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Human Rights and the War on Terror: Afghanistan

Greg Sanders

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Afghanistan

by Greg Sanders

Introduction

After September 11, Afghanistan became the first battleground of the War on Terror when the Taliban government refused to turn over Osama Bin Laden and other Al Qaeda members. Human rights concerns about these events fall in two areas. First, did the United States violate human rights when it launched Operation Enduring Freedom to overthrow the Taliban and during the subsequent occupation? Second, have the occupation forces and new regime of under the leadership of Hamid Karzai done enough to improve the previously miserable human rights situation in Afghanistan?

Choice of War

The United States invoked the right to self-defense described in the U.N. Charter as a justification for going to war with Afghanistan under the leadership of the Taliban. Specifically, the U.S. accused the Taliban of “harboring” Al Qaeda and Osama Bin Laden, who it held responsible for the 9/11 attacks. While the U.S. did win some general support in the U.N. Security Council, none of these votes explicitly authorized the war in Afghanistan.

War on Terrorism

Piotr Balcerowicz. 2001. “Afghanistan at the Cross-Roads.” *Dialogue & Universalism*. 11(11/12): 97.

ABSTRACT: Focuses on the impact of the terrorism in the U.S. on the status of Afghanistan. Examines the political, historical, and ethical assumptions of fundamentalists on the concept of open society; Criticism on the military involvement of the U.S. in the nation; Personal view of Ahmad Shah Masood, the legendary commander of democratic anti-Taliban opposition, on the status of the country.

Kurt Burch and James K. Oliver. 2002. “Policy Paths and Governance Blueprints.” *International Studies Perspectives*. 3(2): c3.

ABSTRACT: Analyzes the policy options available to the U.S. government in pursuing justice in Afghanistan after the September 11, 2001 terrorist attacks. Significance of branding the bombings as an attack; Issues on the pursuit of criminal justice; Limitations of putting the accused under trial in the U.S.

Noam Chomsky. 2003. “Wars of Terror.” *New Political Science*. 25(1): 113.

ABSTRACT: Comments on various issues related to the September 11, 2001 terrorist attacks in the U.S. Importance of U.S. foreign policy in determining consequences of these terrorist attacks; Moral standards on the basis of which a proper reaction to these attacks can be initiated; Various steps taken by the U.S. government to abolish Taliban rule over Afghanistan.

Argues that 9/11 should be examined in light of series of U.S. "crimes" against the rest of the world and that more of the same should be expected. Primarily a history of U.S. wars on terrorism and opposed ideologies. Argues that basis for war in Afghanistan could apply against the U.S. itself.

Marjorie Cohn. 2002. "Understanding, Responding to, and Preventing Terrorism." *Arab Studies Quarterly*. 24(2/3): 25.

ABSTRACT: Analyzes why both the U.S. bombing of Afghanistan and Israel's massacre of the Palestinians violate international law. Factors that contribute to the conditions that create hatred within the Arab world directed at the U.S.; Reasons behind the United States dependency on foreign oil; Reason the bombing of Afghanistan is not an authorized self-defense.

Mat Coleman. 2003. "The Naming of 'Terrorism' and Evil 'Outlaws': Geopolitical Place-Making after 11 September." *Geopolitics*. 8(3): 87.

ABSTRACT: In the aftermath of 11 September, techniques of spatial surveillance and processes of rebordering indicate a moment of American (re)territorialization. This said, it seems important to move beyond a simple notion of geography-as-territoriality to focus on place and the politics of identity. In the context of events following from the mid-September 2001 'attacks', I suggest that critical geopoliticians focus on the U.S. foreign policy naming of 'terrorism' as an iconographic place-making activity. However, perhaps the more poignant question is one concerning the post-11 September invocation of evil. I suggest here that scrutiny of the place-making naming of evil makes evident the potentially unjust and inhumane constitution of state responses to 'terrorism', declared as an outlaw to justice and humanity. This is particularly relevant given the U.S. bombing campaign in Afghanistan, the alleged poor treatment of Taliban and Al Qaeda prisoners at Camp X-Ray in Guantanamo Bay, Cuba, and the recent detainment of suspected residents in the US. I conclude with a brief thought concerning the need to contextualize the events of 11 September in a larger frame of U.S. global geopolitical relations and histories.

Argues that labeling the enemies of the United States as terrorists and evil presages disregarding the humanity of opponents. Specifically that the label of terrorist used to justify bombing and denying prisoners of war protections. Concentrates on analyzing American popular and media reaction as well as theory and identity politics.

Emanuel Gross. 2001. "Thwarting Terrorist Acts by Attacking the Perpetrators or Their Commanders as an Act of Self-Defense: Human Rights Versus the State's Duty to Protect Its Citizens." *Temple International and Comparative Law Journal*. 15(195).

Douglas Kellner. 2002. "September 11, Social Theory and Democratic Politics". *Theory, Culture & Society*. 19(4): 147.

ABSTRACT: In an analysis of the September 11 terror attacks on the U.S., the author of this article wants to suggest how certain dominant social theories were put in question during the momentous and world-shaking events of fall 2001. The author concludes with reflections on the implications of September 11 and the subsequent Afghanistan Terror War for critical social theory and democratic politics, envisaging a new global movement against terrorism and militarism and for democracy, peace, environmentalism and social justice.

Steven R. Ratner. 2002. "Jus Ad Bellum and Jus in Bello after September 11." *The American Journal International Law*. 96(905).

Analyses just war discussions and finds U.S. substantially differs with conventional interpretations by focusing on the Taliban's "harboring" of Al Qaeda rather than Taliban ties with Al Qaeda and on status of prisoners of

war. Explores a range of theoretical explanations for varying international reaction. Superb leaping off point for understanding the range of arguments.

J. A. Tickner. 2002. "Feminist Perspectives on 9/11." *International Studies Perspectives*. 3(4): 333.

ABSTRACT: In this article I offer a feminist analysis of September 11, 2001 and its aftermath. I demonstrate how gendered discourses are used in this and other conflict situations to reinforce mutual hostilities. I suggest that men's association with war-fighting and national security serves to reinforce their legitimacy in world politics while it acts to create barriers for women. Using the framework of a post-9/11 world, I offer some alternative models of masculinity and some cultural representations less dependent on the subordination of women. Often in times of conflict women are seen only as victims. I outline some ways in which the women of Afghanistan are fighting against gender oppression and I conclude with some thoughts on their future prospects.

Self-Defense

Piotr Balcerowicz. 2001. "Afghanistan at the Cross-Roads". *Dialogue & Universalism*. 11(11/12): 97.

ABSTRACT: Focuses on the impact of the terrorism in the U.S. on the status of Afghanistan. Examines the political, historical, and ethical assumptions of fundamentalists on the concept of open society; Criticism on the military involvement of the U.S. in the nation; Personal view of Ahmad Shah Masood, the legendary commander of democratic anti-Taliban opposition, on the status of the country.

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conflict women are seen only as victims. I outline some ways in which the women of Afghanistan are fighting against gender oppression and I conclude with some thoughts on their future prospects.

Jack M. Beard. 2002. "America's New War on Terror: The Case for Self-Defense under International Law." *Harvard Journal of Law & Public Policy*. 25(2): 559.

ABSTRACT: Focuses on different issues related to the campaign launched by the U.S. government to prevent terrorism. Provisions on self-defense under the international law; U.S. policy enacted in line with the September 11, 2001 terrorist attack; U.S. military operations launched in Afghanistan and the response of the government to previous terrorist attacks; Relation of the U. S with other Middle East countries.

Well-written, point-by-point analysis and support of U.S. invocation of the right of self-defense in invading Afghanistan. Discusses history of invocations of the right to self-defense and world reaction. Compares strength of 9/11 claim relative to past claims. Discusses of state responsibility for an attack by a non-state actor.

Michael Byers. 2003. "Letting the Exception Prove the Rule." *Ethics & International Affairs*. 17(1): 9.

ABSTRACT: Looks at the U.S. military and foreign policy in the era of terrorism, under the administration of President George W. Bush. Legal justifications for intervening in Afghanistan; Self-defense against terrorism and the weapons of mass destruction; Attitude of the government toward international law.

Gareth Evans and Mohamed Sahnoun. 2002. "The Responsibility to Protect." *Foreign Affairs*. 81(6): 99.

ABSTRACT: Since September 11, 2001, international policy attention has been captured by the response to global terrorism and case for preemption against countries believed to be irresponsibly acquiring weapons of mass destruction. These issues, however, are conceptually and practically distinct. What is involved in the debates about intervention in Afghanistan, Iraq, and elsewhere is the scope and limits of countries' rights to act in self-defense. If the international community is to respond to this challenge, the issue must be reframed, not as an argument about the right to intervene but about the responsibility to protect. At the heart of this conceptual approach is a shift in thinking about the essence of sovereignty, from control to responsibility. Of the precautionary principles needed to justify intervention, the first is 'right intention.' The second is 'last resort.' The third is 'proportional means.' Finally, there is the principle of 'reasonable prospects.' The most difficult and controversial principle to apply is that of 'right authority.' It is the responsibility of the whole international community to ensure that the mistakes of the 1990s will not be repeated. A good place to start would be agreement by the United Nations (UN) Security Council to systematically apply the principles set out here to any such case.

Suggestions for rules of intervention in both humanitarian and to a lesser degree self-defense cases. Suggests reframing from the right to intervene to the responsibility to protect, analyzes possible criteria from a just war perspective. Only addresses Afghanistan in passing.

Richard Falk. 2002. "Identifying Limits on a Borderless Map." *Ethics & International Affairs*. 16(1): 1.

ABSTRACT: Focuses on an appropriate response to the September 11, 2001 terrorist attacks in the U.S. Importance of the need for action to reduce the incidence of terrorist attacks; Goal of the U.S. -led war in Afghanistan; Information on the moral, legal and political challenges associated with the war against terrorism.

Questions possible repercussions of manner in which war on terrorism is waged. Argues Afghan invasion was justified, but rationale used risks a too broad definition of self-defense. Also briefly discusses the manner of

fighting, raising concerns about decisions regarding pilots, media coverage, and the lack of restraints placed on allies.

Dr. Barry A. Feinstein. "Symposium: Bordering on Terror Global Business in Times of Terror--the Legal Issues: A Paradigm for the Analysis of the Legality of the Use of Armed Force against Terrorists and States That Aid and Abet Them." *The Transnational Lawyer*. 17(51).

Characterizes terrorism as one of the greatest threats we face. Discusses current state of international law and U.N. resolutions regarding state obligations regarding terrorists in their territories. Concludes that self-defense does allow military intervention, including anticipatory intervention, when states fail to meet their obligations regarding terrorists groups.

Justin N. B. Frank and Javaid Rehman. 2003. "Assessing the Legality of the Attacks by the International Coalition against Terrorism against Al-Qaeda and the Taliban in Afghanistan: An Inquiry into the Self-Defence Argument under Article 51 of the Un Charter." *Journal of Criminal Law*. 67(5): 415.

ABSTRACT: Analyzes the issues surrounding the legality of attacks by the International Coalition against Terrorism against Al-Qaeda and the Taliban in Afghanistan. Existence of the right to self-defense; concept of terrorism and its relationship with war; individual and collective self-defense in customary law.

An overview of the international law regarding the legality of the invasion of Afghanistan and the manner in which it was fought. While sympathetic to the difficulties of fighting terrorists, it does go into detail on civilian casualties and whether specific attacks and weapon choices were justifiable.

Christopher Greenwood. 2002. "International Law and the 'War against Terrorism'." *International Affairs*. 78(2): 301.

ABSTRACT: Analyzes some of the international legal issues arising out of the events of September 11, 2001. Guilt of the perpetrators of the terrorist attacks; Argument that the United States and its allies were entitled to respond by using force; Legitimacy of military action against the Taliban regime in Afghanistan; Laws of armed conflict applied to ensuing fighting; Status of captives at Guantanamo Bay.

Discussion of U.S. justification of invasion and treatment of prisoners, largely skims over conduct of the war. Explores legal status of the 9/11 attacks and supports the legal basis of the U.S. justification for invasion. Concludes some prisoners may not achieve POW status, but non-POW customary humanitarian law still applies to them.

Emanuel Gross. 2003. "The Laws of War Waged between Democratic States and Terrorist Organizations: Real or Illusive?" *Florida Journal of International Law*. 15(389). PG NUMBERS??

Questions if old rules of war are applicable to the new war on terror. Covers in detail law involving justifications for war against terrorist groups, alternatives to war, how the war may be fought, and anti-terror laws. Concludes current system is inadequate and outlines a new convention for fighting terrorism.

S. Neil Macfarlane, Carolin J. Thieking and Thomas G. Weiss. 2004. "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?" *Third World Quarterly*. 25(5): 977.

ABSTRACT: The responsibility to protect needs adjustment in the light of the increasing demands on resources associated with the threat of terrorism. Humanitarian efforts that are not immediately connected with national

interests could be regarded as a diversion from pressing new security challenges. In addition, attacks on humanitarian personnel in Afghanistan and especially in Iraq have raised the stakes for the civilian purveyors of aid. The commission's report argued that the relationship between sovereignty and intervention was complementary rather than contradictory. Sovereignty was conceived as a conditional right dependent upon respect for a minimum standard of human rights and upon each state's honouring its obligation to protect its citizens.

Shaw Martin. 2002. "Risk-Transfer Militarism, Small Massacres and the Historic Legitimacy of War". *International Relations*. 16(3): 343.

ABSTRACT: The perception of initial success in the 'war against terrorism' appears to strengthen a general re-legitimation of war in Western society that has been gathering pace over the last two decades. This article considers the war in Afghanistan as the latest example of the new Western way of war, and analyses its casualties compared with previous campaigns in the Gulf and Kosovo. It identifies the new type as 'risk-transfer war', a central feature of which is a 'militarism of small massacres'. This new type thus offers only a partial answer to the problems, for the legitimacy of warfare, caused by the systematic targeting of civilians in earlier 'degenerate war'. Despite a closer approximation to 'just war' criteria, inequalities of risk between Western military personnel and civilians in the zone of war revive the question of legitimacy in a new form. The article suggests that in our concern for relatively small numbers of civilian casualties, we may be applying to war those standards from which it has historically been exempt. In this context the contradictions of the new Western way of war reinforce a 'historical pacifist' position towards the legitimacy of warfare.

