971).

Furthermore, U.S. forces also, at least initially in the war, often added a nausea agent that could

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[12] The U.S. military itself estimated that it had purchased and transported more than 13,000,000 pounds of incapacitant gasses for use in Southeast Asia between 1964 and 1969. A Harvard biologist at the time estimated that this was enough gas to effectively cover 80,000 square miles (Wilson 1969).

induce vomiting for up to two hours after contact (Frankel 1965; Margolis 1965). Archival evidence further shows that the Johnson Administration knew that the tear gases used in Vietnam and those used in domestic police work were very different as early as 1965 (Horning 1965), but Administration officials nevertheless practiced defensive categorization by claiming that the two were one and the same.

These above inconsistencies cast doubt about U.S. claims that its use of incapacitant-type gasses should not be considered a type of chemical warfare banned by the Geneva Protocol. The text of the Protocol and the context in which it was written raise further misgivings. After all, the Protocol seeks to ban "asphyxiating" gasses, and tear gases certainly may seem to fall into this category because they induce coughing and make breathing more difficult. And while the U.S. hoped to promote a narrow definition of the Geneva Protocol as banning only lethal chemicals, the drafters of the Protocol never made such a specification and likely had non-lethal incapacitants in mind. They were, after all, the first chemical gases used in World War One and constituted up to a tenth of all chemical agents used throughout the war (Coleman 2005). Despite these inconsistencies, defensive categorization was likely an effective tool used to legitimate toxic weapons in the Vietnam War, as was the use of a humanitizing discourse.

The Use of Humanitizing Discourse to Legitimate Incapacitating Gasses in Vietnam
U.S. officials also regularly sought to defend the use of incapacitating gases in Vietnam with a humanitizing discourse, which did not stress so much the care taken to avoid civilian exposure, as with herbicides, but instead stressed that the use of a contested weapon may have humanitarian benefits. This rhetorical strategy is well-expressed in a 1965 New York Times article that reads, "US officials claimed gassing the village was more humane than bombing it or

sending in a barrage of artillery" (Frankel 1965). Throughout the War, officials—including

President Johnson—argued that the use of incapacitating gas was "authorized in an effort to save

lives" (Johnson 1965) and that the gas did little harm to persons, having "only a temporary

effect" (Committee on Foreign Relations 1971) of "nausea, choking, and copious weeping"

(Washington Post 1972). *The New York Times*, in two editorials, contributed to this

humanitizing discourse, for instance by writing,

> If the Government prohibits the use of tear gas, it will thereby condemn to certain
> death or injury many more Americans and Vietnamese than the absolute
> necessities of the war demand. Nonlethal riot-control gases can be far more
> humane and will cause far fewer casualties than many of the weapons now being
> used in Vietnam (New York Times 1965).

And the Department of Defense continued to maintain in 1969 that, "these riot control agents

frequently make it possible to capture enemy soldiers unharmed and are particularly useful in

reducing civilian casualties when the enemy has infiltrated into populations centers or built-up

areas or is believed to be holding civilian hostages" (quoted in New York Times 1969).

Despite these claims, the historical record indicates that incapacitating gases were not

used to achieve humanitarian goals, but because they increased the capacity of the U.S. military

to kill suspected enemies. A former official in the Johnson Administration, George Bunn, who

participated in constructing the humanitarian rationale for the use of incapacitants later

acknowledged this in congressional testimony. He stated that "the humanitarian justification

given to the United Nations was not observed in practice... From saving civilian and enemy

lives—tear gas had become simply a better killer—at least in some of its uses" (Committee on

Foreign Relations 1971: 54). This same point was made much earlier, in 1965, by a former

administration official who complained to the *New York Times* that "the American use of tear gas

in Vietnam does not match the humanitarian justification for its use given by the government"

(New York Times 1965b). The former official was further quoted as saying, "Large numbers of

tear gas grenades have been dropped on Vietcong strongholds from helicopters that were

followed by B-52s dropping explosive or anti-personnel-fragmentation bombs" (New York

Times 1965b). In other words, the U.S. was not using incapacitants to save lives. It was using

them, much like in World War One, to push soldiers out of protected positions so they could be

more easily killed and their positions could be overtaken using more conventional weapons. The

U.S., after all, was dropping 270-pound bombs and artillery shells filled with incapacitants along

with, not instead of, conventional weaponry including cluster bombs and anti-personal

fragmentary bombs. The previously discussed 1965 incident at the Boi Loi Woods is a case in

point. While the U.S. sprayed tear gas and nauseating gasses into hamlets, it did this within a

context of an aerial bombardment using napalm and cluster bombs (Buckingham 1982).

While attempting to legitimate the use of incapacitant gasses as being used for their

supposed capacity to save the lives of soldiers and civilians, U.S. officials also employed—at

least initially—a humanitizing discourse by attempting to change the debate from the alleged

wrong-doing of the U.S. to the humanitarian wrongs committed by their enemy. For example, in

a press conference given to defend the use of incapacitating gas in Vietnam, Secretary of State

Rogers (1965) argued,

> Those who are concerned about teargas, I would hope, would be concerned about
> the fact that during 1964 over 400 civilian officials were killed, and over a
> thousand were kidnapped in South Viet-Nam—village chiefs, school teachers,
> public health officers.

And in a personal letter to a congressional critic of U.S. use of gas in war, President Johnson

(1965) wrote that it had "been blown up out of all proportion by critics who do not seem to be

troubled by the killing of civilians in city streets by terrorist bombs." The very intentional nature

of this use of diversionary reframing is made clear in a lunch meeting between the President and

his top advisors in which the legitimation of incapacitants was discussed. According to the official record of the meeting,

> [Administration spokesperson Bill] Moyers said that we had been too defensive in our public handling of the tear gas situation, that we should remind the world that the Viet Cong slit throats and bomb children and that any human being in one of the Vietnam caves would prefer to cry from tear gas rather than be killed by hand grenades.

This rhetorical technique, however, was not as regularly employed to defend the use of incapacitating gases later in the war as other techniques, at least judging by newspapers and other archived documents.

All and all, I have shown that U.S. military policy regarding toxic weaponry and international humanitarian norms were broadly divergent during the Vietnam War era. U.S. officials, I have argued, sought to paper over this discrepancy through the use of a humanitizing discourse and other legitimating techniques such as defensive categorization and surrogacy. The U.S. would, seemingly, take a step toward aligning its policy with humanitarian standards in the aftermath of the War when Congress and the Ford Administration joined the Geneva Protocol with the explicit acknowledgement that herbicides and incapacitating gases constitute types of chemical weapons banned by the treaty. Actual events after the war, however, indicate that the divide remains.

CHEMICAL WEAPONS NORMS AND U.S. POLICY AFTER VIETNAM

In 1969, still at the height of the Vietnam War, the director of the U.S. Arms Control and Disarmament Agency wrote a memo to Henry Kissinger, who was President Nixon's Assistant for National Security Affairs, stating that there is growing international interest,

> In exploring means to curb the threat and even the capability of engaging in chemical and biological warfare [CBW]… This heightened attention has been

manifested in the world press, and in official circles it represents the fear that CBW technology may soon offer "a poor man's alternative" to nuclear weapons. A UN study on the effects of chemical and biological warfare, expected by mid-year, will provide impetus for far-reaching and searching analysis of the problem (Smith 1969).

The memo, in other words, communicated the desire of many Western states to address the capacity of Third World states to develop chemical weapons arsenals that could pose a non-nuclear deterrent to Western military intervention (Price 1997). This memo pointed out, however, that this increased attention on chemical weapons would mean that the U.S. would have to "weather the usual propaganda attacks on our tear gas and herbicide practices in Vietnam" (Smith 1969).

The growing attention on chemical weapons also presented a further problem for the United States, which had not at the time ratified the Geneva Protocol. According to internal memos in the Nixon Administration, if the U.S. continued its position to not ratify the treaty, it "would represent loss of an opportunity to strengthen the legal force of the Protocol and international restraints on the use and proliferation of CW [chemical weapon] and BW [biological weapon] agents" (Political-Military Group 1969). The U.S., after all, did not have a very credible position for pushing to restrain other nations from developing chemical weapons arsenals when it itself had not ratified the Geneva Protocol. But, according to the report, ratifying the accord may, on the other hand, have a down side in that it could, "result in a restrictive interpretation of the Protocol and deny useful military options," namely the ability to use herbicides and incapacitating gases in war (Political-Military Group 1969). Nixon's principal advisor, Henry Kissinger, advised the President to introduce a bill in the Senate to ratify the Geneva Protocol, while nonetheless continuing unrestricted use of herbicides and tear gases in Vietnam (Kissinger 1969). This is indeed the policy that the Nixon Administration

settled on, as communicated in an interagency memo, in which the U.S. will affirm its commitment to the Geneva Protocol by renouncing the "first use of lethal chemical weapons" in war. But the new policy further specifies that, "this renunciation does not apply to the use of riot control agents or herbicides" (Nixon 1969).

It was in this context, however, that the United Nations General Assembly voted overwhelmingly, in rebuke of the U.S. interpretation, on a resolution that interpreted the Geneva Protocol as banning all toxic weapons in war, including herbicides and incapacitating gases. This then poses an interesting question of hegemonic constructivism: Would the U.S. have the capacity, as a hegemonic nation, to both participate in international efforts to stigmatize and restrain some kinds of chemical weapons, while simultaneously continuing to use other kinds of chemical weapons in war, as the weak model of hegemonic constructivism suggests? Or would the U.S. come to abide by the international standards it helped create, as anticipated by the strong model? The actual evidence is mixed, but all and all more clearly favors the weak model.

There is some evidence in support of a stronger model when the Nixon Administration's effort to push for the ratification of the Geneva Protocol, with exceptions to incapacitants and herbicides, was blocked by the Senate Committee on Foreign Relations. The Democrats who controlled the committee supported ratification of the treaty and had the power to place such a bill before the entire Senate for a vote. However, before they would agree to do so, they insisted that the Administration explicitly acknowledge that the Protocol prohibits the use of herbicides and incapacitating gases (Committee on Foreign Relations 1971). The Nixon Administration was, however, reluctant to make such a formal recognition because it would mean that, in the words of State Department officials, "the effect would be for our Government to brand itself and its allies as lawbreakers, and to publicly announce that our own actions in Vietnam and those of

our allies, were and are contrary to established principles of international law" (Military-Political Group 1969). Consequently, the solution for U.S. policy-makers was to back off the issue for a while, re-invigorating it only with the draw-down of the Vietnam War and the diminishment of the Antiwar Movement. In 1974, the Senate ratified the Geneva Protocol after the Ford Administration issued a statement acknowledging that the agreement prohibits the first use of herbicides or incapacitants in war (Washington Post 1974). Since the treaty ratification, the U.S. has not used large amounts of incapacitating gases in war, and has furthermore ratified the Convention on Chemical Weapons, which specifically defines these gases as a type of prohibited chemical weapon, which is all evidence for a strong model of hegemonic constructivism.

But support for more constructionist-oriented models is undermined, or at least made more complicated, by the fact that the United States used herbicides and incapacitants throughout the vast majority of the Vietnam War in the first place, despite contrary universal humanitarian norms, domestic opposition, and international rebuke. In fact, the U.S. only stopped flying defoliation missions in 1970 when reports were published linking the herbicide 2,4,5-T—commonly used throughout Vietnam, most notably as a component of Agent Orange—with cancer and birth defects (Ledbetter 1970). The U.S. continued flying crop destruction missions in Vietnam until 1971 (Rogers 1971) and continued to use incapacitating gases until at least 1972 (Washington Post 1972). Moreover, as described in the next section of the chapter, the U.S. has continued to use herbicides as a weapon around the world since the Vietnam War, albeit for the purpose of drug crop eradication.

The Use and Legitimation of Herbicides as a Weapon in the "War on Drugs"

The aerial eradication of drug crops, accomplished by spraying herbicides from fixed wing aircraft and helicopters in foreign countries, has been a longstanding component of U.S. foreign policy (Buxton 2006). The history of this policy dates back to the Nixon Administration, which provided helicopters, herbicides, and one million dollars in technical assistance in 1970 to the Mexican Government to assist efforts to destroy marijuana and poppy fields (New York Times 1970). Since that time, the U.S. has provided support for, or actually operated, anti-drug herbicidal campaigns in Burma, Guatemala, Panama, Belize, and Pakistan (Courier-Mail 1988). The United States also began providing major support for drug eradication in Colombia in 2000 through Plan Colombia, a multi-billion dollar military aid package to support the government's drug suppression and counter-insurgency efforts. Today the U.S. continues to fund the private company DynCorp to conduct aerial drug crop eradication in Colombia.[13]

According to my research, there has been little-to-no domestic or international criticism of U.S. herbicidal drug eradication programs as another instance of the U.S. deployment of chemical weapons, despite the U.S. government's own explicit recognition that herbicides used in conflict should be classified as such. Regardless, there is ample reason to conclude that such use of herbicides is a type of toxic weapon. Certainly, the use of herbicides to destroy drug crops is a kind of weapon. It is an implement of force used against the will and despite the resistance of others, which not only destroys targeted drug crops, but also unintentionally contaminates people, their homes, and their legal crops.

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[13] More than three million acres in Colombia have been sprayed with herbicides since Plan Colombia was put into effect (EarthJustice 2011). Colombia's Council for Human Rights and Displacement estimates that aerial fumigation displaced more than 70,000 persons in the first two years of spraying alone (Dion and Russler 2008).

That herbicides used to destroy drug crops are a kind of weapon, and not simply an agricultural tool, is made more clear when examining the broader context in which they are used, which are often times in the midst of wars, counter-insurgency campaigns, or other social conflicts. In particular, there has been no clear defining line between U.S. anti-drug policies and counter-insurgency foreign policy in the U.S.-backed drug eradication programs of Mexico, Burma, and Colombia. Revolutions and armed rebellions, after all, require the provision of weapons. In the absence of superpower patrons, revolutionaries may look to use "highly lootable" resources for funding, such as minerals, timber, or drug crops (Le Billon 2001). Or, on the other hand, the capacity to grow illicit drugs may create conditions in which organizations arm themselves and fight battles in order to protect access to a highly lucrative natural resource (Le Billion 2001). In either case, efforts to eradicate drug crops are not simply counter-drug tactics, but as a matter of intention or as a matter of effect, are also military campaigns in larger wars and armed conflicts. Paying further attention to U.S.-backed drug eradication in Mexico in the 1970s and 1980s makes this point clear.

During this time frame, Mexico was not exactly a country at war, but it was not a country at peace either. The government was, during much of this period, conducting what was dubbed its "dirty war," in the course of which it had criminalized dissent, creating—according to a later government report, "a spiral of violence which... led it to commit crimes against humanity, including genocide" (quoted in BBC 2002). During this period, the Mexican army was summarily detaining or executing men and boys from villages suspected with rebel links or sympathies (BBC 2002). Compounding this violence during the era, armed drug cartels waged battle to counter drug eradication efforts.

The parallels to the Vietnam War were not lost to reporters, who noted that the U.S. was utilizing defoliation technology in Mexico that had been pioneered in Southeast Asia (see Onis 1969). One reporter underscored the similarities by writing:

> Among the rugged cliffs and chasms of Mexico's Sierra Madre Mountains, the Mexican armed forces are fighting a Vietnam-style war against poppy growers. There are helicopter search-and-destroy forays, with guerrilla sniper fire at the choppers from below. Prisoners are taken by government troops; the land is being defoliated. And over-seeing it all are U.S. advisors (Anderson 1978).

Likewise, the recent U.S. backed drug eradication campaigns in Colombia occurred in the context of multi-polar violence that was literally ripping the country apart. The government during this period was engaged in a full-scale counter-insurgency war, in which its main adversaries were communist rebel forces that were profiting from drug production and trafficking (GAO 2008). It was in this context that the U.S. spent $4.9 billion dollars on "Plan Colombia" between 2000-2006 in order to provide "the Colombian military and National Police with a range of capabilities, primarily air mobility, needed to pursue Plan Colombia's counternarcotics and security objectives" (GAO 2008: 5). This "air mobility" came primarily in the form of the increased capacity to destroy drug crops with herbicides from above. Communist forces in Colombia consequently sought to protect drug crops from destruction by attempting to take down spray planes. As a result, efforts to destroy drug crops from the air in Colombia resembled military strikes much more than they resembled more conventional agricultural uses of herbicides, as the below quote from a U.S. Congressional report describes:

> A typical spray mission consists of four spray aircraft supported by helicopter gunships to protect the spray aircraft along with a search and rescue helicopter to rescue downed pilots and crew. In addition, ground security is provided as needed by the Army Counternarcotics Brigade (GAO 2008: 39).

The United States then, in its international campaign against drug production, has continued to use toxic weapons despite international norms against chemical warfare and the United States'

own treaty commitments. Of course, the issue remains whether or not the U.S., in providing support for herbicidal drug crop eradication campaigns in other nations, is really seeking to achieve its own foreign-policy goals, or if it is simply providing military assistance to allies that have requested it. This very question demonstrates the value of surrogacy as a legitimating tactic.

Surrogacy and Herbicides in Drug Eradication Campaigns

It can plausibly be argued that the countries that have carried out U.S. funded and directed herbicidal eradication projects, or allowed the U.S. to carry out these operations itself within their borders, are sovereign nations that have requested U.S. help. From this perspective, the United States has simply provided assistance at the request of other nations, and so has little responsibility for any violations of humanitarian norms that take place in those countries as a consequence of the campaigns. The examples of Mexico and Colombia, however, raise troubling issues regarding sovereignty.

In 1969, the Nixon Administration began pressuring the Mexican government to accept American assistance to undertake a campaign to, according to a newspaper article at the time, "use chemical substances, developed in the Vietnam War, for aerial spraying of marijuana and poppy plantations" (Onis 1969). The Mexican government of President Gustavo Diaz Ordaz initially rejected the offer because, "officials felt the proposed measures gave the United States excessive control of the program in Mexican territory" and, "the method was considered untested and capable of producing harmful side-effects on normal crops" (Onis 1969). In order to pressure the Mexican government into accepting the plan, the Nixon Administration changed U.S. border policy with Mexico, initiating "Project Intercept," which included exhaustive

searches of all vehicles that could potentially be transporting illicit drugs (Buxton 2006). This new U.S. policy effectively brought border traffic to a halt, inflicting real pain on the Mexican economy. After only a few days, the Ordaz Administration agreed to talks on the U.S. chemical eradication plan, at which point U.S. officials brought "Operation Intercept" to a halt. A year later, the Mexican Government "requested U.S. support" to carry out aerial eradication efforts (Washington Post 1969). In other words, the U.S. used its economic power to force Mexico to carry out an aerial herbicidal anti-drug program. As one official at the time described it in the *Washington Post* (1969), the U.S. emplaced a de facto trade blockade that "was a lever to get to this agreement."

