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## TOWSON UNIVERSITY JOURNAL OF INTERNATIONAL AFFAIRS

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### LETTER FROM THE EDITORS

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Dear Readers,

It is with great pleasure that we present to you Volume LI, Number 2 of the *Towson University Journal of International Affairs*. This edition of the *Journal* contains articles on a variety of topics that carry with them important implications for the study and practice of international affairs. Coincidentally, all of the articles featured in this issue were written by authors affiliated with Towson University, including an alumna, two current students and *Journal* members, and a faculty member in the Department of History. These articles demonstrate the variety and high quality of work that members of the Towson community regularly produce, and we are delighted to publish their work in this edition of the *Journal*.

First, Cameron H. Bell explores a new and emerging field within contemporary international relations in “Cyber Warfare and International Law: The Need for Clarity.” Cyber warfare is becoming a prominent alternative means by which states engage in acts of aggression against each other, which was evidenced by Russia’s interference in the 2016 U.S. presidential. However, Bell argues that current international law is not prepared to address this emerging form of interstate aggression. More specifically, the current definition of aggression under U.N. General Assembly Resolution 3314 must be expanded to include cyber warfare if this new threat is to be handled properly. In his article, Bell utilizes a number of case studies to illustrate the need for cyber warfare to be included within the framework of international law, as this threat is certain to become more widespread and must be addressed by the international community in a direct and forceful manner.

Second, Harry Nitzberg dissects the complexities behind Venezuela’s current economic crisis in “Cauterization and Infection: Trying to Fix the Venezuelan Economy.” In this article, Nitzberg analyzes the crisis in Venezuela and offers a set of solutions designed to stabilize the Venezuelan economy. By thoroughly examining the historical and factors behind Venezuela’s current state of affairs, Nitzberg is able to propose a set of solutions that operate within Venezuela’s existing political reality and are not overly ambitious or unrealistic. In doing so, he has provided a crucial analysis of the often under-discussed economic and human rights crisis in Venezuela.

Third, in “Case Studies of Statelessness: North Koreans Born in China, Rohingya in Myanmar, and Palestinians under Arab League,” Kyle Van Fleet and Dr. Shin Ji Kang explore an under-discussed topic that poses a major conundrum for the international community and international policy makers. Dealing with stateless individuals can be extremely challenging for many reasons, including, not least, that it is very difficult to identify them. Furthermore, as this article shows, the range of problems confronting stateless individuals manifests differently in each case. In particular, this article analyzes the situations of North Koreans born in China, the Rohingya in Myanmar, and the Palestinians. As the authors highlight, it is critical to identify statelessness, because this status translates into a denial of basic human rights for stateless communities. Thus, the authors provide a comprehensive explanation of a problem faced by millions across the globe as well as potential solutions to this problem, thereby shedding light on an issue that many are not aware of.

Finally, Dr. Robert E. Rook of Towson University offers his perspective on North Korea's tenuous relationship with the international community in "Arts of Evasion: North Korea, Sanctions, and the World." This article constitutes a summary of Dr. Rook's comments in his lecture for the second installment of the Dr. Eric A. Belgrad Lecture Series. We are very grateful for Dr. Rook's contributions to the lecture series and this edition of the *Journal*. In this article, Dr. Rook draws on his years of experience studying the region to explain the various mechanisms by which North Korea has evaded the sanctions levied against it to continue to exert influence on the world stage. By exploring the various tools by which North Korea has been able to avoid the consequence of these sanctions, Dr. Rook offers an important analysis that provides the historical strategic context for understanding the actions of the Kim regime in response to international pressure.

As evidenced above, this issue of the *Journal* addresses a wide range of topics and approaches within the field of international affairs. The insights are original and we hope you find them as thought-provoking as we did. We are pleased to feature them here, and we sincerely trust that you find this issue of the *Towson University Journal of International Affairs* to be informative and timely.

Sincerely,  
Tim Bynion and Amna Rana  
Editors in Chief

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# Cyber Warfare and International Law: The Need for Clarity

Cameron H. Bell\*

***Abstract:** The internet and computerization have revolutionized how humans and states interact. However, with these new technologies comes a new arena for conflict between states. The definition of aggression under U.N. General Assembly Resolution 3314 is inadequate in addressing these new threats. This work suggests the addition of an inclusive definition of cyber warfare to the current internationally accepted definition of aggression. Additionally, through analysis of cyber-attacks on Estonia, Georgia, Iran, the Philippines, and the United States, this work will show that while cyber-attacks violate international law under Resolution 2625, and should be considered acts of aggression, the language of Resolution 3314 is such that these attacks do not meet the current legal definition of aggression. Moreover, this analysis will show that, through the use of cyber weapons, states have successfully circumvented Resolution 3314, allowing aggressor states to take destabilizing actions with near impunity.*

