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COLLECTIVE SECURITY WITH A HUMAN FACE:
AN INTERNATIONAL LEGAL FRAMEWORK FOR COORDINATED ACTION TO ALLEVIATE VIOLENCE AND POVERTY

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INTRODUCTION

The inter-dependence of strategic security, human rights, and social security has been recognized on a theoretical or rhetorical level since the founding of the United Nations. Nevertheless, in the current counter-insurgency campaigns being waged in Iraq, Afghanistan, and elsewhere, the potentially negative impacts of armed intervention on socio-economic stability and human security are often obscured by popular perceptions and rationalizations of the so-called "War against Terrorism." In fact, current military interventions are compounding recent setbacks in the global struggle against poverty and underdevelopment. Moreover, disproportionate reliance on military force to combat terrorism potentially feeds ongoing conflicts rather than repressing them. This article suggests an integrated vision for fighting terrorism and poverty, by exploring the theoretical, historical, and legal relationships between strategic and human security, with a particular focus on recent developments in Western Asia and Central Africa.

Part I of this article will explore some of the diverse theoretical and cultural roots of the human security concept set forth in the U.N. Charter, as well as the limited historical impact of the human security concept in global affairs since the United Nation's birth. Part II confronts the negative impact of the "War against Terrorism" on the war against poverty by linking recent developments in Iraq and the Great Lakes Region of Africa. Finally, Part III analyzes the international law arguments supporting a legal obligation to promote human security in the U.N. Charter, various human rights instruments, and the Geneva Conventions of 1949.

The article ends with the conclusion that a commitment to human security is not merely linked philosophically and pragmatically to a strategic vision of peace and security; rather, an obligation to promote human security can be legally derived from the texts of international instruments themselves. In the final analysis, knitting aspirational, practical, and legal arguments together demonstrates

most powerfully that establishing security in strategic terms is dependent upon protecting civil and political liberties and satisfying basic social and economic needs.

I.   HUMAN SECURITY IN A COMPARATIVE AND HISTORICAL CONTEXT

    A. Theoretical and Multicultural Roots of Human Security

The symbiosis between security defined in Machiavellian or strategic terms, and security defined in Ghandian or humanistic terms is enshrined in the provisions of the U.N. Charter. President Roosevelt's close advisor Harry Hopkins and Soviet Foreign Minister V.M. Molotov no doubt practiced the fine art of *realpolitik* as well as friendly persuasion in negotiating the final text of that treaty with their fellow drafters.[1]   The fruit of their labors, Article 1, articulates the ambitious mandate of the organization, by integrating the maintenance of peace and security with both the promotion of human rights and the resolution of global economic and social problems.[2]

While progressive for its time, the Charter's integrated vision for the United Nations' work resonates with both previous and subsequent political and social movements around the world. Indeed, politicians, social activists and philosophers from Lao Tzu in the sixth century B.C. to Dorothy Day in the twentieth century, and from John F. Kennedy in the United States to Nelson Mandela in South Africa, have recognized the connections between respecting human rights, alleviating poverty, and attaining enduring peace.

The political philosopher Lao Tzu, writing in China during the sixth century B.C., suggested that government repression and corruption were principal causes of hunger among the masses, and that such poverty unavoidably led to civil strife.[3] For her part, social philosopher Dorothy Day, founder of the Catholic Worker Movement in New York City in 1932, integrated her faith-based social activism with her conscientious objection to war, as well as her commitment to racial and economic justice.[4]

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    1. *See* STANLEY MEISLER, THE UNITED NATIONS: THE FIRST FIFTY YEARS 13-14, 17-19 (1995).

    2. "The Purposes of the United Nations are: 1. To maintain international peace and security . . . . 3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights . . . . " U.N. CHARTER art. 1, *signed* June 26, 1945, *entered into force* Oct. 24, 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153 (1969), *available at* http;//www.un.org/aboutun/charter/index.html.

    3. "Why are the people starving?
Because the rulers eat up the money in taxes.
Therefore the people are starving.
Why are the people rebellious?
Because the rulers interfere too much.
Therefore they are rebellious . . . . "
LAO TSU, TAO TE CHING ch. 75 (Gia-fu Feng & Jane English trans., Vintage Books 1972) (n.p., n.d.).

    4. *See generally* DOROTHY DAY, THE LONG LONELINESS 263-73 (Harper, San Francisco 1997) (1952). In her autobiography, Day explains that her pacifism never entailed silence, even during World War II, when conscientious objectors "suffer[ed] grave criticism."   Day believed in wealth redistribution as a better weapon against injustice than war: "in spite of my pacifism, it is natural for me to stand my ground, to continue in what actually amounts to a class war, using such weapons as the

President Kennedy, in founding the U.S. Peace Corps in 1961, stressed that satisfying the basic socio-economic needs of the world's people was a precondition to enduring peace.[5]   In a kindred vein, President Mandela, upon his 1994 inauguration as the first democratically elected leader of post-apartheid South Africa, heralded the end of institutionalized racial discrimination in his country as the birth of a peaceful and just social order founded on human dignity.[6]

Viewed within this comparative and historical global perspective, President Roosevelt's 1944 "Four Freedoms Speech" resonates powerfully.[7] In fact, it is not accidental that the President's address linking the freedoms of speech and religion with the freedoms from fear and want occurred during the years immediately preceding the Universal Declaration of Human Rights (UDHR) draft.[8] Almost twenty years later, two international human rights treaties followed the U.N. General Assembly's unanimous adoption of the UDHR.[9] However, these two treaties separated civil and political rights on the one hand, from economic, social, and cultural rights on the other. Contrastingly, the UDHR is notable for linking civil and socio-economic rights in one instrument. Articles 3 through 21 of the UDHR deal with civil and political rights, including prohibitions against slavery and torture, and rights to freedom of expression, assembly, and participation in government.[10] Articles 22 through 29, on the other hand, involve economic, social,

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works of mercy for immediate means to show our love and to alleviate suffering." *Id.* at 180-81.

Paul Hendrickson of *The Washington Post*, in writing about the Catholic Worker movement and its founder, described Day's "social philosophy" as rooted in "her utter devotion to and belief in the dignity of the individual soul." Paul Hendrickson, *Sinner and Reluctant Saint: A Century After Dorothy Day's Birth, Her Work Still Helps the Helpless*, WASH. POST, Nov. 12, 1997, at D01. Hendrickson characterized Day as "theologically and liturgically traditional, but radical in about everything else: social justice, racial relations, pacifism, conscientious objection." *Id.*

5. President John F. Kennedy famously queried: "Is not peace, in the last analysis, basically a matter of human rights?" Richard B. Bilder, *"Rethinking International Human Rights: Some Basic Questions,"* 1969 WIS. L. REV. 171, 187, *excerpted in* INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW, POLICY AND PRACTICE 79 (Richard B. Lillich & Hurst Hannum, eds., 3d ed. 1995).

6. In his inauguration speech on May 10, 1994, Nelson Mandela celebrated the end of apartheid in South Africa: "Out of experience of an extraordinary human disaster that lasted too long, must be born a society of which all humanity will be proud . . . . We thank all of our . . . guests for having come to take possession with the people of our country of what is, after all, a common victory for justice, for peace, for human dignity." NELSON MANDELA, LONG WALK TO FREEDOM 620-21 (1995).

7. *See* JEFFREY L. DUNOFF ET AL., INTERNATIONAL LAW NORMS, ACTORS, PROCESS: A PROBLEM-ORIENTED APPROACH 445-46 (2002).

8. *See* Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (1948) [hereinafter UDHR].

9. International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR, 21st Sess., Supp. No. 16 at 52, art. 2, U.N. Doc. A/6316 (1966) [hereinafter ICCPR]; *see also* International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR, 21st Sess., Supp. No. 16 at 49, U.N. Doc. A/6316 (1966) [hereinafter ICESCR].

10. *See* UDHR, *supra* note 8, arts. 3-21. *Inter alia*, Article 3 proclaims "the right to life, liberty and the security of person;" Article 4 bans slavery; Article 5 prohibits torture; Article 6 guarantees basic legal personality; Article 9 prohibits arbitrary detention; Article 10 guarantees a fair trial; Article 11 proclaims the presumption of innocence; Article 12 guarantees privacy; Article 13 guarantees freedom of movement; Article 14 provides for the right to asylum; Article 15 protects the right to nationality; Article 16 provides the right to marry; Article 17 protects property ownership; Article 18 guarantees the

and cultural rights, including basic needs like social security, food, and education.[11] The extent to which the UDHR, the two human rights covenants and humanitarian treaties together recognize an obligation upon states to promote human security will be further explored in section III of this article.

B. *Recent Historical Impact of Human Security in U.N. Practice*

Despite the early recognition that strategic and material security are two faces of the human condition, rarely during the United Nations' first sixty years has history shown a positive correlation between military intervention and poverty alleviation around the world. This lack of significant progress in the socio-economic realm is demonstrated by countries still emerging from conflicts initiated during the Cold War, during which the Security Council had difficulty acting as a result of ideological differences between the United States and the Soviet Union and China.[12] However, the same lack of a strong correlation between military intervention and social progress can be seen in the 1990s, when the break-up of the Soviet Union heralded a New World Order[13] of global cooperation and collective action. The year 2000 inspired the U.N. Millennium Goals, which include dramatic reductions in levels of poverty and hunger around the world. Nevertheless, hunger rates have increased and continue to grow in the first decade of the new millennium, and United States led military interventions of the past three years appear only likely to exacerbate this trend.[14] This section will examine each of these three periods in closer detail.

1. The Cold War

The so-called Cold War decades were marked not only by the Security Council's pronounced failure to lead in the realm of collective security, but also by proxy military interventions, regional conflicts, and civil wars that have only recently given way to all too modest progress on the human security front. Three countries that experienced protracted civil wars with U.S. and Soviet military assistance on either side were Vietnam,[15] El Salvador[16] and Angola.[17] All three

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right to freedom of conscience; and Article 19 guarantees free expression. *Id.* arts. 3-19.

11. *See* UDHR, *supra* note 8, arts. 21-29. Article 21 sets forth the right to social security; Article 22 the right to work under fair labor conditions; Article 23 the right to a living wage; Article 24 the right to rest and leisure; Article 25 the right to an adequate standard of living, including food; Article 26 the right to education; and Article 27 the right to participation in cultural life. *Id.* arts. 21-27.

12. *See* Information Please: Online Dictionary, Internet Encyclopedia, Atlas, & Almanac, *available at* http://www.infospace.com/ce6/history/A0861704.html (last visited Sept. 15, 2004); *see also* MEISLER, *supra* note 1, at 23-26, 35

13. *See infra* notes 24 and 25, and related text.

14. *Id.*

15. In Vietnam, the civil war between the U.S.-backed South Vietnamese Army and the Soviet-backed North Vietnamese troops lasted from 1965 to 1975, with the fall of Saigon to the North Vietnamese. As many as 170,000 Vietnamese people died during the war. *See* Matthew White, *Historical Atlas of the Twentieth Century, at* http://users.erols.com/mwhite28/warstat2.htm#Vietnam (last modified Feb. 2004).