International Law

Jose E. Alvarez. 2003. "Editorial Comment: Hegemonic International Law Revisited." *The American Journal International Law*. 97(4): 873.

Argues that international law has biases in favor of the hegemon. Explores self-defense justification for invading Afghanistan among other cases. Suggest that post-9/11 Security Council actions strengthening the U.S. case resulted from the U.S.'s status as hegemon. Focuses solely on hegemonic international law, does not seek to address the merits of the ruling.

Anthony Clark Arend. 2002. "International Law and Rogue States: The Failure of the Charter Framework." *New England Law Review*. 36(4): 735.

John D. Becker. 2004. "The Continuing Relevance of Article 2(4): a Consideration of the Status of the U.N. Charter's Limitations on the Use of Force." *Denver Journal of International Law and Policy*. 32(583).

Discussion of Article 2(4) of the U.N. charter which forbids the threat or use of force without U.N. approval. The U.S. avoided this requirement by invoking the right of self-defense. Reviews debate of the strength and relevance of article 2(4). Suggests steps for improvements to current system rather than sole reliance on self-defense justification.

Ken Booth and Timothy N. Dunne. Eds. 2002. *Worlds in Collision: Terror and the Future of Global Order*. New York: Palgrave Macmillan.

Collection of essays that analyze the war on terrorism. Most essays do not address both Afghanistan and human rights in detail. "Who may we bomb" argues that active civilian

supporters of rogue regimes are legitimate targets and that Operation “Enduring Freedom” correctly balanced targeting of the Taliban and the people of Afghanistan. “Upholding International Legality Against Islamic and American Jihad” describes the invasion of Afghanistan as the failure of international legal system. Calls for treating 9/11 attacks as international crimes and the conflict with the Taliban as one over extradition.

Elias Davidsson. 2003. “The U.N. Security Council’s Obligations of Good Faith.” *Florida Journal of International Law*. 15(541).

Mary Ellen O’connell and Richard B. Bilder (Ed.). 2003. “Recent Book on International Law: Review Essay: Re-Leashing the Dogs of War: International Law and the Use of Force. By Christine Gray. New York: Oxford.” *The American Journal of International Law*. 97(2): 446.

Book review that summarizes the arguments continued relevance of international law and concludes that nations consistently try to justify their wars in the language of the U.N. charter. Concludes the laws still apply, but are violated at times and criticizes aspects of current system. Applies the book’s argument to Afghanistan and finds in weakly supportive.

Rona Gabor. 2003. “Interesting Times for International Humanitarian Law: Challenges from the “War on Terror”“. *The Fletcher Forum of World Affairs Journal*. 27(55).

William A. Schabas. 2003. “Theoretical and International Framework: Punishment of Non-State Actors in Non-International Armed Conflict.” *Fordham International Law Journal*. 26(907).

Anne-Marie Slaughter. 2002. “Symposium: Responding to Rogue Regimes; from Smart Bombs to Smart Sanctions; Luncheon Address Rogue Regimes and the Individualization of International Law”. *New England Law Review*. 36(815).

Discussion of international law relating to “rogue regimes” in the context of focusing on individuals rather than states. Compares utility of military force versus an international justice system. Considers whether the Taliban “harbored” Al Qaeda or if Al Qaeda “hijacked” the Taliban and what this means from a legal perspective.

John N. Strawson. 2002. Law after Ground Zero. London: Glass House.

Explores the state of international law and its humanitarian implications after 9/11. Often technical relevant essays tend to concentrate on larger principles rather than the specifics of Afghanistan. “Degradation of International Law” Argues that international law has ceased to curb Western exercises of power, but instead is used to justify them. “Postmodern Just Wars: Kosovo, Afghanistan, and the New World Order” critically examines the implications of humanitarian justifications for war on what qualifies as a just war.

Human Rights Watch. 2004. ““Enduring Freedom”: Abuses by U.S. Forces in Afghanistan.” *Human Rights Watch publications on Asia*. 16(3): 60. <http://www.hrw.org/reports/2004/afghanistan0304/>.

2004 condemnation of U.S. arrest and detention policies in Afghanistan. Criticizes treatment of the thousand plus detainees for both military and criminal reasons. Accuses use of excessive force, abuses by allies, the means of detentions, the lack of transparency and due processes. Provides in depth discussion of specific alleged incidences of abuses.

Humanitarian Intervention

Adrian Karatnycky. 2002. "Muslim Countries and the Democracy Gap." *Journal of Democracy*. 13(1): 99.

ABSTRACT: Focuses on the impact of the September 11, 2001 terrorist attacks on the democracy in Afghanistan. Tranquility of the advanced democracies; Decline of governments and market systems; Occurrence of gaps in the state of freedom.

Catherine Moore. 2003. "The United States, International Humanitarian Law and the Prisoners at Guantanamo Bay." *International Journal of Human Rights*. 7(2): 1.

ABSTRACT: This article, having established that the United States' military offensive, in Afghanistan, instigated in response to the terrorist attacks of September 11th, constitutes an international armed conflict for the purposes of the application of international humanitarian law, focuses on the actions taken by the United States authorities in relation to those captured during the conflict in Afghanistan. The article considers the status determination of these captives, the conditions of their transfer to Guantanamo Bay, Cuba, and their subsequent confinement there, and finally the legal remedies that are available to the captives pursuant to their detention. On all of these counts the article queries the extent to which the rules of international humanitarian law are being violated, as well as noting the relevant infringements of human rights law that are occurring.

Critical discussion of U.S. invasion of Afghanistan. Briefly critiques U.S. basis for war. Focuses on wide ranging attack on U.S. treatment of Afghan prisoners that focuses on the requirements of the Geneva conventions. Explores legal and human rights complaints regarding treatment and due process at Guantanamo. Concludes U.S. actions are illegal and counterproductive.

Kenneth Watkin. 2004. "Controlling the Use of Force: A Role for Human Rights Norms in Contemporary Armed Conflict". *The American Journal International Law*. 98(1).

Explores interaction of human rights law (typically applied to internal conflicts) and international humanitarian law (typically applied to interstate conflicts) regarding war. Discusses both, their strengths, and their common elements in detail. Calls for reconciling the two codes where they overlap. Afghanistan receives fairly little attention.

Civilian Casualties

The U.S. repeatedly emphasized that "Operation Enduring Freedom" targeted the Taliban and not the people of Afghanistan. However, the methods the U.S. chose were not immune to criticisms about civilian casualties. The articles in this section ask whether the U.S. fought "Enduring Freedom" according to variable standards of morality, and if that variation is justifiable.

Cluster Bombs

Khabir Ahmad. 2001. "Pressure Groups Condemn Us Use of Cluster Bombs in Afghanistan." *Lancet*. 358(9292): 1522.

ABSTRACT: Discusses the protests of leading anti-land mine groups against the use of cluster bombs by the United States in Afghanistan. View that children in Afghanistan will mistake the bombs for food packets, which have also been dropped by U.S. forces; U.S. radio broadcasts which warn of the differences between food and unexploded bombs; Pressure groups, including the British Red Cross, Landmine Action, Human Rights Watch, the Diana Princess of Wales Memorial Fund, and Mennonite Central Committee.

Short critique of use of cluster bombs which leave unexploded brightly colored ordinance packages. These packages can be attractive to children and be confused with aid packets. In addition 10% to 30% of the bomb packets remain making a mind-field. Some statistics on use and civilian casualties.

Bonnie Docherty and Human Rights Watch. 2002. *Fatally Flawed: Cluster Bombs and Their Use by the United States in Afghanistan*. New York: Human Rights Watch. <http://hrw.org/reports/2002/us-afghanistan/>.

M. W. Herold. 2002. "U. S. Bombing and Afghan Civilian Deaths: The Official Neglect of 'Unworthy' Bodies." *International Journal of Urban & Regional Research*. 26(3): 626.

ABSTRACT: Discusses how the bombing campaign of the U.S. and its allies resulted in thousands of civilian deaths during their military actions against the Taliban in Afghanistan. Environmental pollution with cluster bombs and depleted uranium; Destruction of homes, utilities and infrastructures; Comparison with the victims of the September 11, 2001 terrorist attacks in the U.S.

This article criticizes the use of air strikes in Afghanistan, arguing that civilians were killed to lessen risks to U.S. soldiers. The focus is on the bombing strategy and exploring the direct and indirect impact of each target type. There is no discussion of consequences of alternate war strategies.

Lives of Soldiers and the Lives of Civilians

Ken Booth and Timothy N. Dunne. 2002. *Worlds in Collision: Terror and the Future of Global Order*. New York: Palgrave Macmillan.

Collection of essays that analyze the war on terrorism. Most essays do not address both Afghanistan and human rights in detail. "Who may we bomb" argues that active civilian supporters of rogue regimes are legitimate targets and that Operation "Enduring Freedom" correctly balanced targeting of the Taliban and the people of Afghanistan. "Upholding International Legality Against Islamic and American Jihad" describes the invasion of Afghanistan as the failure of international legal system. Calls for treating 9/11 attacks as international crimes and the conflict with the Taliban as one over extradition.

Colin McInne . 2003. "A Different Kind of War? September 11 and the United States' Afghan War." *Review of International Studies*. 29(2): 165.

ABSTRACT: The terrorist attacks of 11 September 2001 and the U.S. response have been widely described as heralding a new kind of war. For over a decade previous to 11 September, however, a body of literature had

developed arguing that during the 1990s a new kind of warfare had begun to emerge for the West. This article examines whether 11 September and its immediate aftermath—the U.S. campaign in Afghanistan—confirmed these trends, or whether it really did constitute a different kind of war. It does so through a four-part framework: that during the 1990s wars were localised; that the enemy was not a state but a regime or individual leader; that civilian deaths should be minimised; and that wars were fought on behalf of the West by professionals, but that the risks to these forces should also be minimised.

Analysis of whether 9/11 changed the post–Cold war way of fighting limited wars which empathize with the enemy. Gives military history of invasion. Concludes that Afghanistan fits this model, particularly rhetorically, although use of Northern Alliance, faulty intelligence, and less precise munitions than were used in Kosovo may have increased casualties.

Richard Falk. 2002. "Identifying Limits on a Borderless Map." *Ethics & International Affairs*. 16(1): 1.

ABSTRACT: Focuses on an appropriate response to the September 11, 2001 terrorist attacks in the U.S. Importance of the need for action to reduce the incidence of terrorist attacks; Goal of the U.S. –led war in Afghanistan; Information on the moral, legal and political challenges associated with the war against terrorism.

Questions possible repercussions of manner in which war on terrorism is waged. Argues Afghan invasion was justified, but rationale used risks a too broad definition of self-defense. Also briefly discusses the manner of fighting, raising concerns about decisions regarding pilots, media coverage, and the lack of restraints placed on allies.

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Emanuel Gross. 2003. "The Laws of War Waged between Democratic States and Terrorist Organizations: Real or Illusive?" *Florida Journal of International Law*. 15(389).

Questions if old rules of war are applicable to the new war on terror. Covers in detail law involving justifications for war against terrorist groups, alternatives to war, how the war may be fought, and anti-terror laws. Concludes current system is inadequate and outlines a new convention for fighting terrorism.

Emanuel Gross. 2002. "Use of Civilians as Human Shields: What Legal and Moral Restrictions Pertain to a War Waged by a Democratic State against Terrorism?" *Emory International Law Review*. 16(445).

Discussion of the dilemma of striking at terrorists who locate themselves in civilian population centers. Lucidly cites relevant international law and moral thought. Argues that restraint must

still be shown but that a balance can be made between risks to soldiers and risks to civilians. Concentrates on Israel but does also briefly apply arguments to Afghanistan.

Martin Shaw. 2002. "Risk-Transfer Militarism, Small Massacres and the Historic Legitimacy of War." *International Relations*. 16(3): 343.

ABSTRACT: The perception of initial success in the 'war against terrorism' appears to strengthen a general re-legitimation of war in Western society that has been gathering pace over the last two decades. This article considers the war in Afghanistan as the latest example of the new Western way of war, and analyses its casualties compared with previous campaigns in the Gulf and Kosovo. It identifies the new type as 'risk-transfer war', a central feature of which is a 'militarism of small massacres'. This new type thus offers only a partial answer to the problems, for the legitimacy of warfare, caused by the systematic targeting of civilians in earlier 'degenerate war'. Despite a closer approximation to 'just war' criteria, inequalities of risk between Western military personnel and civilians in the zone of war revive the question of legitimacy in a new form. The article suggests that in our concern for relatively small numbers of civilian casualties, we may be applying to war those standards from which it has historically been exempt. In this context the contradictions of the new Western way of war reinforce a 'historical pacifist' position towards the legitimacy of warfare.

"Just War"

Anthony Burke. 2004. "Just War or Ethical Peace? Moral Discourses of Strategic Violence after 9/11." *International Affairs*. 80(2): 329.

ABSTRACT: This article focuses on the moral discourses of strategic violence after the September 11 terrorist attack. For those who assume that the application of morality to foreign policy or war-making implies a radical critique of strategic violence--one that seeks to abolish it or at least to control its use--it may be surprising that moral convictions can be placed in its service. Death can be commuted not only through technological distancing media spin and military jargon, but also in theory which works to control its ethical disturbance through the creation of abstract moral and political rules that claim to fix truth, enable justice and provide a sure guide for policy.

Critiques "just war" theories used to justify and advocate for wars. Reviews and critiques writers Walzer and Ellstein. Suggests "ethical peace" as a better alternative. Specifics in Afghanistan and Iraq are used to criticize morality of the wars and to argue that "just war" theory facilitates some of these violations.

Jennifer Leaning. 2002. "Was the Afghan Conflict a Just War?" *BMJ: British Medical Journal*. 324(7333): 353.

ABSTRACT: Debates whether the war on terrorism in Afghanistan was a just war. Legitimate reasons for an aggressive war, including self-defence against an aggressor and humanitarian intervention against a sovereign state; Support of the international community for the war on terrorism; How intention to remove the threat of international terrorism led to action against al-Qaeda.