In Colombia, the government had worked with the United States to destroy marijuana and poppy fields since 1978. However, in the late 1990s the U.S. exerted considerable pressure on the Colombian government to increase fumigation (Buxton 2006). In 1996 and 1997 the U.S. "decertified" Colombia as a partner in efforts to counter the drug trade, which resulted in sanctions such as reduced access to international financing for Colombian business development and higher tariffs on trade (Buxton 2006; Constable 1997). One of the demands the U.S. made on the Colombian government for recertification was that it increase its aerial eradication of drug crops (Farah 1997). The Colombian government committed to increasing aerial herbicide application for drug eradication in 1999, after which the United States recertified the country as effectively combating drug production. Shortly thereafter, the United States agreed to fund the newly implemented "Plan Colombia," which was initially conceived as an economic development plan to shift cultivators of drugs to legal crops, but was reworked under U.S. pressure to become a military aid package, the centerpiece of which were aerial fumigation efforts (Buxton 2006). Plan Colombia, in which the government was soon spraying more than

three times as much land with herbicides per year than it had sprayed in previous years, was implemented by the Colombian government with no national debate or dialogue with the people it would potentially impact (Buxton 2006).

The main point here is that the U.S. exerted significant pressure on both the Colombian and Mexican governments in order to convince these countries either to undertake aerial herbicide campaigns or to increase the acreage of land sprayed. This is an example of the legitimating strategy of surrogacy, in which the U.S. presses for policies that may appear to violate international humanitarian norms but can create the impression that other national governments—in this case Mexico or Colombia—are ultimately responsible. And in these examples, the U.S. not only compelled these states to undertake or increase aerial drug fumigation, it provided them tremendous support to do so, and eventually began undertaking these efforts itself. By 1980, for instance, the U.S. had provided Mexico a total of seventy million dollars in equipment and technical assistance, including spray equipment, forty-one helicopters, and twenty-two spotter planes (Riding 1980). The U.S. continued providing the Mexican government herbicides, aircraft, funding throughout the 1980s, and eventually supplied contract pilots to conduct aerial missions to destroy illegal drug crops. And under Plan Colombia, U.S. provided substantial support for drug eradication. According to the U.S. Government Accountability Office (2008: 39),

> The Aerial Eradication Program consists of U.S.-owned spray aircraft and helicopters, as well as contractor support to help fly, maintain, and operate these assets at forward operating locations throughout Colombia. As of August 2008, these aircraft included 13 armored AT-802 spray aircraft; 13 UH-1N helicopters used as gunships or search and rescue aircraft; four C-27 transport aircraft used to ferry supplies and personnel to and from the various spray bases; and two reconnaissance aircraft used to find and identify coca cultivation, and plan and verify the results of spray missions.

So, while the United States was supplying aircraft, spray equipment, herbicides, technical

support, and even pilots to Mexico and Colombia, through this variety of surrogacy the U.S. was

able to reasonably distance itself from the application of herbicides in overseas conflicts.

Beyond practicing surrogacy, the United States has also employed other legitimating techniques

that echo claims made to justify the toxic weapons used during the Vietnam War.

Defensive Categorization and Herbicides in Drug Eradication Campaigns

Similar to claims made in the Vietnam-War era, the U.S. State Department has sought to stress

that the herbicides it uses in crop destruction are just like those commercially available in the

U.S. The State Department has consistently reported to Congress "that the coca spraying is

being carried out in accordance with regulatory controls required by the Environmental

Protection Agency as labeled for use in the United States" (State Department 2002; see also State

Department 2006). There is much reason to doubt this claim, however. For instance, the

herbicide compound used for drug eradication in Colombia, which is mainly glyphosate—the

active ingredient in the commercially available herbicide "Round-Up"—also includes a chemical

agent called "cosmo-flux" that makes the herbicide more effective, but is not commercially

available (EPA 2002). Moreover, higher concentrations of glyphosate are used in Colombian

drug eradication than are allowed for in agricultural uses in the U.S. (Pauker 2003). And

because the aircraft deploying herbicides often come under enemy fire, they fly at higher

altitudes and faster speeds than they would fly when "crop dusting" in the U.S., increasing the

extent of herbicidal drift and other unintended applications of herbicides that destroy plants in

adjacent legal cropland, forests, and wetlands (Pauker 2003). Despite these important

differences, the U.S. has consistently claimed that its use of herbicides to destroy drug crops in

Colombia are akin to everyday agricultural practices in the U.S., and so therefore could not

plausibly be considered a violation of humanitarian norms. Beyond surrogacy and defensive

categorization, the U.S. has used a humanitizing discourse to legitimate its toxic weaponry used

in the "War on Drug."

The Use of Humanitizing Discourse in Drug Eradication Campaigns

In order to convince Congressional critics that its herbicide campaign in Colombia was not

adversely impacting civilians, the State Department required the government of Colombia to

"compensate growers for legal crops sprayed in error" (State Department 2003). This

presumably would be quite common because the planes applying herbicides in Colombia move

at a much faster speed and at a much higher altitude than planes would fly under normal

agricultural circumstances because they are, in effect, seeking to avoid being shot down by

enemy fire (EPA 2003). Press accounts (Forero 2001), NGO accounts (Earth Justice 2002;

Witness for Peace 2002), and the findings of the government of Columbia's Human Rights

Ombudsman (Robberson 2001) attest to the frequency of this problem.

The U.S. instituted program, however, appears to be more hollow rhetoric than an actual

plan to compensate people for their losses due to errant herbicides. According to the U.S. State

Department (2003), the government of Colombia had received 4,329 complaints of legal crops

wrongly destroyed by the application of herbicides. The government of Colombia claimed it

investigated 2,745 of these cases and found that all but five were frauds (State Department

2003). The situation in 2007 was no better, after having received a total of 6,778 complaints

since the program's inception, the government of Colombia denied compensation to all but 43.

The government of Colombia determined that the several thousand other cases are "false"

claims, in which growers of coca plants have allegedly sought compensation for their destroyed

drug crops (EPA 2003; 2007). It must be taken into account, however, that the government of

Colombia is regularly rated poorly in terms of corruption and is regularly accused of committing

human rights abuses against its citizens (Livingston 2004). Taken in this context, this U.S.

required program undertaken by the Colombian Government is a humanitizing discourse used in

hopes of satisfying critics, even if it has not actually rectified human rights abuses committed

through the destruction of legal crops through the aerial application of herbicides during the

"War on Drugs" in Colombia.

DISCUSSION

The evidence presented in this case study shows that the United States has regularly used

chemically toxic weapons despite the existence of strong international norms that attempt to

prohibit them or cast their use outside the bounds of acceptable behavior. This evidence is

largely inconsistent with the global polity model, which anticipates that the United States,

favoring cultural and political power over the capacity for armed coercion, will largely adhere to

global humanitarian standards of conduct in order to exercise hegemony. Quite to the contrary,

this evidence is largely consistent with strong structural models, which predict that the ability of

a global power such as the U.S. to use militarily effective violence is more important than

compliance with international humanitarian norms in the pursuit of hegemony. Researchers

from this perspective also expect that domestic challengers—either in the form of disruptive

social movements or elected officials—will have little capacity to force the military to abide by

global humanitarian standards. The main evidence here is that U.S. decision makers, in the

Vietnam War period clearly knew, or at least soon found out, that using toxic weapons would be

greated with tremendous domestic and international opprobrium. Nevertheless, these policy-makers opted to use large amounts of such weapons throughout the war. But, while this case demonstrates that the ability to utilize militarily effective violence outweighs compliance with humanitarian norms in terms of U.S. policy-making, it also shows that officials did not simply ignore these norms.

Consistent with the symbolic legitimation model, U.S. officials sought to reconcile the gap between state policy and international norms through several legitimating strategies. By using a humanitizing discourse, U.S. officials sought to emphasize the care taken to avoid civilian harm, at times even contending that the use of chemical weapons had humanitarian benefits. Though less frequently, officials also used a humanitizing discourse when, in a classic attempt at diversionary reframing, they called attention to the humanitarian abuses committed by enemies in hopes of deflecting attention from its own alleged humanitarian wrongs.[14] Through surrogacy, U.S. officials directed client states to utilize chemical weapons, while also providing them with the military capacity to do so. By not taking these actions itself, or by acting upon the "requests" of sovereign nations, surrogacy provides the U.S. government with a certain distance from violations of international norms.   Despite the likely importance of the uses of surrogacy and humanitizing discourse, defensive categorization is the legitimating technique that showed up with the greatest consistency, time and time again, in all instances of chemical weapons use examined in this study. By practicing defensive categorization, U.S. officials argued that their

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[14] The U.S. Department of State (2006) also practiced this technique in response to environmental criticism of its areal application of herbicides in Colombia by attempting to deflect attention to the deforestation and pollution caused by coca growers and processers, for instance stating that, "the environmental impact of approved herbicides must be weighed against the devastating potential of all aspects of coca cultivation."

use of herbicides and incapacitating gases were not chemical weapons, but simply constituted the military's mundane use of commonly-available chemical tools.[15]

While this case study provides most support for a structural understanding of U.S. policy development, it is important to note that it does give some credence to models that place greater emphasis on the importance of norms in shaping state policy development, particularly hegemonic constructivism. There is some evidence for a strong hegemonic constructionist model, which anticipates that, by co-constructing a global norm to control or limit the violence of other states, the U.S. will eventually abide by the normative expectation as well. The United States has, after all, never again used the same kind of blistering and asphyxiating agents it used in World War One, even when it might have been militarily effective in particular circumstances for it to do so (Price 1997). Moreover, in 1997 the U.S. ratified the Chemical Weapons Convention, which specifically names incapacitants as prohibited agents, and has not used such gases in war since Vietnam. And, in evidence that also supports the humanitarian advocacy model, well-positioned members of the U.S. Congress prevented the Nixon Administration from ratifying the Geneva Protocol while specifically exempting its use of herbicides and incapacitating gases in Vietnam. Nevertheless, the United States has continued to use herbicides as an instrument of violence in its global anti-drug and counter-insurgency campaigns. This evidence more clearly favors a weak model of hegemonic constructivism, which anticipates that

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[15] It is important to note that this legitimation strategy did pose some problems for U.S. officials in terms of the types of herbicides they could use for defoliation and drug crop eradication. Because the United States sought to legitimate its herbicides in Vietnam as being "as safe as" herbicides in domestic use, the Department of Defense was forced to eliminate its widely used Agent Orange after scientists found that one of its major constituents—2,4,5-T—contained dioxins and was subsequently pulled from U.S. markets (Ledbetter 1970). Similarly, in 1983 the U.S. Congress blocked funding for drug crop destruction missions using the herbicide paraquat. This decision was not made out of environmental or health concerns for people in Mexico, Colombia, or Jamaica, but out of a concern that exposure to marijuana contaminated by paraquat could cause long-term lung damage to U.S. drug users (Wilke 1983).

a globally dominant nation will seek to pressure other nations to abide by certain humanitarian standards while exempting itself from strict compliance. Taken together, this case study suggests that global humanitarian norms may indeed limit the types of toxic weapons that can be used in war, as long as such norms are consistent with U.S. strategic military interests. Global humanitarian norms stigmatizing the use of chemical weapons, have not, however, prevented the United States from using toxic weaponry, as is commonly assumed. It remains to be seen if the U.S. will continue to utilize toxic weapons in the future.

Chapter 5

HUMANITARIAN NORMS, TORTURE, AND THE U.S. WAR ON TERROR

"The modern democratic torturer," according to Rejali (2007: 3), "knows how to beat a suspect senseless without leaving a mark." In his important book, *Torture and Democracy*, Rejali (2007: 26) charts what he calls a "global transformation in the means of torture," in which states utilize "clean torture" as a means of employing violent coercion against persons while simultaneously evading the attention and criticism of human rights organizations and other democratic monitors. But have western democracies, including the United States, really given up reliance on more overtly brutal forms of torture in response to humanitarian challenges? This chapter attempts to answer this question through a case study of United States policy development regarding torture during its "War on Terror" and its occupation of Iraq.

There are extremely strong, nearly universal, normative prohibitions on torture, which have been codified into several important international statements and treaties, including the 1948 Universal Declaration of Human Rights, the Geneva Conventions, and the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment. Given such strong and well-recognized norms, a case study of U.S. torture speaks to the competing explanations put forward by constructionist and structuralist theories regarding global political culture and state policy development. To begin, a strong constructionist perspective is almost immediately called into doubt in the aftermath of the Bush Administration's high profile 2003 decision to withdraw from the Geneva Convention, as the Administration insisted on its right to utilize "enhanced interrogation tactics" on suspected terrorists and insurgents, regardless of the fact that these methods had elsewhere been defined as acts of torture.

In contrast to the expectations of a strong constructionist perspective, the "enhanced interrogation methods," which can be described as methods of psychological torture (McCoy 2006) or varieties of "clean" torture (Rejali 2007), seem more clearly to match the models of humanitized technology. I have broken down this pathway into two separate models. The "authentic" model is a middle-ground theory that expects the United States will require new technologies to make violence less brutal in response to humanitarian norms. The "inauthentic" model, on the other hand, anticipates that newly introduced technologies of violence are simply more militarily effective than previous technologies, though they are given a humanitarian packaging. This theoretical model, in other words, is a more structurally-oriented explanation. In the course of this chapter, I will show that the case evidence more clearly matches this "inauthentic" pathway of humanitized technology.

But the major contribution of this chapter is the documentation of the United States' reliance on more overtly brutal torture in U.S. occupied Iraq. Drawing upon data from the WikiLeaks "Iraq War Logs," which includes hundreds of thousands of descriptions of "significant incidents" written by U.S. soldiers in Iraq—along with other sources of data—this chapter shows that the U.S. installed regime in Iraq regularly treated prisoners with physical brutality and torture. This violence, to the extent that the U.S.-backed Iraqi regime used it to stay in power and defeat the Iraqi insurgency, served U.S. interests. The main argument then is that while the use of humanitized technology may be an important means the United States seeks to legitimate contested violence, it does not necessarily supplant more overtly brutal forms of torture that may be legitimated through surrogacy. The existence of strong humanitarian norms on torture, then, most clearly confirms the expectations of the symbolic legitimation model, which predicts that the U.S.—in its pursuit of hegemony—will not relinquish its ability to benefit

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from the use of condemned forms of violence, especially if the U.S. can distance itself from this violence and plausibly claim it shares no responsibility for it through the legitimating tactic of surrogacy.

In the course of this chapter, I will first document the rise of "clean" torture as official U.S. policy during the war on terror and examine how this humanitized technology of violence was further legitimated through the rhetorical strategies of defensive categorization and the use of a humanitizing discourse. I will then move on to discuss the Iraqi government's widespread practice of torture during the U.S. occupation and continued military presence in the country. I will make the argument that, because the United States installed the Iraqi state; has trained, supplied, and closely cooperated with its military forces; and relied on the Iraqi state to achieve its own foreign policy goals, the U.S. shares responsibility for this government's torture and abuse of prisoners, even if the U.S. seeks to deny any responsibility through tactics of surrogacy.

THE UNITED STATES, CLEAN TORTURE, AND ITS LEGITIMATION

There are long-standing and well-recognized norms regarding torture and the treatment of captured soldiers or other enemies in times of war, codified in a number of important treaties and international agreements that have been formally affirmed by the United States. The 1948 United Nations Declaration of Human Rights, which U.S. citizens helped draft, states that, "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" (Article 5). The Third Geneva Convention (1949), to which the United States is party, states that:

> No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind (Convention III, Article 17).

Moreover, this treaty defined the torture of prisoners of war as a "grave breach" of international humanitarian norms, which means in effect that it constitutes a crime of war (Brooks 2006). Finally, the United States ratified the 1987 United Nations Convention Against Torture and Other Cruel, Inhuman, or Other Degrading Treatment, which attempts to outlaw,

> Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person… (Convention Against Torture, Part I, Article 1).

At the onset of the U.S. invasion of Afghanistan in 2001, many members of the George W. Bush Administration felt that these humanitarian norms and treaty obligations were too restrictive, and should be broken.

In particular, members of the Bush Administration advocated "opting out" or withdrawing from the third Geneva Convention, which requires the humane treatment of prisoners of war (Yoo 2002; Gonzalez 2002). This proposal, however, was not without its critics. Some members of the Department of State encouraged the Bush Administration to respect the Geneva Convention, making the argument that doing so would best serve U.S. power, along with increasing the likelihood that captured U.S. troops would be treated humanely. A chief legal advisor for the Department of State, for instance, argued that upholding the Geneva Convention would be in U.S. interests because,

> The U.S. relies on customary international law... The breach of customary international law obligations could subject the United States to adverse international consequences and reduce our ability to conform the behavior of other countries to international standards (Taft 2002: 2).

Secretary of State Colin Powell (2002) also objected to the proposal to withdraw from the Geneva Convention because it would weaken U.S. power, having, "a high cost in terms of

negative international reaction, with immediate adverse consequences for our conduct of foreign policy. It will undermine public support among critical allies, making military cooperation more difficult to sustain." Even Alberto Gonzales (2002), a legal advisor to the President and an advocate of withdrawing from Geneva, acknowledged potential costs:

> Our position would likely provoke widespread condemnation among our allies and in some domestic quarters… It is even possible that some nations would point to that determination as a basis for failing to cooperate with us on specific matters in the war against terrorism… [Furthermore] concluding that the Geneva Convention does not apply may encourage other countries to look for technical "loopholes" in future conflicts to conclude that they are not bound by [the Geneva Convention] either.

These arguments from a White House advisor and State Department officials are anticipated by constructionist-oriented models, which expect the United States to abide by international norms either to control the behavior of other states or to maintain the legitimacy of U.S. hegemony. These interests, however, did not trump what other Bush Administration officials foresaw as the benefits of subjecting detainees to harsh interrogations that would violate the Geneva standards (Gonzalez 2002). On February 7, 2002 President Bush sided with this latter group, issuing an executive order that the U.S. did not intend to comply with the Third Geneva Convention for persons suspected of being members of al Qaeda or the Taliban (Bush 2002).