16. In El Salvador, the civil war between rebel groups and the U.S.-backed Salvadoran Armed Forces lasted from 1980 to 1992, when a peace accord was negotiated between the government and the Farabundo Marti National Liberation Front (FMLN). Upwards of 75,000 Salvadoran people died in the

have achieved final peace settlements, and Angola and Vietnam have resumed normal diplomatic relations with the United States.[18]   Nevertheless, despite important political and economic reforms in all three countries, nearly half the citizens in all three countries continue to subsist on one or two dollars per day,[19] and the figures for gross domestic profit (GDP) per capita for each country are a fraction of those for neighboring countries in each respective region.[20] Despite low GDP per capita rates in all three countries, between the early and late 1990s, the percentage of under-nourished people decreased in Vietnam and in Angola.[21] Contrastingly, the level of hunger in El Salvador increased in the 1990s.[22]

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war. *See generally* ELISABETH JEAN WOOD, INSURGENT COLLECTIVE ACTION AND CIVIL WAR IN EL SALVADOR (2003).

17. In Angola, the civil war between the Soviet-backed government and the UNITA guerrilla movement under Jonas Savimbi was waged from 1975, when Angola achieved its independence from Portugal, until Savimbi's death in 2002. While the Lusaka Peace Accords were formally implemented in 1994, effective disarmament was not feasible until the UNITA leader's death. *See Angola Rebel Leader's   Death   Confirmed,*   BBC   NEWS   (Feb.   24,   2002),   *at* http://news.bbc.co.uk/1/hi/world/africa/1837565.stm (last visited Sept. 9, 2004). UNITA is now a political party, and is preparing to participate in national elections scheduled for 2006.

18. The United States and Vietnam restored full diplomatic relations in 1995. *See* Edward Walsh, *Vietnam War, Peace Pivotal in Kerry's Life,* WASHINGTON POST, Jan. 3, 2004, Section A1. Full diplomatic relations between Angola and the United States were established in June, 1993. *See also* Embassy of the United States of America: Luanda, Angola, *at* http://luanda.usembassy.gov (last visited Oct. 31, 1004).

19. According to statistics compiled by the World Bank and the U.N., and published by the U.N. Development Program, from 1990 to 2001, 63.7% of the population of Vietnam was living on $2 per day or less (17.7% on $1 per day or less) and the probability at birth of not surviving to age 40 was 10.7% between 2000 and 2005. In El Salvador in the 1990s, 45% of the population subsisted on $2 per day or less (21.4% on $1 a day or less), and the probability of not reaching age 40 was 9.9% from 2000 to 2005. In Angola during this same time period, there are no available statistics for the national poverty line, but U.N. statistics indicate that the probability at birth of not surviving to age 40 for Angolans was 49.2% from 2000 to 2005. *See* UNITED NATIONS DEVELOPMENT PROGRAM, HUMAN DEVELOPMENT REPORT 2003, 245-47 (2003) (displaying chart 3, regarding "Human and income poverty" for *developing countries)* [hereinafter UNDP REPORT]; *see also* Table A, *infra* .

20. GDP per capita in Vietnam in 2001 was $2,070, in contrast to $6,400 for Thailand (and $2,840 for India). *See* UNDP REPORT, *supra* note 19, at 237-40 (displaying chart 1 regarding "Human *development index").* In El Salvador, GDP per capita in 2001 was $5,260, in contrast to $8,430 for Mexico and $9,460 for Costa Rica (the 2001 GDP per capita was $1,860 for Haiti). *Id.* Finally, in Angola, GDP per capita in 2001 was $2,040, in contrast to $7,120 for Namibia, and $11,290 for South Africa. *Id.* While total GDP figures reflect the relative strength of a nation's economy, GDP per capita *is perhaps a better indicator of human security because it reflects how income would be shared over a nation's population if it were distributed equally. See also* Table A *infra.*

21. In Vietnam, the average percentage of undernourished people between 1990 and 1992 was *27%, whereas between 1998 and 2000 it was 18%. In Angola, over the same two periods, the rate* dropped from 61% undernourished to 50%.

22. In El Salvador, the percentage of undernourished climbed from 12% to 14% over the same period. *See* UNDP REPORT, *supra* note 19, at 198-200 (displaying chart regarding "Millennium Development Goal 1: Eradicate extreme poverty and hunger"); *see also* Table A , *infra.*
The U.N.'s Food and Agriculture Organization (FAO) tracks hunger in terms of its undernourishment measure.   Those individuals who consume less than 1,800 calories per day are defined as *undernourished. The FAO's undernourishment measure takes into account the amount of* available food in a particular country and the ability of individuals to get access to that food. *See* BREAD FOR THE

**Table A: Poverty, Income and Hunger Indicators for
Angola, El Salvador and Vietnam, with Regional Comparisons**
(data drawn from World Bank and United Nations sources, compiled in UNDP *Human Development
Report 2003*, chart 3 and chart re MDG 1)

	Population living on ≤$1/day	Population living on ≤$2/day	Gross dom. product per capita	Poverty gap ratio •	Under-nourished 1990-1992	Under-nourished 1998-2000
Angola	N/A	N/A	$2,040	N/A	61%	50%
Namibia	35%	56%	$7,120	14%; 86 c.	15%	9%
South Afr.	<2%	15%	$11,290	<.5%; 99 c.	N/A	N/A
El Salvador	21%	45%	$5,260	8%; 92 c.	12%	14%
Mexico	8%	24%	$8,430	2%; 98 c.	5%	5%
Costa Rica	7%	14%	$9,460	3%; 97 c.	6%	5%
Vietnam	18%	64%	$2,070	3%; 97 c.	27%	18%
Thailand	<2%	32%	$6,400	<.5%; 99 c.	28%	18%

2.Post Cold War

The 1990s brought the renewed hope of Security Council collective action. U.S. Secretary of State James Baker, presiding over the Security Council on November 29, 1990, heralded the end of the Cold War and the "chance to build the world which was envisioned . . . by the founders of the United Nations . . . [as well as] the chance to make the Security Council and this United Nations true instruments for peace and for justice across the globe."[23] Both Baker's and the senior President Bush's proclamations of a "New World Order" in the early 1990s were criticized by some as overly ambitious or inappropriately linked to U.S. military intervention in Iraq during the first Persian Gulf War.[24]

Despite skepticism, the early 1990s were indeed marked by the Security Council's increased capacity and willingness to pass resolutions under its Chapter VII mandate.[25] Not coincidentally, early initiatives responding to genocide in Northern Iraq,[26] the former Yugoslavia,[27] and Rwanda[28] explicitly defined massive

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WORD INSTITUTE, HUNGER 2004: ARE WE ON TRACK TO END HUNGER? 18 (2004) [hereinafter HUNGER 2004].

• The poverty gap ratio refers to the mean distance below the [1993] $1 poverty line, expressed as a percentage of the poverty line. *See* UNDP REPORT, *supra* note 20, at 198-202 (displaying a chart regarding "Millennium Development Goal 1: Eradicate extreme poverty and hunger") and 356 (defining of statistical terms). For example, if the poverty gap ratio is 25%, this means that on average those people living below the poverty line subsist on .75 cents per day. *Id.*

23. *See* MEISLER, *supra* note 1, at 264-65.

24. *See id.* at 265 (Iraqi Ambassador Al-Anbar expressed incredulity that a "new world order" could possibly be furthered by "the massing of American forces and their deployment in the Gulf region . . . [or] the threats of the invasion and destruction of Iraq"); *see also id.* at 276, 334 (former U.N. undersecretary-general Brian Urquhart referred to the 1990s as a "false renaissance" for the U.N., marked by unfulfilled promises for the Organization and the international community).

25. *See* U.N. CHARTER arts. 39-43.

26. S.C. Res. 688, U.N. SCOR, 46th Sess., 2982nd mtg. at 31 (1991) (demanding end to Iraqi

human rights emergencies as threats to international peace and security.[29] Nevertheless, deep-rooted structural changes in these countries have yet to instill long-term socioeconomic gains. Notably, GDP per capita rates are low in Bosnia and very low in Rwanda, in comparison to other countries in their respective regions. Furthermore, while the Bosnian undernourishment rate is relatively low, 85 percent of the Rwandan population lives on two dollars a day or less, and the undernourishment rate is approaching 50 percent.[30]

Table B: Poverty, Income and Hunger Indicators
For Rwanda and Bosnia, with Regional Comparisons

(data drawn from World Bank and U.N. sources, compiled in UNDP *Human Development Report 2003*, charts 1, 3 & 4 and chart re MDG 1)

	Population living on ≤$1/day	Population living on ≤$2/day	Gross dom. product per capita	Poverty gap ratio*	Under-nourished, 1990-1992	Under-nourished, 1998-2000
Rwanda	36%	85%	$1,250	8%; 92 c.	34%	40%
Uganda	82%	96%	$1,490	40%; 60 c.	23%	21%
Egypt	3%	44%	$3,520	<.5%; 99 c.	5%	4%
Bosnia	N/A	N/A	$5,970	N/A	N/A	6%
Croatia	N/A	N/A	$9,170	<.5%; 99 c.	N/A	18%
Slovenia	N/A	N/A	$17,130	<.5%; 99 c.	N/A	N/A

repression of Kurds and Shi'ites under Chapter VII powers).

27. S.C. Res. 827, U.N. SCOR, 48th Sess., 3217th mtg., U.N. Doc. S/RES/827 (1993) (establishing the International Criminal Tribunal for the former Yugoslavia).

28. S.C. Res. 955, U.N. SCOR, 49th Sess., 3453rd mtg., U.N. Doc. S/RES/955 (1994) (establishing the International Criminal Tribunal for Rwanda).

29. *See* U.N. CHARTER arts. 39, 41-43 (regarding enforcement powers of U.N. Security Council in responding to threats to international peace and security).

30. According to statistics compiled by the World Bank and the U.N., and published by the U.N. Development Program, from 1990 to 2001, 84.6% of the population of Rwanda was living on $2 per day or less (35.7% on $1 per day or less) and the probability at birth of not surviving to age 40 was 54.3% between 2000 and 2005. *See* UNDP REPORT, *supra* note 19. Contrastingly, Bosnia's overall human and income poverty indicators are stronger, putting it in the category of a developed, rather than a developing, country. *See id.* at 248-49 (displaying chart 4 regarding "Human and income poverty" for OECD, Central & Eastern Europe & CIS). Comparable data is not available for Iraq. *See supra* note 22 for a definition of undernourishment.

As for GDP per capita, the figure for 2001 in Rwanda was $1,250, in contrast to $1,490 for Uganda and $3,520 for Egypt during the same year. While GDP per capita figures for Bosnia are nearly five times higher than for Rwanda, relative to other former Yugoslavian republics, the regional differential is similar for both countries. The GDP per capita for Bosnia in 2001 was $5,970, in contrast to $9,170 for Croatia and $17,130 for Slovenia (and $35,320 for the United States). There is no comparable data available for Iraq. *See* UNDP REPORT, *supra* note 19, at 237-40 (displaying chart 1 regarding the "Human development index"); *see also* Table B *infra*.

* The poverty gap ratio refers to the mean distance below the [1993] $1 poverty line, expressed as a percentage of the poverty line. *See* UNDP REPORT, *supra* note 20, at 198-202, 356.