Analyzes whether the choice to invade Afghanistan meets just war criteria. Concludes after discussing each criteria that the just war standards are unhelpfully vague and subjective. Criticizes U.S. conduct in the war as falling short of humanitarian law on the subject. Succinct and understandable but not particularly detailed.

Nicholas Wheeler. 2002. "Dying for 'Enduring Freedom': Accepting Responsibility for Civilian Casualties in the War against Terrorism." *International Relations*. 16(2): 205.

ABSTRACT: This article examines what moral theories are available to justify the harming of the innocent in war. Focusing on U.S. conduct of the war against the Taliban and al-Qaeda, the article examines how far the U.S. is responsible for the deaths of Afghan civilians. Although U.S. actions have been justified in terms of respect for the Just War principle of non-combatant immunity, the article shows how this principle rested uneasily with alternative moral theories of war that influenced the process of target selection. These are the realist doctrine of necessity in war and Michael Walzer's theories of 'supreme emergency' and 'war is hell'. Just War theory, realism and 'supreme emergency' acknowledge moral responsibility for a state's conduct of war. But the doctrine that 'war is hell' seeks to transfer any responsibility for the cruelty of war to the enemy. The article argues that, whilst the Taliban and al-Qaeda are responsible for exposing Afghan civilians to U.S. attacks, this does not absolve U.S. political and military leaders of responsibility for their conduct of the war.

Hugo Slim. 2003. "Why Protect Civilians? Innocence, Immunity and Enmity in War." *International Affairs*. 79(3): 481.

ABSTRACT: Focuses on the humanitarian cause of the U.S. war in Iraq in 2003. Point of difference between the Iraq war and civil wars of 1990s; Intent and scale of atrocities perpetrated against civilians in several wars; Efforts of the United Nations to address the question of civilian protection; Reasons for the need of civilian protection in wars.

Northern Alliance

Khabir Ahmad. 2001. "Human-Rights Concerns Raised About Northern Alliance." *Lancet*. 358(9294): 1701.

ABSTRACT: Discusses how advances by the Northern Alliance against the Taliban in Afghanistan are causing concern among international human-rights groups due to involvement in human rights abuses in the Afghan civil war; Accusations by Physicians for Human Rights (PHR) against the Northern Alliance; Opposition by the Pakistan Medical Association (PMA) to invasion.

Conflict Justice

Substantial controversy has surrounded the question of how Taliban and Al Qaeda prisoners should be treated after they have been captured or have surrendered. The U.S. decided that Taliban and Al Qaeda fighters were unlawful combatants and thus not subject to the Geneva Convention's prisoner of war (P. O. W) protections. These fighters were imprisoned at the U.S. military base at Guantanamo Bay, Cuba. The U.S. also claimed that the U.S. President had the right to determine the status of prisoners, and that prisoners had limited, if any, rights to challenge that classification. The U.S. determined that any alleged terrorists would be tried before U.S. military tribunals.

In response to international outcry the U.S. adjusted its position by saying that prisoners would receive almost all of the P. O. W. protections, but would still be subjected to controversial forms of detention and interrogation. All the articles in this section focus primarily on Afghan detainees.

Additional information is available about issues the surrounding legal issues and treatment of U.S. prisoners at Guantanamo Bay (see in particular the sections on U.S. Foreign Policy and the Patriot Act).

Lawful Combatants

Lawrence Azubuike. 2003. "Status of Taliban and Al Qaeda Soldiers: Another Viewpoint." Connecticut Journal of International Law. 19(127).

Fairly technical exploration of whether Taliban and Al Qaeda fighters merit prisoner of war status. Argues that while both the Taliban and Al Qaeda have committed atrocities this does not apply to the status of their fighters who largely fought in a conventional manner. Concludes that neither should be denied Geneva protections.

Jason Callen. 2004. "Unlawful Combatants and the Geneva Conventions." Virginia Journal of International Law. 44(1025).

Explores the meaning of "unlawful combatants," soldiers that fail to follow the rules of war. Argues that unlawful combatants caught outside of the battlefield are entitled to protection, but that those caught on the battlefield are not. Critiques those who disagree with a discussion of the drafting of the Geneva accords.

Mat Coleman. 2003. "The Naming of 'Terrorism' and Evil 'Outlaws': Geopolitical Place-Making after 11 September." Geopolitics. 8(3): 87.

ABSTRACT: In the aftermath of 11 September, techniques of spatial surveillance and processes of rebordering indicate a moment of American (re)territorialization. This said, it seems important to move beyond a simple notion of geography—as-territoriality to focus on place and the politics of identity. In the context of events following from the mid-September 2001 'attacks', I suggest that critical geopoliticians focus on the U.S. foreign policy naming of 'terrorism' as an iconographic place-making activity. However, perhaps the more poignant question is one concerning the post-11 September invocation of evil. I suggest here that scrutiny of the place-making naming of evil makes evident the potentially unjust and inhumane constitution of state responses to 'terrorism', declared as an outlaw to justice and humanity. This is particularly relevant given the U.S. bombing campaign in Afghanistan, the alleged poor treatment of Taliban and Al Qaeda prisoners at Camp X-Ray in Guantanamo Bay, Cuba, and the recent detainment of suspected residents in the US. I conclude with a brief thought concerning the need to contextualize the events of 11 September in a larger frame of U.S. global geopolitical relations and histories.

Argues that labeling the enemies of the United States as terrorists and evil presages disregarding the humanity of opponents. Specifically that the label of terrorist used to justify bombing and denying prisoners of war protections. Concentrates on analyzing American popular and media reaction as well as theory and identity politics.

Richard Falk. 2002. "Identifying Limits on a Borderless Map." Ethics & International Affairs. 16(1): 1.

ABSTRACT: Focuses on an appropriate response to the September 11, 2001 terrorist attacks in the U.S. Importance of the need for action to reduce the incidence of terrorist attacks; Goal of the U.S. -led war in Afghanistan; Information on the moral, legal and political challenges associated with the war against terrorism.

Questions possible repercussions of manner in which war on terrorism is waged. Argues Afghan invasion was justified, but rationale used risks a too broad definition of self-defense. Also briefly discusses the manner of fighting, raising concerns about decisions regarding pilots, media coverage, and the lack of restraints placed on allies.

Christopher Greenwood. 2002. "International Law and the 'War against Terrorism'." *International Affairs*. 78(2): 301.

ABSTRACT: Analyzes some of the international legal issues arising out of the events of September 11, 2001. Guilt of the perpetrators of the terrorist attacks; Argument that the United States and its allies were entitled to respond by using force; Legitimacy of military action against the Taliban regime in Afghanistan; Laws of armed conflict applied to ensuing fighting; Status of captives at Guantanamo Bay.

Discussion of U.S. justification of invasion and treatment of prisoners, largely skims over conduct of the war. Explores legal status of the 9/11 attacks and supports the legal basis of the U.S. justification for invasion. Concludes some prisoners may not achieve POW status, but non-POW customary humanitarian law still applies to them.

Diane K. Hook. 2002. "Detainees or Prisoners of War? The Applicability of the Geneva Convention to the War on Terrorism." *Journal of the Missouri Bar*. 58(346).

ABSTRACT: International laws regarding the treatment of prisoners of war are found in the Geneva Convention Relative to the Treatment of Prisoners of War and the Hague Convention (IV) Respecting the Laws and Customs of War on Land. Prisoners of war captured as a result of the War on Terrorism currently consist of members of the Taliban and members of the al Qaeda forces. Because neither the Taliban nor the al Qaeda qualify for belligerent status, members of those forces are not entitled to prisoner of war treatment. Notwithstanding, the United States is providing humane treatment in accordance with the principles of the applicable Geneva Convention and is not breaching its international law obligations by not affording prisoner of war status. Although the United States could choose to adjudicate the detainees in the United States federal courts or an international criminal court, the detainees will be tried using military tribunals.

Supports U.S. position that neither Taliban nor Al Qaeda detainees need to be provided Geneva protections. Quickly dismisses arguments that the Taliban or Al Qaeda meets the standard of a regular army. Opposes indefinite detention and discusses options for adjudication. Less detailed than other similar discussions on this topic.

David Meltzer. 2002. "Al Qa'ida: Terrorists or Irregulars?" *Law after Ground Zero*. John N. Strawson. London: GlassHouse.

Argues that treating Al Qaeda members as irregulars fighting a war is wiser than the U.S. policy of blending the law of war with criminal law. Critiques description of Taliban fighters as "unlawful combatants," because by the same standard would condemn widely recognized legitimate resistance movements. Does not specifically focus on Afghanistan.

Sean D. Murphy. 2002. "Decision Not to Regard Persons Detained in Afghanistan as Pows." *American Journal of International Law*. 96(2): 475.

ABSTRACT: Focuses on the concerns about the treatment of Afghanistan war prisoners in the September 11, 2001 terrorists attack in the U.S. Observation of human rights according to international standards;

Consideration of international conflict; Compliance of the international humanitarian law by International Committee of the Red Cross.

Detailed Spring 2002 overview of situation treatment of Afghan prisoners taken to Guantanamo bay and the legal issues surrounding them. Covers changes in the administration's rationale for denial of POW status. Focuses on U.S. positions regarding international law. Good source if seeking a description rather than analysis.

Ahmed S. Younis. 2003. "Imputing War Crimes in the War on Terrorism: The U.S., Northern Alliance. And 'Container Crimes'." Washington and Lee Race and Ethnic Ancestry Law Journal. 9(109):

Evaluate U.S. responsibility for alleged war crimes by the Northern Alliance. Gives a history of the legal standard for holding a state sponsor responsible. Discusses alleged Northern Alliance war crimes. Finds there may be a case and recommends careful choosing or control of allies in the future.

Treatment of Prisoners

James Thuo Gathii. 2003. "Torture, Extraterritoriality, Terrorism, and International Law." Albany Law Review. 67(2): 335.

Describes lagging progress in Afghanistan's prisons which didn't have an aid coordinator until March 2003. Gives highly detailed and well organized description of current conditions with associated recommendations. Excellent source for studying status of Afghan prisoners who aren't enveloped in disputes over the Geneva accords or accused terrorists.

Derek Jinks. 2004. "The Declining Significance of Pow Status." Harvard International Law Journal. 45(367):

Considers the larger consequences of changes in POW status. Argues that the baseline rights for non-POWs are sufficient that achieving POW status has few additional rights. Includes detailed discussion of rights accorded non-POWs under the Geneva convention. Excellent source of wider perspective on meaning and future possibilities of POW status.

Amy E. Eckert and Manooher Mofidi. 2003. "'Unlawful Combatants' or 'Prisoners of War': The Law and Politics of Labels." Cornell International Law Journal. 36(59):

Gives a detailed and readable history and explanation of Geneva Conventions and how they relate to the invasion of Afghanistan. Criticizes U.S. handling of prisoners as a violation of the conventions. Considers and dismisses arguments in support of the U.S. policy, concluding that actions at Guantanamo bay are counter-productive.

Wayne McCormack. 2004. "Military Detention and the Judiciary: Al Qaeda, the KKK and Supra-State Law." San Diego International Law Journal. 5(7):

Neil McDonald and Scott Sullivan. 2003. "Rational Interpretation in Irrational Times: The Third Geneva Convention and the 'War on Terror'." Harvard International Law Journal. 44(301):

Proposes that the Geneva convention on treatment of prisoners of war can adequately handle the situations like the invasion of Afghanistan. Posits that conventions do allow room for

interpretation but those interpretations can effectively influenced by other countries. Gives detailed breakdown of meaning and application of key provisions.

Faith McLellan. 2002. "Doing Justice--Justly." *Lancet*. 359(9304): 372.

ABSTRACT: Focuses on the topic of Taliban and al-Qaeda fighters being held by the United States at Guantanamo Bay in Cuba. Stance of the U.S. that the detainees from the war against terrorism and Afghanistan are unlawful combatants and are being treated humanely; Suggestion that the legal status of the prisoners be clarified; Issues of the detainees being prisoners of war (POW) and being protected by the Geneva Convention; Reference to a report by the International Committee of the Red Cross, which is monitoring conditions.

Amnesty International. 2003. Afghanistan: Crumbling Prison System Desperately in Need of Repair. Amnesty International. ASA 11/017/2003. <http://web.amnesty.org/library/Index/ENGASA110172003?open>.

Discusses failure of U.S. medical personnel to stop abuses of prisoners. Reviews recent policy history, evidence, and accusations regarding torture of U.S. prisoners. Specifically focuses on breakdown of medical review and documentation process. Finds U.S. failed to take adequate steps to prevent prisoner abuse. Focuses more on Iraq than Afghanistan.

Catherine Moore. 2003. "The United States, International Humanitarian Law and the Prisoners at Guantanamo Bay." *International Journal of Human Rights*. 7(2): 1.

ABSTRACT: This article, having established that the United States' military offensive, in Afghanistan, instigated in response to the terrorist attacks of September 11th, constitutes an international armed conflict for the purposes of the application of international humanitarian law, focuses on the actions taken by the United States authorities in relation to those captured during the conflict in Afghanistan. The article considers the status determination of these captives, the conditions of their transfer to Guantanamo Bay, Cuba, and their subsequent confinement there, and finally the legal remedies that are available to the captives pursuant to their detention. On all of these counts the article queries the extent to which the rules of international humanitarian law are being violated, as well as noting the relevant infringements of human rights law that are occurring.

Critical discussion of U.S. invasion of Afghanistan. Briefly critiques U.S. basis for war. Focuses on wide ranging attack on U.S. treatment of Afghan prisoners that focuses on the requirements of the Geneva conventions. Explores legal and human rights complaints regarding treatment and due process at Guantanamo. Concludes U.S. actions are illegal and counterproductive.

James D. Ross. 2002. "Promoting Human Rights." *Ethics & International Affairs*. 16(2): 27.

ABSTRACT: Discusses the need to promote human rights in the aftermath of the September 11 terrorist attacks. Actions taken by Human Rights Watch during the U.S. -led war in Afghanistan; Position of the U.S. government on individuals apprehended in connection with the war on terrorism; Important role for the human rights community.