In accordance with this U.S. policy, on November 27, 2002, Secretary of Defense Donald Rumsfeld gave blanket approval for "enhanced interrogation methods" at the U.S. prison at Guantanamo Bay, which were earlier requested by General Dunlavey (Rumsfeld 2002). These techniques, excerpted from the official memorandum, included:

- Techniques of deception... The interviewer may identify himself as a citizen of a foreign nation or as an interrogator from a country with a reputation for harsh treatment of detainees…
- The use of stress-positions…

- Use of isolation facilities for up to 30 days…
- Deprivation of light and auditory stimuli…
- The use of 20-hour interrogation…
- Removal of all comfort items (including religious items)…
- Removal of clothing…
- Forced grooming (shaving of facial hair etc)…
- Using individual phobias (such as fear of dogs) to induce stress…(Dunlavey 2002).

The memo includes other methods of "enhanced interrogation," for which Rumsfled (2002) did not issue a "blanket approval." These techniques included (1) threatening to kill a detainee and his family members, (2) exposing a detainee to cold temperature and water, and (3) pouring water into the lungs of a detainee, which became popularly known in the U.S. as "water boarding." Rumsfeld, however, made clear that such techniques would be approved on a case-by-case basis, though the historical record indicates they were well-used by U.S. interrogators at Guantanamo Bay and other U.S. detention facilities (Sands 2008).

It deserves consideration whether or not these "enhanced interrogation techniques" amount to torture. Certainly, these techniques satisfy the conditions of the UN Convention Against Torture's (1987) definition, which seeks to prohibit any intentional act that causes, "severe pain or suffering, whether physical or mental" for the purposes of gaining information, punishment, or intimidation. Use of stress positions—which means the restraint of a person in standing, crouching, or fetal positions for any extended period of time—may leave little indication of torture but will produce tremendous pain and suffering. "Forced standing," for instance, "causes the ankles and feet to swell to twice their size within twenty-four hours. Moving becomes agonizing and large blisters develop. The heart increases, and some people faint" (Rejali 2007). Sleep deprivation, isolation, and/or sensory deprivation are certainly intended to cause suffering by literally attacking and attempting to break down the personality structure and selfhood of a person (McCoy 2006). Indeed, prolonged sensory deprivation, alone

or when combined with other techniques, may cause more lasting harm to a victim than purely physical forms of torture (McCoy 2006). Other techniques, such as threatening a person or his or her family with death or torture, attempting to exploit a person's phobias, or forcing a person to undress and stand naked certainly fit the definition of torture in the UN Convention because they are intentional attempts to cause suffering. These are all examples of "clean" torture implemented by the Bush Administration, in that they did not leave obvious traces, but are torture all the same by internationally agreed upon definitions.

Observations from the U.S. detention center at Guantanamo Bay certainly indicate that these tactics, being used in conjunction with one another, amounted to torture. The International Committee for the Red Cross made this determination, based on its 2002 visit to the Guantanamo Bay facility. The Red Cross inspectors, for instance, documented interrogators' use of "humiliating acts, solitary confinement, temperature extremes, use of forced positions," which— taken together as a means of obtaining intelligence—"cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture" (quoted in Lewis 2004). Agents from the FBI, stationed at Guantanamo Bay, made similar observations and determinations. One FBI Agent, for instance, reported that,

> On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food, or water. Most times they had urinated or defecated on themselves, and had been left there for 18, 24 hours or more. On one occasion, the air conditioning had been turned down so far and the temperature was so cold in the room that the barefooted detainee was shaking with cold… On another occasion the A/C had been turned off, making the temperature in the unventilated room probably well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out throughout the night. On another occasion, not only was the temperature unbearably hot, but extremely loud rap music was being played in the room, and had been since the day before, with the detainee chained hand and foot in the fetal position on the floor (FBI 2004).

Another FBI agent, in 2002, warned in an internal memo that the "coercive" interrogation methods used at Guantanamo Bay violate the U.S. Constitution and the U.S. Torture Statute (18 U.S.C. § 2340), which in the United States is the legal mechanism through which Congress ratified the International Convention on Torture. Participating in these illegal acts may, according to the analysis, put FBI Agents at risk for future prosecution (FBI Analysis 2002). Based on this reasoning, the FBI made the determination that its agents should not participate in interrogations at Guantanamo Bay using methods that would be illegal in the United States (FBI 2008). So, the "enhanced interrogation methods" instituted by the Bush Administration should properly be considered forms of torture. But because this torture may not match popular conceptions of what torture is, and may appear to be more "humane" then purely physical abuse, these techniques can also be considered humanitized technologies of violence, something which will be more fully discussed in the next section.

"Enhanced Interrogation Methods" as Humanitized Technologies

In the range of theoretical models being considered in this dissertation, I have specified two separate models regarding humanitized technology. The "authentic" model of humanitized technology anticipates that when the United States encounters normative restraints to militarily effective violence, it will introduce technological "improvements" to make the violence less brutal or less harmful to civilians. The "inauthentic" model, on the other hand, anticipates that new policies that require humanitized technologies will likely have little capacity to actually make this violence more humane and, importantly, the introduction of these technologies is not motivated only, or even primarily, by humanitarian concerns. Rather, these new technologies are introduced simply because they are more militarily effective, though they have an added benefit

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in that they can be given a humanitarian packaging. Which model then best fits the Bush Administration's policy to use "enhanced interrogation methods" in the "War on Terror?"

Rejali (2007) makes the case that these "enhanced interrogation methods" meet the definition of "clean" or "stealth" torture, which he argues are primarily used by states to avoid allegations that they are abusing prisoners. As such, these techniques seem to match the "authentic" model of humanitized technology, primarily used to "evade detection." These "clean" techniques are used by states, according to Rejali (2007: 26) because "allegations of torture are simply less credible when there is nothing [physical] to show for it." Tracing the historical origins of U.S. torture policy, however, complicates this argument.

McCoy's (2006) study of U.S. torture policy since the 1950s indicates that the Bush Administration's "enhanced interrogation methods" more clearly match the "inauthentic" model of humanitized technology. The United States Central Intelligence Agency spent tremendous amounts of money funding public and secret research projects from 1950 to 1962 to identify means to identify "mind control" techniques in what McCoy (2006: 7) calls "a veritable Manhattan Project of the mind." The results of all this research—which included experiments with electric shock, hallucinogenic drugs, and sensory deprivation—was a new approach to interrogation and torture that was based on two simple principles: sensory disorientation and "self-inflicted" pain (McCoy 2006). Sensory disorientation was broadly construed to include isolation, deprivation of stimuli or over-stimulation, sleep deprivation, exposure to temperature extremes, humiliation, and the disruption of daily routines (McCoy 2006). "Self-inflicted" pain included stress positions, such that a victim is made to stand or hold his or her arms out for prolonged periods of time causing great pain, for which he or she is made to feel responsible.

These same techniques became the major principles stressed in CIA and Army interrogation manuals from the 1960s and 1980s, and were—as we have seen—the major components of the "enhanced interrogation methods" instituted by the George W. Bush Administration (McCoy 2006). The main point, then, to McCoy (2006) is that the U.S. government utilized these methods of torture not to escape human rights monitors and the possibility of public criticism, but out of the belief that they were simply more effective than other more traditional methods of torture, in which the application of even extreme forms of pain can strengthen the resistance of torture victims.[1] Consequently, the identification of these methods, to McCoy (2006: 8), was, "the first real revolution in the cruel science of pain in more than three centuries."

From this historical perspective, the "enhanced interrogation methods," adopted as official policy by the Bush Administration, more clearly matches the "inauthentic" model of humanitized violence. These methods were not developed or used to avoid humanitarian criticism and a loss of legitimacy, as expected by the "authentic" model, so much as an effort to utilize what were considered the most militarily effective tools. However, because these methods of "clean" torture were not as bloody or overtly gruesome as other methods, they could be more easily legitimated.

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[1] Rejali (2007) holds that no form of torture, including methods of "clean" torture, produce reliable intelligence, since—in either case—the interrogator is creating a situation of intense suffering. In such situations, a victim is likely to say whatever it is he or she imagines the interrogator wants to hear to make the suffering stop. This seems born out by academic assessments of the results of the Bush Administration's torture program (McCoy 2006; Sands 2008), and is consistent with one high-profile FBI interrogator's evaluation (Soulfan 2009). The main point here then is that both the CIA and the Bush Administration considered these methods of torture an effective means of gaining actionable intelligence, whether or not this was actually true.

Legitimating Psychological or "Clean" Torture

In the early days of 2002, when members of the Bush Administration were working out an official policy for the interrogation and treatment of suspected terrorists or Afghani insurgents, they were simultaneously constructing a rationale for torture. In doing so, these officials used the legitimating strategies of defensive categorization and humanitizing discourse. Officials would continue to use these strategies to justify torture throughout the remainder of the Bush Administration.

The strategy of defensive categorization is often used by officials who claim that a form of contested violence is different from other forms of violence that have been condemned by international norms and prohibited by international treaties. Bush Administration officials used this strategy by determining that "certain acts may be cruel, inhuman, or degrading, but still not produce pain and suffering of the requisite intensity [to constitute torture]" (Bybee 2002: 1). Bush Administration officials further used defensive categorization by defining torture as "physical pain… equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death..." (Bybee 2002: 1). This strategy of defensive categorization was well-used by members of the Bush Administration such as Alberto Gonzalez (Priest 2004), Secretary of Defense Rumsfeld (2004), and President Bush (Stolberg 2007) who publically argued that "enhanced interrogation techniques," "harsh" interrogations, or "detainee abuse" do not constitute torture. Utilizing this extremely narrow definition of torture, which is part of the logic of defensive categorization, President Bush could state, in all sincerity, "this government does not torture people" (quoted in Stolberg 2007).

Strategies of defensive categorization were especially important in February of 2004, after the world was shocked by pictures taken by U.S. soldiers at the U.S.-run Abu Ghraib detention facility in Iraq. Members of the Bush Administration immediately sought to legitimate U.S. policy by claiming that the acts of surprising cruelty and brutality captured by the images were not acts of torture, but should instead be called instances of "detainee abuse" (Hooks and Mosher 2005). In one particularly notable incident, Secretary of Defense Rumsfeld told reporters "what has been charged so far is abuse, which I believe technically is different from torture. I'm not going to address the 'torture' word" (quoted in Hochschild 2004). Later, Rumsfeld chastised reporters at a press conference for using the word "torture." Use of this word, he claimed, would hurt U.S. soldiers and the war effort,

> I've been kind of following the headlines and the bullets on the television… the implication is that the United States government has, in one way or another, ordered, authorized, permitted, tolerated torture. Not true. And our forces read that, and they've got to wonder, do we?... Think of the second group of people who see it. All those people in the region and in Iraq and in Afghanistan, that we need their cooperation, we need their help, the people in those countries, the people in the neighboring countries, and think how unhelpful that is for them to gain the inaccurate impression that that is what's taking place. Third, think of the people who, for whatever—whenever—today, tomorrow, next year—capture an American civilian or American military personnel and will use all those headlines about torture and the impact in the world that people think that's what's taking place, and use that as an excuse to torture our people (Rumsfeld 2004).

In sum, Bush Administration officials sought to legitimate the use of torture by practicing defensive categorization when they defined torture in such a way that it would exclude all but the most heinous acts of intentional brutality and would exclude psychological coercion and harm.[2] And even when prisoners were treated in ways that met this narrow definition of torture, as

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[2] U.S. officials further pursued a definitional strategy to legitimate the policy of withdrawing from the Geneva Convention, by for instance claiming that captured Afghanis were "enemy combatants" and therefore not entitled to Geneva protections for prisoners or war. Furthermore, officials claimed that Afghanistan is not a state, and so therefore the Geneva protections were inapplicable (Bush 2002; Yoo 2002).

captured in the Abu Ghraib photos, U.S. officials refused to use the word and pressured reporters to do the same.

Along with defensive categorization, U.S. officials further worked to legitimate torture through the use of a humanitizing discourse by stressing the care taken to respect humanitarian norms and avoid any unnecessary harm that "enhanced interrogation methods" might cause detainees. For instance, the Department of Defense policy statement for the treatment of prisoners in Iraq ordered interrogators to use the methods of "clean" torture discussed above, but also included a humanitizing discourse to evidently provide a defense against accusations of abuse or torture. So, even while the memo instructs interrogators to use methods that amount to psychological and physical torture, it also states that interrogators must "treat all prisoners under their control humanely" (Sanchez 2003: 1). Furthermore, the memorandum instructs interrogators to use proper safeguards and attend to the detainees' safety and health in the course of what amounts to be torture, as these excerpts show:

- Environmental Manipulation: Altering the environment to create mild discomfort (e.g. adjusting temperature or introducing an unpleasant smell). *Conditions may not be such that they injure the detainee* (emphasis added, Sanchez 2003: 4).
- Presence of Military Working Dog: Exploits Arab fear of dogs while maintaining security during interrogations. *Dogs will be muzzled and under control of [military working dog] handler at all times to prevent contact with detainee.*
- Yelling, Loud Music, Light Control: Used to create fear, disorient detainee, and prolong shock... *Volume controlled to prevent injury* (emphasis added, Sanchez 2003: 5).

But more to the point, Bush Administration officials continuously described their treatment of detainees as "humane." When President Bush (2002), for instance, issued his formal announcement that the U.S. intended to withdraw from the Geneva Convention in regard to suspected members of al Qaeda and enemy soldiers in Afghanistan, he also stated,

> Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles and as a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity in a manner consistent with the principles of Geneva.

Members of the Bush Administration continued to make similar claims in the press, for instance when Donald Rumsfeld assured reporters that interrogators at Guantanamo Bay were aware of the Bush Administration policy, "that any detainees be treated in a humane way, and they have been" (quoted in Shanker 2005).

The images released to the pubic from the Abu Ghraib prison, of course, depicted a treatment of prisoners of war that was anything but humane. In response to the public outrage over these photos, the U.S. military eliminated its policy that called for the hooding of prisoners in Iraq (the most commonly used technique of sensory disorientation) and eliminated its policy that instructed interrogators to use stress positions (methods of "self-inflicted" pain), at least as official policy (McCoy 2006). However, the U.S. Army was not the only military force in Iraq committing abuse. Iraqi security forces, from both the army and police, were regularly practicing torture that was just as, if not more, brutal as the incidents at Abu Ghraib. This torture continued long after the uproar over Abu Ghraib subsided. Because this abuse was committed in the service of U.S. foreign policy interests, but was not actually committed by U.S. forces, it was therefore legitimated through surrogacy.

THE IRAQI STATE, TORTURE, AND SURROGACY

When the Bush Administration invaded Iraq in 2003, it had little expectation that it would face insurgent violence that would so effectively challenge U.S. rule, and was consequently ill-

prepared to respond (Chandrasekaran 2006; Metz 2007). The insurgency and sectarian conflict that erupted in the aftermath of the U.S. invasion proved to be too much for U.S. military forces to suppress alone in Iraq, at least not without straining and/or sacrificing other global military commitments (Metz 2007). The Bush Administration responded with a counterinsurgency strategy that aimed to create large and effective Iraqi security forces, utilizing them to defeat the insurgency and maintain control over the territory (National Security Council 2005; Metz 2007). According to a 2005 U.S. National Security Council (2005) report, significant progress was being made in implementing this strategy:

> As of November 2005, there were more than 212,000 trained and equipped Iraqi Security Forces, compared with 96,000 in September of last year. In August 2004, there were five Iraqi army battalions in the fight; now more than 120 Iraqi army and police battalions are in the fight… In June 2004, no Iraqi Security Force unit controlled territory. The Coalition provided most of the security in Iraq. Today, much of Baghdad Province is under the control of Iraqi forces, the cities of Najaf and Karbala are controlled by Iraqi forces, and other Iraqi battalions and brigades control hundreds of square miles of territory in other Iraqi provinces.

According to a U.S. Army Strategic Studies Institute analysis, "by the autumn of 2005, U.S. strategy increasingly left neutralization of home-grown insurgents to Iraqi security forces" (Metz 2007: 53).

However, as we will see, Iraqi security forces, both during and after this period, were committing overtly brutal acts of torture. In the remainder of this chapter I will describe the extent and nature of this torture according to human rights organization reports and leaked U.S. military records. I will then consider two possible reasons the Iraqi state was committing such extensive torture. Finally, I will move on to consider the extent to which the U.S. government benefited from, and is responsible for, this widespread brutality.

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The Extent and Nature of Iraqi Torture During the U.S. Occupation

U.S. officials were well aware, in 2005, that Iraqi Security Forces were regularly utilizing

torture, even as the U.S. government was building them up and increasingly relying on the forces

to counter the insurgency and maintain control over Iraq's territory. Human Rights Watch, for

instance, reported in early 2005 that it had interviewed ninety current or former Iraqi detainees,

seventy-two of whom alleged that they had been tortured (Human Rights Watch 2005). Later in

2005, U.S. military forces closed down two Iraqi-run secret prison, in which detainees were

being starved and were subjected to other forms of torture[3] (Wong 2005). In 2006, Amnesty

International (2006: 2) issued another warning, stating that,

> Iraqi authorities are systematically violating the rights of detainees in breach of
> guarantees contained both in Iraqi legislation and in international law and
> standards—including the right not to be tortured and to be promptly brought
> before a judge.

Despite these warnings, the United States began a process to transfer its detainees to Iraqi

control, which is a clear violation of the UN Convention Against Torture, which bans the transfer

of prisoners to other states where there is a likelihood they will face torture[4] (UN 1984).

Moreover, the U.S. continued an implicit policy tolerating this abuse, which has been—

according to human rights reports and the Iraq War Logs—unrelenting. As recently as 2010,

Amnesty International (2010: 32) reported that detainees, particularly those who are government

critics and suspected insurgents, face such torture as,

> Rape or the threat of rape. Beating with cables and hosepipes. Prolonged
> suspension by the limbs. Electric shocks to sensitive parts of the body. Breaking

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[3] High-ranking Bush Administration officials were clearly aware of this torture, as they were
asked to comment on it by reporters at press conferences (see DoD 2005).

[4] The actual treaty text states, "No State Party shall expel, return ("refouler") or extradite a
person to another State where there are substantial grounds for believing that he would be in
danger of being subjected to torture" (UN 1984).

of limbs. Removal of toenails with pliers. Asphyxiation using a plastic bag over the head. Piercing the body with drills. Being forced to sit on sharp objects such as broken bottles.

The "Iraq War Logs" released by the organization WikiLeaks expose the extent of the torture that was taking place in Iraq, while also showing U.S. troops familiarity with its practice.