3. The Twenty-first Century and the Doctrine of Preemption

Since March 2003 and the unauthorized use of force by the United States and the United Kingdom against Saddam Hussein's Iraqi regime,[31] some observers have heralded the death of an international commitment to collective decision making governing the use of force under the U.N. rubric.[32] Neoconservative thinkers refer more affirmatively to the advent of a "New American Century."[33] In the face of increasing opposition to the ascending preemptive use of force doctrine,

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31. While the U.S. and the United Kingdom purported to justify the invasion of Iraq in March of 2003 on the basis of previous U.N. Security Council resolutions (including Resolution 678, which permitted use of military force against Iraq in 1991), this rationale has not been widely accepted. *See* Frederic L. Kirgis, *ASIL Insights: Security Council Resolution 1483 on the Rebuilding of Iraq,* NEWSL. OF THE AM. SOC. OF INT'L LAW, May/June 2003, at 3.

Professor Jordan Paust explains that given the U.N. Charter's Article 2(4) prohibition on the use of force, the right to self-defense under Article 51 is limited in scope to responsive actions to "armed attacks," whether by state or non-state actors. Jordan Paust, *Use of Armed Force against Terrorists in Afghanistan, Iraq and Beyond,* 35 CORNELL INT'L L.J. 533, 534 (2002); *see also* U.N. CHARTER arts. 2(4), 51. Therefore, according to Professor Paust, the U.S. was justified under Article 51 in striking against al Queda for the World Trade attacks of September 11, 2001. *See* Paust, *supra,* at 533. However, the same cannot be said for U.S. attacks against Taliban armed forces in 2001, since there is insufficient evidence that the Taliban directed bin Laden's attacks on the U.S., and given that support or even sponsorship of a military attack is insufficient to justify retaliation against the sponsor under Article 51. *See id.* at 541-43.

Finally, Professor Paust asserts that "preemptive self-defense is not permissible under the United Nations Charter absent Security Council or appropriate regional authorization to use armed force." *Id.* at 557. "Permissible use of military force against Iraq rests ultimately on authorization from the Security Council." *Id.; see also* Richard Falk, *Why International Law Matters: Pre-Emptive War Flagrantly Contradicts the U.N.'s Legal Framework,* THE NATION, Mar. 10, 2003, at 19.

32. As a former Chief Counsel of the Senate Foreign Relations Committee has commented, the war in Iraq must be seen as response to "the dramatic power shift . . . that leaves the U.S. in such a commanding military position (combined with our economic and commercial-cultural dominance)." *Readers' Exchange: A Letter to the President From Frederick S. Tipson,* NEWSL. OF THE AMER. SOC. OF INT'L. LAW, Mar./Apr. 2003, at 1. Not only did the U.S. and the U.K. "bypass" the Security Council in invading Iraq in March of 2003, "the United States has stepped outside . . . the Charter framework. It has, in effect, staked a claim to defining a new set of international norms regarding the use of force more appropriate to these new security realities." *Id.* at 4.

Jonathan Schell wrote, just after the start of the second Iraq war, that "[t]he decision to go to war to overthrow the government of Iraq . . . marks a culmination in the rise within the United States of unaccountable power that . . . threatens to push the world into a new era of rivalry, confrontation and war." *See* Jonathan Schell, *Comment: American Tragedy,* THE NATION, Apr. 7, 2003, at 4.

33. The Project for the New American Century (PNAC) is a research foundation created in 1997 with the support of such prominent conservative political and business figures as Elliott Abrams, Gary Bauer, William J. Bennett, Jeb Bush, Dick Cheney, Steve Forbes, Lewis Libby and Dan Quayle. PROJECT FOR THE NEW AMERICAN CENTURY, STATEMENT OF PRINCIPLES (June 3, 1997), *at* http://www.newamericancentury.org (last visited Sept. 15, 2004). According to William Kristol, its Chairman, PNAC "is a non-profit educational organization dedicated to a few fundamental propositions, that American leadership is both good for America and for the world, that such leadership requires military strength, diplomatic energy and commitment to moral principle and that too few political leaders are making the case for global leadership." *Id.* In its statement of principles, PNAC's sponsors pose a central question and challenge that frames the organization's defining vision: "Does the United States have the resolve to shape a new century favorable to American principles and interests?" *Id.*

an equally sobering reality is that in terms of both military and human security, Iraq remains a deeply conflicted and vulnerable society. Indeed, the reality of ongoing political, ethnic, and religious strife in Iraq, as well as the loss of human life to guerrilla raids, suicide bombings, and Coalition attacks, has not yet been alleviated by the removal of the Baathist regime, the institution of the interim Governing Council under the auspices of the Coalition Provisional Authority, and national elections held on January 30, 2005.[34] Similar observations could be made about the fragility of Afghan society since the removal of the Taliban.[35]

D. *Prospects for a Renewed Commitment to Multilateralism*

During three overarching periods in the United Nations' life—colloquially termed the Cold War, the New World Order, and the New American Century—the failure of military interventions to effectively address structural societal problems has been constant. As the international community seeks either a recommitment to principled multilateralism, or the development of new rules for responding to threats of the use of force, our renewed consensus will be an empty one if we do not address the more essential links between global peace and the strength of the social fabric of our human communities. To restore, or establish for the first time, a two-pronged vision of collective security with both strategic and material components, the world community will need to reform the U.N. Economic and Social Council as well as the Security Council, so that they constitute revitalized and interdependent international institutions.[36]

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34. Major General Martin E. Dempsey is commander of the First Armored Division of the U.S. Army, which has operational responsibility for Baghdad under the auspices of the Coalition Authority in Iraq. John F. Burns, *Hotel Attacks Linked to War Anniversary*, N.Y. TIMES, Mar. 19, 2004, at A11. He believes that "we are winning" the war in Iraq, but cautions that defeating Islamic militants is more difficult than removing Saddam Hussein: "It is far easier to fight an enemy that fights you conventionally and who fights you in some similar fashion that you fight him than it is to fight an enemy who uses the tools of terror. . . ." *Id.* Asked for a timeline in the struggle against terrorists, the general responded. "How long? I have no idea. I'm leaving in 30 days, so let me promise you this: It's not going to be done by the time I leave." *Id.*

35. On March 21, 2004, Mir Wais Sadeq, Afghanistan's Minister for Civil Aviation, was killed in Herat in a rocket attack on his convoy that likely also killed officials responsible for the local police, security and counter-narcotics units in Herat. Amy Waldman, *Official Killed As Strife Grows in Afghanistan*, N.Y. TIMES, Mar. 22, 2004, at A15. Mr. Sadeq is the son of Ismail Khan, the Tajik former warlord who is currently the provincial governor of Herat. *Id.* Located near the Iranian border in northern Afghanistan, Herat is located in a region of tension between national officials and local Tajik leaders, including Mr. Khan, reluctant to give up power to a centralized, multi-ethnic government in Kabul. *Id.* Mr. Khan was governor of Herat before the majority Pashtun Taliban took the city in 1995, at which time he was imprisoned, escaped and fled into exile in Iran. *Id.* Mr. Khan returned to Afghanistan in 2001 with the fall of the Taliban, at which time he briefly appointed himself emir of Herat. *Id.*

According to a local official, Mr. Sadeq's convoy was attacked as his vehicle led an advance on the headquarters of a government commander he believed responsible for a failed attempt to assassinate his father. *Id.* The U.S. Embassy in Kabul responded to the deaths with an official statement that: "Afghans must not let the success of the last two years be put in jeopardy by this incident." *Id.* Mr. Sadeq is the third Afghan government minister to be killed since the start of President Hamid Karzai's interim administration in December 2001. *Id.*

36. Anne-Marie Slaughter, President of the American Society of International Law, reminds

II.   NEGATIVE IMPLICATIONS OF THE WAR AGAINST TERRORISM ON THE WAR
AGAINST POVERTY: LINKING RECENT DEVELOPMENTS IN IRAQ AND THE GREAT
LAKES REGION OF AFRICA

A. *The War against Poverty*

In 1963, at the first World Food Congress, President Kennedy issued a call to action: "[W]e have the means, we have the capacity to eliminate hunger from the face of the earth in our lifetime. We need only the will."[37] At the 1974 World Food Summit, delegates from U.N. member states committed to end hunger by 1984.[38] Even though the rolls of hungry people worldwide decreased by thirty-seven million during the early 1990s,[39] the total increased again by eighteen million in the latter half of the decade.[40] Reflecting this development, in 1996 the commitment to combat hunger was scaled back to the more modest goal of reducing hunger by 50 percent by the year 2015.[41]

Unfortunately, from 1995-2001, instead of decreasing, the number of hungry people in the developing world increased by 4.5 million people per year, such that half the modest gains in the war against hunger have been lost over the past ten years.[42] As of 2004, there are 842 million people living in hunger throughout the world, of which 798 million—nearly 95 percent—live in developing countries.[43] The U.N. Food and Agricultural Organization projects that given current global trends and current spending on food aid and socio-economic development, it will be 2050, not 2015, before global hunger is halved.[44] Hunger rates are particularly high in the developing world, and even higher in the least developed countries of the world, which are concentrated in Sub-Saharan Africa.[45]

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international law scholars and practitioners that alongside the Security Council, the Economic and Social Council is a principal organ of the United Nations: "There were to be two great Councils at the U.N., one to address immediate and violent disruptions of international peace and security and the other to address the longer term causes of both disorder and injustice: poverty, disease, illiteracy and inequality. Today many of us would no longer distinguish between 'security' and economic and social issues, arguing that human security is as critical as state security and that the two are inextricably intertwined." Anne-Marie Slaughter, *The Value of Spirited Debate*, NEWSL. OF THE AMER. SOC. OF INT'L. LAW, Jan./Feb. 2004, at 8.

37. President John F. Kennedy, Remarks at the Opening Session of the World Food Congress (June   4,   1963),   *available*   *at* http://www.presidency.ucsb.edu/site/docs/pppus.php?admin=035&year=1963&id=217 (last visited Sept. 9, 2004).

38. HUNGER 2004, *supra* note 22, at 3.

39. *Id.* at 3.

40. *Id.* at 39.

41. *Id.* at 5, 6.

42. *Id.* at 3, 42.

43. *Id.* at 3, 42; *see also* Richard Falk, *Human Rights*, FOREIGN POL'Y, Mar./Apr. 2004, at 22. Even in the U.S., while in 2001 there were 33.6 million people unable to meet their basic food needs, there were 34.9 million in similar straits in 2002. *Id.* at 22. GDP per capita in the United States in 2001 was $34,320. *See* UNDP REPORT, *supra* note 19, at 237 (displaying chart 1 regarding the "Human development index").

44. HUNGER 2004, *supra* note 22, at 39.

45. In the 124 nations of the developing world, where GDP per capita rates for 2001 ranged from

It is in this context of global hunger trends that military campaigns carried out under the rubric of the "War against Terrorism" must be examined. The analysis will focus on the ongoing war in Iraq and juxtapose that military intervention with ongoing humanitarian operations in the Great Lakes Region of Africa.