Marcy Strauss. 2003/2004. "Torture." *New York Law School Law Review*. 48(201).

John T. Parry. 2003. "What Is Torture, Are We Doing It, and What If We Are?" *The University of Pittsburgh Law Review*. 64(237).

Provides detailed discussion of the legal definition of torture under international and U.S. law. Discusses range of accusation against the U.S. and concludes some actions, particularly combinations of interrogations techniques, can qualify as torture. Concludes that even if torture can be justified under rare life saving cases, current practices fail that standard.

Tessa Richards. 2002. "Conditions at Afghan Prison Violate Human Rights, Report Says." *BMJ: British Medical Journal*. 324(7333): 315.

ABSTRACT: Reports that the Physicians for Human Rights have declared that conditions at a prison in Shebarghan, Afghanistan violate international human rights standards. Overcrowded and unsanitary conditions in which thousands of Taliban fighters are being held; Lack of medical services in the prison; Assertion by the physicians' group that the United States bears some responsibility for the fate of the prisoners, since they are jailed as a result of U.S. military action in Afghanistan.

Johan D. Van Der Vyver. 2003. "Torture as a Crime under International Law." *Albany Law Review*. 67(427).

Explores and compares domestic law, international treaties, and international customary law on torture. Discusses and criticizes possible justifications for torture. Accusations and techniques specific to Afghanistan are discussed in passing. Concludes by concluding torture should always be illegal and with criticism of harsh interrogation tactics.

Appropriate Fora

Laura A. Dickinson. 2002. "Transitional Justice in Afghanistan: The Promise of Mixed Tribunals." *Denver Journal of International Law and Policy*. 31(1): 23.

Compares the questions of how to try terrorists to the difficulties of dealing with other perpetrators of mass atrocities. Explores past use of "mixed tribunals" with one domestic and international judge and compares them to the alternatives. Concludes "mixed tribunals" could deal with many Afghan cases of Taliban crime and help build Afghan judicial capacity.

Mark A. Drumbl. 2002. "The Taliban's 'Other' Crimes." *Third World Quarterly*. 23(6): 1121.

ABSTRACT: Explores the possible legal responses to the crimes inflicted against Afghans during the Taliban rule. Forced deportation, massacres, torture, extrajudicial executions and disappearance among prisoners; War crimes committed during the autumn 2001 international armed conflict; International community's focus on punishing the Taliban's support of transnational terrorists.

Mark A. Drumbl. 2002. "Terrorist Crime, Taliban Guilt, Western Victims, and International Law." *Denver Journal of International Law and Policy*. 31(1): 69.

Discussion of whether 9/11 attacks should be treated as a criminal attack or an armed attack, which greatly effects the law for trying the perpetrators. Argues that current U.S. policy runs against protections provided in either case. Concludes that international tribunals are well suited to the military and civilian law mix.

Mark A. Drumbl. 2002. "Victimhood in Our Neighborhood: Terrorist Crime, Taliban Guilt, and the Asymmetries of the International Legal Order." *North Carolina Law Review*. 81(1): 1.

Argues that military strikes against Afghanistan are not justified as self-defense unless the definition is widened. Reviews the difficulties and range of national and international legal options for trying Taliban prisoners. Concludes that international tribunals would strengthen international law and help the war against terrorism, but that trials alone won't be a panacea.

Derek Jinks. 2002. "International Human Rights Law and the War on Terrorism." *Denver Journal of International Law and Policy*. 31(58):

Michael J. Kelly. 2003. "Cheating Justice by Cheating Death: The Doctrinal Collision for Prosecuting Foreign Terrorists -- Passage of *Aut Dedere Aut Judicare* into Customary Law & Refusal to Extradite Based on the Death Penalty." *Arizona Journal of International and Comparative Law*. 20(491). <http://www.law.arizona.edu/Journals/AJICL/AJICL2003/Vol203/kellyarticle.pdf>.

Geert-Jan Alexander Knoops. 2004. "International Criminal Law Liability for Interrogation Methods by Military Personnel under Customary International Law and the ICC Statute." *International Criminal Law Review*. 4(2): 211.

ABSTRACT: The legal literature to date has paid scant attention to the criminal liability of military officers for torturous interrogation methods. Now, however, this issue has become more topical due to recent US/UK military interventions in both Afghanistan and Iraq. In particular, numerous members of the Iraqi and Afghani regimes, political and military, have been arrested for alleged implication in international crimes, including terrorism. This article discusses the criminal law ramifications of interrogation methods, relying on the recent case law of the ICTY and of the ECHR, as well as significant judgments of the Israeli Supreme Court on this subject. I emphasize the tension between the international rule of law and the defense of necessity as such tension relates to conflicting jus cogens norms which arise during military interventions. I propose legal strategies that may be effectively applied to these controversial situations.

Neil Kritz. 2002. "Symposium: Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: Promoting a Formal System of Justice." *Connecticut Journal of International Law*. 17(429).

Advocates taking creative, balanced and nuanced approaches to building a justice system. Discusses missteps made by governments, NGOs, and international institutions in Afghanistan and past cases. Explores use of non-judicial penalties for those involved in war-crimes. Discusses what benefits a truth and reconciliation commission could and could not provide.

Joseph Marguiles. 2004. "A Prison Beyond the Law." *Virginia Quarterly Review*. 80(4): 37.

Steven H. Miles. 2004. "Abu Ghraib: Its Legacy for Military Medicine." *Lancet*. 364(9435): 725.

ABSTRACT: Examines the role of U.S. military medical personnel in the abuses of detainees in Iraq, Afghanistan and Guantánamo Bay. Report which found the U.S. military medical system failed to protect detainees' human rights, sometimes collaborated with the abuse and failed to properly report injuries or deaths caused by beatings; Background on the policies of President George W. Bush regarding the treatment of suspected terrorists; Executive decisions which permitted the abuse and torture of prisoners; Inadequacy of training for medical personnel; Examples of some of the offenses; Where the system failed; How military doctors and health care workers face a loyalty conflict between obedience to the service and the care of detainees; Directive from the

Geneva Convention which addresses the problem; Call for a more extensive review of the human rights violations and reforms which must result.

Michael P. Scharf. 2002. "The Case for an International Trial of the Al-Qaeda and Taliban Perpetrators of the 9/11 Attacks." *New England School of Law*. 36(911).

Anne-Marie Slaughter. 2002. "Symposium: Responding to Rogue Regimes; from Smart Bombs to Smart Sanctions; Luncheon Address Rogue Regimes and the Individualization of International Law." *New England Law Review*. 36(815).

Discussion of international law relating to "rogue regimes" in the context of focusing on individuals rather than states. Compares utility of military force versus an international justice system. Considers whether the Taliban "harbored" Al Qaeda or if Al Qaeda "hijacked" the Taliban and what this means from a legal perspective.

Steven R. Swanson. 2003. "Enemy Combatants and the Writ of Habeas Corpus." *Arizona State Law Journal*. 35(939):

Juan R. Torruella. 2002. "On the Slippery Slopes of Afghanistan: Military Commissions and the Exercise of Presidential Power." *University of Pennsylvania Journal of Constitutional Law*. 4(648).

Jennifer Trahan. 2002. "Trying a Bin Laden and Others: Evaluating the Options for Terrorist Trials." *Houston Journal of International Law*. 24(475).

Argument that accused terrorist leaders captured in Afghanistan should be tried before Federal courts or an international tribunal rather than a military tribunal. Gives a legal history of military tribunals and discusses their practical and legitimacy disadvantages. Discusses advantages of and specific potential forms for federal trials or international tribunals.

Military Tribunals

Kenneth Anderson. 2002. "The Military Tribunal Order: What to Do with Bin Laden and Al Qaeda Terrorists? A Qualified Defense of Military Commissions and United States Policy on Detainees at Guantanamo Bay Naval Base." *Harvard Journal of Law & Public Policy*. 25(2): 591.

Qualified defense of military tribunals for terror suspects. Argues that they must still have limits but are justifiable and appropriate for active enemies of the United States. Critically examines the arguments presented by advocates for international tribunals and domestic cases. Considers what limits should be placed on military tribunals.

Joan Fitzpatrick. 2002. "Jurisdiction of Military Commissions and the Ambiguous War on Terrorism." *The American Journal of International Law*. 96(2): 345.

Critical legal discussion of military tribunals. Also discusses issues considering how the war on terrorism should be legally classified. Finds military tribunals could only be justified for treating prisoners of war from the invasion of Afghanistan, but only in cooperation with the new Afghan government.

Diane F. Orentlicher and Robert Kogod Goldman. 2002. "The Military Tribunal Order: When Justice Goes to War: Prosecuting Terrorists before Military Commissions." *Harvard Journal of Law & Public Policy*. 25(2): 653.

Seth J. Hawkins. 2003. "Up Guantanamo without a Paddle: Waves of Afghan Detainees Drown in America's Great Habeas Loophole." *Saint Louis University Law Journal*. 47(1243).

Daryl A. Mundis. 2002. "Military Commissions: The Use of Military Commissions to Prosecute Individuals Accused of Terrorist Acts." *The American Society of International Law*. 96(320).

Ruth Wedgwood. 2002. "Al Qaeda, Terrorism, and Military Commissions." *American Journal of International Law*. 96(2): 328.

ABSTRACT: Reports the launch of war by the U.S. government in Afghanistan in response to the September 11, 2001 terrorist attacks. Displacement of the Taliban regime; Creation of a transitional government in Kabul; Difficulties presented by the idea of international trials for unlawful combatants.

Defense of military tribunals for terrorist suspects. Answers against common critiques of military tribunals and argues for validity under international law. Critiques federal courts for weak intelligence safeguards, strict rules of evidence, and security concerns. International tribunals are critiques for risk of intelligence sharing by judges, security concerns, and difficulties of international politics.

Humanitarian Issues

Afghanistan was a miserable humanitarian case long before "Operation Enduring Freedom." Misrule by the Taliban, foreign sanctions, drought, and decades of civil war all conspired against the country and resulted in millions of refugees. Anticipation of war after 9/11 caused in some humanitarian organizations to pull out of Afghanistan, although efforts resumed at the periphery of the country once "Operation Enduring Freedom" began.

Not surprisingly, humanitarian aid and war are a problematic combination, and there were unheeded calls for a pause in bombing to allow aid to arrive in advance of Afghanistan's harsh winter. The prominent U.S. airdrops of food were ineffective as anything but a political gesture. Similarly, aid agencies encountered difficulties even in the territory controlled by U.S. allies the Northern Alliance. However, in retrospect the U.S. strategy of carrying on the war without pause appears to have been effective at deposing the Taliban in time to prevent the catastrophic winter predicted by many.

With the Taliban gone and the country somewhat stable, humanitarian workers regained access. However, many Afghan refugees chose to delay their return from foreign camps until they had greater confidence that they could return safely. Neighboring countries, which had already tried to close their borders during the war itself, grew increasingly impatient with refugee populations that have now been present for decades. Meanwhile, inside of Afghanistan the need for humanitarian assistance has declined from crisis level, but sadly it has not disappeared.

Under the Taliban

Khabir Ahmad. 1999. "Despair as Sanctions against Afghanistan Start". *Lancet*. 354(9193): 1888.

ABSTRACT: Reports on the United Nations' sanctions against Afghanistan that went into effect on November 14, 1999. The Taliban's failure to surrender Saudi exile, Osama bin Laden for trial on charges of plotting the bombings of United States embassies in Kenya and Tanzania in 1998; Opposition to the sanctions.

M. Michael and A. B. Zwi. 2002. "Oceans of Need in the Desert: Ethical Issues Identified While Researching Humanitarian Agency Response in Afghanistan". *Developing World Bioethics*. 2(2): 109.

ABSTRACT: Describes the interventions by the International Committee of the Red Cross to support a hospital in Afghanistan during the mid-1990s. Elements of the interventions introduced in Ghazni, Afghanistan; Ethical challenges arising from humanitarian interventions; Mechanisms for extending transparency and accountability in humanitarian health interventions.

Anita Pratap. 2003. "Afghanistan: The Doomed Land." *Island of Blood: Frontline Reports from Sri Lanka, Afghanistan and Other South Asian Flashpoints*. New York: Penguin Books.

Gives personal account of Indian television reporter in pre-9/11 Afghanistan. Covers Kabul before and after the Taliban take-over, the Taliban front lines, and the territory controlled by the anti-Taliban warlord Dostum. Good source for highly readable narrative, personal experience in Afghanistan, and the stories of Afghans.

Humanitarian Inviolability

Khabir Ahmad. 2001. "Un Pleads for Support for Aid Workers in Afghanistan after Taliban Collapse". *Lancet*. 358(9295): 1792.

ABSTRACT: States that the United Nations (UN) High Commission for Refugees is concerned about the lawlessness in northern Afghanistan, which is hampering aid efforts and endangering aid workers. Suspension of convoys after two drivers were killed; Request from the U.N. to the Northern Alliance and the Taliban for aid agencies to have safe access to displaced persons and other vulnerable Afghans; Efforts of Amnesty International to prevent human rights abuse.

Kenneth Anderson. 2004. "U. S. Foreign Policy and Human Rights: Article: Humanitarian Inviolability in Crisis: The Meaning of Impartiality and Neutrality for U.N. And Ngo Agencies Following the 2003'2004 Afghanistan and Iraq Conflicts". *Harvard Human Rights Journal*. 17(41).

Insightfully discusses crisis in "humanitarian inviolability:" the concept that humanitarian aid should be neutral and impartial. Focus is on Iraq but relevant to Afghanistan. Argues that nation-building is a laudable, but not a neutral objective. Concludes that organizations that participate in nation-building should be separate from those claiming humanitarian inviolability.

Failures Under the New Regime

Alex Vass and Tessa Richards. 2002. "Focus on Afghanistan". *BMJ: British Medical Journal*. 324(7333): 371.

ABSTRACT: Reviews a number of Web sites concerning Afghanistan, including questions about war and humanitarian aid. Web site of the Department for International Development of Great Britain; Section of the United Nations site on Afghanistan, which contains links to emergency aid programs; Review of the site Assistance Afghanistan; Sites featuring human rights issues in Afghanistan.