The "Iraq War Logs" is a large database of more than 390,000 "significant actions" reported by U.S. soldiers stationed in Iraq between January 1, 2004 to December 31, 2009 (Wikileaks 2011). "Significant actions" reported by U.S. troops may include firefights with enemies, the discovery of corpses or wounded persons, raids made on suspected insurgents, arrests and detentions, and instances of the observed or alleged abuse or torture of detainees. I conducted a search in this database using the term "detainee abuse," which produced 786 results that were spread fairly evenly throughout the five year period.

I immediately eliminated seven records because they were obvious duplicates and four of which I eliminated because they did not seem to actually report abuse. But it is possible that this corrected number of abuse reports, at 775,[5] is higher than the actual incidence of *reported* abuse because there may be other duplicates, or multiple reports that refer to one incident of torture or abuse.[6] However, based on my reading of these incidents, I do not believe that there could be, at the very highest estimate, more than 200 duplicates. Even at this very conservative estimate, it would mean that there were at least 575 unique incidents or allegations of abuse reported by U.S. soldiers. It is necessary to point out that some of these reports were documenting detainee's allegations that they were abused, even when U.S. service members found no evidence of abuse.

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[5] The Bureau of Investigative Journalism has conducted a more intensive survey, using other search terms, and identified more than 1,300 incidences of detainee abuse reported in the Iraq War Logs (Stickler and Woods 2010).

[6] It is impossible to determine an exact number because many of the reports are very brief and very vague. Furthermore, one incidence of abuse may sound very much like another.

Despite these cautions, the reports of abuse in the Iraq War Logs likely severely underestimate the total number of incidents observed by U.S. troops in Iraq. It is likely that, because abuse of prisoners was regularly practiced by at least some Iraqi security forces, it became normalized to at least some U.S. soldiers and therefore may have been deemed undeserving of being reported as a "significant event." Furthermore, reporting these incidents involves work that some U.S. service members simply may not have carried out, especially in light of their many other responsibilities and traumas they may have experienced in wartime. Finally, it is possible that some service members may have felt that suspected insurgents deserved abuse, and/or were in fact complicit in abuse of Iraqi prisoners, and so would not have taken action to report incidents of mistreatment.

While 575 reports of prisoner abuse is therefore a low estimate of the actual incidents of total abuse or torture U.S. soldiers observed in Iraq, it nonetheless demonstrates that prisoner abuse and torture was regularly practiced by Iraqi security forces throughout the 2004-2009 period and that, furthermore, higher-ranking U.S. military officials were well aware of this torture. Most of the reports issued about the abuse are extremely terse and tell us little about its nature. The vast majority of reports from 2008 say, for instance,

> Reported an allegation of detainee abuse involving security force. Details of the alleged abuse have been sent via separate correspondence. Allegation has been forwarded to the appropriate command for initiation of inquiry/investigation (4/8/2008, Log # 346432).

Many reports do, however, include some descriptions and provide a limited understanding of Iraqi security forces torture and mistreatment of detainees. Typical incidents of abuse committed

by Iraq security forces, as described by U.S. soldiers, involve beatings, kickings, and stress

positions, as the below reports[7] indicate:

> Evidence of prior torture/abuse on 3 local nationals that had been captured…
> Examinations of the detainees showed lacerations on wrists from handcuffs,
> bruising on the back and thighs, bruising on face. Detainees allege that they were
> beaten by police with cables on the back, chest and face; hung by the wrists and
> forced to confess to terrorist acts (5/29/05 Log#87757).
>
> Detainee claims that Iraq Police placed him in a stress position (left arm curled
> behind back, right arm curled over shoulder) and locked him in the station
> bathroom. Iraq Police beat the detainee in the bathroom. At some point, they also
> took him upstairs… to another room, where they beat him some more. The
> detainee's body showed extensive bruising on the face, detainee back shows what
> appears to be a boot print, outlined in bruised tissue (5/27/2006, Log #153717).
>
> Detainee alleges three [Iraq security officials] came to his house and beat him…
> Patient has marked signs of trauma, had bleeding from a laceration in the left
> eardrum, bilateral bruising and swelling around the face and eyes and a laceration
> on the forehead (5/27/2007, Log #250942).
>
> [Detainee] claimed that he was beaten by Iraqi Police… The detainee stated that
> he was punched, kicked and struck with a wire. A physical examination of the
> detainee revealed bruising on his left ear, neck and back (10/8/2008, Log
> #374668).
>
> [Detainees claim] they were beaten with cables and had their feet stomped on by
> the Iraqi Police. [Medical personal] evaluated the detainees and determined that
> their wounds were consistent with their story of the abuse (5/16/2009 Log #2055).

The above reports show, year-by-year, typical incidents of abuse committed by Iraqi security

forces, as reported by U.S. soldiers in the Iraq War Logs. According to the Logs, Iraqi forces

sometimes combine these beatings with electrical shock and with burns from cigarettes or cigars.

Taken together, the Iraq War Logs show that detainee abuse was widely practiced by Iraqi

security forces between 2004 and 2009, and that much of this was not "clean" torture, but

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[7] I have made some changes to these excerpts to make them more readable by, for instance, using
entire words instead of military acronyms and filling in a blank space or redacted portion of the
report, indicated by brackets […].   Three Xs (XXX) indicate a blank or redacted word or phrase
I did not fill in for fear of inaccuracy.

employed more traditional physical attacks. If clean methods of torture are the most effective means to obtain information from suspects and can be used to more effectively avoid international humanitarian criticism, it is important to ask why the Iraqi government was so regularly using these more overtly brutal types of abuse.

The Possible Uses of Iraqi Torture

There are two main state uses of torture. The first, as has been discussed, is primarily to extract information from prisoners[8] (Rejali 2007). The second is as a means of terrorizing violence to subdue a restive population and intimidate political rivals in order to impose or maintain state power (Klein 2007; Rejali 2007). There is no evidence from the Iraq War Logs that conclusively demonstrates the Iraqi state was seeking to achieve one goal rather than another in its use of torture, therefore I present both possibilities.

While more purely psychological means of torture may be more effective at obtaining information from suspected enemies, and have the added benefit of eluding negative international attention and accusations of human rights abuses, it is possible that the Iraqi government did not have the institutional capabilities to practice these techniques. This lack of institutional capacity may have been exacerbated in the midst of such a widespread and powerful insurgency and sectarian conflict, in which the state was confronted with a literally overwhelming number of potential enemies. Being overwhelmed, the Iraqi state might have, for the sake of efficiency, resorted to interrogating and torturing detainees with physical brutality rather than relying on "clean" techniques alone. And, because the insurgency and sectarian war was threatening the very existence of the fledgling Iraqi state, it may have resorted to more

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[8] Or, similarly, to coerce confessions of wrong-doing.

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traditional forms of physical torture because the need to obtain military intelligence through any means possible, trumped any state desire to achieve international legitimacy through human rights compliance. So, it is possible the Iraqi government was practicing more traditional forms of physically brutal torture primarily as a means to gather military intelligence. There is, however, another possibility.

Torture may also be used by states in attempts to discipline and intimidate a population (Klein 2007; Rejali 2007). This form of torture, which I call torture as terrorizing violence, is a state attempt to pacify and subdue a population by sending a message to restive publics that those who express dissent or participate in rebellion should expect to suffer extreme and prolonged pain, potential disfigurement, and often death. Contrary to "clean" methods of torture, which can allow a state to deny or obscure its policies of abuse, the very purpose of a state's use of torture as terrorizing violence is to provide grizzly and unmistakable evidence of state brutality. McCoy (2006) describes this practice, for instance, in the Philippines, during which the Marcos regime of the 1970s dumped the bodies of its torture victims in public places for all to see. A survey of just the past week's news headlines shows that torture as terrorizing violence continues to be a tactic well-used by states across the world, for instance in Syria,[9] Libya,[10] and Equatorial Guinea.[11]

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[9] Syrian security forces arrested, among many others, a thirteen-year old boy at an antigovernment protest. According to an al Jazeera report, one month later the government returned the boy's tortured and mutilated body to his parents (McLeod and Flamland 2011). This action is, evidently, intended to send a chilling message to other parents who allow their children to participate in anti-government protests.

[10] The Libyan military, according to al Jazeera, displayed imprisoned anti-government protesters on state TV whose faces showed obvious signs of torture (Birtly 2011).

[11] It is widely known by citizens of Equitorial Guinea, according to a New York Times article, that the government regularly tortures persons suspected of political dissidence. The government

It is likely that at least some of the torture practiced by the Iraqi government, during the

U.S. occupation between 2004 and 2009, was committed as terrorizing violence.[12] For instance,

in 2005 the Iraqi government, according to an Amnesty International Report (2006), displayed

four men on state television who all bore obvious signs of torture who were made to confess to

terrorist activities.[13] When Iraqi officials put these persons on TV, with visible injuries, they

likely intended to send an intimidating message that the government plans to severely punish,

through physical brutality, those people it deems to be enemies.

Moreover, the Iraq War Logs include numerous incidents of extremely brutal torture,

which may be consistent with state efforts to not only extract information from suspected

insurgents, but also to send an intimidating message to armed groups and their broader social

support networks throughout Iraqi society. Representative examples taken from the logs

between the years of 2006-2009 include:

> Detainee claims that he was seized from his house by the Iraq Army… He was
> then held underground in bunkers for approximately XXX months. Subjected to
> torture by members of the Iraq Army. This alleged torture included, among other
> things, stress position, whereby his hands were bound and he was suspended from
> the ceiling; the use of blunt objects (pipes and antennas) to beat him on the back

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makes such little secret about its use of torture that, according to a former UN Special
Rapporteur on Torture, "they don't even hide the torture instruments" during humanitarian
inspections of prisons (Nossiter 2011).

[12] One of the most disturbing things a person immediately encounters when reading the Iraq War
Logs is the regularity that U.S. troops encountered the bodies of murder victims along roadways,
and the regularity to which these bodies, according to the reports of U.S. soldiers, showed signs
of torture. There is no doubt that a great deal of this was committed by insurgent forces and
sectarian combatants, as some of the bodies of the tortured persons carried signs accusing them
of collaborating with the Iraqi state or coalition forces. It is in this context that I suggest the Iraqi
state may also have practiced torture as a form of terrorizing violence.

[13] According to Amnesty International (2006), after gaining access to a lawyer these men later
repudiated their confessions and claimed that they were subjected to twenty-seven days of torture
after being detained.

and legs; and the use of electric drills to bore holes in his legs (5/27/2006, Log #153714).

Victim was captured by the Iraq Army… When questioned about terrorism activities, the victim alleges that [Iraqi Army personal poured] chemicals on his hands, cut his fingers off, and hid him when Coalition Forces visited [prison]. Extensive scars resulted from the chemical/acid burns, which were diagnosed as 3rd degree chemical burns along with skin decay. His medical reports… also noted bruises on his back (6/17/2007 Log #276765).

Instance of alleged detainee abuse resulting in death… There are allegations of torture… (8/6/2008, Log #366393).

The detainee was transferred… for questioning and while in custody, reportedly committed suicide. The XXX personnel conducting the post [mortem] examination found bruises and burns on the body as well as visible injuries to the XXX, arm, torso, legs, and neck. The injuries are consistent with abuse (8/27/2009, Log #9127).

These brutal incidents reported by U.S. soldiers indicate the Iraqi security forces, while fighting a counter-insurgency war, may have sought to use torture not only to obtain militarily useful information from detainees, but also as means of sending a message of intimidation to the broader populace. In other words, these representative incidents included here may indicate the Iraqi government's use of torture as terrorizing violence.

The exact motivation for the Iraqi government's widespread and ongoing use of physical brutality cannot be definitively settled in the course of this dissertation. Perhaps the main point is that Iraqi security forces, whom the United States was depending upon to defeat an insurgency and suppress a sectarian conflict, regularly practiced torture with the full knowledge of the U.S. military. Moreover, despite Rajali's (2007: 26) claim that there has been a "global transformation of the means of torture," through which torture has become less overtly brutal and gruesome, the Iraqi government regularly subjected its prisoners to severe physical attacks. While this torture was committed by Iraqi forces, it must be considered to what degree, if any, the U.S. bears responsibility.

Iraqi Torture as Surrogate U.S. Violence

Iraqi security forces were committing widespread torture from 2004 to 2009. This torture, according to the Iraq War Logs and human rights organization reports, showed no sign of diminishment over the years. All of this torture occurred in a context in which the United States was an occupying power that had created and supported the Iraqi government, closely coordinating its own military actions with that of its new client state. One way to begin answering the question about U.S. culpability is to examine what efforts the U.S. made to confront and end Iraqi state torture, and to consider the extent that it was tolerated. While there is evidence in the Iraq War Logs to suggest that individual officers and soldiers sought to confront Iraqi torture, evidence also suggests that high-ranking officials, those who determined U.S. policy as a whole, tacitly accepted it.

Some U.S. soldiers, according to the Logs, did seek to intervene when they suspected abuse or torture and otherwise tried to act in the interest of protecting detainees' human rights, as is expressed in these two reports.

> There is evidence of torture in a holding cell at [an] Iraqi Police station… Large amounts of blood on the cell floor, a wire used for electrical shock and a rubber hose were located in the holding cell… Team is conducting visits to the Iraq Police [Station] and the detention cells have been checked during every subsequent visit… The detention cell officers have been counseled on the severe negative ramifications to relations with the coalition forces if human rights are not respected (6/26/2006, Log #160351).

> Discovered multiple detainees who appeared to have been abused by Iraqi Police personnel. The detainees had severe XXX to lower extremities and were in need of medical attention. Some detainees were handcuffed in offices, others beaten and confined to locked rooms and left in a XXX state with no fluids provided. The unit also discovered the suspected instruments used to conduct the abuse in the office of the Iraqi Police Station Chief. These suspected tools of torture had blood marks and were retained by the unit… When the Iraqi Police Chief was confronted about the suspected detainee abuse at his station he responded he was aware of the [torture] and supported it as a method of conducting investigations (5/22/09 Log #838).

In other examples, individual soldiers acted to protect the human rights of Iraqi detainees:

> Iraq Army soldiers apparently struck detainees. A US Marine Instructed the [interpreter] to tell the Iraq Army members not to [hit] the detainees (3/19/2006, Log #138802).

> At an Iraqi Checkpoint, the subject detainee assaulted a soldier from Iraqi Army and fled. Iraqi Army personnel chased the detainee, and when Iraqi Army [soldiers] caught him, they began striking the detainee. [U.S.] Marines intervened and took the detainee to their emergency medical provider. While being treated… an Iraqi Army soldier unexpectedly entered the emergency medical provider and kicked the detainee in the back. Again the Marines intervened and they removed the Iraq Army soldier… (8/16/2006, 1725758).

When U.S. officers and soldiers acted to stop the abuse of Iraqi prisoners, they were acting in accordance with public statements made by U.S. commanders who insisted the U.S. would not tolerate the practice of torture in Iraq (DoD 2005).

Perhaps the biggest intervention made by U.S. forces in the interest of human rights occurred in December of 2005, when the Army's Major General John Gardner proclaimed, after torture committed at Iraqi secret prisons came to light, that "we will not pass on facilities or detainees [to the Iraqi security forces] until they meet the standards we define and that we are using today" (quoted in Schmitt and Shanker 2005). To the extent this policy existed in action and not merely words, however, it was short-lived. Only a few months later the U.S. government announced plans to turn over U.S. run prisons to the Iraqi state, including the notorious Abu Ghraib detention facility[14] (Worth 2006), despite little improvement in the human rights practices of the Iraqi security forces.

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[14] Some of the prisoners initially tortured by Iraqi officials at a secret prison, who were removed by U.S. soldiers, were returned to Iraqi custody during the transfer of Abu Ghraib, where international observers feared they would again be subject to torture (Sabir and Chamberlain 2006), and where the Iraqi government quickly began conducting mass executions (Poole 2006).

The Iraq War Logs show, in fact, that while U.S. soldiers did at times intervene on behalf

of the human rights of detained Iraqis, they more typically took no action to halt abuse and

torture. The Logs show many instances, for instance, when soldiers reported that prisoners

would remain in Iraqi custody despite evidence they were being tortured:

> 32 detainees were dropped off by Iraqi Army to the Diyala Provincial Jail. While
> the detainees were waiting outside to be processed, members of [U.S. Armed
> Forces] noticed that 10 detainees showed signs of bruising and scarring. Several
> of the victims stated that they were abused by the Iraqi Army while being
> detained… 5 detainees showed signs of significant abuse… (multiple XXX,
> bruises, and broken bones)… Are currently in Iraqi Police Custody at Diyala
> Provincial Jail (10/4/2006, Log #187753).

> Inspected the Major Crimes Detention Center at the Fallujah District Iraq Police
> Station and discovered instance of detainee abuse… A physical screening of the
> detainee revealed severe bruising on his back and either a dislocated or severely
> sprained wrist. The detainee stated that his hands were tied behind his back and
> he was hung from the ceiling. He also states that while he was hanging, Iraqi
> Police Captain hit him numerous times on his back with a ruler… The detainee's
> wrist was splinted… and he was returned to the [Iraqi Police run] Major Crimes
> Detention Center (4/29/2008, Log #350633).

In other instance, records indicate that U.S. troops actually interrogated Iraqis after they

were beaten by Iraqi soldiers or other security officers:

> Detainee was arrested at his home. The Iraqi Army soldiers asked for the location
> of his brother. He told them that he [did not] know and was placed in the trunk of
> a [car]. While being put in the trunk he was struck with a baton several times in
> the XXX, right leg, right wrist, and buttocks. Detainee shows swelling on his
> XXX, bruising on his right arm, leg, and buttocks. There are indications of abuse.
> Detainee has been medically cleared for interrogation (5/13/2009, Log #1792).

> Upon medical screening the detainee revealed… he was struck several times after
> capture. The detainee [said] that he was kicked and punched in the right shoulder
> by… Iraqi Forces… There was bruising and limited range of motion in his right
> shoulder. The detainee appears to be in overall good health and has been deemed
> fit for interrogation (7/23/2006, Log # 166927).