B. *The U.S.-led Military Intervention in Iraq*

Present-day Iraq is teaching us that whatever gains may have been secured by military intervention and regime change have been threatened by an initial failure of basic public and social services; a dearth of trained police officers, judges, and civil servants; a delay in the institution of representative governing bodies; and an increase in Iraqi opposition to the occupation.[46] The war in Iraq continues, despite President Bush's declaration of an end to major combat operations on May 1, 2003,[47] the U.S. transfer of power to the interim Iraqi government on June 30, 2004,[48] and national elections in January 2005. On February 28, 2005, at least 122 Iraqis, many police and army recruits, were killed by a car bomb in the town of Hilla, sixty miles south of Baghdad.[49] Moreover, neither the Coalition forces nor the interim Iraqi government have begun to fulfill Iraqi expectations and needs for nation building. This failure to deliver on the human security side is likely fueling the ongoing conflict.[50]

What is perhaps even more troubling is that raids and suicide attacks by anti-Coalition forces, as well the Coalition's ongoing military operations, are occurring against a backdrop of continued and strengthening disapproval of U.S. motivations

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$15,091 (the Republic of Korea) to $470 (Sierra Leone), the overall percentage of undernourished people in the 1990 to 1992 period was 21%, but dropped slightly to 18% during the 1998 to 2000 period. Contrastingly, in those 34 countries falling within the bottom of the three tiers of developing countries, the "least developed countries," 2001 GDP per capita rates ranged from $2,370 (Djibouti) to $470 (Sierra Leone), and the corresponding ratio of undernourished people *increased*, from 37% in 1990 to 1992, to 38% in 1998 to 2000. *See* UNDP REPORT, *supra* note 19, at 200-02, 237-40; *see also* Table C *infra*.

46. The decision of U.S. Administrator for Iraq L. Paul Bremer III "to disband Saddam Hussein's Army preceded a wave of instability that caused much resentment of the Americans for occupying Iraq without protecting the population. At the same time, Mr. Bremer has had to content with religious and ethnic passions that have thwarted much of the Americans' original timetable." *See* Dexter Filkins, *Bremer Pushes Iraq on Difficult Path to Self-Rule*, N.Y. TIMES, Mar. 21, 2004, at A1. "American officials say that many of [the] former [Iraqi Army] soldiers later formed the backbone of the guerrilla resistance to the American occupation." *See id.* at A9.

47. *See* Eric Schmitt, *U.S. Declares Major Combat in Afghanistan to Be Over*, N.Y. TIMES, May 2, 2003, at A18.

48. *See* Filkins, *supra* note 46, at A9.

49. *See* Warzer Joff and Robert F. Worth, *Blast Kills 122 at Iraqi Clinic In Attack on Security Recruits*, N.Y. TIMES, March 1, 2005, at A1. The deaths from the explosion constitute the largest number of casualties caused by a single bombing since the U.S. invasion of Iraq in March of 2003. *Id.* Jordanian militant Abu Musab al-Zarquari has claimed responsibility for the Hilla bombing. *See* Robert F. Worth, *Two Members of Hussein Tribunal Are Assassinated in Baghdad*, N.Y. TIMES, March 2, 2005, at A 1.
On March 2, 2005, Parwiz al-Merani, a judge with the Iraqi Special Tribunal convened to try Saddam Hussein was shot and killed along with his son, Aryan al-Merani, a lawyer with the tribunal. *See id.*

50. *See* Matthew Kaminski, *Anti-Terrorism Requires Nation Building*, WALL ST. J., Mar. 15, 2002, at A10.

for military intervention in Iraq in the first place. In March 2004, one year after the start of the war on March 20, 2003, a majority of French, German, Turkish, Pakistani, Jordanian and Moroccan nationals polled disagreed with the position that "the U.S.-led war on terrorism is a sincere effort to reduce international terrorism."[51] Particularly in France and Germany, as compared with similar polling in May 2003, "more people . . . believed their countries had made the right decision in not supporting the war."[52]

Most significantly, the March 2004 poll reflects a widespread perception that the military intervention in Iraq has proven counterproductive, irrespective of the sincerity of its cause. A majority of French and German nations interviewed "believed that the Iraq war had undermined the struggle against terrorists."[53] Even in the United Kingdom, where a majority believes in the sincerity of the American-led campaign against terrorism, "half of the Britons surveyed said the Iraq war hurt efforts to combat global terrorism."[54]

Rising public disapproval of the U.S.-led military campaign in Iraq is increasingly paralleled by the views of public officials within the United Nations and its member states. In April 2004, the killing and mutilation of four U.S. private security personnel in Falluja, Iraq and the concurrent Shiia uprising led by Moktada al Sadr resulted in a concerted Coalition military response in Falluja and parts of south-central Iraq. Lakhdar Brahimi, the Secretary General's special envoy to Iraq, commented when visiting Iraq during the April 2004 Coalition siege of Falluja that "there is no military solution to the problems [in Iraq], and that the use of force, especially the excessive use of force, makes matters worse . . . ."[55] Similarly, Kenneth Pollack, a Brookings Institution scholar and former Iraq-Iran CIA analyst, has criticized the U.S. and Coalition forces for failing to provide effective security and sufficient training for the newly constituted Iraqi police and military forces.[56]

The U.S. government spent approximately eighty billion dollars prosecuting the first six weeks of the Iraqi war.[57] During the same period, nearly 150 U.S. soldiers and untold thousands of Iraqis lost their lives.[58] In the entire twenty-four

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51. *See* Susan Sachs, *Poll Finds Hospitality Hardening Toward U.S. Policies*, N.Y. TIMES, Mar. 17, 2004, at A3

52. *Id.* The nonpartisan Pew Center conducted the poll. *Id.*

53. *Id.*

54. *Id.*

55. John Burns, *Iranians in Iraq to Help in Talks on Rebel Cleric*, N.Y. TIMES, Apr. 15, 2004, at A1, A8.

56. *See* Traci Hukill, *U.N. Scholars Drill Washington on Iraq, Afghanistan*, U.N. WIRE, Apr. 14, 2004, *at* http;//unwire.org/News/328_426_22804.asp (last visited Sept. 13, 2004) (Pollack was speaking at a conference at John Hopkins University School for Advanced International Studies in Washington, D.C. held on April 13, 2004).

57. Bob Burnett, *What is the War Going to Cost Us?*, May 2, 2003, *available at* http://www.alternet.org/story/15807 (last visited Oct. 2, 2004).

58. Kevin Johnson and Sabah al-Anbaki, *Iraqis Revel in U.S. Deaths*, USA TODAY , Apr. 1, 2004, at A1, 10. The Defense Department officially reports 115 combat deaths and 23 non-combat deaths during this period, or a total of 138 U.S. deaths. *Fact Sheet: Iraqi War*, Sept. 16, 2004, *at*

months between March 2003 and March 2005, the United States has spent $157 billion in the ongoing Iraqi war and occupation.[59] During the same period, as many as 1486 American service members and anywhere from 18,000 to 100,000 Iraqis have died.[60]

In February 2003, economic forecasters projected upwards of $105 billion as the price tag for Iraqi recovery and reconstruction, on top of the $105 billion estimated for the cost of the military invasion and occupation, and as much as $300 billion more for war reparations, assistance to fellow Coalition members, and debt relief.[61] Given a potential $500 billion price tag, the $166 billion authorized by U.S. Congress in two emergency spending bills passed in 2003 would appear well below the mark, especially given that these funds were needed to cover operations in both Iraq and Afghanistan. [62] Predictions of supplemental requests were fulfilled on February 14, 2005 when the Bush administration proposed an additional $82 billion for military operation in Iraq and Afghanistan.[63]

C. *Linkages between Iraq and other Humanitarian Emergencies*

A decision to remove a government by force, whether unilaterally or

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http://www.infoplease.com/ipa/A0908900.html (last visited Sept. 16, 2004).

59. *See* National Priorities Project, *The War in Iraq Cost the United States*, at http://www.costofwar.com (last visited March 2, 2005).

60. The U.S. Department of Defense has been criticized for its failure to compile statistics on Iraqi civilian deaths. The smaller figure of 18,000 Iraqis killed is based on data compiled by a non-profit organization called Iraq Body Count, which operates a website to provide ranges of civilian deaths in Iraq. The range posted on February 27, 2005 was between 16,123 and 18,395 individuals killed. *The Iraq Body Count Database, available at* http://www.iraqbodycount.net/bodycount.htm (last visited March 2, 2005).
The much higher figure of 100,000 civilian deaths was published by the British medical journal *The Lancet* on October 29, 2004, based on a representative sample of family interviews conducted across Iraq. Dr. Gilbert Burham, one of the members of the Johns Hopkins medical research team, reported, "[w]e were shocked at the magnitude but we're quite certain that the estimate of 100,000 is a conservative estimate." Dr. Burham also explained that deaths in Falluja had been excluded, given the higher level of violence in that city compared with other parts of Iraq. *See* Elizabeth Rosenthal, *Study puts civilian toll in Iraq at over 100,000*, INT'L HERALD TRIBUNE, October 30, 2004, *at* http://www.iht.com/articles/2004/10/29/news/toll.html.
The 1486 figure for U.S. lives lost in Iraq since March 2003 comes from U.S. Department of Defense statistics published in *The New York Times* on Tuesday, March 1, 2005. *Names of the Dead*, N.Y. TIMES, May 23, 2004, at A16. In the first two weeks of April 2004 alone, the U.N. reported that 880 Iraqis and 87 U.S. soldiers died. *See* Hukill, *supra* note 55.

61. *See* Gordon Adams & Steve Kosiak, *The Price We Pay*, N.Y. TIMES, Feb. 15, 2003, at A25 (Adams, White House senior defense budget analyst from 1993 to 1997, is George Washington University Professor of International Affairs. Kosiak is Director of Budget Studies at the Center for Strategic and Budgetary Assessments). *Adams and Kosiak hesitated to assign a specific projected total cost for the Iraq war and reconstruction, but sketched a range of possible figures, the upper end of which was $682 billion. See id.*

62. Eric Schmitt & Robert Pear, *The President's Budget Proposal: Plan Omits Costs in Iraq and Afghanistan*, N.Y. TIMES, Feb. 3, 2004, at A15. In fact, Bush administration officials suggested in early 2004 that the funds would run out by September 2004, such that a supplemental request was likely.. *Id.*

63. *See supra* n. 60; *see also Bush asks Congress for $82 billion for wars* (AP), February 14, 2005, *at* http://www.cnn.com/2005/ALLPOLITICS/02/14/bush.iraqappropriation.ap/.

multilaterally, must clearly be followed by a commitment to help its society rebuild itself. This requirement is especially the case when military intervention results in military occupation. The occupying power has obligations under international law to ensure that the territory's civil infrastructure adequately meets the people's basic needs.[64] Yet in Iraq's case, the world community is effectively attempting to partially finance its expensive reconstruction commitment by diverting funds from other brewing or enduring crises around the world. Iraq may be but the most celebrated international crisis point at the current time. Nations in every region of the world are engaged in civil strife, difficult peace negotiations, or post-conflict reconstruction. In countries such as Burundi, Sudan, Sierra Leone, Kosovo, and East Timor, the international community has expended significant resources for emergency relief and national reconstruction, but the ongoing need for financial assistance is great.[65] The following section will examine Burundi as a case study in the indirect impacts the "War against Terrorism" may have on ongoing humanitarian relief and development programs throughout the world.

D. The Great Lakes Region of Africa

Burundi has experienced cataclysms of violence—related to the civil conflicts in its Central African neighbors Rwanda[66] and the Democratic Republic of the Congo[67] —from which it struggles to emerge. Like Rwanda, Burundi has perched

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64. Geneva Convention Relative to the Protection of Civilian Persons in Time of War, *opened for signature* Aug. 12, 1949, arts. 55 and 56, 75 U.N.T.S. 287, 6 U.S.T. 3516 [hereinafter Fourth Geneva Convention].