John Pilfer and N. Carlton Television. 2003. *Breaking the Silence: Truth and Lies in the War on Terror*. Oley, PA: Bullfrog Films.

In 2001, as the bombs began to drop, George W. Bush promised Afghanistan "the generosity of America and its allies". Now, the familiar old warlords are regaining power, religious fundamentalism is renewing its grip and military skirmishes continue routinely. In "liberated" Afghanistan, America has its military base and pipeline access, while the people have the warlords who are, says one woman, "in many ways worse than the Taliban."

Tiffany A. Richards. 2004. "The War Is over but the Battle Has Just Begun: Enforcing a Child's Right to Education in the Wake of Armed Conflict". *Penn State International Law Review*. 23(203).

Recent history of education system in Afghanistan and current situation. Discusses international law on children's rights and calls for education as a top human rights priority in post-conflict and actively war-torn societies. More of a call to action than detailed history.

Victor W. Sidel and Barry S. Levy. 2003. "Part I: Global Challenges to Public Health: War, Terrorism, and Public Health". *Medicine & Ethics Journal of Law*. 31(516):

Refugees

Xavier Bosch. 2004. "Refugee Numbers Down as More People Return Home". *Lancet*. 363(9427): 2148.

ABSTRACT: Reports on the decline of refugees around the world. The decrease of 18% which is the smallest number in a decade; Reasons for the decline; Leading the return to homeland were the Afghani; Celebration of World Refugee Day around the world; Announcement of the awarding of the Nansen prize to the Russian Memorial Human Rights Center.

Akram A. Eltom. 2001. "Internally Displaced People -- Refugees in Their Own Country". *Lancet*. 358(9292): 1544.

ABSTRACT: Focuses on the number of people in Afghanistan who were affected by the humanitarian crisis before the September 11, 2001 terrorist attacks in the United States. Efforts of the International Organization for Migration (IOM) in Afghanistan, where it has supported the voluntary returns of Afghans from Iran in cooperation with the United Nations High Commission for Refugees; Priorities of IOM, including managing camps for displaced people and delivering food, shelter, and other essentials before winter.

Brief description with population numbers, of situation for internally displaced refugees in Afghanistan. Covers International Organization for Migration work to assist internally displaced refugees before and during the invasion. Second article discusses physical and mental health risks to aid workers in Afghanistan. Covers some steps taken by agencies to mitigate risks.

Amnesty International. 2003. Afghanistan: Out of Sight, out of Mind: The Fate of the Afghan Returnees. Amnesty International. ASA 11/014/2003. <http://web.amnesty.org/library/Index/ENGASA110142003?open&of=ENG-AFG>.

Thoroughly documents and analyzes 2003 situation for refugees. Cites many refugees choice not to return to Afghanistan and pressure on other refugees to return before they are ready to. Describes poor conditions in Afghanistan. Calls for refugees to be allowed to stay in host countries until Afghanistan can support them.

Carolyn S. Walker. 2002. "Un Report: global Backlash of Afghan Refugees: When Is Enough, Enough?" *New York Law School Journal of Human Rights*. 18(535).

Explores the problem of countries' increasing reticence to accept Afghan refugees after receiving them through more than twenty years of conflict. Describes international human law requiring accepting refugees and not forcing their return until they can do so safely. Discusses what more limited restrictions countries can legally implement on refugees.

Human Rights Watch. 2002. "Afghanistan, Iran, and Pakistan: Closed Door Policy: Afghan Refugees in Pakistan and Iran". Human Rights Watch publications general short reports. 14(2): 45. <http://www.hrw.org/reports/2002/pakistan/>.

Describes situation for three and a half million Afghan refugees after overthrow of the Taliban. Includes many personal accounts. Focuses on problematic status and treatment of Afghans in Pakistan and Iran. Explores refugees' reasons for leaving and fears about returning home. Condemns state policies towards refugees, specifically pressure to return.

Peter Moszynski. 2002. "Return of Refugees to Afghanistan Catches Agencies by Surprise". *BMJ: British Medical Journal*. 325(7370): 924.

ABSTRACT: Discusses the return of refugees to Afghanistan and the health problems this poses. Health issues in the region; Sections of the population that are most vulnerable; Network of non-governmental organizations involved in primary health care in Afghanistan; Lack of changes in health care since the U.S. started war against al-Qaeda.

Barbara Sibbald. 2003. "'Move or Die': A Strained People Face the Prospect of yet More War". *CMAJ: Canadian Medical Association Journal*. 168(12): 1082.

ABSTRACT: Presents information on evacuation of refugees and other foreign workers in Afghanistan for fear of war after the September 11, 2001 terrorist attacks in the U.S. Details on the closure of international aid organizations in Afghanistan; Number of workers of the Canadian Médecins sans Frontières working in Afghanistan; Problems facing refugees and foreign workers.

Food Aid

Khabir Ahmad. 2001. "Health and Safety of Afghans Hangs in the Balance". *Lancet*. 358(9287): 1069.

ABSTRACT: Reports that the World Food Programme resumed shipments of food aid to Afghanistan, in the wake of terrorist attacks in the United States. Reasons that the United Nations agency stopped food delivery; Threat of the Taliban against those who use computers and other communications equipment; Concern about refugees fleeing to neighboring countries in anticipation of attacks from the U.S. ; Conditions in Pakistan, which along with Iran has closed borders to Afghanistan.

Summary of humanitarian situation in Afghanistan after 9/11 but while the invasion was still only anticipated. Focuses on cessation or reduction of efforts by international aid groups and the U.N. Discusses emptying of cities and outpouring of refugees and the policy of neighboring countries Pakistan, Iran, and Tajikistan to close their borders.

Khabir Ahmad. 2001. "Un Pleads for Break in Bombing in Afghanistan". *Lancet*. 358(9290): 1352.

ABSTRACT: Reports that the U.N. High Commissioner for Human Rights, Mary Robinson, has warned that the crisis in Afghanistan could become a large-scale humanitarian disaster if the bombing there continues. How the bombing raids and related anti-US protests in Pakistan, are interrupting the transport of food aid.

Claudia Kelly Dixon. 2001. "2001 Yearbook: Human Rights and the Environment: Nowhere to Run, Nowhere to Hide: How the Events of September 11, 2001 Have Impacted the Refugee Humanitarian Crisis in Afghanistan". *Colorado Journal of International Environmental Law and Policy*. 2001(111).

Describes disastrous humanitarian situation in Afghanistan which was further complicated by the invasion. Discusses difficulties in sending aid and increase in internal displacement resulting from bombings. Calls air drops of food ineffective, primarily political in motivation, and perhaps dangerous to civilians and aid workers. Good short overview of situation during war.

Roger Dobson. 2001. "Stop Military Strikes and Ship in Aid, Doctors Say". *BMJ: British Medical Journal*. 323(7317): 823.

ABSTRACT: Reports that health professionals in Great Britain and several relief agencies have called for an end to the attacks on Afghanistan and called for an international humanitarian aid program. Food shortages in the country as a result of drought; Argument that the United States bombings will result in more terrorism; Worry that innocent civilians will be harmed in the attack.

United States Senate. Committee on Foreign Relations. Subcommittee on Near Eastern and South Asian and N. Y. F. S. Hrg N. Y. F. S. Hrg N. United States. Congress. Senate. Committee on Foreign Relations. Subcommittee on International Operations and Terrorism. 2002. *Afghanistan's Humanitarian Crisis: Is Enough Aid Reaching Afghanistan?* Washington, D. C. : U.S. G. P. O.

Records the debates in the U.S. on how to best provide aid during the invasion of Afghanistan. Great emphasis on welfare of Afghan people and importance of subsequent reconstruction. Witnesses include testimony government officials and humanitarian groups. Many details about the difficulties in delivering aid, even to areas controlled by U.S. allies.

Media

Peter Baker. 2001. "Northern Exposure". *American Journalism Review*. 23(10): 28.

ABSTRACT: Discusses experiences while covering the war against terrorism in Afghanistan for the 'Washington Post' newspaper. Views on the press coverage of the war; Characteristics of the correspondents who arrived in Afghanistan immediately after September 11, 2001; Experiences while aboard an old helicopter of the Northern Alliance group.

Sarah Chayes. 2003. "Breaking Ranks". *Colombia Journalism Review*. 42(4): 66.

ABSTRACT: Presents an article on the experiences of a U.S. journalist in reporting on the military conflict in Afghanistan. Impact of journalists on the lives of the people they report about; Effect of the September 11, 2001 terrorist attacks in the U.S. on U.S. journalists working in Muslim countries; Efforts for public advocacy in Afghanistan.

Stephen Franklin. 2002. "Stories of Hope and Desperation. (Cover Story)". *Colombia Journalism Review*. 40(5): 32.

ABSTRACT: *Discusses the problems faced by journalists who cover the war on terrorism in Afghanistan. Restriction on the access to Afghanistan and transportation within the country; Lack of housing and food supply; Sources of news stories; Difficulty faced by journalists on where and how to get information about the military operations.*

Arthur C. Helton. 2002. "Rescuing the Refugees". *Foreign Affairs*. 81(2): 71.

ABSTRACT: *The institutions that deal with refugees have not yet adapted effectively to new geopolitical realities. The time has come for innovation. The situation in Afghanistan shows both the intractable nature of the refugee problem and the inadequacy of the institutions responsible for addressing them. A major step toward addressing the problem would be the creation of an intergovernmental policy research center designed to enhance the international humanitarian action system. In Afghanistan, however, that country will need a substantial, multiyear reconstruction program to make any kind of refugee return sustainable. Another critical task in Afghanistan will be to overcome the disjuncture between relief agencies. Local human rights groups will also play a crucial role in Afghanistan's future, along with public security and rule of law. Slowly, knowledge is accumulating about how the problems of refugees and development can best be addressed, what kinds of partnerships are necessary among humanitarian organizations, and how operations can be carried out most effectively. However, until that knowledge can be assembled in one place and focused on specific tasks, it will not have the desired impact.*

Calls for more pro-active system that all seeks to assist internally displaced persons, not just refugees that cross the border. Gives history of aid efforts towards refugees in Afghanistan. Calls for international policy research on subject. Advocates linking relief and development efforts and discusses how this could help in Afghanistan.

Richard Falk. 2002. "Identifying Limits on a Borderless Map". *Ethics & International Affairs*. 16(1): 1.

ABSTRACT: Focuses on an appropriate response to the September 11, 2001 terrorist attacks in the U.S. Importance of the need for action to reduce the incidence of terrorist attacks; Goal of the U.S. -led war in Afghanistan; Information on the moral, legal and political challenges associated with the war against terrorism.

Questions possible repercussions of manner in which war on terrorism is waged. Argues Afghan invasion was justified, but rationale used risks a too broad definition of self-defense. Also briefly discusses the manner of fighting, raising concerns about decisions regarding pilots, media coverage, and the lack of restraints placed on allies.

Neil Hickey. 2002. "Access Denied". *Colombia Journalism Review*. 40(5): 26.

ABSTRACT: Discusses the censorship policy of the United States Defense Department on the war on terrorism in Afghanistan. Reason for the Defense policy to control the flow of information; Measures taken by the Defense Department to restrict press access to information on military operations; Conflict on the expectations of the press and the government.

Thomas Kunkel. 2002. "Casualties of War". *American Journalism Review*. 24(1): 4.

ABSTRACT: Presents an article which documented the impact of the war against terrorism on the field of journalism. Risks faced by journalists in covering war; Casualties recorded among foreign journalists covering the war; Comparison between the treatment received by foreign journalists in Afghanistan and other war-zone countries.

Sherry Ricchiardi. 2002. "A Killing Field for Journalists". *American Journalism Review*. 24(1): 32.

ABSTRACT: Explores the casualties and injuries recorded among the foreign journalists covering stories happening in the war against terrorism in Afghanistan. Description of journalists on the war; Information on the journalists who were killed while covering the war; Analysis on why journalists take the risk of covering the war.

Lori Robertson. 2003. "Whatever Happened to Afghanistan?" *American Journalism Review*. 25(5): 24.

ABSTRACT: Talks about the presence of the media in the U.S. war against terrorism in Afghanistan. Details on the percentage of decline in media coverage as monitored by Andrew Tyndall, reporter; Newspapers that continue to provide updates about the commitment of the U.S. on reconstruction efforts in Afghanistan; Shift of the focus of media to the war in Iraq.

Discusses media acknowledgement of decreasing attention to Afghanistan after the war in Iraq began. Reflects a long-standing trend for hot-spots to lose attention. Argues for media responsibility to keep focus on Afghanistan. Explores thoughts, actions, and preferences of reporters and news organizations. Does not address policy and human rights implications.

Terence Wright. 2004. "Collateral Coverage: Media Images of Afghan Refugees, 2001". *Visual Studies*. 19(1): 97.

ABSTRACT: The paper is concerned with media coverage of the on-going refugee crisis in Afghanistan. It begins by looking at how the terrorist attacks on the World Trade Center of 11 September 2001 had the result of stimulating renewed media interest in Afghan refugees. Paying special regard to the role of visual images in the reporting of disasters, the paper reviews the narrative strategies adopted by television news. It considers the factors that have instigated media response by examining some general issues arising from the media coverage of disasters.

While the central focus of the study is BBC Television News Special Reports on the Afghan refugee crisis, selective comparisons are made with other television broadcast channels, Sky News and Euronews. Based on the Afghan case study, I propose three main constituent factors contributing to the likelihood of effective media coverage of a refugee crisis. Firstly, in order to attract Western press coverage it is necessary for the crisis to be of such a magnitude that it cannot be ignored; or else it is necessary for it to be perceived as having some obvious connection with Western concerns. Secondly, the story will gain airtime if the nature of the crisis is such that it produces dramatic imagery - pictures with impact. Finally, if the style of the media coverage is sufficiently innovative it will stimulate interest in the viewers. The paper concludes with a critical review of media examples that break away from conventional news formulae.

State Building

Before “Operation Enduring Freedom” state building was quite controversial in the U.S. because it is difficult and requires great long-term commitment. However, there was agreement that it would be necessary because the present problems may have been avoided were Afghanistan properly rebuilt after the defeat of the Soviets.