A great many reports of abuse in the Iraq War Logs simply state "no further investigation

necessary." This is consistent with two military orders to U.S. troops in Iraq issued from U.S.

commanders, which were revealed with the release of the Iraq War Logs. "Fragmentary Order 242," issued in April of 2005, required that, "provided the initial report confirms US forces were not involved in the detainee abuse, no further investigation will be conducted unless directed by headquarters" (quoted in Stickler and Woods 2010, see also Davies 2010).[15] Fragmentary Order 039, issued in April 2005, modified Fragmentary Order 242 by requiring that "reports of Iraqi on Iraqi abuse be reported through operational channels," but still stipulated that "Provided the initial report confirms the U.S. forces were not involved in the detainee abuse, no further investigation will be conducted unless directed" (quoted in Stickler and Woods 2010, but see also Iraq Log #90847).

These orders indicate a contradictory U.S. human rights policy, in which U.S. commanders instructed soldiers to inform them of instances of Iraqi abuse, but simultaneously ordered soldiers not to investigate the abuse or take further action unless specifically ordered to do so. This discrepancy is an outcome of the broader contradiction in U.S. policy regarding torture and abuse in Iraq. On the one hand there is the publically stated policy of insisting that the Iraqi state respect human rights and not practice torture, along with the provision of human rights training programs and other forms of instruction. On the other hand, U.S. officials throughout the 2004-2009 period knew very well about torture and mistreatment committed by Iraqi forces but nonetheless worked closely to build them up, to support them—cooperating on a daily basis with forces that regularly committed torture—and to eventually extend control of the entire territory to these authorities.

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[15] The Iraq War Logs file I used for this research has been redacted, such that these individual order numbers were removed. Journalists with files of the Iraq War Logs that have not been redacted identified fragmentary numbers 242 and 039 (see Davies 2010; Stickler and Woods 2010).

It is for this reason that the United States is, to some degree, responsible for the torture

committed by the Iraqi state. U.S. military strategy depended upon Iraqi forces to defeat the

country's insurgency and sectarian conflict in order to achieve broader U.S. geopolitical goals.

In its counterinsurgency war, the Iraqi state found it necessary to use torture. This torture then

was committed by the Iraqi state to secure its own interests along with those of the United

States.[16] The U.S., in other words, cannot easily separate itself from the torture committed by its

adjunct.

U.S. officials would nonetheless try to distance themselves from this torture and

otherwise deny that the United States shared any responsibility. This is to say that, by denying

responsibility for their client state's use of a contested form of violence, even though it was used

to secure key U.S. interests, these U.S. officials were practicing the legitimating technique of

surrogacy. For instance, a "senior military official" told a *New York Times* reporter, in regard to

Iraqi state torture, that "in the end, this is an Iraqi war, and the Iraqis will fight it in their own

way" (quoted in Burns 2005). And in a 2005 response to a press inquiry regarding Iraqi detainee

abuse, Secretary of Defense Rumsfeld told a reporter that Iraq is a sovereign nation and that,

> The United States does not have a responsibility when a sovereign country
> engages in something that they disapprove of; however, we do have a
> responsibility to say so and to make sure that the training is proper and to work
> with the sovereign officials (DoD 2005).

More recently, in an attempt to deflect U.S. responsibility from the Iraqi torture documented in

the Iraq War Logs, President Obama's spokesperson told reporters, "If there needs to be an

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[16] This is different than other historical situations in which the United States intentionally sought
to benefit from the terrorizing violence committed by client states during the Cold War era, for
instance through the torture and assassination program called Operation Phoenix in the Vietnam
War (Valentine 1990) or through U.S. counter-insurgency efforts in Central America during the
1970s and 1980s (Chomsky 1985; Harbury 2005; McCoy 2006).

accounting, first and foremost there needs to be an accounting by the Iraqi government itself, and how it has treated its own citizens" (quoted in al Jazeera 2010).

In summary, the Iraqi security force's systematic torture of prisoners occurred in a context where the United States government was training and equipping the Iraqi state; was closely cooperating with it to conduct military operations; and was increasingly depending upon it to prevail over insurgents and sectarian fighters to achieve U.S. foreign policy goals. Nevertheless, through the legitimating technique of surrogacy, the U.S. has sought to distance itself from these acts of violence that violate international humanitarian standards. In the next section, I will discuss what these empirical findings mean in terms of constructionist and structuralist models of state policy development.

DISCUSSION

Since the beginning of the "War on Terror," the United States has violated international humanitarian norms regarding torture, first by breaking its obligations under the Geneva Conventions and the UN Convention Against Torture to create an official state policy that emphasized the use of "enhanced interrogation methods," which are methods of "clean" or psychological torture. Second, the United States violated international standards regarding torture by supporting, and closely working with, the Iraqi government as it regularly employed very brutal forms of torture—either to gather military intelligence, to commit terrorizing violence, or both—in its effort to crush an insurgency and sectarian conflict, a goal that was obviously also in U.S. interests. These outcomes are very telling in terms of efforts to adjudicate between constructionist and structuralist models of U.S. state policy development.

Constructionist perspectives anticipate that the United States will refrain from using widely-condemned forms of violence in order to exercise moral leadership and maintain the legitimacy required for hegemony. These expectations were not, however, borne out by this case study of U.S. torture policy.[17] For instance, the strong model of hegemonic constructivism predicts that the U.S. will abide by well-agreed upon norms in order to ensure the compliance of weaker states. But while a few members of the Bush Administration made arguments that abiding by global standards regarding torture would best serve U.S. hegemony, in order to "conform" the behavior of other states and more effectively exercise global military leadership, these arguments were dismissed by the Bush Administration in favor of developing its new official torture policy. Thus, there was a stark divide between international humanitarian expectations and actual U.S. policy regarding the treatment of prisoners during the war on terror. This gap was obscured through the legitimating strategies of humanitized technology and surrogacy.

An "authentic" model of humanitized technology is a kind of "middle ground" theory that anticipates that a hegemonic nation like the United States will attempt to strike a balance between international humanitarian norms and militarily effective force through the development and use of technologies of violence that are less overtly cruel or cause less harm to civilians. This model may, based on initial appearances, seem to closely match the "enhanced interrogation methods" adopted by the Bush administration, which seem to be quintessential examples of the "clean" torture discussed by Rejali (2007). According to this argument, the U.S. and other states can continue to use torture, despite international normative prohibitions, by making it "clean," or

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[17] It is important to note, however, that there is some support for stronger constructionist perspectives, in that the U.S. Supreme Court did insist that the Bush Administration abide by the Geneva Accord (Hamdan vs. Rumsfeld. 2006) and President Obama did officially repudiate the "enhanced interrogation methods" instituted by his predecessor (Shane et al. 2009).

less gruesome and overtly brutal. This model, however, is complicated by the historical record of the development of psychological methods of torture in the U.S.

According to McCoy (2006), psychological methods of torture were developed and used by the United States not because of pressure from humanitarian advocates or out of a desire to make torture seem more humane. These methods were developed simply because they were more effective at tearing down a person's defenses and extracting military intelligence (McCoy 2006). From this perspective, it is only an added benefit that these methods of torture may seem less overtly brutal and destructive, a feature that—as we saw in the Bush Administration's policy of "enhanced interrogation methods"—can make them amenable to the legitimating techniques of defensive categorization and the use of a humanitizing discourse. With the historical development of these techniques taken into account, the Bush Administration's official adoption of psychological torture tactics more clearly matches the "inauthentic" model of humanitized technology and its closely related model of symbolic legitimation, whereby the U.S. refuses to relinquish its capacity to employ universally condemned forms of violence, but makes efforts to justify or hide their use.

Rejali (2007), in sum, makes an important argument. But it is also possible that he overstates his case. This is especially true when he asserts that there has been a "global transformation" in torture, such that "clean" methods of torture have increasingly antiquated and supplanted other more overtly brutal acts. There are many reasons why, however, states may continue to use more traditional and overtly cruel forms of torture. A state may, for instance, lack the institutional capacity to employ psychological methods of torture. And pushed to the brink, where a state's very survival is questioned by a powerful insurgency, a government may have very little regard for international legitimacy and global humanitarian norms. Moreover, a

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state may continue to practice a more traditional, gruesome form of torture specifically because it is not "clean," and so can be used to send an intimidating message to armed opponents and political rivals that they should expect to endure tremendous pain if they do not submit to the power of the state.

The evidence presented in this dissertation cannot definitively answer whether or not the Iraqi state enacted its policy of overtly brutal forms of torture in order to obtain information, to terrorize and subdue restive populations, or some combination of the two. Regardless of the answer to this important question, the Iraqi government evidently felt it necessary to treat prisoners with systematic cruelty in its campaign to defeat the insurgency and sectarian conflict that emerged in the wake of the U.S. invasion. The United States' own military strategy depended upon the Iraqi government's success, and so is closely implicated with the regime's torture. Through the legitimating technique of surrogacy, however, the U.S. has sought to distance itself from these atrocious practices and continues to deny any responsibility.

Chapter 6

HEGEMONY, LANDMINES, AND THE POLITICS OF DOUBLE-STANDARDS

Landmines are particularly reviled weapons from a humanitarian perspective because they kill

and wound indiscriminately and because they remain dangerous for decades after they are hidden

in the ground. In this chapter I examine U.S. landmine policy development from the 1990s to the

present in order to unravel a particularly informative empirical puzzle: during this short period of

time the U.S. has been both a global leader and laggard in anti-landmine advocacy and action.

Under the leadership of President Bill Clinton, The United States took pioneering actions in the

early 1990s to address the humanitarian problem of landmines. But only a few short years later,

the Clinton Administration and subsequent U.S. presidents have appeared recalcitrant—if not

hostile—to the global effort to ban landmines, eventually choosing not to sign the Antipersonnel

Mine Ban Treaty, created through the Ottawa Process in 1997.

The development of an international norm prohibiting states from using, stockpiling, or

transferring landmines to other nations has been well studied from a global polity perspective

(Faulkner 2007; Price 1998a; Rutherford 2004). These studies find evidence that international

civil society, especially the hundreds of non-profit organizations that came together to form the

International Campaign to Ban Landmines (ICBL), played a pivotal role in creating a global

norm to ban landmines. There is no doubt some truth to this constructionist argument. The

organizations that acted in concert with the ICBL did a truly remarkable thing in human history

by becoming a humanitarian force in global political culture that had a real impact on many state

policies. But it should also be noted that the constructionist perspective can tell only part of the

story, at least in terms of U.S. policy development. It is not at all clear, for instance, what if any impact the Ottawa Process has had in shaping U.S. policy. Furthermore, constructionist accounts that focus on transnational anti-mine campaigners overlook early U.S. governmental leadership in advocating for limitations on antipersonnel mines, which are measures that would serve key U.S. defense objectives. As I will argue in this chapter, there is a great deal to be gained by using a hegemonic constructionist perspective to explain U.S. policy development regarding landmines.

Building from the work of Richard Price (1997), I describe the pathway of hegemonic constructivism as an attempt made by the United States to create a humanitarian norm as a means of controlling or shaping the military policies of less powerful nations. Evidence presented in this chapter demonstrates the utility of this perspective, showing that the United States played an important early role contributing to an international norm against landmines. I, however, specify two variations of this model, a "strong" constructionist model and a more structurally leaning "weak" model. Price argues in favor of a strong constructionist theory, in which there is, in my words, a "boomerang effect" in that, by stigmatizing certain weapons the United States is also forced to remove them from its own arsenal. In Chapter Four, I disputed Price's claim that there is evidence for a strong constructionist theory in the case of U.S. chemical weapons policy. Evidence in this chapter poses a further challenge to the constructionist argument that humanitarian norms can, by themselves, curtail violence utilized by a hegemonic nation such as the United States.

The evidence presented here shows that the United States sought to stigmatize certain "low tech" landmines that do not self-detonate or deactivate, which the U.S. further sought to ban through international treaty-making. The U.S., however, has argued over the years that

antipersonnel mines that have these self-destruction technologies are legal weapons that pose little humanitarian risk. Furthermore, because these so called "smart" landmines serve a vital role in America's military system, U.S. officials argue, they should not be condemned and will, regardless, remain in use by the United States military. Not only do these events closely resemble the weak model of hegemonic constructionism, they also closely resemble a humanitized technology pathway, through which the U.S. attempts to legitimate contested weapons by implementing new technologies that supposedly have the capacity to limit humanitarian harms. The path taken here, however, is closer to the "inauthentic" model of humanitizing technology because, as I will show, "smart" landmines used in war would result in significant casualties. Furthermore, the use of these technologically improved landmines would solve several important military problems associated with the use of so called "dumb" mines. "Smart" landmines are useful to the U.S., then, not only because they can be legitimated as a more humane technology, but simply because they are more militarily effective than mines that do not self-destruct.

In the next sections of this chapter I will provide evidence to support these arguments. First, I will describe the unprecedented international campaign to ban landmines, which helped produce the 1997 Mine Ban Treaty. I will then move on to show that the United States was already taking, without much pressure from human rights activists, pioneering efforts to stigmatize landmines and curtail the global landmine weapons trade. I will next describe how the U.S. quickly became a critic of the global effort to ban landmines and how it soon refused to conform its own weapons policy to the emerging global standard. I argue that the Clinton Administration, followed by both the Bush and Obama Administrations, has sought to obscure the contradiction between the nation's military policy and international humanitarian norms

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through humanitized technology. Taken together, I argue that there is little evidence that the United States has sacrificed military utility in favor of international norm compliance, contrary to the expectations of strong constructionist perspectives.

INTERNATIONAL HUMANITARIAN CHALLENGE TO LANDMINES

Landmines have caused tremendous humanitarian harm in the contemporary world. They have been widely used in wars throughout Europe, Africa, Central America, and Asia since the First World War. The vast majority of these mines were not detonated during the wars in which they were deployed, and so continue to pose deadly risks to farmers working in their fields, children playing, and most other everyday activities.   In 1993, the United States estimated that there were eighty-five million landmines still buried across the world, killing or wounding an estimated 150 persons per day. These landmines constituted, and continue to constitute, a major humanitarian problem facing the world's people (State Department 1993).

During the late 1980s and early 1990s, diverse humanitarian organizations began calling on nations to ban the weapon in order to end what was then called the global landmine crisis. They soon mounted an international campaign to achieve this goal (Williams and Goose 1998: 20). The International Campaign to Ban Landmines (ICBL) was formally launched in 1992 when six organizations—the Vietnam Veterans of America Foundation, Handicap International (France), Human Rights Watch (U.S.), Medico International (Germany), Physicians for Human Rights (U.S.), and the Mines Advisory Group (UK)—issued a joint call for a landmine ban and met to begin coordinating their work (Williams and Goose 1998). The coalition, which soon incorporated the efforts of more than one thousand other nonprofit organizations around the world, worked internationally, nationally, and locally to pressure governments to support a

landmine ban (Rutherford 2004). The work of the ICBL was further bolstered by the advocacy of the United Nations, particularly the United Nations Children's Fund, and the International Committee for the Red Cross (Williams and Goose 1998).

The ICBL initially sought to pressure states to amend the United Nations' "Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects," typically known as the Convention on Certain Conventional Weapons (CCW) (Williams and Goose 1998). During the treaty's scheduled review between 1994-1995, many states did make efforts to address the issue under the UN framework, during which time the ICBL monitored the proceedings and worked to convince foot-dragging nations or nations that opposed a landmine ban to shift positions (Williams and Goose 1998). When the CCW negotiations resulted in an agreement that fell short of a global ban on landmines, the ICBL, according to its former campaign coordinator, "worked to convince the media and friendly governments that not only were the negotiations not moving towards a ban, but they were, in fact, weakening the already horribly weak CCW landmine protocol" (Williams and Goose 1998: 32). At the end of the CCW proceedings, the ICBL identified forty-one nations that were ready to commit to a total landmine ban (Lawson et al. 1998).

In 1996, Canada, being one of the pro-ban nations, proposed a treaty-making process outside of the UN framework, open to states that would formally commit to the goal of achieving a landmine ban (Lawson et al. 1998). This treaty-making effort later became known as the Ottawa Process. During this period, ICBL member organizations continued to work to influence public opinion and pressure states to achieve a total ban (Rutherford 2004; Williams and Goose 1998). The results were unprecedented. In just fourteen months 122, nations—out of the total

192 states that are members of the UN—signed the "Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction" (or simply, the Mine Ban Treaty). Chiefly, the treaty requires states to (1) never manufacture, use, stockpile, or transfer antipersonnel landmines, though tank and other anti-vehicle mines would remain legal; (2) to eliminate stockpiles of antipersonnel landmines within four years of joining the treaty; and (3) to remove all emplaced landmines within national borders within ten years, and/or provide other states with assistance to do so (ICBL 2011).

These events have been much studied and written about, typically from constructionist or humanitarian advocacy perspectives. Wapner (2004), for instance, argues that the success of the ICBL in pushing for an international landmine ban is evidence of the existence of an international civil society that has a real ability to shape global politics. Similarly, Faulkner (2007) contends that the ICBL demonstrates the capacity of moral entrepreneurs to shape new international political regimes that can govern nation-state behavior. Rutherford (2004) highlights the particular attributes of the ICBL, especially the coalition's technical expertise regarding landmines and the grassroots political action of member groups, that made the creation of an international landmine ban possible. Price (1998a) argues that a global norm stigmatizing landmines emerged due to the ability of the ICBL to politicize the issue, to frame the use of landmines in humanitarian terms (sometimes linking them to other stigmatized weapons such as chemical gases), and to shame treaty holdouts or obstructionists. To the extent that these accounts mention the United States, however, it is typically as a party that is hostile to, or at least reluctant to join, the global ban (see Faulkner 2007). While the above accounts are very important, and make arguments that deserve attention, they are also only partial. They miss the interesting and theoretically significant fact that the United States was not always an

international outcast in terms of landmine policy, but was once a world leader in anti-landmine humanitarian advocacy.

FROM LEADER TO LAGGARD: THE DEVELOPMENT AND LEGITIMATION OF U.S. LANDMINE POLICY

In the early 1990s, both the U.S. Congress and White House took early and unprecedented steps to address the proliferation and global use of landmines. On October of 1992, when the International Coalition to Ban Landmines (ICBL) was in its infancy and before the International Committee for the Red Cross called for a ban on landmines, the United States Congress passed the "Landmine Moratorium Act" as an amendment to a defense appropriations bill. [1] This bill instructed the government to ban, for one year, the export of antipersonnel landmines to other countries[2] (LMA 1992). It further states that, "it shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the use, production, possession and deployment of anti-personnel landmines" (LMA 1992). In other words, the bill instructs the government to work toward a global humanitarian agreement to ban the sale or transfer of landmines, and to otherwise curtail their use. Passage of the bill made the United States the first country in the world to formally prohibit the export of landmines (ICBL 1999). Human rights campaigners credited the "moratorium bill with stimulating world interest in controlling land mine warfare" (Lippman 1993). According to lead anti-mine campaigner Stephen Goose of Human Rights Watch, "it is hard to overstate the importance of

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[1] I began this research project assuming that arms manufactures would play a significant role shaping U.S. policy by, for instance, fighting the institution of laws such as this. However, I found no evidence that arms manufacturers exerted a major influence determining landmines policy.