65. *See* UNHCR, *The State of the World's Refugees: A Humanitarian Agenda* (1997), at 43. From 1983 to 1995, the number of individuals dependent upon humanitarian assistance globally increased from nearly 15 million to over 40 million and spending on humanitarian assistance increased five-fold among governmental aid agencies. *Id.* at 41, 42 fig. 1.6 Nevertheless, as emergency aid expenditures by states have increased over the past two decades, spending on long-term reconstruction and development has steadily decreased. *Id.* at 41-42. Thus state spending on well-publicized humanitarian disasters has the potential to pull development resources from low-income countries like Namibia and Tanzania that border on conflict regions but are not at war themselves. *Id.* at 16, 43. Non-governmental organizations have only partially picked up the slack in basic support for socio-economic programs in such developing countries, whether for public utilities, road maintenance or education. *Id.* at 43; *see also* UNHCR, *The State of the World's Refugees: Fifty Years of Humanitarian Action.* (2000), at 236-37 (displaying Box 9.2 "East Timor: the cost of independence") , 239-41 (discussing "Rebuilding Kosovo").

66. In the 1994 Rwandan genocide, between 500,000 and one million ethnic Tutsis and moderate ethnic Hutus were massacred by ultra-nationalist Hutus over a three-month period. *See generally* Philip Gourevitch, WE WISH TO INFORM YOU THAT TOMORROW WE WILL BE KILLED WITH OUR FAMILIES: STORIES FROM RWANDA (1998). In response to the genocide, the Rwandan Patriotic Front invaded from Uganda and began taking control of Rwandan territory in the late spring, ultimately seizing the national reins of power in Kigali by the end of the summer of 1994. *Id.* at 163-68. In advance of the RPF offensive, a large movement of mostly Hutu refugees fled into Eastern Zaire, finally numbering some two million refugees. *Id.* Included among them were extremist Hutu paramilitary and former Rwandan Army forces that had orchestrated the massacres. *Id.* Leaders of the Interahamwe paramilitary forces and their political affiliates used the refugee camps as bases for cross-border attacks into Rwanda, and sought to propagandize their fellow Rwandans against the prospect of reconciliation with the new RPF-led government in Kigali. *Id.*

67. In the current civil war in the Democratic Republic of the Congo, ongoing since 1998, as many as two million people have died in the conflict or from war-related disease and starvation. *See*

along a political-ethnic fault line of violence and counter-violence perpetrated by extremist Hutu and Tutsi forces for the past four decades.[68]   Since the 1993 assassination of Melchior Ndadaye, the first democratically elected president of Burundi and the majority Hutu electorate's choice, rebel Hutu forces initially fought Pierre Buyoya's coup-installed government, and subsequently fought the national unity interim government.[69]   Escaping widespread conflict and related human rights abuses, Burundian refugees fled across their eastern border into neighboring Tanzania.   Since 1994, with a population of nearly 35 million, Tanzania has hosted nearly half a million Burundian refugees in its western regions of Kagera and Kigoma.[70]

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generally, INTERNATIONAL FEDERATION OF RED CROSS AND RED CRESCENT SOCIETIES, *Democratic Republic of the Congo*, Appeal No. 01.43/2004 (Aug. 18, 2004), *available at* http://www.ifrc.org/cgi/pdf_appeals.pl?annual04/01430402.pdf. One major cause of ongoing conflict in the DRC has been Ugandan and Rwandan support for individual Congolese rebel movements. Both Uganda and Rwanda initially supported Laurent Kabila when his rebel movement sought to overthrow the former Zaire's president Mobutu Sese Seko. *See* James C. McKinley Jr., *Taking Office, Congo's Ruler Promises Vote*, N.Y. TIMES, May 30, 1997, at A1. Kabila was ultimately successful, and was sworn in as president on May 28, 1997, at which time he renamed his country the Democratic Republic of the Congo. *Id.* However, both Rwanda and Uganda had relied upon Kabila to suppress cross-border attacks by the extremist Interahamwe forces, mounted from the Rwandan refugee camps in the Congolese Lake Kivu region, along the Rwandan and Ugandan borders. *See* Norimitsu Onishi, *The Guns of Africa*, N.Y. TIMES, July 9, 1999, at A8; *see also* Julia Graff, *Corporate War Criminals and the International Criminal Court: Blood and Profits in the Democratic Republic of the Congo*, HUM. RTS BR 23 (2004). When Kabila failed to deliver, and was perceived to have moved to the side of the Rwandan extremists, the governments of Uganda and Rwanda began supporting various Congolese rebel movements fighting to overthrow him. Onishi, *supra*. Graff's article exposes the involvement of multinational mining corporations and government entities in the illegal arms for minerals trade in the DRC. Graff, *supra*, at 23. She explores the legal basis for potential International Criminal Court prosecutions of corporate entities implicated in war crimes occurring in the Congo. *Id.*

Laurent Kabila was assassinated in early 2001, after which time his son Joseph Kabila assumed the presidency. *See* Norimitsu Onishi, *Political Fever Wanes in Congo, but Patient is Still Sick*, N.Y. TIMES, Apr. 11, 2001, at A3. Peace talks initiated in 1999 have resulted in peace accords – the most recent signed by Joseph Kabila in April 2003 – for the disarming of the rebel factions, the removal of all foreign troops and the reconstitution of the Congolese Army with participation by all former Congolese factions. *See* Somini Sengupta, *Attack in Congo Capital Mars Peace Transition*, N.Y. TIMES, Mar. 29, 2004, at A4.

68. *See* ROBERT M. PRESS, THE NEW AFRICA: DISPATCHES FROM A CHANGING CONTINENT 280-85 (1999).

69. Unlike Rwanda, where individuals of Hutu ethnicity dominated the government from independence in the late 1950's until the post-genocide RPF-led government of 1994, in Burundi, ethnic Tutsis have predominated in both the civilian government and the Army since independence. *See* PRESS, *supra* note 66, at 280. In Rwanda, the Tutsi-led RPA had challenged both the dominance of ethnic Hutu in government, as well as Hutu extremism and violence against Tutsi and Hutu moderates. Contrastingly, in Burundi, Hutu militants have challenged Tutsi domination, and the rebel movements fighting the government continue to have a predominant Hutu affiliation. *See id.* at 280-81.

70. *See* UNHCR, Population Statistics (Provisional) 2002, at 3 tbl. 3, *available at* http://www.unhcr.ch/static/statistics_2002/asr02-dr2-Table3.pdf [hereinafter Population Statistics]. As of February 2004, there were officially 370,000 Burundian refugees in Tanzania. John Nduna, *ACT Appeal Burundi* (Feb. 26, 2004), at 1, *available at* http://www.act-intl.org/appeals/appeals_2004/AFB141.pdf (last visited Sept. 15, 2004).   Approximately 70,000 Burundians returned from Tanzania to Burundi in 2003, either spontaneously, or facilitated by UNHCR.

Despite peace talks, power sharing agreements and ceasefires between the government and rebel forces in both 2002 and 2003, fighting has continued in Burundi, partially because not all rebel factions signed the various accords.[71] After mediation by then-president Julius Nyerere of Tanzania, the warring factions signed the Arusha Agreement on August 28, 2000, and later signed another accord on October 7, 2002 in Dar es Salaam.[72] On April 30, 2003, President Buyoya handed his vice president Domitien Ndayizeye power, pursuant to the October 2002 Dar es Salaam agreement.[73] Both the Forces for the Defense of Democracy (CNDD-FDD) and the National Liberation Forces (FNL) had signed the Dar es Salaam agreement.[74] Nevertheless, the subsequent power-sharing agreement, signed by newly installed President Ndayizeye on October 8, 2003 in Pretoria, South Africa, favored one wing of the larger CNDD-FDD rebel group at the expense of another FDD faction, and also excluded a dissident arm of the FNL.[75] A comprehensive ceasefire agreement followed in November 2003, which again included the CNDD-FDD, but not the FNL.[76]

In perhaps the most favorable political development to date, Ndayizeye's government and the FNL initiated peace talks for the first time in December

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Id. at 4.

71. The representatives of the government and two rebel factions signed the Arusha Peace and Reconciliation Agreement in August 2000 in Arusha, Tanzania. Integrated Regional Information Networks (IRIN), *Burundi: Focus on the Way forward after Pretoria Agreement* (Oct. 13, 2003), *at* http://www.irinnews.org (last visited Sept. 9, 2004) [hereinafter *Burundi: Focus*]. The same parties signed a subsequent agreement in October 2002 in Dar es Salaam, Tanzania. *Id.* A third power-sharing agreement, signed in Pretoria in October 2003, favored a rebel faction that had not signed the Arusha or the Dar es Salaam agreements. *Id.*

72. *Tanzania, Malawi, Zambia Sign Agreement to Increases Trade*, XINHUA NEWS AGENCY, Oct. 7, 2003.

73. *See* U.N. Foundation, *Power Transferred Peacefully; Annan Warns of Instability*, U.N. WIRE, May 1, 2003, *available at* http://www.unwire.org/UNWire?20030501/33507_story.asp (last visited Sept. 9, 2004).

74. *See Burundi: Focus*, supra note 69.

75. The full name of the larger rebel group is the Conseil National Pour la Defense de la Democratie – Forces de Defense de la Democratie (the CNDD-FDD). *See Burundi: Focus, supra* note 69. However, the CNDD-FDD itself has two branches, one led by Jean Bosco Ndayikengurukiye and the other by Pierre Nkurunziza. *Id.* The other principal rebel group is the Forces National de la Liberation (FNL), which also has two branches, one led by Alain Mugabarabona and the other by Agathon Rwasa. *Id.*

To complicate matters, it was Jean Bosco Ndayikengurukiye's CNDD-FDD faction that signed the 2002 Arusha Accords and the 2003 Dar es Salaam accords, along with Alain Mugabarabona's FNL faction and the Burundian government of Buyoya. *Id.* Once Buyoya transferred power to Vice President Ndayizeye, the power sharing agreement that Ndayizeye signed in Pretoria in October 2003 gave the majority of rebel positions in the government of national unity to a different faction of the CNDD-FDD (that of Pierre Nkurunziza) and neglected members of both Ndayikengurukiye's CNDD-FDD faction and Mugabarabona's FNL faction (both of which had signed the October 2002 accord). *Id.*

As for Agathon Rwasa, the leader of the other FNL faction, he had not been involved in any of the 2000-2003 peace talks or accords, nor were his forces included in the power-sharing agreement concluded in Pretoria in October of 2003. *Id.*

76. *Id.*

2003.[77] Nevertheless, in early 2004, tens of thousands of Burundians were newly displaced by ongoing fighting between the FNL and the Burundian Army, as well as factional fighting between the FNL and the CNDD-FDD.[78] Throughout 2004, the conflict in Burundi continued, such that on December 1, 2004, the U.N. Security Council extended the mandate of the United Nations Operation in Burundi for an additional six months, until June 1, 2005.[79]

The half million Burundian refugees who reside in Western Tanzanian refugee camps rely on international assistance for food, shelter, health care, and education.[80] These camps are also home to opposition political activists committed to participation in a reformed political process in their home country.[81] Yet these camps remain weapons marketplaces that help fuel continued fighting in Burundi, and also serve as incubators of hopelessness for the next generation, which has only known life in exile.[82]

In February 2003, two factors cut Burundi refugee camp food rations in half: first, local and international markets suffered from a lack of grain, and second, donor pledges dried up in anticipation of the Iraqi war.[83] Since the 2003 fall of Hussein's government in Iraq, humanitarian assistance funds for food and other aid in Tanzania and many other countries around the world have not rebounded.[84]

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77. U.N. Foundation, *Burundi Rebels Hold First Talks with Government*, U.N. WIRE, Dec. 1, 2003, *available at* http://www.unwire.org/UNWire/20031201/499_10885.asp (last visited Sept. 9, 2004). In January 2004, President Ndayizeye reportedly began face-to-face talks with Rwasa's arm of the FDD in a secret location in the Netherlands. Agence France-Presse, *Burundi President Holds Talks With Last Active Rebel Group*, Jan. 19, 2004, *at* http://www.reliefweb.int.