The U.S. and international community pursued a “light footprint” approach, seeking to avoid Afghan dependency or hostility against a larger American force. Once Afghanistan was reasonably secure, the U.S. convened a nationwide tribal council called a “loya jirga” to give legitimacy to the process and develop a new constitution. Hahmed Karzai, a favorite of the U.S., took control of the interim government.

In the interim, disturbingly slow progress was been made on human rights issues. Today, warlords, often in regional government positions, still control the vast majority of the country outside of Kabul, the capital. After Hamed Karzai won the election in the fall of 2004 he acknowledged existing problems and began to lay out plans for solving them; starting with removing the warlords from power.

There is surprisingly little disagreement in the academic literature about state building in Afghanistan. Articles that cover similar issues tend to argue for compatible approaches. The disagreement present is largely implicit and over what should be the first and highest priority in the rebuilding effort.

General Overviews

Mohammed Ayoob. 2002. “South-West Asia after the Taliban”. *Survival*. 44(1): 51.

ABSTRACT: Focuses on the implication of the war on terrorism by the U.S. for Pakistani-Afghan relations. Installation of an interim Afghan government under the moderate Pashtun leader; Pledge of Pakistan President Pervez Musharraf to break Pakistan-based terrorist groups; Principal economic beneficiaries of fragmentation and civil war.

Sultan N. Barakat. 2004. "Reconstructing War-Torn Societies: Afghanistan". *Third World Quarterly*. viii(203).

Exemplary and well organized analysis of issues relating to Afghanistan's reconstructions. Explores many topics and their implications for the process: historical background, theories of reconstruction, legitimacy, institution building, refugees, and more.

Peter Chalk. 2003. "Non-Military Security in the Wider Middle East". *Studies in Conflict & Terrorism*. 26(3): 197.

ABSTRACT: Examines the scope and dimensions of the regional security agenda in the Middle East. Opium trade, unregulated population movements and maritime piracy; Relevance of the issues to U.S. foreign policy; Role of the United States in the development of security countermeasures.

Detailed look at region-wide problems of opium production and trafficking, massive movement of refugees, and piracy. Afghanistan is covered but does not have exclusive focus. Each issue is given a detailed recent history, analysis, and presents helpful tables and figures. Concludes with policy recommendations focusing on cross-border approaches.

Jarat Chopra and Tanja Hohe. 2004. "Participatory Intervention". *Global Governance*. 10(3): 289.

ABSTRACT: The article presents information on the international intervention and political authority in transition at the level of local administration. Two particular factors drew the international community into the temporary exercise of political authority, whether minimally in the form of assistance to an interim government, as now in Afghanistan, or in a more intrusive escalation in partnership with the departing occupier, as in Namibia, control of divided factions, as in Cambodia and ultimately governorship of territory and population, most completely in East Timor. In the midst of complex emergencies, a wide range of inter governmental agencies and nongovernmental organizations independently addressed security, humanitarian, developmental, human rights, judicial policing and economic concerns.

Laura A. Dickinson. 2002. "Symposium: Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: Introductory Remarks". *Connecticut Journal of International Law*. 17(3): 429.

Antonio Donini, Norah Niland and Karin N. Wermester. 2004. *Nation-Building Unraveled? Aid, Peace and Justice in Afghanistan*. Bloomfield, CT: Kumarian Press.

Francis Fukuyama. 2004. "The Imperative of State-Building". *Journal of Democracy*. 15(2): 17.

ABSTRACT: Argues that state-building must become a priority for the world community. Weak or failed states as root of serious global problems, including AIDS, drug trafficking and terrorism; Failure of democratic government; Major responsibility for nation- and state-building assumed by the U.S. in Afghanistan and Iraq.

Larry Goodson. 2003. "Afghanistan's Long Road to Reconstruction". *Journal of Democracy*. 14(1): 82.

ABSTRACT: Urges the United States and the world to make a deeper commitment to peacekeeping and decentralized government to forestall a worst-case scenario in Afghanistan. Afghanistan after the September 11, 2001 terrorist attacks in the U.S.; Establishment of a workable government; Election of the Loya Jirga, the country's legislative body.

Detailed description of difficulties of building Afghanistan, the government in particular. Lists three main problems as: fading U.S. interest, the level of destruction and anger after the war, the difficulties of building a workable multi-party government, and the self-interested and sometimes intransigent warlords. Calls for greater commitment to alleviate problems.

Human Rights Watch. 2004. Human Rights Watch: Asia: Afghanistan. <http://hrw.org/doc/?t=asia>.

Adrian Karatnycky. 2002. "Muslim Countries and the Democracy Gap". *Journal of Democracy*. 13(1): 99.

ABSTRACT: Focuses on the impact of the September 11, 2001 terrorist attacks on the democracy in Afghanistan. Tranquility of the advanced democracies; Decline of governments and market systems; Occurrence of gaps in the state of freedom.

Kenneth Katzman and Library of Congress Congressional Research Service. 2003. *Afghanistan: Current Issues and U.S. Policy*. Washington, D. C. : Congressional Research Service, Library of Congress.

Superb background on the situation in Afghanistan from the perspective of the United States. Includes a history of both the Taliban and the Northern Alliance. Well organized breakdown of efforts to rebuild the country, activities of neighboring countries, foreign aid to Afghanistan, and U.S. policy concerns and initiatives.

Ali A. Jalali. 2003. "Afghanistan in 2002". *Asian Survey*. 43(1): 174.

ABSTRACT: The year 2002 was one of rebirth and rebuilding in Afghanistan following a drawn-out civil strife that ended with the downfall of the Taliban regime in the U.S. -led coalition war on terrorism. But the struggle for peace proved to be much tougher than winning the war. International financial support and political backing helped Afghanistan move toward creating a broad-based government, improving security across the country, and rebuilding its devastated economy. However, the enormous humanitarian and development challenges involved require a sustained and multifaceted response as well as a long-term international commitment to assist the war-torn country in restoring peace, normalcy, and economic stability.

William Maley. 2002. "The Reconstruction of Afghanistan." *Worlds in Collision: Terror and the Future of Global Order*. Ken Booth and Timothy N. Dunne Eds. New York: Palgrave Macmillan.

Describes the difficult process of rebuilding the state, not just the government, of Afghanistan. Emphasizes using existing economic and social strengths, building institutions, police, and giving warlords reason to cooperate rather than directly challenging them. Details threats to reconstruction; warlords, deskilled population, trauma from civil war, unrealistic expectations, and maintaining international commitment.

Amalendu Misra. 2004. *Afghanistan: The Labyrinth of Violence*. Cambridge, UK; Malden, Mass. : Polity.

William Reno. 2004. "Order and Commerce in Turbulent Areas: 19th Century Lessons, 21st Century Practice". *Third World Quarterly*. 25(4): 607.

ABSTRACT: The recent collapse of some states, the proliferation of internal wars and of localized political authorities, so-called 'warlords', challenges the homogeneity of the international system of states at its margins.

These new fragmented authorities often rely upon commercial deals with outsiders to consolidate their power. This threatens officials in strong states who depend upon organized states everywhere to control their realms and control their citizens' transactions, including with terrorists and criminals. Widespread direct rule by western powers, as in Iraq, Afghanistan, Kosovo, and Bosnia, is too expensive and politically risky to apply to all disorderly parts of the globe. Instead, officials in powerful states use techniques of indirect control that utilize commercial networks to pacify disorderly areas. This strategy resembles techniques developed in 19th century European relations with stateless areas. Similar problems develop as well. This led in the 19th century to direct rule, while contemporary officials are forced to experiment with more intensive use of commercial relations to pacify unruly areas.

Argues that current practice of handling state-less areas is similar to 19th century efforts. Gives detailed and wide ranging support. Details need to control factionalism that caused the indirect and multiple business based approaches largely gave way to more centralized commerce and administrations. Discusses differences between 19th and 21st century world system.

Ekaterina Stepanova. 2004. "War and Peace Building". *Washington Quarterly*. 27(4): 127.

ABSTRACT: Focuses on the U.S. -led war on terrorism and the need to achieve peace in postwar Iraq. Effect of turning rogue states into failed states; Russia's importance to the United States in Afghanistan compared to allies in the North Atlantic Treaty Organization; Joint antiterrorist efforts.

2002. "Symposium: Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: Questions, Answers & Comment". *Connecticut Journal of International Law*. 17(3): 429.

Ramesh Chandra Thakur; United Nations University and Oddny N. Wiggen. 2004. *South Asia in the World: Problem Solving Perspectives on Security, Sustainable Development, and Good Governance*. Tokyo and New York: United Nations University Press.

Reviews Afghanistan's situation during rebuilding in the context of regional politics. Calls for South Asian states to respect Afghanistan's sovereignty. Pays attention to interests of sometimes transnational ethnic groups. Not focused on the human rights aspects of state building, but a good source for understanding the influence of regional countries on the process.

Relations United States. Congress. Senate. Committee on Foreign. 2002. *The Political Future of Afghanistan*. Washington: U.S. G. P. O.

Senate hearing on rebuilding Afghanistan while the invasion was still drawing to a close. State department officials and two academics testify and are questioned. Guardedly optimistic appraisal of the situation with concern about past failures in nation-building. Shows range of U.S. concerns and desires at the start of the process.

Naomi Weinberger. 2002. "Civil–Military Coordination in Peacebuilding: The Challenge in Afghanistan". *Journal of International Affairs*. 55(2): 245.

ABSTRACT: Focuses on the evolution of multinational peace operations after the September 11, 2001 terrorist attacks and subsequent international intervention. Differences between security and humanitarian dimensions of post–conflict peacebuilding; Evolution of multidimensional peace operations after the Cold War; Conflict prevention and reconstruction at the societal level in societies experiencing civil strife.

Explores rebuilding Afghanistan in the larger context of rebuilding other nations after civil wars. Starts with an overview of U.N. actions in previous case with particular attention to more recent interventions. An exceptional exploration of the problems faced by the International Security Assistance Force in Afghanistan.

Michael P. Scharf and Paul R. Williams. 2004. "Report of the Committee of Experts on Nation Rebuilding in Afghanistan; December 10, 2001". New England School of Law. 36(709):

Provides an analysis of Afghanistan's state building needs and suggestions on how it can best be pursued. After reviewing the situation and discussing U.S. interests the article breaks down the general and Afghanistan-specific nation building goals. Discusses applications of recent legal concept of "intermediate and evolving sovereignty" for rebuilding states.

Local/Tribal/Ethnic/ Islamic Legal Traditions

Thomas J. Barfield. 2002. "Symposium: Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: On Local Justice and Culture". Connecticut Journal of International Law. 17(3): 437.

Cites need to understand local traditions and conditions when building up a justice system. Gives detailed cultural analysis and history regarding judicial systems and the striking differences between Afghan and Western legal thought. Argues that particularly in rural areas the task is not reconstructing but constructing a legal system.

Mark A. Drumbl. 2004. "Rights, Culture, and Crime: The Role of Rule of Law for the Women of Afghanistan". Colombia Journal of Transnational Law. 42(349).

Details the slow post-war moves towards providing justice for human rights violation against women. Harsh critique of Pashtunwali, a local system of laws, as a source of new violations. Includes recommendations on use and integration of international law to assist the process.

Christopher P. Freeman. 2002. "Dissonant Discourse: Forging Islamist States through Secular Models: The Case of Afghanistan". Cambridge Review of International Affairs. 15(3): 533.

ABSTRACT: Presents an alternative perspective on the U.S. war against terrorism and the intervention in Afghanistan in 2003. Manner by which Western nations regard political Islam or Islamism; Values and processes attached to liberal democracy which is not suited to the developmental stage of Afghanistan; Pervasiveness and power of Islam.

Argues that some of Afghanistan's rebuilding problems result from a fear of political Islam (Islamisation). The article subsequently explores the concepts and history of Islamisation and problems arising from a clash with the West. Concludes with detailed argument that absent prolonged commitment from the occupiers, Islamisation is an unavoidable stage.

Catherine E. Polisi. 2004. "Universal Rights and Cultural Relativism Hinduism and Islam Deconstructed". World Affairs. 167(1): 41.

ABSTRACT: Discusses the connection between the application of cultural relativism to the human rights law and the degradation and marginalization of women in Hindu and Islamic societies. Examples of human rights violations committed against women in Hindu and Islamic cultures; List of rights protected under the Universal Declaration of Human Rights; Information on the conditions of women in Afghanistan in 2003.

Nazif M. Shahrani. 2002. "War, Factionalism, and the State in Afghanistan". *American Anthropologist*. 104(3): 715.

ABSTRACT: To understand the situation in Afghanistan, we must recognize that its political and military chaos is not an isolated or unique phenomenon, and at the same time acknowledge the particular social and political dynamics of Afghanistan's history. Communal conflicts in Afghanistan are part of a much wider affliction common to many postcolonial states and multinational societies.

United States House of Representatives. Committee on International Relations. Subcommittee on the Middle East and Central and Nonproliferation and Human Rights N. Y. I. N. H. N. Y. I. N. H. N. 2004. *Afghanistan: Democratization and Human Rights on the Eve of Constitutional Loya Jirga*. Washington: U.S. G. P. O.

Discusses the Afghan constitution on the eve of the first post-invasion gathering of Loya Jirga. Concerns are raised about protection of women's rights and whether provisions acknowledging Islam go too far. Mention is made of security problems outside of Kabul. State department and NGO officials are witnesses.

Kathryn J. Webber. 2003. "The Economic Future of Afghan Women: The Interaction between Islamic Law and Muslim Culture". *University of Pennsylvania Journal of International Economic Law*. 24(959).

A legal review of what is allowed in under Islamic law and what is allowed by social norms. The article's conclusion is that oppressive social force and not Islamic law itself results in the economic oppression of Afghan Women.

Ali Wardak. 2002. "Jirga: Power and Traditional Conflict Resolution in Afghanistan." *Law after Ground Zero*. John N. Strawson. London: GlassHouse.

Examines the "Jirga," a gathering of people that functions as a traditional conflict resolution mechanism in Afghanistan. Explores its history at the local, tribal, and national ("Loya Jirga") level. Briefly debates the legitimacy and effectiveness of the post-"Enduring Freedom" Loya Jirga. Excellent source for understanding the context of the "Loya Jirga."