[2] This landmine export ban has been passed a number of other years, and now extends out to the year 2014 (Landmine Monitor 2010).

the U.S. moratorium in raising awareness in this country and around the world of the seriousness

of the land mine situation" (quoted in Lippman 1993).

The Landmine Moratorium Act further required "that the President provide a report to

Congress regarding international mine clearing efforts in situations involving the repatriation and

resettlement of refugees and displaced persons" (LMA 1992). In compliance with the law, the

Department of State submitted a report the next year to Congress entitled, *Hidden Killers: The*

Global Problem of Uncleared Landmines, which was the first attempt to provide a global survey

of humanitarian risks posed by the weapon (ICBL 1999). Beyond simply satisfying the letter of

the law, however, the Department of State used the report to frame landmines as an immediate

threat to global well-being, requiring immediate action:

> Landmines may be the most toxic and widespread pollution facing mankind...
> Children fall easy prey to landmines because they often wander unaware through
> areas marked by their elders, or because childish curiosity causes them to turn
> brightly colored mines into play things. Farmers are victimized because survival
> often requires that they plant or harvest crops in fields were mines have been laid
> (State Department 1993: 2).

During that same year, the U.S. representative to the UN, Madeline Albright, called landmines,

"the coward's weapon of choice" (quoted in New York Times 1993) and "a weapon of terror"

(Albright 1993). In 1994, the U.S. government took another step in international anti-mine

leadership when President Clinton gave a speech before the United Nations calling for the

eventual global elimination of antipersonnel mines, becoming the first world leader to deliver

such a call (ICBL 1999). Following Clinton's speech, the U.S. introduced a resolution before the

United Nations general assembly endorsing an eventual landmine ban, which passed with

widespread support[3] (ICBL 1999).

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[3] After the U.S. imposed its own landmine ban and introduced this UN resolution, many
landmine producing and exporting states implemented their own ban, including Austria,

From the years of 1992 to 1994, then, the United States was a clear leader in global anti-mine advocacy and action, being the first nation to ban landmine exports, completing a first-of-its-kind report detailing the global threat of landmines, working to stigmatize landmines and frame them as a global humanitarian blight, becoming the first nation to call for a global landmine ban and introducing a resolution calling for such at the UN. But it is important to ask, what motivated this leadership? One thing for certain is that it was not pressure from global or domestic anti-mine nonprofit organizations. While U.S. Senator Leahy, a Congressperson who has become a stalwart anti-mine advocate, did work with the United States Coalition to Ban Landmines—a coalition of U.S. human rights organizations—in drafting the 1992 Landmine Moratorium Act, there was no grassroots campaign in the United States to alter public opinion or pressure lawmakers to act on behalf of humanitarian concerns (Wareham 1998). In the absence of grassroots humanitarian pressure, it is likely that the White House had seized a humanitarian issue in order to achieve U.S. foreign policy objectives.

With the demise of the Soviet Union and the end of the Cold War, United States defense doctrine was in a period of transition in the early 1990s. According to a 1993 national security guidance document, the Department of Defense identified what it believed as a favorable situation for the U.S., in that the nation no longer faced any credible threats from a major global military power (DoD 1993). Consequently, the document lays out a strategy calling for the United States military to maintain its technological superiority over all other nations while also maintaining a "forward presence," or global military deployment, with the capacity to intervene in other nations as a form of "crisis prevention" (DoD 1993). Such crisis prevention may mean fighting "low-intensity conflict, which includes terrorism, insurgency, and subversion" (DoD

Belgium, the Cezch Repubic, Germany, Greece, Israel, Italy, the Netherlands, Poland, Romania, The Russian Federation, Switzerland, Sweden, Spain, and the United Kingdom (UN 1995).

1993: 17). The 1993 State Department report, *Hidden Killers*, frames the landmine problem in a way that is consistent with this national security doctrine.

According to the report, landmines cause humanitarian problems due to their use by insurgents and irregular armies in the Global South. The report states that because landmines are "inexpensive and easy to lay, [they] have become the weapon of choice in many developing countries. Some antipersonnel (AP) mines can be bought for less than $3 per mine" (State Department 1993: 2). According to the report, "mines are ideal weapons for guerrilla forces and terrorists because they allow lightly armored troops to inflict a great deal of damage on oppositional forces with a minimum of exposure"[4] (State Department 1993: 6). The landmine crisis, according to this document, was not directly caused by the United States or other major military powers, other than by producing landmines that fell into the hands of combatants in the Global South.[5]

Thus, while the report acknowledges that there is a "great deal of international attention focused on the idea of an international landmine ban," it dismisses the measure as unrealistic and unnecessary (State Department 1993: 183). A ban was unrealistic, according to the report, because the militarily powerful nations of the world would never agree to give up these weapons. Moreover, such a ban was unnecessary, according to the Department of State, because new technologies can, allegedly, address the major humanitarian concerns associated with the use of

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[4] Even the Landmine Moratorium Act, which was certainly designed as a humanitarian bill, frames landmines primarily as a problem caused by third-world combatants, being "used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries" (LMA 1992).

[5] It is important to note that the U.S. laid hundreds of thousands of landmines in Southeast Asia during the Vietnam War, though the U.S. government has not acknowledged, or perhaps does not know because of poor record keeping, the exact number. U.S. landmines have been used in conflicts in Afghanistan, Angola, Cambodia, El Salvador, Iraq, Iran, Eritrea, Ethiopia, Morocco (including Western Sahara) and Nicaragua (ICBL 1999).

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landmines (State Department 1993). Along these lines, the report calls for nations to ban the sale

of landmines and to undertake certain technical specifications to make landmines more easily

detectable and "self-neutralizing." According to the report,

> There are roughly 42 mine manufacturing countries in the world today. Such
> countries could ensure that a sufficient amount of metal was installed in all plastic
> mines to make them easily detectable by current technology. By the same token,
> electronic fusing systems powered by limited life batteries are a very simple and
> inexpensive way to ensure that landmines do not remain lethal for years after their
> employment. More expensive self-destructing fuses, such as those carried by
> U.S. mines, would be better still. If such an agreement among mine producing
> countries could be coupled with ongoing international efforts to ban the export
> and restrict the use of landmines, the effect on the landmine problem would be
> extraordinary (State Department 1993: 184).

Importantly, according to the report, "as the U.S. is already in compliance with most measures

we are advocating concerning the manufacture of landmines, the impact on U.S. defense efforts

would be minimal" (State Department 1993: 184).

The State Department released a more thorough *Hidden Killers* report in 1995 that

continued to frame landmines as "devastating weapons," the use of which has caused a "global

crisis" (State Department 1995a). The follow-up report more explicitly seeks to differentiate the

use of landmines by insurgents and "irresponsible" states from those in the U.S. arsenal. The

report, for instance, stresses that, "insurgents and terrorists find mines plentiful, cheap, and

simple to use. Lacking stronger firepower, mines often have been used in an offensive role as a

substitute for artillery." But the report also insists that not all landmine use poses humanitarian

problems, claiming that, "the indiscriminate use of landmines is the real threat the world faces

today. The United States sets the standard for responsible use of munitions and encourages other

countries to follow its example." The report goes on to say,

> Lawful use of landmines by the United States armed forces has never really been
> an issue... What has been an issue both internationally and in the United States is
> the manner in which less-responsible states have employed landmines. In 1992,

the United States Congress, in an effort to take A/P landmines, at least U.S. A/P mines, out of the hands of irresponsible states, established a unilateral landmine export moratorium. In the case of landmines, principle becomes practical only when all landmine exporting nations unite to deny such weapons to irresponsible states or when the only landmines available in the international arms market are "responsible" ones.

"Responsible" landmines, according to this report, are those with self-detonating or self-neutralization mechanisms. The 1995 *Hidden Killers* report then, in even more explicit terms than its predecessor, attempts to call international humanitarian attention to the use of landmines by insurgents, terrorists, and "irresponsible" states, and so attempts to stigmatize—and ideally deny—their use of this weapon. But the report also attempts to exempt the United States' use of landmines from humanitarian condemnation, evidently in an attempt to maintain the U.S. military's ability to use the weapon in the future.

Taken together, the United States was indeed an early leader in anti-mine advocacy and action. But this advocacy is not consistent with global polity and humanitarian advocacy models because the United States was not simply responding to a global humanitarian norm, but was helping to construct it. The early advocacy is more consistent with a weak hegemonic constructionist model. In this light, the U.S. was working to achieve national defense goals by attempting to keep an effective weapon out of the hands of real or potential enemies. Doing so would be a significant accomplishment, especially when one takes into account the fact that landmines and explosive traps caused an estimated sixteen percent of U.S. fatalities in the Vietnam War, and for some military units caused as many as fifty percent of U.S. casualties (State Department 1995a). But while attempting to keep landmines, as a "weapon of choice," from insurgents and "irresponsible" states, the U.S. was also attempting to protect its future use of more technologically sophisticated mines that have the capacity to self-detonate.

It is important to note that self-detonating[6] mechanisms on landmines serve more than

humanitarian goals. Self-detonating mines are also militarily useful because they cannot be as

easily captured and redeployed by enemy forces, something that was likely of real concern for

U.S. military planners after the Vietnam War, where up to ninety percent of all mines used by

National Liberation Army forces used appropriated U.S. parts and explosives[7] (Landmine

Monitor 1999). Indeed, self-detonating and other self-neutralizing mines were first developed in

the 1970s (ICRC 1996), not long after the Vietnam War, but well before humanitarian

campaigners were seeking to outlaw mines due to their impact on civilians.

It should further be added that so called "smart" landmines provide a further military

advantage over those that do not self-detonate, which therefore pose deadly risks to friendly

troops and can restrain their movement on the battlefield (ICRC 1996). So, with the absence of a

strong humanitarian movement in the United States, it is likely that the U.S. global leadership

targeting landmines was not an attempt to tackle a major global humanitarian problem, but was

primarily an attempt to achieve foreign policy and military objectives. This becomes more clear

in the next several years when America moves from being a leader in the fight against the

humanitarian problem of antipersonnel mines to a principle obstructionist of a global landmine

ban.

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[6] The United States, and most humanitarian organizations, refer to these landmines as having "self-destruct" technologies, or as being "smart." However, these names obscure the fact that the landmines in question will still explode, and therefore pose a real threat to civilians, as I will describe later. These new technologies mean that a mine will not only explode when it is disturbed, but at a preset time or upon receiving a radio signal.

[7] In one particular instance, American forces created a 15-mile antipersonnel barrier using 30,000 mines, 10,000 of which were lifted by Vietnamese fighters and redeployed against U.S troops. Also, during World War Two, Germany, the UK, and the Soviet Union used enemy mine fields to their own advantage (State Department 1995a).

Humanitizing Technology and U.S. Landmines Policy

When the U.S. introduced its 1994 resolution to the UN General Assembly calling on states to,

"seek solutions to the problems caused by anti-personnel land-mines, with a view to the eventual

elimination of anti-personnel land-mines," it seems that the U.S. had the upcoming 1995 review

of the United Nations' CCW treaty in mind. At the onset of the review, the U.S. sought to make

several specific changes to the treaty regarding landmines, but was criticized by the International

Campaign to Ban Landmines (ICBL) for not taking further steps to outlaw the weapon (Williams

and Goose 1998).

According to a State Department (1995b) position paper at the time, "the United States is

gravely concerned with the humanitarian tragedy of suffering and casualties to the civilian

population resulting from the indiscriminate use of landmines."   To address this humanitarian

problem, the U.S. advocated an expansion of the treaty, so that it applied during times of conflict

that do not register as full-scale war. It also advocated for the technical specifications that it had

previously championed in its *Hidden Killers* reports (State Department 1995b). The United

States wanted all armies to be required to use self-detonating or self-deactivating technologies

for mines scattered by aircraft, rockets, or artillery (State Department 1995b). The U.S. also

wanted to establish the requirement that if states continue to use mines without self-detonating

mechanisms, they must do so "only within controlled, marked, and monitored minefields" (State

Department 1995b). And finally, the U.S. hoped to make it illegal for armies to use mines that

do not contain enough metal to be identified by metal detectors (State Department 1995b). The

CCW review process eventually incorporated these proposals into the global arms control treaty

(UN 1996), and in 1996, President Clinton officially conformed U.S. policy to the CCW treaty

by prohibiting the military from using so called "dumb" landmines, other than on the Korean

Peninsula[8] (PBS 1996).

The technical specifications for landmines advocated by the United States—in terms of

mapping and marking, self-destruction, and detection—were thus a form of humanitizing

technology, but of what kind? The "authentic" model of humanitizing technology anticipates

that these new technical specifications would constitute a kind of compromise between state

interests in preserving a militarily effective weapon with emerging international norms that

condemn its use. This is certainly how President Clinton sought to present these technical

requirements at a 1996 press conference:

> Just as the world has a responsibility to see to it that a child in Cambodia can walk
> to school in safety, as Commander in Chief, my responsibility is also to safeguard
> the safety of the lives of our men and women in uniform... Until an international
> ban takes effect, the United States will reserve the right to use so-called "smart"
> mines, or self-destructing mines, as necessary, because there may be battlefield
> situations in which these will save the lives of our soldiers (quoted in PBS 1996).

Clinton is thus implying that "smart" landmines, along with the other new specifications for

landmine use, can both protect the lives of civilians from undue harm while also allowing the

world's militaries in general, and the U.S. military in particular, to retain the ability to use an

effective form of violence. And in all fairness, it is possible that if every nation adopted these

new rules for landmine use, it could potentially result in some humanitarian gains. The

humanitarian harms caused by landmines, after all, are largely due to unmarked minefields that

remained deadly for years—even decades—after war, some of which have so little metal they are

not easily detectable by demining teams.

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[8] The U.S. military has consistently claimed that landmines are necessary to defend South Korea
from a North Korean attack of massed infantry. While the actual landmines that are currently
deployed in the Korean demilitarized zone officially belong to South Korea, the U.S. military has
sought to preserve its ability to use additional landmines in the case of an attack.

Nonetheless, further consideration of these U.S.-promoted changes to the CCW treaty, along with the corresponding changes to U.S. policy, seem most consistent with the "inauthentic" model of humanitarian advocacy. Through this predicted pathway, the U.S. will introduce new military technologies not primarily out of humanitarian concern or regard for international legitimacy, but because they are simply more militarily effective. If such technologies can be given a humanitarian packaging, then this is all the better. The value of this model becomes more clear when the criticisms and concerns of human rights campaigners and anti-mine advocates are taken into account. For example, the United Nations General Secretary Boutros Boutros-Ghali described the outcome of the CCW review as "deeply disappointing," and members of the ICBL described it as an "outrage" (Jones 1996) and a "dismal failure" (Bellamy 1996). Humanitarians were concerned, for instance, that the new international requirement to map and mark minefields would do little to alleviate the harm caused to communities who would still lose access to farmland, water sources, or other natural resources due to the presence of landmines (ICRC 1996). Nor would the new technical provisions in the CCW stop landmines from killing or wounding children, who often wander beyond marked areas (ICRC 1996). And anti-mine advocates argued that self-detonating mines might resolve the problem of long-term risk, they would continue to be indiscriminate killers. These landmines—preprogrammed to detonate after fifteen or thirty days, or to detonate after receiving a radio signal—would kill or maim whomever is nearby regardless if they are enemy soldiers or civilians (ICRC 1996, HRW 2003).

This is a major concern because U.S. self-detonating mines are designed to be delivered through aircraft, rocket, or artillery—meaning they would be scattered over large areas without the precision of hand emplacement (ICRC 1996). Due to the lack of precision of air-delivered

mines, U.S. military strategists rely on the use of large numbers to accomplish battlefield goals.

For instance, according to a group of military experts commissioned by the International

Committee for the Red Cross (1996: 55),

> American GATOR mines are dropped in containers, each container carrying 94
> mines (72 anti-tank and 22 [anti-personnel mines]). A single fighter aircraft can
> drop up to 600 such mines in one sortie. Thus the overall numbers of mines that
> can be emplaced in a short time has increased enormously [in recent years].

The vast numbers of landmines that may be used in new operational systems, which have no

capacity to differentiate between enemy soldier and civilian, could cause tremendous

humanitarian harm when used in war.

Given this ongoing potential for civilian harm, humanitarian organizations perceived new

U.S. and UN policies to be part of an effort to affirm the legality of mines stockpiled by wealthy

nations, while simultaneously outlawing less expensive mines without self-detonation

mechanisms stockpiled by countries in the Global South. For instance, according to the

International Committee for the Red Cross (1996: 58-59) report completed by military experts,

> Nations which have the capability of designing and manufacturing such [self-
> detonating] fuses are now attempting to have the relatively unrestricted use of
> these mines accepted as ''lawful," while having the use of conventionally fused
> mines severely restricted or banned. This trend has already raised many queries
> among those nations which do not have the technological expertise to design self-
> destructing mines, and are unwilling to purchase them at high prices from
> developed nations when they can manufacture conventional mines.

And according to Human Rights Watch (2003),

> We have heard governments say that they are unwilling to make the world safe
> for US mines and US mine exports… Poorer armies and rebel groups will reject a
> smart mine only solution. Not only will they be unable to afford smart mines,
> they don't have the technology to deploy them.[9]

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[9] U.S. Senator Leahy put this critique more succinctly by stating, "an effective international
agreement that is based on stigmatizing a weapon cannot have different standards for different
nations" (Quoted in Lawson et al. 1998: 178).

The humanitarian critique here, then, is that the 1996 changes to the CCW and U.S. landmines policy did not do nearly enough to address the risks posed by antipersonnel landmines to civilians. Rather than bringing the world closer to a landmine ban, these changes instead legitimate, "the use of self-destructing weapons, [and so] encourage the production of a new generation of hi-tech mines" (Jones 1996).

Unsatisfied with a new global legal standard that requires the use of "smart mine" technology, the ICBL continued to push for a total landmine ban. It identified forty-one states that, it was believed, would commit to an antipersonnel landmine treaty. This situation meant that, according to mine ban advocate U.S. Senator Leahy, "the fight to ban land mines will continue, but I'm afraid that instead of the most powerful nation on earth, the United States, leading that fight, we're going to have to step off the field."