78. *See* Norwegian Refugee Council (NRC), *Burundi: With Peace at Hand, the Displaced Need Support to Return Home*, Mar. 26, 2004, *at* http://www.idpproject.org/Sites/idpSurvey.nsf/wCountries/Burundi. The NRC stresses that despite progress toward peace, those Burundians returning from Tanzania at this time face the prospect of becoming internally displaced by ongoing and widespread violence in Burundi, a risk substantiated by the fact that civil conflict occurred in sixteen of Burundi's seventeen provinces in 2003. *Id.*

79. *Security Council Extends UN Operation in Burundi until 1 June 2005 by Unanimously Adopting Resolution 1577 (2004)*, United Nations Information Service, December 1, 2004, *at* http://www.unis.unvienna.org/unis/pressrels/2004/sc8258.html.

80. *Id.*

81. *See* International Crisis Group, *Burundian Refugees in Tanzania: The Key Factor in the Burundi Peace Process*, Africa Report No. 12, 30 November 1999. *See* http://www.crisisweb.org/home/index.cfm?id=1661&1=1.

82. *See generally* LIISA H. MALKKI, PURITY AND EXILE: VIOLENCE, MEMORY, AND NATIONAL COSMOLOGY AMONG HUTU REFUGEES IN TANZANIA (1995).

83. *See U.N. Agencies Worry Over Refugee Food Supply*, THE GUARDIAN (Dar es Salaam), Feb. 20, 2003. While refugee food rations were restored to 72% of normal rations in April 2003, UNHCR and other agencies were concerned that limited food rations may have been responsible for the "spontaneous" returns of around 5000 Burundians from Tanzania to Burundi in the month after President Ndayizeye was installed in early May 2003. Integrated Regional Information Networks (IRIN), *Burundi: UN Agency Expresses Concern over Refugees*, (June 3, 2004), *at* http://www.irinnews.org; *see also* HUMAN RIGHTS WATCH, EVERY DAY VICTIMS: CIVILIANS IN THE BURUNDIAN WAR, chap. XI: The Return of Refugees from Tanzania (Dec. 2003), *at* http://hrw.org/reports/2003/burundi1203/11.htm (last visited Sept. 9, 2004).

84. Mark Doyle, *Aid Agencies Alarmed Over Funds*, BBC NEWS, Nov. 21, 2003, *available at* http;//newsvote.bbc.co.uk (last visited Oct. 1, 2004).

Moreover, in both Tanzania and Burundi, GDP per capita levels are extremely low compared to other countries in the region, and percentages of individuals living on one or two dollars per day are very high.[85]

Table C: Poverty, Income and Hunger Indicators in the Developing World, with Three Examples within Sub-Saharan Africa
(data drawn from World Bank and United Nations sources, compiled in UNDP *Human Development Report 2003*, charts 1 and 3)

	Population living on ≤$1/day	Population living on ≤$2/day	Gross dom. product per capita	Poverty gap ratio*	Under-nourished 1990-1992	Under-nourished 1998-2000
Burundi	60%	90%	$690	25%; 75 c.	49%	69%
Tanzania	20%	60%	$520	5%; 95 c.	36%	47%
Uganda	82%	96%	$1,490	40%; 60 c.	23%	21%
Developing counties	N/A	N/A	N/A	N/A	21%	18%
Least dev. Countries	N/A	N/A	N/A	N/A	37%	38%

E. *U.N. Millennium Goals*

As discussed briefly in Part II.A. above, even though the level of global hunger decreased in the early 1990s by thirty-seven million,[86] the number of hungry people worldwide has increased since 1995 at the rate of 4.5 million per year.[87] Moreover, industrialized countries on the whole slashed overall development assistance levels by nearly one third during the 1990s.[88] These disturbing trends were partially responsible for focusing the United Nations on basic poverty alleviation, which it has undertaken with increased urgency since 2000. In the Millennium Declaration of September 2000, the United Nations established eight goals for the international community's achievement in addressing global socio-economic problems including poverty, hunger, illiteracy,

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In a sign of mounting economic and political stresses attributed to the long-term presence of Burundian refugees, the Tanzanian government has been denounced by UNHCR for forcibly repatriating several groups of Burundian refugees in early 2005, in violation of international law. *See Contrary to International Law, Tanzania Continues Forcible Returns of Burundian Refugees*, U.S. Committee for Refugees and Immigrants (press release), Washington, DC, February 4, 2005, *at* http://www.refugees.org/newsroomsub.aspx?id=1242.

85. In Burundi, 58.4% of the population lived on $1/day from 1990 to 2001 and 89.2% on $2/day for the same period. In Tanzania the comparable figures are 19.9% at $1/day and 59.7% at $2/day. *See* UNDP REPORT, *supra* note 19, at 247. As for GDP per capita, the figure for Burundi in 2001 was $690, and in Tanzania it was $520. *Id.* These figures are in contrast to a GDP per capita of $1,250 for Rwanda and $1,490 for Uganda. *See id.* at 240 (displaying chart 1 regarding the "Human Development Index").

86. HUNGER 2004, *supra* note 22, at 3.

87. *Id.* at 3.

88. *Id.* at 11.

gender inequity, communicable diseases, and environmental degradation.[89] Eradicating extreme poverty and hunger is the first priority.[90] The United Nations and non-government agencies still race against the clock to meet a portion of survival needs in countries like Burundi, Tanzania, Ethiopia and Zimbabwe, for refugees, displaced persons and others struggling to survive war, poverty, AIDS, and environmental degradation.[91] These countries have the potential to move further toward conflict resolution and socio-economic development, but without sustained and large-scale humanitarian assistance and significant support for socioeconomic and political reforms, such nations are likely to experience renewed or increased conflict, and to become future flashpoints for military or humanitarian interventions of various kinds.[92]

Sadly, the so-called "War against Terrorism" has thus far had a negative impact on the global war on poverty. By November 2003, the U.S. Congress scaled down U.S. contributions toward poverty alleviation efforts under the U.N. Millennium Goals by one billion dollars, from the previously pledged $1.6 billion to $650 million.[93] InterAction, the U.S. umbrella organization for non-profit agencies engaged in humanitarian assistance activities, decried this diversion of anti-poverty funds to the "War against Terrorism."[94] In addition, CARE President

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89. *See* U.N. Millennium Development Goals, *at* http://www.un.org/milleniumgoals/ (last visited Oct. 2, 2004) [hereinafter MDG]; see also U.N. Millennium Declaration, G.A. Res. 55/2, 55th Sess., 8th mtg., U.N. Doc. A/RES/55/2 (2000), *available at* www.un.org.

90. *See* MDG, *supra* note 86.

91. For purposes of comparison, it is interesting to note that during the 1998-2000 period, the average annual receipts in official development assistance (ODA) to developing countries as a whole were over $34 billion ($34,450,000), or .6% of the average gross national income (GNI) of these countries. *See*, World Resources Institute, *World Resources 2002-04: Decisions for the Earth: Balance, Voice and Power*, (2003) at 242-43 (Data Table 3, regarding "Financial Flows, Government Expenditures and Corporations"). From 1998-2000, on average the nations of South America received .2% of their annual gross national income (GNI) in official development assistance (ODA). *Id.* For Central America and the Caribbean, the annual average for ODA is .4% of GNI over the same period. *Id.* For the Middle East and North Africa, the figure is .7%. *Id.* For Sub-Saharan Africa, ODA is 4.1% of GNI, signifying that in proportion to their national incomes, African countries on average rely upon six times the development assistance of Middle Eastern countries, seven times that of developing countries overall, ten times that of Caribbean countries and twenty times that of South American nations. *Id.* The figures for individual African countries experiencing conflict or hosting significant refugee populations are even more dramatic for the 1998-2000 period: Zimbabwe received on average $234 million annually in official development assistance, or 4% of is gross national income, Ethiopia received $665 million ODA, or 10.4% of its GNI, Burundi received $81 million or 11% of its GNI, and Tanzania received over $1 billion, or 11.7% of its GNI. *Id.*

92. In his year-end review of progress toward the Millennium Development Goals for fiscal year 2003-04, Secretary General Kofi Annan reported that while notable progress in reducing poverty had been achieved in Asia and North Africa since 2000, the reality in Sub-Saharan Africa was more sobering. Daphne Davies of the non-governmental organization LDC Watch (an umbrella group of NGO's working in the world's fifty least developed countries) elaborated that "some countries such as Sierra Leone and Burkina Faso were actually worse off now than when the MDG program started." Thalif Deen, *U.N. Seeks Rapid Action to Cut Poverty and Hunger*, Sept. 9, 2004, INTER PRESS SERVICE NEWS AGENCY, *at* http://www.ipsnews.net/interna.asp?idnews=25415 (last visited Oct. 31, 2004).

93. *See* Doyle, *supra* note 81.

94. *Id.*

Peter Bell warned that "America's security is dependent upon vanquishing the poverty which breeds extremism."[95] It is particularly concerning that countries like Tanzania, which host the largest refugee populations and hence the largest humanitarian emergencies, also tend to be among the world's poorest countries.[96]

The cause of global survival calls for the development of an international strategic vision that pairs socioeconomic development with military security in the Iraqs, Burundis, and Tanzanias of the world.[97] The remaining challenge is whether a doctrine of multilateral poverty preemption can be grounded in legal obligations derived from international treaties and customary law governing both the protection of human rights and the conduct of war. The final section of this article builds such a legal framework upon the U.N. Charter's text and the provisions of relevant human rights and humanitarian law instruments.

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95. *Id.* Bell cautions that the struggle against hunger and poverty should not be subsumed into the war against terrorism. Telephone interview with Peter Bell, CARE President (Apr. 18, 2004). Poverty alleviation is fundamentally a question of human dignity rather than an aspect of geopolitical strategy. *Id.*

96. Tanzania, a country that has enjoyed relative peace over its 40 years as an independent country, is host to half a million Burundians, one of the world's largest refugee populations. Yet, like Burundi, the people of Tanzania experience one of the highest levels of under-nourishment in Sub-Saharan Africa, and hence in the world. *See* Population Statistics, *supra* note 68, at 3 tbl. 3. At an under-nourishment rate of 47% between 1998 and 2000, only ten countries in the world for which data are available are experiencing more hunger than Tanzania. Those countries are Zambia, Mozambique, Eritrea, the Democratic Republic of the Congo, Burundi itself, Angola and Somalia in Sub-Saharan Africa, Haiti in the Caribbean, and Tajikistan and Afghanistan in Asia. *See* UNDP REPORT, *supra* note 19, at 261.