Warlords

Mariam Rawi. 2004. "Betrayal". *Reproductive Health Matters*. 12(23): 116.

Critique of women's right situation after the invasion. Attacks situation in areas under Karzai government and warlord control. Accuses the coalition of abandoning women's rights. Discusses steps by the Revolutionary Association of Women of Afghanistan to secure these rights. Few citations and limited data beyond anecdotes.

Paul Jackson. 2003. "Warlords as Alternative Forms of Governance". *Small Wars & Insurgencies*. 14(2): 131.

ABSTRACT: Warlord is a label that currently besets us on all fronts. The 2001-2002 military action in Afghanistan is illustrative of the West's ambivalent view of armed factions in the developing world in general. The demonisation of the Taliban and the elevation of the former 'warlords' of the opposition to the rather more

grandiose sounding 'Northern Alliance', at once formalising the hitherto informal nature of the warlord system, implies that the term 'warlord' is synonymous with anarchy, violence and a breakdown in civilised values. 'Warlord' has become an ugly, detrimental expression, evoking brutality, racketeering and terrorism. Analysts referring to violence across developing countries routinely refer to 'new wars' and 'post-modern' conflict, and yet the language used to describe these phenomena is usually pre-modern (medievalism, baronial rule, new feudalism). This article outlines some examples of historical warlords and draws out the common issues. In particular it emphasises the fact that warlords have been present for centuries and have periodically emerged whenever centralised political-military control has broken down. All that has changed through history is the technology available to each generation and the relative economic base. The article concludes with a series of implications for policy-makers currently considering intervention in warlord-based economies. ABSTRACT FROM AUTHOR

A wide ranging article that offers a theoretical understanding of warlords. Specifically it addresses why they arise and what the consequences are when they are the primary form of government. However, it does not focus on the current situation in Afghanistan nor does it systematically address human rights effects.

Barry R. McCaffrey. 2004. "Afghanistan's Newest Challenge". *Armed Forces Journal International*. 141(6): 8.

ABSTRACT: *Focuses on the link between terrorism and drugs in Afghanistan. Destruction of the Taliban regime; Destruction from ethnic civil war.*

Argues that addressing the problems of post-war Afghanistan requires an aggressive anti-drug effort. Gives brief summary of difficulties facing Afghanistan with a particular focus on increase in drug cultivation. Arguments pertain more to the general argument of focusing against drug supply rather than being specific to the case of Afghanistan.

Human Rights Watch. 2002. "All Our Hopes Are Crushed: Violence and Repression in Western Afghanistan". Human Rights Watch publications on Asia. 14(6): 52. <http://www.hrw.org/reports/2002/afghan3/>.

Argues 2002 Afghanistan as a failing to achieve the promises of human rights due to warlord run "fiefdoms." Well organized and detailed documentation of alleged abuses in western Afghanistan and the city of Herat. Critical description of U.N. approach as lacking necessary personnel and resources. Calls for expanded Peacekeeping force.

Michael A. Rubin. 2000. "Afghanistan: As Bad as Its Reputation?" *Middle East Quarterly*. 7(3): 55.

ABSTRACT: *Presents an analysis of the negative notions linked to the military operations of the Taliban, a group of Arab rebels based in Afghanistan. Border conditions between Pakistan and Afghanistan; Speculation on the opium production by the Taliban group in the country; Human rights issues surrounding the social and religious standards of the Taliban.*

Afghanistan's Justice System

Amnesty International. 2003. Afghanistan: Police Reconstruction Essential for the Protection of Human Rights. Amnesty International. ASA 11/003/2003. <http://web.amnesty.org/library/Index/ENGASA110032003?open&of=ENG-AFG>.

Argues that building up police forces, and public faith in police forces, is a key step for rebuilding Afghanistan. Explores with good organization and detail the history and present status of police forces in Afghanistan. Describes current force structure, policies, and human rights concerns. Makes wide ranging recommendations for improvements.

Amnesty International. 2003. Afghanistan: Re-Establishing the Rule of Law. Amnesty International. ASA 11/021/2003. <http://web.amnesty.org/library/Index/ENGASA110212003?open&of=ENG-AFG>.

Analysis of status of rule of law in 2003 Afghanistan. Describes progress in urban areas but fragile or non-existent courts elsewhere. Well organized and detailed analysis of the full range of Afghan needs with recommendations. Focuses on improving independence of the courts and the legal status of women.

Pierre-Richard Prosper. 2002. "Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: On Respect for the Rule of Law". Connecticut Journal of International Law. 17(429).

Suggestion that establish rule of law in Afghanistan requires fast action to give public security, collect criminal data, properly handle of prisoners, and establish courts for trying present crimes and past atrocities. Rejects the idea of an international tribunal. Recommends how to best massively build up of Afghan judicial capacities.

Derek Jinks. 2002. "International Human Rights Law and the War on Terrorism". Denver Journal of International Law and Policy. 31(58).

Neil Kritz. 2002. "Symposium: Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: Promoting a Formal System of Justice". Connecticut Journal of International Law. 17(429).

Advocates taking creative, balanced and nuanced approaches to building a justice system. Discusses missteps made by governments, NGOs, and international institutions in Afghanistan and past cases. Explores use of non-judicial penalties for those involved in war-crimes. Discusses what benefits a truth and reconciliation commission could and could not provide.

Barnett R. Rubin. 2003. "Transitional Justice and Human Rights in Afghanistan". International Affairs. 79(3): 567.

ABSTRACT: Focuses on the transition of justice and human rights in Afghanistan since the defeat of the Taliban government and the signing of the Bonn Agreement on December 5, 2001. Condition of Afghanistan's prisons before the coup by the Taliban government in April 1978; Scope of violence brought into the police force by the Taliban revolution of 1978; Abuses prevalent during the rule of Taliban.

Explores the difficulties of confronting the crimes committed in the twenty three years of Afghan civil war ending with the U.S. invasion. Gives personal account of how transitional justice was sacrificed to stability. Calls disarmament, demobilization, and reintegration the highest Afghan priority and discusses how transitional justice can be pursued in tandem.

William H. Spencer. 2002. "Symposium: Reluctant Nation Building: Securing the Rule of Law in Post-Taliban Afghanistan: Establishing the Rule of Law". Connecticut Journal of International Law. 17(429).

Describes the results of a study on how to best build rule of law in Afghanistan and the opinions of local leaders. Supports building off the progressive 1964 constitution and advocates integrating with tribal and Islamic law. Calls for improvement in management and for foreign governments to more effectively pursue rule of law.

Sima Wali. 2004. "Violence, Terror, and Accountability in Afghanistan". *Peace Review*. 16(1): 75.

ABSTRACT: Delves into the issue of violence, terror and human security in Afghanistan. Implementation of the interim agreement of an international security force and process building in Afghanistan; Significance of the rights of women in the Afghan society.

Critiques

Rachel Bronson. 2002. "When Soldiers Become Cops". *Foreign Affairs*. 81(6): 122.

ABSTRACT: It is becoming evident that the U.S. military is not very well suited to the task of establishing security in precarious political environments. The situation in Afghanistan has revealed a pattern that the U.S. seems doomed to repeat elsewhere: the mismatch between resources and requirements will ensure that the country continues to use its forces inefficiently. It is therefore time to rethink the roles and missions of the U.S. military and related civilian organizations. Appropriate restructuring will not begin until Washington develops a greater appreciation for the fact that intervention entails not simply war-fighting but a continuum of force ranging from conventional warfare to local law enforcement. The U.S. must take a number of steps to better prepare for the new tasks before it. The measures include making changes at the National Security Council (NSC), State, and Justice Departments, rethinking how army dollars are spent, and designing a structure to leverage the skills other states bring to problem. Unless such measures are taken and serious attention is given to the shortcomings in America's approach to international security, the country will eventually bog down, both diplomatically and militarily, in Afghanistan, Iraq, and other unexpected places.

Argues succinctly that the United States needs a more policing oriented approach for handling post-intervention rebuilding. The argument cites Afghanistan among other recent examples of interventions. Describes decentralized state of affairs in the United States and the lack progress despite severe problems. Suggests possible solutions including help from the E. U.

United States Commission on International Religious Freedom. 2003. Report on Afghanistan. U.S. Commission on International Religious Freedom. <http://www.uscirf.gov/reports/02May03/afghanistan.php3>.

Reports on state of religious freedom in Afghanistan that cites a mix of progress and disappointments. Organized overview of warning signs of curtailed rights and discriminatory measures against non-Muslims. Focuses on specific suggestions to reverse the trends and calls for sending high ranking U.S. official to Afghanistan to focus efforts.

Kamal Hossain. 2003. Questions of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World: Report on the Situation of Human Rights in Afghanistan. United Nation Commission on Human Rights. E/CN. 4/2003/39.

January 2003 overview of the U.N. perspective on the range of human rights issues facing Afghanistan. Focuses on larger issues rather than specific incidents. Posits that lack of security is

primary problem. Well organized and fairly brief treatment of each issue. Concludes with recommendations for the future.

Women's Rights

The Taliban government was notorious for its mistreatment of women. The most searing image of human rights violations was when women were required to wear a full body covering called a "burqa". The issues of women's rights in Afghanistan received more attention after 9/11, and sometimes functioned as a secondary moral justification for "Operation Enduring Freedom."

This oppression and similar acts from earlier regimes did not happen without women resisting. The Revolutionary Afghan Women's Association (RAWA) was an underground resistance movement which, among other goals, documented abuses and educated girls even when it was illegal to do so.

Unfortunately, cause for concern about women's rights did not disappear after the Taliban fell. While far more progressive than the Taliban, the constitution of the Karzai government only has limited protections for women's rights. More troubling warlords who are unfriendly to women's rights are in power in many regions of the country.

Women Under the Taliban

Lynn L. Amowitz, Michele Heisler and Vincent Iacopino. 2003. "A Population-Based Assessment of Women's Mental Health and Attitudes toward Women's Human Rights in Afghanistan". *Journal of Women's Health*. 12(6): 577.

ABSTRACT: Provides a population-based assessment of women's mental health and attitudes toward women's human rights in Afghanistan during the Taliban rule. Prevalence of major depression among women exposed to Taliban policies than women living in a non-Taliban controlled area; Percentage of respondents supporting human rights upliftment.

This rigorous study is a source for Taliban era data on of women's mental health and attitude towards women's rights and community needs. The data is well presented with only some advanced terminology. The study concluded that Taliban rule was damaging to women but not deeply representative of Afghan values.

Barbara Ayotte. 2002. "Women's Health and Human Rights in Afghanistan: Continuing Challenges". *Journal of Ambulatory Care Management*. 25(2): 75.

ABSTRACT: Physicians for Human Rights has released a ground-breaking survey of more than 1,000 Afghan women and men on their attitudes and experiences regarding health and human rights for Afghan women. Health care for women in Afghanistan still poses daunting challenges.

Analysis of Physicians for Human Rights report: "Women's Health and Human Rights in Afghanistan: A Population-Based Assessment." The survey provided detailed analysis of conditions and opinions regarding women in pre-invasion Afghanistan. This analysis and summary is shorter and less technical than the report itself.

Barbara L. Ayotte. 1999. "The Taliban's War on Women in Afghanistan: Challenges to Ambulatory Care Management". *Journal of Ambulatory Care Management*. 22(3): 82.

ABSTRACT: Reports the challenges to ambulatory care management for women in Afghanistan. Endurance of women under the Taliban regime; Restrictions on women's rights; Results to the health and human rights survey of the Physicians for Human Rights.

Summarizes and analyzes data from Physicians for Human Rights survey on the condition of women's health in pre-invasion Afghanistan. Highly critical of the Taliban and effects of regime restrictions on the health women. While the article does cite many interesting results, the actual raw data from the study is not included.

Hafizullah Emadi. 2002. *Repression, Resistance, and Women in Afghanistan*. Westport, CT: Praeger.

Detailed history and analytical account of women's rights in Afghanistan before "Enduring Freedom." Includes in-depth coverage of Afghan context of the status of women. Critical discussion of benefits and limitations of capitalism and top down modernization. Describes grassroots efforts and women's resistance. Well organized and includes statistics in support of its points.

Barbara Friedman. 2002. "It's September 12th: Do You Know Where Afghanistan's Women Are?" *Feminist Media Studies*. 2(1): 137.

ABSTRACT: Discusses the limited news coverage given to the plight of women in Afghanistan after the September 11, 2001 terrorist attacks in the U.S. Focus given on the war on terrorism and its political agenda; Failure to give attention to efforts by Afghan women who challenged Taliban law.

Short critical description of coverage of women's rights in Afghanistan after 9/11. States that the situation for women was well known before the war and that attention was not given to the changes under the war itself and alternatives to war proposed by feminist were ridiculed.

Ratna Kapur. 2002. "Un-Veiling Women's Rights in the 'War on Terrorism'". *Duke Journal of Gender Law & Policy*. 9(211).

Rose V. Lindgren. 2002. "W. Men under the Taliban". *Humanist*. 62(4): 21.

ABSTRACT: Discusses the restrictions on women's rights in Afghanistan under the Taliban. Afghan women's problem with the required wearing of the chadari, a traditional bridal gift from husband to wife; Assertion of the Taliban leaders about their policy for women; Factors that must be considered in evaluating culture as the basis for human rights.

Ricardo Lobo. 2001. *Behind the Veil: Afghan Women under Fundamentalism*. Princeton, N. J: Films for the Humanities & Sciences.

Advocacy film highly critical depiction of human rights violation under Taliban regimes. Includes interviews, mainly with women. Actively promotes and uses emotional imagery for the Revolutionary Afghan Women's Association viewpoints, programs, and desire for a democratic Afghanistan. Largely useful for video presentation of information reported elsewhere in greater detail in text.

Catherine E. Polisi. 2004. "Universal Rights and Cultural Relativism Hinduism and Islam Deconstructed". *World Affairs*. 167(1): 41.