The United States, the Ottawa Process, and Current Landmine Policy

When the Ottawa Process got underway in 1997, the United States initially decided not to participate in the proceedings. The U.S. Congress did, however, take up legislation to move U.S. policy toward the Ottawa goals, though these efforts were ultimately unsuccessful. At this time, the Department of Defense became an outspoken opponent of any U.S. effort to join a global ban. In a letter to the Senate, for instance, the Joint Chiefs of Staff and several other high ranking military officials insisted that landmines play an important and irreplaceable role in America's military systems as "a 'combat multiplier' for U.S. land forces... Self-destructing landmines greatly enhance the ability to shape the battlefield, protect unit flanks, and maximize the effects of other weapons systems" (Joint Chiefs 1997: 19335). Highlighting the potential

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importance of humanitizing technology to deflect humanitarian challenges to these weapons, the

Joint Chiefs (1997: 19335) went on to say,

> We share the world's concern about the growing humanitarian problem related to the indiscriminate and irresponsible use of a lawful weapon, non-self-destructing APL [anti-personnel landmines]. In fact, we have banned non-self-destructing (dumb) APL, except for Korea.

While the legislation in the U.S. Congress never received enough support to pass, the Ottawa process itself was moving forward.

When it became clear that the parties to this treaty-making effort would commit to a global ban despite the United States' absence, President Clinton dispatched a delegation and asked for several more days of negotiation so the participating nations could consider new U.S. proposals. The U.S. delegation was advocating several changes to the treaty, which included proposals to allow states nine years—instead of four—to comply with the ban, the ability to withdraw from the treaty in times of war, an exemption for antipersonnel mines in antitank mine systems, and an exemption allowing states to deploy mines on the Korean Peninsula (Kirky 2001; New York Times 1997). These proposals received virtually no support and, consequently, the U.S. soon withdrew from the process.

This turn of events stands in sharp contrast to President Clinton's call, made just a few years earlier, for the world to work toward an eventual ban on antipersonnel mines. When making this call, it may be that Clinton was not speaking literally, perhaps just as Presidents Reagan and Obama both made calls to ban nuclear weapons while simultaneously signing treaties that would ensure that the United States will keep hundreds of nuclear weapons armed and ready to fire. Regardless, the Clinton Administration opted not to sign the 1997 Mine Ban Treaty. And this turn of events, in which the United States moved from global anti-mine leader to treaty laggard, cannot be explained by a division between a supposedly pro-ban Clinton

Administration and an anti-ban Pentagon, whose position eventually carried the day. Kirky

(2001) conducted interviews with former high-ranking Clinton officials and did not find a high

degree of support for the Ottawa Process. President Clinton himself was publically quite cool to

the treaty-making effort. And when it became clear that the U.S. could not substantially weaken

the terms of the agreement, Clinton criticized the process and strongly defended the U.S.

decision not to sign the treaty.

For instance, in a press conference President Clinton (1997) called to explain the U.S. on

landmines, he claimed,

> Last month I instructed a U.S. team to join negotiations then underway in Oslo to
> ban all antipersonnel land mines. Our negotiators worked tirelessly to reach an
> agreement we could sign. Unfortunately, as it is now drafted, I cannot in good
> conscience add America's name to that treaty... The United States insisted that
> two provisions be included in the treaty negotiated at Oslo. First, we needed an
> adequate transition period to phase out the antipersonnel mines we now use to
> protect our troops, giving us time to devise alternative technologies. Second, we
> needed to preserve the antitank mines we rely upon to slow down an enemy's
> armor defensive in a battle situation.

This statement made by the president was somewhat disingenuous because the treaty did not ban

antitank mines, but antipersonnel mines. The United States wanted an exemption for

antipersonnel mines used to protect antitank mines. But those negotiating the Mine Ban Treaty

were unmoved by this position as this is the principle way militarily powerful nations use

antipersonnel landmines, in order to protect antitank mines (State Department 1994). So, by

advocating for this exemption, the United States was continuing to push for a treaty that would

make others' use of landmines illegal while simultaneously legalizing its own use of the weapon.

While defending his decision not to join the 1997 Mine Ban Treaty, President Clinton did

announce a new policy to direct the Department of Defense to develop alternatives to

antipersonnel landmines by 2003, so that the United States would eventually be in a position to

join the global ban by 2006 (Clinton 1997). Even while announcing a plan to eventually bring

the United States into compliance with the Mine Ban Treaty, Clinton (1997) sought to downplay

the fact that the U.S. was not a party to the international treaty by highlighting its humanitized

mines, stressing that they "are not causing the problem today because they destroy themselves on

their own after a short period of time."

However, well after the 2003 goal set by President Clinton, the U.S. position on

antipersonnel landmines remains at odds with the international Mine Ban Treaty. In 2004 the

George W. Bush Administration determined that there were no suitable alternatives to

antipersonnel landmines, and so the United States would retain the ability to use them during war

into the indefinite future (State Department 2004). The Bush Administration continued to stress

the capacity of humanitized technologies to alleviate potential civilian harms caused by the

weapon, stating that "the core of the humanitarian problem" is caused by the use of mines that

"constitutes a continued and persistent threat" (State Department 2004). According to the Bush

Administration, however, self-detonating mines in the U.S. arsenal "do not leave a long-term,

harmful legacy and as a result offer little risk to civilians" (State Department 2004).   In this way,

according to the Bush Administration, the U.S. can maintain a weapon that has "a valid and

essential role in military operations" without causing undue civilian harm or violating

international humanitarian norms (State Department 2004). In 2009 the Obama Administration

undertook a review of U.S. landmine policy. While the Administration has not yet issued an

official decision, humanitarian advocates are not optimistic after a spokesperson told reporters

that the review had reaffirmed the previous Clinton-Bush policy[10] (Landmine Monitor 2010).

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[10] After a great deal of criticism, the Obama Administration distanced itself from this statement
and said that it had not yet completed its review (Landmine Monitor 2010).

EVALUATING U.S. POLICY AND THE INTERNATIONAL LANDMINE BAN

The United States remains one of only thirty-seven nations in the world that has not signed the 1997 Mine Ban Treaty (while 156 nations have ratified the accord). The treaty in all likelihood has made a difference in global politics and state practices. It pushed a majority of the world's national governments to commit to never use or export landmines, and to eliminate them from their arsenals. The treaty has also pressed countries to prioritize mine clearance within their own borders and provide meaningful assistance to survivors of landmine explosions (Fraser 2004). However, the impact the treaty has had on the United States, as a hegemonic power, is less certain.

There are, of course, differing perspectives on the matter. One perspective holds that, even though the United States has not formally adopted the 1997 Landmine Ban Treaty, it has nonetheless accepted an antipersonnel landmine norm in practice. Price (1998b: 347), for instance, claims that, "the U.S. has moved significantly towards a de facto [antipersonnel landmine] ban despite not being a party to the treaty." Likewise, the International Campaign to Ban Landmines asserts that,

> Many [states] are in de facto compliance with the treaty even though they are not legally bound by it. For example, the USA is basically abiding by the treaty in practice: it has not used mines since 1991 nor exported them since 1992 (ICBL 2011).

So, from this perspective, the United States has come to abide by an international humanitarian norm forbidding the use, production, and export of antipersonnel landmines despite its refusal to officially recognize the norm through treaty-making.

From another perspective, the United States has, in some ways, abided by the international norm on landmines because there is military utility in doing so, which has not yet been outweighed by the military benefits of using landmines in war. The evidence in this case

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study suggests that the United States, as an early champion of anti-mine action, sought to keep landmines out of the hands of real or potential enemies—insurgents and weak states—but never intended to give up its own use of the weapon. So, while the U.S. has halted landmine exports in 1992, this could potentially serve U.S. interests by keeping them out of the hands of adversaries. And while it is true that the United States has not produced any new landmines since 1997, it should also be considered that the United States maintains several million mines its arsenal (Landmine Monitor 2010).

Perhaps most importantly, while the United States has not used landmines in war since 1991, it also has not been in a conflict since that time when the deployment of landmines would make a great deal of tactical sense. Contemporary U.S. landmine systems are designed for conventional wars, fighting large massed armies with armored battalions (ICRC 1996; NRC 2001). The U.S. encountered neither in its 2001 invasion of Afghanistan under the Taliban nor in its 2003 invasion of Iraq under Saddam Hussein, whose army largely fell to pieces at the onset of the U.S. invasion and which had a relatively small number of armored units to begin with after more than ten years of international sanctions. Moreover, in both the invasions of Afghanistan and Iraq, U.S. military planners relied on speed and mobility (DePalma 2003; Haberman 2001), which are capabilities that can be at odds with mine warfare, in which an army's own mine fields can become an impediment to forward progress (ICRC 1996). The jury, in other words, remains out regarding whether or not the United States will abide by a global anti-landmine norm in future wars.

DISCUSSION

Many researchers have studied how the ICBL, as a global humanitarian advocacy network, and several non-hegemonic states successfully maneuvered to create and impose an international humanitarian norm stigmatizing the use of landmines, a norm which is now formally governed by the global Mine Ban Treaty. This is an important story that deserves to be told, and it provides some evidence for world polity theory regarding nation-state policy development (Faulkner 2007; Price 1998a, 1998b). The case study presented here adds to these accounts, but also complicates them by focusing on U.S. policy development.

The case study shows that the United States, far from simply responding to a humanitarian norm that stigmatized landmines, actively took part in constructing the global norm. The United States published early and influential reports that named landmines as a major humanitarian threat, the U.S. government was the first in imposing a ban on landmine exports, and it was the first nation that called for an eventual ban on their use. The fact that the United States was taking this lead role, while a strong domestic grassroots pro-ban movement was yet to develop, is consistent with the hegemonic constructionist model, which anticipates that the United States will seek to impose humanitarian norms as a means of controlling the behavior of other countries or, it should be added here, armed non-state groups. From this perspective, U.S. State Department officials saw room to work with humanitarian advocates in order to reduce the availability of landmines to insurgents and irregular armies, whom U.S. military planners anticipated fighting as the U.S. exerted global military power in a post-Cold War world. In this context, it makes sense that U.S. officials consistently sought to frame the "landmine crisis" as being caused by insurgents, terrorists, and "irresponsible" states, for whom landmines were, according to American accounts, the "weapon of choice."

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A strong version of hegemonic constructivism anticipates that there is, as I have termed it, a "boomerang effect," such that when a major power like the United States helps create and impose a new norm, it also becomes governed by it. A strong version of hegemonic constructivism, in other words, suggests that a dominant nation has limited capacity for hypocrisy. If this nation wants others to abide by a norm it must also follow suit. A weak version of hegemonic constructivism, however, assumes just the opposite: that a hegemonic nation like the United States has great room for hypocrisy. Being a hegemon, in other words, means never having to live up to the moral standards one pushes onto the rest of the world. The evidence in this case study best fits a weak model of hegemonic constructivism because, despite the United States' work to decry the dangerous legacy of landmines and despite its calls for an eventual landmine ban, the United States has refused to destroy its landmine stockpiles or relinquish its right to use landmines in future wars. The U.S. has sought to obscure the contradiction between its military policy and the humanitarian norms it helped construct through humanitized technology.

U.S. officials claim that the military must retain its capacity to use landmines on the battlefield, but also insist that this is morally justified because U.S. "smart" technologies can, they argue, eliminate the humanitarian harms landmines cause. This use of humanitized technology best fits the "inauthentic" model here. While an "authentic" model anticipates that the United States will reach a meaningful compromise between humanitarian norms and military capabilities, much evidence to the contrary has been presented in this case study. Self-detonating mines were developed, after all, in the 1970s, which was decades before human rights campaigners sought to ban the weapon. More to the point, self-detonating mines have many military advantages over so called "dumb" mines. By self-destructing, they can prevent enemies

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from using individual mines or entire mine fields against the army that initially laid them. It also must be pointed out that U.S. self-detonating mines still pose great dangers to civilian populations because they are designed to be emplaced via the air, which means they are imprecise, and are designed to be used en masse, with thousands of mines used together in one place and time. Taken together, the U.S. policy supplanting "dumb" landmines with self-detonating landmines seems to be much more of a legitimating strategy than the product of a hegemon's attempt to reach a compromise between military utility and humanitarian norm compliance.

Activists and theorists have pointed out, with some hope, that the United States has not used landmines since 1991, and so may be conforming to an anti-landmine norm in practice, even if it refuses to officially join the 1997 Mine Ban Treaty. The evidence on this account is not yet in, namely because the United States has not since fought a war in which the use of landmines would make tactical sense. It remains to be seen if the U.S. will abide by an anti-landmine norm in such a situation, or if the U.S. will instead deploy landmines and utilize some of the other legitimating techniques indentified in other chapters of this dissertation to hide or justify the use of this reviled weapon. Right now all that is certain is that the U.S. insists on the right to use landmines in war and retains the ability to do so.

Chapter 7

**CONCLUSION: U.S. HEGEMONY, HUMANITARIAN NORMS, AND THE
LEGITIMATION OF STATE VIOLENCE**

Throughout this dissertation, I have attempted to answer this basic question: do international

humanitarian norms matter? Certainly, from the perspective of a citizen and researcher they

matter a great deal because they provide a universal means of judging state conduct. And

humanitarian norms, which have been formalized through international treaty-making processes,

matter because they can have a real impact on the military policies of many states across the

world, as is the case with the global landmine ban. But do global humanitarian norms have the

capacity to shape the policies of a dominant power like the United States? In the pursuit of

hegemony, the U.S. must exert global military dominance in order to achieve geopolitical and

economic goals while also exercising "moral and intellectual leadership," or otherwise gaining

the assent of a critical mass of states (see Arrighi 2010: 29). This is to say that, in order to

achieve and maintain hegemony, the U.S. must utilize coercive force, but this violence must be

deemed legitimate, a feat which becomes much more complicated in the context of the "human

rights revolution."

Historically, the United States, like most Western nations, has legitimated state violence

through the ideal of *jus ad bellum* by arguing that a war is righteous and will, wherever possible,

leave the innocent unharmed. As a rule, U.S. wars and military violence—like practically all

wars and instances of state violence—have violated this standard, a contradiction that the U.S.

has often obscured through the dehumanization of "enemy" populations and through the

suppression of knowledge about the actual human consequences of war (Bourke 2006; Dower

1993). However, relatively recent humanitarian efforts have sought to improve state behavior in times of war (Blau and Moncado 2005). Not only have they sought to universalize standards of what are, and what are not, permissible forms of violence, humanitarian advocates have sought to assert the common humanity of all people (countering dehumanization) and have worked to inform the public about the outcomes of state violence (countering ignorance and state suppression of information). And, to complicate matters further, it must be noted that humanitarian organizations are by no means the only actors advocating and advancing normative constraints on certain types of violence. The United States, as a hegemonic power, has also worked to co-construct some international humanitarian standards.

So again, when it comes to U.S. policies on military violence, do these norms matter? The bulk of the research findings in this dissertation suggest that, when forced to choose between the two, the U.S. government will act to utilize militarily effective violence rather than adhere to global normative restraints. In the course of this dissertation, I have developed and sought to adjudicate between theoretical models that stress varying degrees of constructionist and structuralist thinking. The evidence here, as a whole, favors structural theoretical models. Clear-cut evidence for the global polity model is particularly lacking.

The Global Polity Model

The global polity model posits that a hegemonic nation will conform its policies to international cultural expectations in the interest of demonstrating moral leadership on the world stage. There is a great deal of evidence presented in this dissertation that contradicts these expectations. The United States has, after all, utilized chemical weapons, practiced torture, and has maintained its

capacity to use landmines in future wars, all despite strong and nearly universally accepted norms that decry such behavior.

But this evidence does not mean that global humanitarian norms do not matter in terms of U.S. behavior. After all, we can identify some instances of limited compliance with these norms. For example, the U.S. has not utilized deadly gases such as blistering agents since World War One, nor has it used other deadly nerve gases it developed since that time. The evidence indicates that international norms are not inconsequential in terms of U.S. policy development, but complying with them is simply much less important to the U.S. government than the ability to use effective violence. So, while international humanitarian norms may not prevent the United States from using certain types of violence that are deemed particularly inhumane, they do force U.S. officials to attempt to justify or obscure their policies. Though evidence for the global polity school is, as a whole, unconvincing in these case studies, there is evidence that humanitarian and social movement pressure can push the U.S. government to more closely align military policies with international standards, even if these results are limited and short-lived.

The Humanitarian Advocacy and Social Movement Model

Unlike the findings for the world polity model, the cases studied in this dissertation do provide some evidence for the humanitarian advocacy pathway, which expects that humanitarian advocates and social movement actors will have some capacity to push U.S. leaders to align military policies with international standards. However, the evidence shows that this capacity is limited and is often quite fleeting. For instance, during the Vietnam War, activists and humanitarian advocates, including many prominent scientists, condemned the use of incapacitating agents and herbicides as a violation of international prohibitions on the use of

chemical weapons. Empowered and informed by these efforts, a contingent of Senators in the

U.S. Congress insisted that the President acknowledge that these gases do indeed fall into a

category of universally condemned weapons and should never be used again. However, while

the U.S. government has refrained from using incapacitating agents in more recent wars, it

continues to use herbicides as a type of military violence.

As another example, U.S. Senator Leahy's sustained advocacy for a landmine ban is

further evidence in support of the humanitarian advocacy model. In the early 1990s the Senator

worked with anti-mine advocates to introduce pioneering legislation that brought U.S. landmine

exports to a halt. But here too, this advocacy was limited in its impact in that it has been, at least

thus far, incapable of pushing the U.S. to comply with the international landmine ban.

Moreover, the initial success of this advocacy may have much to do with the fact that it was

consistent with strategic U.S. military goals, something closely akin to the expectations of a

hegemonic constructionist model.

Hegemonic Constructionist Models

In all of the cases studied in this dissertation, U.S. policy-makers sought to convince other states

to abide by humanitarian norms, something that is consistent with both the strong and weak

models of hegemonic constructionism. This occurred, most obviously, when the U.S.

government participated in efforts to stigmatize chemical weapons and landmines. As Price

(1995, 1997) argues, U.S. policy-makers participated in international efforts to prohibit the use

and stockpiling of chemical weapons that may, in the arsenals of militaries in the Global South,

constitute a non-nuclear deterrent to Western military intervention. And the case on landmines

shows that the U.S. government was an early advocate of prohibitions on the use of landmines,

as it sought to stigmatize the weapons and prevent them from falling into the hands of insurgents and "irresponsible" states.