Unfortunately, Tanzania is not unusual in its status as a "least developed country" in Africa that hosts a large refugee community. Of the roughly 16 million refugees in the world today, four million are Palestinians, most of whom reside in camps in the West Bank and the Gaza Strip; four million are Afghans, most of whom have enjoyed asylum in Pakistan; and half a million are Iraqis, most of whom remain in Iran. *See* UNHCR, *Refugees by Numbers (2004 Edition), available at* http://www.unhcr.ch/cgi-bin/texis/vtx/basics; *see also* Ray Wilkinson, *Africa on the Edge*, REFUGEES, vol. 2, no. 131, at 15-17 (2003), *available at* http://www.unhcr.ch/cgi-bin/texis/vtx/home/opendoc.pdf?id=3ee99eaf4&tbl=MEDIA (last visited Sept. 12, 2004). Of the world's remaining eight or so million refugees, as many as four million have fled one conflicted and impoverished country in Africa to another perhaps less conflicted but still impoverished African country. Wilkinson, *supra* at 15-17. Among these four million refugees in Africa, the largest single group is the 400,000-strong Burundian refugee community in Tanzania. There are five additional refugee groups in Africa of comparable size. *Id.* In Uganda and elsewhere, there are close to half a million Sudanese. In Zambia and elsewhere, there are around 400,000 Angolans. *Id.* In Tanzania and elsewhere, there are roughly 400,000 Congolese (from the Democratic Republic of the Congo). *Id.* One significant regional grouping is composed of approximately 400,000 Liberians, Sierra Leoneans and Cote d'Ivorians, geographically reshuffled throughout Cote d'Ivoire, Sierra Leone, Liberia and Guinea. *Id.* Finally, there are around 350,000 Somali refugees in Kenya and elsewhere. *Id.*

All eight of the African countries that host major refugee populations fall within the poorest tier of the world's developing countries. *See* Population Statistics, *supra* note 68, at 3 tbl. 3; *see also* UNDP REPORT, *supra* note 19, at 237-40. Moreover, with the exception of Zambia, all of these African nations are currently facing food emergencies, according to the Food and Agriculture Organization of the United Nations. *See* U.N. Foundation, *23 Sub-Sahara Countries Face Food Emergencies: FAO Says*, U.N. WIRE, July 23, 2003, *available at* http://www.unwire.org.

97. Matthew Kaminski, *Anti-Terrorism Requires Nation Building*, WALL ST. J., Mar. 15, 2002, at A10.

III. INTERNATIONAL LAW ARGUMENTS SUPPORTING THE OBLIGATION TO PROMOTE HUMAN SECURITY

A. *The U.N. Charter*

The U.N. Charter has numerous references to human security in the context of strategic security validating the supposition that the latter is reliant on the former. To begin with, the Charter's Preamble sets forth the determination of the "Peoples of the United Nations" to "save succeeding generations from the scourge of war" and "to promote social progress and better standards of living in larger freedom . . . ."[98]

In the text of the Charter itself, there are two principal references to human security as linked to strategic or military security. The first is in Article 1, which sets forth the "Purposes and Principles of the Organization," pairing the objective of "maintain[ing] international peace and security" with "achiev[ing] international co-operation in solving international problems of an economic, social, cultural, or humanitarian character . . . ."[99]

The second major human security reference in the Charter is in Article 55, regarding the establishment of the Economic and Social Council:

> With a view to the creation of conditions of stability and well-being *which are necessary for peaceful and friendly relations among nations* . . . the United Nations shall promote:
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> a. higher standards of living, full employment, and conditions of economic and social progress and development;
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> b. solutions of international economic, social, health, and related problems . . . ; and
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> c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.[100]

There is also a third, more implicit, reference to socio-economic security, or social justice, in the U.N. Charter's text. Article 2, which sets forth the governing Principles that apply to both "the Organization and its Members," reads: "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, *and justice*, are not endangered."[101] Article 2 also includes the more frequently cited prohibition on the use of force: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, *or in any other manner inconsistent with the Purposes of the United Nations*."[102]

Taken together, Article 2 clauses 3 and 4 suggest that socio-economic justice is linked to the maintenance of peace and security. This interpretation is

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98. U.N. CHARTER pmbl., *available at* http://www.un.org/aboutun/charter/index.html.

99. *Id.* art. 1, paras. 1, 3.

100. *Id.* art. 55 (emphasis added).

101. *Id.* art. 2, para. 3 (emphasis added).

102. *Id.* art. 2, para. 4 (emphasis added).

strengthened by the reference in Article 2 to the use of force "inconsistent with the Purposes" of the United Nations,[103] which, in Article 1 include "solving problems of an economic, social, cultural, or humanitarian character,"[104] as well as the maintenance of "international peace and security."[105]

B. *The Universal Declaration of Human Rights*

The U.N. General Assembly adopted the UDHR in 1948. Most General Assembly resolutions do not specifically bind states, in contrast to the obligatory character of Security Council resolutions passed pursuant to Chapter VII of the Charter.[106] Nevertheless, despite its original form, many scholars agree that in whole or in part the UDHR has attained the status of customary law, given that an extensive number of states have incorporated its provisions into their own constitutions.[107] Also buttressing the UDHR's claim to customary status is its role as an interpretive instrument for the various human rights references in the U.N. Charter, and the fact that the promotion of human rights is a fundamental purpose of the United Nations.[108]

As discussed briefly in Part I above, the UDHR includes a detailed proclamation of the "equal and inalienable rights of all members of the human family."[109] In addition to Article 1's attestation to the freedom, equality, and dignity of all human beings,[110] and Article 2's principle of non-discrimination or non-distinction on racial, gender, linguistic, religious, political, or social grounds,[111] the UDHR also enumerates nineteen civil-political rights,[112] followed by six socio-economic and cultural rights.[113] The UDHR's drafting history sheds light on the hard-won battle to accord primacy to both so-called "generations" of rights, favoring neither at the expense of the other.[114] Article 28 in an important

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103. *Id.*

104. *Id.* art. 1, para. 3.

105. *Id.*

106. *Compare* U.N. CHARTER art. 13 (regarding the authority of the General Assembly to "make recommendations . . . assisting in the realization of human rights and fundamental freedoms) *with* U.N. CHARTER arts. 39, 41-43 (regarding the enforcement powers of Security Council in responding to a threat to international peace and security).

107. The 1959 Montreal Statement, the concluding document of a conference convened by the non-governmental Assembly for Human Rights, concluded that the "Universal Declaration of Human Rights . . . has over the years become a part of customary international law." *See* Egon Schwelb, *The Influence of the Universal Declaration of Human Rights on International and Domestic Law*, in Lillich & Hannum, *supra* note 5, at 132.

108. *See id.* at 127; *see also* U.N. CHARTER art. 1, para. 3 (setting forth the United Nations' objective to establish "international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all . . . .") (emphasis added).

109. UDHR, *supra* note 8, pmbl.

110. *Id.* art. 1.

111. *Id.* art. 2.

112. *Id.* arts. 3-21.

113. *Id.* arts. 22-27.

114. Eleanor Roosevelt served as Chair of the U.N. Human Rights Commission, the U.N. body that drafted the UDHR. In this capacity, she oversaw numerous debates over the text of the Declaration

sense links the two families of rights in stating that "[e]veryone is entitled to a *social and international order* in which the rights and freedoms set forth in this Declaration can be fully realized."[115]

While there are no direct references in the UDHR's text regarding the maintenance of international peace and security, an explicit link between human rights and peace is found in the Preamble, which states that the "recognition of the inherent dignity and of the *equal and inalienable rights* of all member of the human family is the *foundation of freedom, justice and peace* in the world . . . ."[116] With specific regard to socio-economic rights, the Preamble holds that:

> [T]he peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined *to promote social progress and better standards of life* in larger freedom . . . .[117]

If read together, Article 28's establishment of "a social and international order" conducive to the full realization of socio-economic as well as civil-political rights, and the Preamble's text regarding human rights guarantees as a precondition of "freedom, justice and peace," the UDHR strengthens the Charter's attestation to the interdependence of strategic security and human security.[118]

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during the summer of 1948, in the run-up to the General Assembly vote in October. *See* MARY ANN GLENDON, A WORLD MADE NEW: ELEANOR ROOSEVELT AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS 121, 123 (2001).

One controversy, over Article 22 and the right to social security, occurred against a backdrop of uncertainty regarding the obligatory bite of the "new" socio-economic rights as compared with the "old" civil-political rights. The Syrian delegate advocated replacing the term "social security" with that of "social justice," because the latter term was deemed more expansive than the former in terms of the material support that the state should provide. *See id.* at 157. For his part the Soviet delegate, Alexei Pavlov, proposed amending the Declaration's Preamble to include a state obligation "to ensure every individual a real opportunity to enjoy" socio-economic rights. *See id.* at 156-57.

While both the Soviet and Syrian amendments were rejected, a compromise proposal for Article 22 was offered by the Cuban delegate, resulting in the final text of that Article: "Everyone . . . has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." *See id.* at 157; UDHR, *supra* note 8, art. 22. This compromise language was considered "to give the 'new' rights parity with the 'old' by stating that the 'new' rights are 'indispensable' for the dignity and free development of the individual." GLENDON, *supra*, at 157.

Eleanor Roosevelt's work to entrench both generations of rights in the 1948 UDHR resonates with the thinking of her late husband President Roosevelt several years earlier. In his "Four Freedoms" speech in 1944, Franklin Delano Roosevelt had highlighted the interdependence of the two families of rights: "We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. 'Necessitous men are not free men.' People who are hungry and out of a job are the stuff of which dictatorships are made." *See* DUNOFF ET AL., *supra* note 7, at 448.

    115. UDHR *supra* note 8, art. 28 (emphasis added).

    116. *Id.* pmbl. (emphasis added).

    117. *Id.* (emphasis added).

    118. *Compare* UDHR, *supra* note 8, art. 28 *with* UDHR, *supra* note 8, pmbl.

C. *The International Covenant on Economic, Social and Cultural Rights*

To a great extent, the International Covenant on Economic, Social and Cultural Rights (ICESCR) elaborates upon and gives greater legal authority to UDHR's Articles 22 through 27 on socio-economic rights.[119] In ICESCR's Article 2, "[e]ach State Party . . . undertakes to take steps, to the maximum of its available resources, with a view to achieving progressively the full recognition of the rights recognized in the present Covenant . . . ."[120] With regard to specific rights, Article 6 recognizes the right to work (paralleling Article 23 of the UDHR); Article 7, fair labor conditions; Article 8, the right to trade union formation and membership; Article 9, the right to social security (paralleling Article 22 of the UDHR); Article 10, protections for the family, including mothers and children; Article 11, the right to an "adequate standard of living," including "food, clothing and housing" (paralleling Article 25 of the UDHR); Article 12, the right to "the highest attainable standard of physical and mental health" (also treated in Article 25 of the UDHR); and Article 13, the right to education (paralleling Article 26 of the UDHR).[121]

While the ICESCR is clearly a blueprint in many ways for establishing human security through enumeration of the specific socio-economic rights that states must provide,[122] it is only in the Preamble, again, that we find a specific link between human security and international peace and security: "in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the *equal and inalienable rights* of all members of the human family is the *foundation of freedom, justice and peace in the world.*"[123]

Moreover, while the ICESCR concentrates on socio-economic rights in contrast to the International Covenant of Civil and Political Rights (*see* Part IV.D below), the ICESCR's Preamble bears witness to the interrelationship between these two families of rights: "the ideal of free human beings enjoying *freedom from fear and want can only be achieved if* conditions are created whereby *everyone may enjoy his economic, social and cultural rights,* as well as his civil and political rights."[124]

D. *The International Covenant on Civil and Political Rights*

Like the ICESCR, the International Covenant on Civil and Political Rights (the ICCPR) expands upon and makes formally obligatory the corresponding rights enumerated in the UDHR.[125] In Article 2 of the ICCPR, "[e]ach State Party

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119. *See supra* notes 110-11. ICESCR, *supra* note 9, Unlike the UDHR, the ICESCR is a treaty and a primary source of international law. *See* MARK JANIS, AN INTRODUCTION TO INTERNATIONAL LAW 9 (2d ed. 1993) ("[I]t is this obligatory aspect [of treaties] that makes them part of international law. International lawyers use the phrase *pacta sunt servanda* to express the fundamental principle that agreements, even between sovereign states, are to be respected.")