ABSTRACT: Discusses the connection between the application of cultural relativism to the human rights law and the degradation and marginalization of women in Hindu and Islamic societies. Examples of human rights

violations committed against women in Hindu and Islamic cultures; List of rights protected under the Universal Declaration of Human Rights; Information on the conditions of women in Afghanistan in 2003.

Zohra Rasekh, Heidi M. Bauer, M. Michele Manos and Vincent Iacopino. 1998. "Women's Health and Human Rights in Afghanistan". JAMA: Journal of the American Medical Association. 280(5): 449.

ABSTRACT: Presents results of a cross-sectional survey of health and human rights concerns and conditions of women living in Kabul under the Taliban regime. Setting; Design; Participants; Main outcome measures; Results compared with Afghan women living in Pakistan; Land mines; Radical Islamic doctrine.

Study by Physicians for Human Rights comparing of women's situation in Kabul before and after the Taliban took over. Finds that women's health conditions were negatively effected by the civil war but still dramatically deteriorated as a result of Taliban rule. Detailed description of methodology and conclusions are not provided.

Benazeer Roshan. 2004. "The More Things Change, the More They Stay the Same". Berkeley Women's Law Journal. 19(270).

ABSTRACT: *Highlights the continual plight of Afghan women and their current lack of security, mobility, and access to education and employment. Description of the life of women before the Taliban and under the Taliban regime; Plight of women under the transitional government of Afghanistan; Recommendations from human rights organizations on ways to improve the situation of Afghan women; Recommendation to strengthen and protect the rights of women in the Afghan Constitution.*

Comparison of the women's situation under Taliban and after the invasion with emphasis on the transition government. Critical of what it describes as unfulfilled promises of improvements. Summarizes recommendations for improvements, concentrating on constitutional reforms. Well organized summary and gateway to other detailed research.

Sima Wali. 2002. "Afghan Women: Recovering, Rebuilding". Ethics & International Affairs. 16(2): 15.

ABSTRACT: *Discusses the life of women in Afghanistan. Actions taken by the Taliban movement; Background on the status of women in the country; Effect of the war on terrorism and its aftermath; Aspect of the effect of the September 11 terrorist attacks.*

Fairly short history of the impact on women of the rise of the Taliban and changes after the invasion. Does not go in to detail, but is a good historical overview.

Kathryn J. Webber. 2003. "The Economic Future of Afghan Women: The Interaction between Islamic Law and Muslim Culture". University of Pennsylvania Journal of International Economic Law. 24(959).

A legal review of what is allowed in under Islamic law and what is allowed by social norms. The article's conclusion is that oppressive social force and not Islamic law itself results in the economic oppression of Afghan Women.

Operation Enduring Freedom

Lynn L. Amowitz, Chen Reis and Vincent Iacopino. 2002. "Maternal Mortality in Herat Province, Afghanistan, in 2002: An Indicator of Women's Human Rights". JAMA: Journal of the American Medical Association. 288(10): 1284.

ABSTRACT: Presents a study that assesses the maternal mortality and human rights issues in Herat, Afghanistan. Access to health care for women in Afghanistan; Statistics related to complications of pregnancy and childbirth; Consequences of Taliban restrictions on the rights of women; Study design, setting, and participants; Results and conclusion that women in most of the Herat Province have a high risk of maternal mortality and that human rights factors may contribute to preventable maternal deaths in the region.

Minimalist reporting of health and human rights data relating to pregnant women. Study is specific to Herat province, which has a high maternal mortality rate with human rights concerns as a likely contributing factor. Provides solid data, but detailed description of methodology and conclusions are not provided.

Sultan N. and Gareth Wardell Barakat. 2004. "Exploited by Whom? An Alternative Perspective on Humanitarian Assistance to Afghan Women." *Reconstructing War-Torn Societies: Afghanistan*. Sultan N. Barakat. New York: Palgrave Macmillan.

Critical examination of treating efforts to help Afghan women as a separate issue in the reconstruction of Afghanistan. Emphasizes how Afghan women view themselves and how this view contrasts with the simpler outside perspective. Makes recommendations on how best to work with Afghan women to improve their condition.

Daniel Consolatore. 2002. "What Next for the Women of Afghanistan?" *Humanist*. 62(3): 10.

ABSTRACT: Interviews Tabmeena Faryal, U.S. envoy of the Revolutionary Association of the Women of Afghanistan (RAWA), a political and social service organization in Afghanistan with a mission to work for peace, freedom, democracy and women's rights. Ambivalence toward the arrival of the Northern Alliance; Opinion on whether the Afghan population is distrustful of U.S. motives in its involvement in the war in Afghanistan; Views on fundamentalism and human rights.

Interview with Tabmeena Faryal the envoy to the U.S. of the Revolutionary Association of the Women of Afghanistan (RAWA) an indigenous Afghani women's right group. Critical of the Taliban, the Northern Alliance, and compromises on women's rights after the invasion. Superb primary source for RAWA views.

Zama Coursen-Neff, John Sifton and Human Rights Watch. 2002. "'We Want to Live as Humans': Repression of Women and Girls in Western Afghanistan". Human Rights Watch publications on Asia. 14(11): 50. <http://www.hrw.org/reports/2002/afghnwmn1202/Afghnwmn1202.pdf>.

ABSTRACT: Describes continuing restrictions and violations of human rights faced by women and girls in Afghanistan one year after the fall of the Taliban. Focuses on the province of Herat under the rule of Ismail Khan. Makes recommendations to Afghan authorities and to the international community to promote human rights, including rights for women and girls.

December 2002 report on condition of women's rights in post-Taliban Afghanistan. Gives a background and a detailed and wide ranging description of the particularly egregious situation in Herat province. Also contains policy critiques and recommendations for local, national, and international authorities.

Krista Hunt. 2002. "The Strategic Co-Optation of Women's Rights". *International Feminist Journal of Politics*. 4(1): 116.

ABSTRACT: Focuses on the media coverage and political discourse on the abuse suffered by Afghan women from the Taliban following the September 11 terrorist attacks in the U.S. Response of the United Nation to the issues of women prior to the attacks; Consequences with the representation of Afghan women as passive and oppressed; Implications for protecting the rights of women.

Skeptical account of the use of women's rights to help justify the invasion of Afghanistan. Argues the rights of women are pursued only when they coincide with other U.S. interests. Critical of marginal improvements after the invasion. Focus is on analysis rather than providing data on current conditions.

RAWA

Anne E. Brodsky. 2003. *With All Our Strength: The Revolutionary Association of the Women of Afghanistan*. New York and London: Routledge.

ABSTRACT: The book chronicles the history of the Revolutionary Association of the Women of Afghanistan (RAWA) and their battle for women's rights in Afghanistan. Through interviews with more than 100 members and supporters of RAWA, Brodsky reveals that principles behind their success. It tells how RAWA's innovative structure and strong spirit of community have allowed this remarkable organization to survive. "With All Our Strength is an ode to the resilience of Afghan women and a model for human rights organizations. As RAWA says in the foreword, "This is the only book that uses firsthand experiences to accurately portray Afghan women not as silent victims under the burqas but warriors who have bravely resisted all oppressive regimes and have changed their lives and the lives of many others".

Sympathetic and terrifically detailed description of the Revolutionary Afghan Women's Association (RAWA), an indigenous and covert women's right groups. Condemns both Taliban and Northern Alliance as oppressive. Concentrates on describing the history dating to the 70s, membership, organization, and humanitarian and reform projects of the RAWA. Makes heavy use of interviews.

Revolutionary Association of the Women of Afghanistan. <http://rawa.false.net/>.

Military Intervention

Lila Abu-Lughod. 2002. "Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others". *American Anthropologist*. 104(3): 783.

ABSTRACT: This article explores the ethics of the current "War on Terrorism," asking whether anthropology, the discipline devoted to understanding and dealing with cultural difference, can provide us with critical purchase on the justifications made for American intervention in Afghanistan in terms of liberating, or saving, Afghan women. I look first at the dangers of reifying culture, apparent in the tendencies to plaster neat cultural icons like the Muslim woman over messy historical and political dynamics. Then, calling attention to the resonances of contemporary discourses on equality, freedom, and rights with earlier colonial and missionary rhetoric on Muslim women, I argue that we need to develop, instead, a serious appreciation of differences among women in the world--as products of different histories, expressions of different circumstances, and manifestations of differently structured

desires. Further, I argue that rather than seeking to “save” others (with the superiority it implies and the violences it would entail) we might better think in terms of (1) working with them in situations that we recognize as always subject to historical transformation and (2) considering our own larger responsibilities to address the forms of global injustice that are powerful shapers of the worlds in which they find themselves. I develop many of these arguments about the limits of “cultural relativism” through a consideration of the burqa and the many meanings of veiling in the Muslim world.

Mary Anne Franks. 2003. “Obscene Undersides: Women and Evil between the Taliban and the United States”. *Hypatia*. 18(1): 135.

ABSTRACT: Proposes to supplement an American self-identity predicated on a model of absolute difference from the Taliban Muslim political group in Afghanistan. Affinities between the respective ideologies of the U.S. and the Taliban; Place of women within and through the preponderance of sexual exploitation or violence common to the two ideologies; Perceptions of the Taliban after the September 2001 terrorist attacks on the U.S.

Alicia Galea. 2001. “No Freedom for Afghan Women: The Taliban Hides Behind Religion to Control Its People”. *University of Detroit Mercy Law Review*. 78(341).

Sonali Kolhatkar. 2002. “The Impact of U.S. Intervention on Afghan Women’s Rights”. *Berkeley Women’s Law Journal*. 17(12).

ABSTRACT: Comments on the impact of the U.S. intervention on the rights of women in Afghanistan. History of women’s rights in the country; Information on the Revolutionary Association of the Women of Afghanistan; Consequences of the intervention campaigns.

Highly sympathetic profile of the Revolutionary Association of the Women of Afghanistan (RAWA) an indigenous women’s right group in Afghanistan. Also includes a medium-depth critical history of pre- and post-9/11 U.S. involvement in Afghanistan and the often negative impact on women’s rights. Calls for changing policy by listening to the RAWA.

Shannon Walsh. 2002. “A Blindfold of Compassion? Women as Pawns in the New War”. *Feminist Media Studies*. 2(1): 153.

ABSTRACT: Discusses the effect of the war against terrorism announced by the U.S. government against those who planned the September 11, 2001 terrorist attacks on women. Irony involved in the idea that a military campaign will give back human dignity to women in Afghanistan; Justification of the war by using the compassion felt by women in the U.S. to the plight of Afghani women.

State-Building

Helene Cixous; Drucilla Cornell; Susan J. Brison; Lee Chana Kai; Ruth Irupe Sanabria; Muriel Hasbun; Marita Sturken; Mary Pat Brady; Diana Taylor; Hannah Naveh; Carla Freccero; Janice Haaken; Susannah Radstone; Lydia Potts; Silke Wenk; Susan Winnett; Ranjana Khanna; Ivy Schweitzer and Miriam Cooke. 2002. “Roundtable: Gender and September 11”. *Signs: Journal of Women in Culture & Society*. 28(1): 431.

ABSTRACT: Presents articles about the role of gender in the collapse of the World Trade Center in New York City during the terrorist attacks of September 11, 2001. Inclusion of genders of the Twin Towers; Abuse of

women and children in Afghanistan; Gendered aspects of the attack; Afghan fighters' ideals of masculinity; Image of working-class masculinity of those who died in the attacks.

Wide ranging article that offers multiple feminist commentaries on post-9/11 issues. Several of the included articles are uncomfortable with the perceived adoption by the cause of Afghan women only after 9/11. Tends to be critical and dubious of military approach to improve rights and looks for alternatives.

Mark A. Drumbl. 2004. "Rights, Culture, and Crime: The Role of Rule of Law for the Women of Afghanistan". *Colombia Journal of Transnational Law*. 42(349).

Details the slow post-war moves towards providing justice for human rights violation against women. Harsh critique of Pashtunwali, a local system of laws, as a source of new violations. Includes recommendations on use and integration of international law to assist the process.

Amnesty International. 2003. Afghanistan: 'No One Listens to Us and No One Treats Us as Human Beings': Justice Denied to Women. Amnesty International. ASA 11/023/2003. <http://web.amnesty.org/library/Index/ENGASA110232003?open&of=ENG-AFG>.

Review of the status of women in 2003, finds that promised improvements have not occurred. Gives a highly detailed breakdown by issue of the current status women and related recommendations. Finds that criminal justice system reform and expansion of policing offers an opportunity, but not a guarantee, of improvements.

Mariam Rawi. 2004. "Betrayal". *Reproductive Health Matters*. 12(23): 116.

Critique of women's right situation after the invasion. Attacks situation in areas under Karzai government and warlord control. Accuses the coalition of abandoning women's rights. Discusses steps by the Revolutionary Association of Women of Afghanistan to secure these rights. Few citations and limited data beyond anecdotes.

Asia United States. Congress. House. Committee on International Relations. Subcommittee on the Middle East and Central and Nonproliferation and Human Rights N. Y. I. N. H. N. Y. I. N. H. N. United States. Congress. House. Committee on International Relations. Subcommittee on International Terrorism. 2004. Afghanistan: Democratization and Human Rights on the Eve of Constitutional Loya Jirga. Washington: U.S. G. P. O.

Discusses the Afghan constitution on the eve of the first post-invasion gathering of Loya Jirga. Concerns are raised about protection of women's rights and whether provisions acknowledging Islam go too far. Mention is made of security problems outside of Kabul. State department and NGO officials are witnesses.

Guglielmo Verdirame. 2001. "Testing the Effectiveness of International Norms: Un Humanitarian Assistance and Sexual Apartheid in Afghanistan". *Human Rights Quarterly*. 23(3): 733.

ABSTRACT: Focuses on the effectiveness of the international law on prohibiting discrimination against women in the context of sexual apartheid in Afghanistan. Provision of humanitarian assistance by the United Nations; Impact of international norms on the behavior of states; Consideration of the three levels of assistance.

Technical and detailed examination the effectiveness of the attempts of international law and international norms to improve conditions for women in pre-invasion Afghanistan. Analyzes the actions of U.N. political organs,

bureaucratic institutions, and humanitarian operations on the ground. Excellent source for a detailed understanding of the U.N. failure to achieve positive change.