But to differentiate between the strong and weak versions of the model, we have to ask, in co-constructing norms and legal prohibitions against these weapons, to what extent has the U.S. government brought its own policies into compliance? A strong hegemonic constructionist model anticipates a "boomerang effect," in which the United States will eventually come to abide by the normative standards it helped create. A weak hegemonic constructionist model anticipates that, even while participating in norm construction and urging other nations and armed groups to comply, the U.S. government will not itself strictly abide by the standard.

While the evidence is somewhat mixed, the preponderance of data supports the weak model. In the case of chemical weapons, after reaffirming and strengthening humanitarian norms stigmatizing the use of toxic chemicals in war in the mid 1970s, the U.S. government has since refrained from using either incapacitating and lethal gases. However, the U.S. government has consistently used herbicides as a form of state violence despite the Ford Administration's formal recognition that doing so constitutes the use of a chemical weapon banned by international law. In the case of torture, internal memos show that members of the Bush Administration weighed hegemonic constructionist arguments, when for instance members of the State Department recommended against withdrawing from the Geneva Conventions for fear that it would diminish U.S. political power and may increase the likelihood that captured U.S. troops will face abuse and torture in the future. The Bush Administration decided to disregard these concerns in advocacy of its policy of "enhanced interrogation."[1] Finally, in the case of

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[1] However, even when announcing that the U.S. would not abide by the Geneva Convention on prisoners of war during the "War on Terror," President George W. Bush insisted that other

landmines, the U.S. participated in efforts to ban the weapons and keep them out of other

nations' arsenals, but has refused to sign the 1997 Mine Treaty Ban and give up its own

stockpiles.

Taken together, this indicates that there has been, in all three cases, a disjuncture between

international humanitarian norms and U.S. military policy. While this supports a structuralist

position, it in no way implies that global humanitarian norms do not matter. In order to exercise

hegemony, the U.S. must utilize violence, but this violence must be broadly deemed legitimate.

Thus, rather than abandoning potentially effective violence when it is prohibited by international

standards, U.S. officials have utilized several legitimating techniques, the first of which is the use

of humanitized technology.

The Humanitized Technology of Violence Models

In the course of this dissertation, I have identified changes to U.S. policies that require certain

technical specifications that may make contested forms of violence less cruel or less harmful to

civilians, or to at least to create the appearance as such. I have called these specifications

"humanitized technologies." The very use of "enhanced interrogation methods," a classic type

of "clean" torture according to Rejali (2007), is one example; so too is the use of self-detonating,

or so-called "smart," landmines.

I have argued that there are two main ways to interpret these policies that emphasize the

use of humanitized technologies. The first is through an "authentic" model, which understands

humanitized technologies as being the result of the U.S. government's attempt to achieve a

compromise between its conflicting needs to maintain militarily effective violence and to

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nations treat captured U.S. soldiers in accordance with the humanitarian standards the treaty
enshrines.

maintain legitimacy through international norm compliance in the pursuit of hegemony. The "inauthentic" model, on the other hand, suggests that if policies that use humanitized technologies are the result of a compromise, it is not one made between equals. Quite the contrary, this model anticipates that such technologies of violence may not produce any real humanitarian benefits at all. They may, in fact, simply be more militarily effective than the traditional technologies they are supplanting, with the added benefit that they can be wrapped in a humanitarian guise.

The evidence presented in this dissertation most clearly fits this "inauthentic" model. In both the cases of torture and landmines, the results of humanitized technologies are far from humane. Psychological torture can cause more lasting harm to a person than some types of physical torture (McCoy 2006). And although self-detonating landmines resolve one humanitarian problem, in that they do not pose long-term risks to civilians, they nonetheless remain indiscriminant killers, something that is of particular concern because they are designed to be used en masse and to be delivered via artillery or through the air, which makes them a very imprecise weapon.

Furthermore, both the humanitized technologies used in torture and landmines were not designed or imposed out of humanitarian concern. The U.S. Central Intelligence Agency advanced psychological torture techniques based on the belief that they were more effective intelligence gathering methods than physical brutality (McCoy 2006). Similarly, self-detonating landmines have military benefits because, unlike traditional landmines, once they are deployed they cannot be used, individually or collectively, to benefit an enemy. Taken together, this evidence suggests that the use of humanitized technology is not so much a compromise between humanitarian norms and militarily utility, as it is simply an important tool the U.S. uses to

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legitimate contested forms of violence. In this sense, the "inauthentic" model of humanitizing technology is, much like the symbolic legitimation model, a structurally-oriented explanation.

The Symbolic Legitimation Model

A very strong structuralist approach might argue that international humanitarian norms are completely unimportant in shaping the policies of a militarily dominant nation like the United States. The more nuanced approach advanced here suggests that both the capacity for violent coercion and the capacity to garner international consent through adherence to normative expectations are important in the exercise of hegemony. However, if forced to choose one over the other, a hegemonic nation like the United States will opt to maintain militarily effective forms of violence despite international opprobrium. But, in order to obscure the divide between international humanitarian norms and actual military practices, U.S. officials are likely to use several techniques of legitimation. These techniques include defensive categorization, the use of humanitizing discourse, and surrogacy.

Through the strategy of defensive categorization, U.S. officials claim that the military's use of a contested form of violence is very different from the kinds of violence that have been prohibited through international treaty-making. Officials used this technique, for instance, during the Vietnam War when they asserted that the herbicides and incapacitating gases used by the military were the same as widely used and commercially available chemicals, and therefore could not possibly fall within a category of outlawed weapons. Similarly, during the "War on Terror," U.S. officials claimed that its methods of intelligence gathering involving mental and physical torment were merely "enhanced interrogation methods," and should not be defined as torture.

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The U.S. government also used a humanitizing discourse in both of these cases. Through such discourse, officials attempt to legitimate suspect violence by (1) stressing the care taken to avoid harm, (2) arguing that the use of a contested form of violence has humanitarian benefits, or (3) trying to shift public focus onto the humanitarian abuses committed by U.S. enemies. For instance, in the Vietnam War officials continuously emphasized the care taken to avoid civilian exposure to herbicides, which gave the erroneous impression that civilian villages and food crops were not directly sprayed by U.S. planes. In the case of torture, too, officials sought to underscore the care taken to avoid causing lasting harm to those persons subject to "enhanced interrogation methods," which were intentionally designed to cause anguish and suffering.

In the cases on chemical weapons and torture policy, the U.S. government also utilized surrogacy as a legitimating technique, through which it sought to deny any connection to, or responsibility for, universally reviled acts of violence committed by its client states. During the Vietnam War, U.S. officials very intentionally used this strategy when they gave the Vietnamese government the technical capacity to carry out crop destruction missions using herbicides. The U.S. continued to practice surrogacy when the Air Force took over and began conducting these crop destruction missions itself, while nonetheless insisting that it was Vietnamese soldiers who were carrying them out. As for the case on the "War on Terror," the evidence is less clear whether the United States gave its tacit approval to the Iraqi government for its widespread torture of prisoners. Regardless, the U.S. was heavily supporting the Iraqi government and relying on it to crush the insurgency and sectarian conflict that emerged in the wake of the U.S. invasion. The fact that the Iraqi government regularly practiced torture to achieve this goal deeply implicates the United States. Through surrogacy, however, officials in the Bush

Administration, and now too the Obama Administration, have denied any U.S. connection or responsibility.

Taken together, this study finds that the U.S. government is unlikely to abdicate prohibited types of violence in order to comply with international norms, provided that such violence is deemed militarily effective. Rather, officials will likely work to legitimate it through humanitized technology or through more symbolic techniques. It is an interesting question if one of these legitimating techniques is deemed more effective by U.S. officials, or is otherwise more likely to be used than other strategies. While this study does not provide a conclusive answer, it seems likely that there is no one favored strategy, but that these techniques are used in association with one another. In the case of landmines, U.S. policy-makers relied almost exclusively on humanitized technology as a legitimating strategy. However, based on the other cases, it seems likely that if the United States actually used these weapons at war, beyond simply stockpiling and preparing to use them as it does now, it will also employ the other more symbolic methods of legitimation.

With my research findings now summarized, in the next section I will move on to discuss the contributions this dissertation makes to the relevant sociological literatures. I will then conclude this chapter by drawing out and considering important theoretical and societal implications of the research.

CONTRIBUTIONS TO SOCIOLOGICAL KNOWLEDGE

The findings of this study contribute to literatures in political sociology; political-economy; the sociology of war, peace and conflict; and the sociology of human rights. Topically, this dissertation fills an important gap in sociological knowledge because war and state violence,

which are major features of the world in which we live, receive far too little attention from sociologists. For instance, as I have said previously, even while many structural theorists acknowledge the importance of military violence in shaping the contours of the globe's political and economic system, they pay little heed to potential normative constraints or the ways that contested forms of violence are legitimated. This study begins to fill this gap. By doing so, it also furthers efforts in the field of political-economy to understand the nature and consequences of hegemony.

This dissertation is theoretically valuable due to its specific focus on the United States. For instance, while the sociology of human rights is becoming a well-developed field of study, little attention is given to the humanitarian impacts of U.S. military violence (see Blua et al. 2009). Likewise, a particular focus on the U.S. can contribute to political sociologists understanding of how global political culture shapes, or fails to shape, state policies. While some sociologists, mostly from the global polity school, have conducted studies to test whether international norms can determine state policy, by and large they are broad comparative works, and as such they do not account for economic, political, and military inequalities in the global system of states (see Koo and Ramirez 2009; Wotipka and Tsutsui 2008; or—from a realist perspective—Cole 2009). Thus, while these studies further sociological knowledge, they are also incomplete. They cannot explain the unique, and otherwise confounding, circumstances of the United States, which by almost all accounts is very well-enmeshed in global political culture but also has a poor record in terms of ratifying international humanitarian treaties (See Blau and Moncado 2005). This dissertation helps resolve this dilemma by studying the United States as a hegemonic nation, which—as such—has great need to wield global military force if it is to promote global capital accumulation and achieve critical geopolitical objectives.

Finally, this study furthers sociological knowledge by developing concepts that may be useful to more general efforts to understand the legitimation of state violence in the contemporary world. The concept of humanitized violence, for instance, is likely more broadly applicable to other governmental efforts to legitimate violence through technological innovation, such as through the use of precision weapons and other "smart" bombs, or through the U.S. military's development of non-lethal weapons (see Altman 2009). Furthermore, the concepts of defensive categorization, humanitizing discourse, and surrogacy are likely applicable to other state attempts to legitimate violence than those that have been studied here. I hope that by naming and drawing attention to these strategies of legitimation, I have helped developed some useful theoretical tools for other researchers. Beyond making these contributions to sociological knowledge and research, this study raises moral and intellectual questions that may be important to scholars and citizens alike.

IMPLICATIONS OF THE STUDY:
THE IMPORTANCE AND LIMITATIONS OF HUMANITARIAN ADVOCACY

This dissertation raises important questions about the capacity of humanitarian advocacy to shape or constrain U.S. policies of military violence. Indeed, some may perceive a subtext in this study that is quite critical of efforts to prohibit certain types of weapons and other forms of violence in war. For this reason, I believe it is important to explicitly discuss why I think humanitarian advocacy is of great importance in the world today, but also why I think its impact on the military violence of dominant nations like the U.S. can, in and of itself, have only very limited success. First, humanitarian attempts to institute global prohibitions on certain kinds of weapons with particularly horrific impacts to civilians are indeed worthwhile, even if militarily powerful nations like the U.S. refuse to abide by them. When these undertakings are successful

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they provide, at the very least, universal standards for the people of world to assess what forms of state violence are immoral and unacceptable. Second, humanitarian advocacy networks perform an invaluable service by seeking to inform the public about states' violations of humanitarian standards. As one immediate example, this dissertation's chapters on torture and landmines owe a great deal to the information collected and distributed by human rights organizations. By seeking to inform the public about state violations of humanitarian standards, these organizations can diminish public ignorance and can make such state abuses of power more difficult, or at least more costly in terms of state legitimacy. As we have seen, the legitimating strategy of defensive categorization often relies on the vagaries of collective memory. Humanitarian organizations play a critical role in civil society when they are able to help the U.S. public remember that certain acts of violence committed by the government in recent times have been explicitly denounced by our government in the past.

But this study also indicates that there are very real limitations to humanitarian advocacy, at least in terms of curtailing the state violence of a hegemonic nation like the United States. This dissertation implicitly asks the question: can wars, and indeed can an entire international system that is maintained by war and state violence, be made humane? The answer, of course, is no. It is unlikely that any war waged by a hegemonic power like the United States can ever match the idealization of a "just war," simply because such wars are not strictly fought for a noble cause, such as self-defense, and ultimately result in a great deal of destruction and civilian death.

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The major limitation of humanitarian advocacy, then, is that it does not seek to reduce the likelihood of war and state violence in and of itself.[2] Nor does it address the extreme political, economic, and military inequalities of the world-system that make war, including that waged by the United States, inevitable.[3] Of course, humanitarian advocates have likely made a strategic decision against taking this more revolutionary course of action due to a concern that it would delegitimate their organizations and limit their capacity to speak with what is perceived as a neutral and well-respected voice. This more moderate course of action likely is, in other words, based on a realistic impression of the politics of war and violence in the contemporary world. Many theorists argue, however, that the world-system today is in the process of fundamental transition. As such, voices calling for a reduction in the size and scope of the American military system, along with the establishment of greater economic and political equity throughout the world, are needed now more than ever.

PROSPECTS FOR THE FUTURE: INTERNATIONAL NORMS, MILITARY VIOLENCE, AND DECLINING U.S. HEGEMONY

The United States has much less power today to organize and profit from global commerce or to shape geopolitics than it did sixty years ago. Recent events underscore this point: in 2008 a financial crisis dealt a tremendous blow to the U.S. economy and to that of many European

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[2] In fact, by attempting to outlaw only certain types of violence, humanitarian advocates may actually further reinforce notions of the "just war," which have long been used by Western nations to legitimate military violence.

[3] The development of the World Court, created to try crimes of aggression, war crimes, and crimes against humanity may be an important exception (Blau and Moncado 2005). However, the U.S. does not recognize the legitimacy of the tribunal. Moreover, the Court has existed for only a few years and it remains to be seen if it will seek to prosecute violations of humanitarian norms committed by powerful and weak states alike, or if it will, as a new instrument of hegemonic constructivism, exclusively target humanitarian abuses committed by states in the Global South.

nations, but the fundamental causes of the crisis are yet to be resolved while its negative impacts continue to linger. More recently, the 2011 Arab Spring seems to have dramatically reshaped the political contours of a critical region of the world in ways that do not entirely suit U.S. power. These events may be indicative of a broader transformation of the world-economic system identified by theorists such as Arrighi (2010) and Wallerstein (2003, 2004), in which the United States loses its predominant role in world affairs. Arrighi (2010) argues that the U.S. capacity to govern the world-system significantly waned during the 1970s due to the U.S. defeat in Vietnam and the waves of decolonization during this period that challenged U.S. military and political power, along with the rise of transnational corporations which—while once a source of U.S. power—eventually undermined U.S. economic strength. While the United States' declining economic power has been, for a time, offset through financialization, or the shift from "trade and production to financial intermediation and speculation," this, to Arrighi (2010: 371), is temporary and signals a strong likelihood that U.S. hegemony will be supplanted by another state in a new regime of accumulation.

To Wallerstein (2005), on the other hand, it is not just U.S. hegemony that is at or near its end. Rather, the entire world-system of global capitalism is in crisis. To Wallerstein, this has much to do with capital's total colonization of the globe and its resulting inability to find enough new opportunities to invest in production in the far periphery where it can take advantage of inexpensive and unorganized labor along with other low production costs. Wallerstein also argues that there are real environmental limits to the "endless" accumulation of capital, which are being felt in increasingly high prices for natural resources and are causing real stress on major economies. Finally, Wallerstein believes that the global anti-systemic movements of the late 1960s—against colonialism, racism, and sexism—delegitimated many of the traditional

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ideological supports for global capitalism, and as such continue to generate new oppositional movements. If either Arrighi's or Wallerstein's arguments are to be believed, U.S. hegemony is in decline, something which may—perhaps—make the U.S. government more likely to abide by international standards and restrain its military force, or on the other hand, may create a context in which the U.S. government employs state violence with even less restraint.

In response to hegemonic decline, Arrighi (1994/2020) posits that U.S. policy-makers have two major options. The first is to institute policies of "adjustment and accommodation" to other rising economic and political powers. In such a situation, U.S. leaders would in effect facilitate a hegemonic transition. Such a situation may then create a context in which the United States has less need to use armed coercion to secure political and economic goals, or simply has less ability to legitimate its military policies, and so may be more likely to abide by humanitarian norms.

Another possibility, explored by both Arrighi (2010) and Wallerstein (2003), is that the United States will seek to maintain its predominant position in the world hierarchy even as economic and political power shifts elsewhere in the globe. Such a situation may result in the transition from U.S. hegemony to a system of U.S. imposed exploitative domination (Arrighi 2010). The major difference between the two being that hegemony requires the consent of other nations and that the violence exercised by the hegemonic power be deemed legitimate or generally consistent with normative expectations. Exploitative domination, on the other hand, is accomplished through brute force alone. If U.S. leaders resist adjusting and accommodating to new global powers, and instead seek to maintain global predominance through military power alone—as Wallerstein and Arrighi both argue the Bush Administration has already done by launching the Iraq War—then we can expect a very violent and bloody future. In this context, it

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goes without saying that the U.S. government would likely be much less likely to comply with humanitarian norms than it is today, or even maintain the appearance that it is doing so, because it would be significantly less encumbered by the need for legitimacy.[4]

This is, of course, something we as citizens and historical subjects may have something to say about. In some historical moments, according to Wallerstein (2004), human agency is more likely to make a difference in terms of historical outcomes. Some particular periods, in other words, are "times of choosing." It may be that, in the context of the large geopolitical and economic shifts happening in the world around us, we are living in one such moment today. If so, let us hope that, in our time of choosing, we can join our collective agency to forge new social relations in which humanitarian norms can matter in real and substantive ways. And let us hope we can work together to avoid a future of continuous war, in which humanitarian norms will be cast aside and made even less consequential than they are today.

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[4] An attempt made by the U.S. to impose relations of exploitative domination may, of course, be unsuccessful, resulting instead in general systemic chaos (Arrighi 2010). Such an outcome is likely to also be a particularly bloody time in human history, in which the U.S. is again even less likely than today to abide by international humanitarian restraints.

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