120. ICESCR, *supra* note 9, art. 2.

121. *Compare* ICESR, *supra* note 9, arts. 6-13 with UDHR, *supra* note 9, arts. 23,22,25-26.

122. *See* ICESR, *supra* note 9, art. 2.

123. *See id.* pmbl. (emphasis added).

124. *See id.* (emphasis added)

125. *See* UDHR *supra* note 8, arts. 3-21.

undertakes to *respect and to ensure* to all individuals ... the rights recognized in the present Covenant.[126] With regard to specific rights, a facile distinction is often made between the ICESCR and the ICCPR. The ICESCR focuses on socio-economic rights, or what are predominantly material aspects of human security. Contrastingly, the ICCPR attempts to enumerate civil-political rights and liberties, and focuses on freedom from state-sponsored or tolerated violence, as well as the freedoms of expression and participation in government.[127]

Nevertheless, there is a substantial overlap between the two human rights covenants, and five articles of the ICCPR explicitly resonate with provisions of the ICESCR. To begin with, Article 1 of the ICCPR, the right to self-determination of peoples, is identical to Article 1 of the ICESCR. Both proclaim that "[a]ll peoples ... [may] freely determine their political status and freely pursue their economic, social and cultural development."[128] Second, Article 2 of the Civil and Political Covenant recognizes the principle of non-discrimination on racial, gender, linguistic, social, and other grounds, as does Article 2 of the Economic and Social Covenant.[129] Third, ICCPR Article 22 recognizes "the right to form and join trade unions" as does ICESCR Article 8.[130] Fourth and fifth, ICCPR Articles 23 and 24 protect the family and children, analogous to Article 10 of the ICESCR.[131]

Finally, like the Economic and Social Covenant, the Civil and Political Covenant recognizes the symbiotic relationship between both families of rights on the one hand, and the maintenance of peace and security on the other: "The equal and *inalienable rights* of all members of the human family is *the foundation of freedom, justice and peace in the world* ...."[132] Moreover, "the ideal of free human beings enjoying civil and political freedom and *freedom from fear and want can only be achieved* if conditions are created whereby *everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.*"[133]

E. *The Geneva Conventions of 1949*

In addition to textual references in international human rights covenants regarding the interdependence between peace and security and human rights, there are also significant references to both families of human rights in treaty-based and customary humanitarian law. With regard to civil and political rights, Article 3 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (the Fourth Geneva Convention) resonates closely with

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126. ICCPR, *supra* note 9, art. 2.

127. *See id.* art. 6 (right to life); art. 7 (prohibition against torture); art. 8 (prohibition against slavery); art. 9 (freedom from arbitrary detention); art. 12 (freedom of movement); art. 14 (right to a fair trial); art. 16 (right to legal personality); art. 17 (right to privacy); art. 18 (freedom of thought, conscience and religion); art. 19 (freedom of expression); art. 21 (right of peaceful assembly).

128. *Compare* ICCPR, *supra* note 9, art. 1 *with* ICESCR, *supra* note 9, art. 1.

129. *Compare* ICCPR, *supra* note 9, art. 2 *with* ICESCR, *supra* note 9, art. 2.

130. *Compare* ICCPR, *supra* note 9, art. 22 *with* ICESCR, *supra* note 10, art. 8.

131. *Compare* ICCPR, *supra* note 9, arts. 23, 24 *with* ICESCR, *supra* note 10, art. 10.

132. ICCPR, *supra* note 9, pmbl. (emphasis added).

133. *Compare* ICCPR, *supra* note 9, pmbl. *with* ICESCR, *supra* note 9, pmbl. (emphasis added).

Articles 6, 7, 14 and 16 of the Civil and Political Covenant:[134] "[T]he following acts are and shall remain prohibited ... : (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;[135] (c) Outrages upon human dignity ... ;[136] (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court ...."[137] Analogously, ICCPR Article 6 protects the right to life; Article 7, the right to freedom from torture; Article 14, the right to a fair trial; and Article 16, the right to legal personality.[138]

With regard to the socio-economic rights of civilians in time of war, the Fourth Geneva Convention has several references regarding the occupying power's responsibility to guarantee the civilian population's human security. Pursuant to Article 55, "[t]o the fullest extent of the means available to it the Occupying Power has the duty of *ensuring the food and medical supplies of the population ....*"[139] Article 56 contains similar language concerning the duty of the occupying power to ensure the provision of medical services and sanitation:

> [T]he Occupying Power has the duty of *ensuring and maintaining,* with the cooperation of national and local authorities, the medical and hospital establishments and services, *public health and hygiene* in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics.[140]

Articles 55 and 56 of the Fourth Geneva Convention resonate with Articles 11 and 12 of the Economic and Social Covenant. ICESCR Article 11 recognizes the right to "adequate food, clothing and housing," and Article 12 proclaims the right to "the highest attainable standard of physical and mental health."[141]

The final significant reference to human security in the Fourth Geneva Convention clarifies that humanitarian organizations providing relief in the occupied territory "shall in no way relieve the Occupying Power of any of its

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134. Article 3, which is common to all four Geneva Conventions of 1949 applies by its own terms to an "armed conflict not of an international character," otherwise referred to as an "internal conflict" or "civil war." Fourth Geneva Convention, *supra* note 62, art. 3. Nevertheless, common Article 3 has been called a "mini convention," both condensing the more extensive protections of the Geneva Conventions, which in general apply to international armed conflicts, *id.* art. 2, and codifying general principles of customary humanitarian law. JEAN S. PICTET, HUMANITARIAN LAW AND THE PROTECTION OF WAR VICTIMS 56-58 (1975).

135. *Compare* Fourth Geneva Convention, *supra* note 62, art. 3 *with* ICCPR, *supra* note 9, arts. 6 (right to life), 7 (prohibition against torture).

136. *Compare* Fourth Geneva Convention, *supra* note 62, art. 3 *with* ICCPR, *supra* note 10, art. 10 ("respect for the inherent dignity of the human person").

137. *See* Fourth Geneva Convention, *supra* note 62, art. 3.

138. *Compare* Fourth Geneva Convention, *supra* note 62, art. 3 *with* ICCPR, *supra* note 10, arts. 6, 7, 14, 16.

139. *See* Fourth Geneva Convention, *supra* note 62, art. 55 (emphasis added).

140. *See* Fourth Geneva Convention, *supra* note 62, art. 56 (emphasis added).

141. *Compare* Fourth Geneva Conventions, *supra* note 62, arts. 55, 56 *with* ICESCR, *supra* note 10, arts. 11, 12.

responsibilities under Article[s] 55 [dealing with food and medical aid] [and] 56 [dealing with the maintenance of public health and hygiene]."[142]

As with the major human rights instruments and the U.N. Charter itself, additional insight into the fundamental interdependence between human security and "the maintenance of peace and security" can be derived from reading the introductory language of the humanitarian law treaties. In the case of the four Geneva Conventions of 1949, the International Committee of the Red Cross (ICRC) drafted the treaties and convened the conference at which they were adopted in 1949. ICRC wrote the "Preliminary Remarks," which precede the text of the treaties themselves.

With respect to the Geneva Conventions in general, the ICRC stresses: "[e]ach of these fundamental international agreements is inspired by respect for human personality and dignity . . . ."[143] With respect to the Fourth Geneva Convention specifically, the drafters explain the need for a treaty specifically dealing with civilians: "[t]he development of arms and the increased radius of action given to armed forces by modern inventions have made it apparent that, notwithstanding the ruling theory, civilians were certainly in the war, and exposed to the same dangers as the combatants—and sometimes worse."[144] The ICRC's remarks also clarify the Fourth Geneva Convention's objective of "ensuring that, even in the midst of hostilities, the dignity of the human person, universally acknowledged in principle, shall be respected."[145] The ICRC further clarifies that human dignity entails material security, or "the general protection of populations against certain consequences of war," including threats to public health and hygiene and the welfare of children and families.[146]

In contrast to the major human rights instruments, the UDHR, the ICESCR, and the ICCPR, the Geneva Conventions do not mention the phrase "international peace and security." This omission likely occurred because in wartime the peace, by definition, has been breached. Nevertheless, the Geneva Conventions bear eloquent witness to the symbiotic relationship between human security and peace, by striving to reintroduce some measure of humanity and human security amidst the brutality of war.

CONCLUSION

A commitment to poverty alleviation as a component of world peace is both philosophically coherent and pragmatically necessary. Furthermore, such an obligation is textually rooted in the provisions of the 1945 U.N. Charter, the 1948 Universal Declaration of Human Rights, and the two 1966 International Covenants on Civil and Political, and Economic, Social and Cultural Rights, respectively. Finally, the responsibility to attend to human security is recognized in international

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142. *See* Fourth Geneva Convention, *supra* note 62, art. 60.

143. *See* GENEVA CONVENTIONS OF AUGUST 12, 1949, Preliminary Remarks at 1 (published by the International Committee of the Red Cross).

144. *Id.* at 17.

145. *Id.* at 16.

146. *Id.* at 20.

humanitarian law, specifically in the Fourth Geneva Convention of 1949,[147] which requires the occupying power in an international conflict to provide for the basic needs of the civilian population.

The human rights movement has helped shed light on the interdependence between civil and political rights on the one hand, and economic and social rights on the other.[148] There is an equally urgent need to link the two dimensions of human security with strategic and military questions as well, if we are to make meaningful progress in preventing and combating violence in all its forms, from armed conflict and terrorism to entrenched poverty and repression. Without a doctrine linking multilateral poverty alleviation to collective security, the world community will be perpetually called to pay the price for militarism in social desperation and resurgent violence.[149]

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147. *See supra* notes 62, 131-140.

148. *See* DUNOFF ET AL., *supra* note 7, at 448 (citing President Roosevelt's 1944 "Four Freedoms" speech).

149. "Whenever you advise a ruler in the way of Tao,
Counsel him not to use force to conquer the universe.
For this would only cause resistance.
Thorn bushes spring up wherever the army has passed.
Lean years follow in the wake of a great war.
Just do what needs to be done.
Never take advantage of power . . . ."
LAO TSU, *supra* note 3, at ch. 30.