## Introduction

The advent of the internet and computerization is a great leap forward for humanity. These new technologies aid in everything from communication to education to medicine. However, as technology and the internet have spread into almost every facet of daily life, both in the civilian sector and the military and defense sectors, these advancements open the world to a new arena for conflict. The ongoing global cyber arms race and the use of these new weapons of war threaten global stability. Within the last decade there has been a marked increase in state-sponsored cyber-attacks both in the civilian and governmental sectors. This increase marks a change in how states perceive and use cyber weapons, creating an opportunity for conflict where previously none existed.<sup>1</sup> Some international organizations, such as NATO (North Atlantic Treaty Organization), have attempted to address this new potential for conflict through works such as the Tallinn Manual, a guide to cyber warfare and accepted responses developed in response to the 2007 Russian cyber-attacks on Tallinn, Estonia. However, these attempts have not kept up with the pace of technological advancement, which has been too rapid for the international system to develop a clear and adequate response. The 2007 cyber-attacks on Estonia, the use of cyber weapons in Georgia in 2008, the U.S. cyber-attack against Iran in 2008-2009, and the more current use of cyber weapons for information warfare by countries such as Vietnam, and by Russia in the 2016 U.S. election provide case studies to show the range of

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<sup>1</sup> Benjamin Jensen, Brandon Valeriano and Ryan C. Maness. "Cyberwarfare has taken a new turn. Yes, it's time to worry," *The Washington Post*. July 13, 2017. [https://www.washingtonpost.com/news/monkey-age/wp/2017/07/13/cyber-warfare-has-taken-a-new-turn-yes-its-time-to-worry/?utm\\_term=.41b9f74519ec](https://www.washingtonpost.com/news/monkey-age/wp/2017/07/13/cyber-warfare-has-taken-a-new-turn-yes-its-time-to-worry/?utm_term=.41b9f74519ec) Accessed February 15, 2018.

weapons now in use, as each attack used vastly different methods. Furthermore, the vast differences in each attack shows why providing a clear and precise definition of cyber warfare is a complicated, but imperative task.

There is an ongoing debate within the international and academic communities on whether cyber-attacks constitute use of force and are acts of aggression under the current U.N. Resolution 3314: Definition of Aggression. This debate can be seen through the respective works of Nils Melzer and Priyanka Dev: "Cyber Warfare and International Law" written in 2011, and "'Use of Force' and 'Armed Attack' Thresholds in Cyber Conflict: The Looming Definitional Gaps and the Growing Need for Formal U.N. Response" written in 2015.<sup>2</sup> The U.N. General Assembly Resolution used to define aggression and use of force, Resolution 3314: Definition of Aggression, was created in 1974 prior to the advent of the internet and the integrated computer systems in use today. The Definition of Aggression Resolution was designed to clarify which actions states may not take against each other; however, since it was written before the internet, the language used in this Resolution does not clearly incorporate cyber weapons. In the ongoing debate, I contend that cyber-attacks are acts of aggression and do violate Resolution 3314 in spirit, but not in its explicit language. This absence of clear language, explicitly including cyber-attacks, in the definition of aggression has created a gray area in which states feel they can use these weapons without their actions being labeled as aggression. An additional Resolution according to which these attacks may be understood as being in violation of international law, is Resolution 2625, the "Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations." The 'Friendly Relations' Resolution, introduced in 1970, outlines acceptable conduct of member states in their interactions. These two Resolutions will be used to show that cyber-attacks are clear violations of international law; however, the lack of an explicit cyber component in the Definition of Aggression Resolution has created a grey area, which some states may consider a loophole, allowing the use of cyber weapons. Analysis of recent cyber-attacks using these two U.N. Resolutions will show that cyber-attacks draw into sharp relief that states can act in an unfriendly manner without their actions being labelled as acts of aggression.

Finally, given the difficulty in defining cyber weapons and the failure of Resolution 3314 to adequately address cyber warfare, states that have been subjected to such attacks should be able to respond in kind without fear of judgement or retaliation from the international community until international organizations, such as the U.N., develop and enact new definitions and laws specific to cyber warfare and the right of retaliation or compensation of affected states. Cyber-attacks are in violation of international law, specifically U.N. General Assembly Resolution 2625; however, due to the lack of explicit language relating to cyber warfare in the U.N. definition of aggression in General Assembly Resolution 3314, cyber weapons are currently being used without being labelled acts of aggression. Furthermore, while Resolution 2625 outlines the principles of international law concerning "friendly relations and cooperation among states," it does not discuss actions of aggression which states may use as a reason for war under international law. In contrast to the 'Friendly Relations' Resolution 2625, the 'Definition of Aggression' Resolution 3314 defines what constitutes an act of aggression under the U.N.

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<sup>2</sup> Nils Melzer, "Cyber Warfare and International Law," United Nations Institute for Disarmament Research. United Nations. 2011.; Priyanka Dev, "'Use of Force' and 'Armed Attack' Thresholds in Cyber Conflict: The Looming Definitional Gaps and the Growing Need for Formal U.N. Response," *Texas International Law Journal* Vol. 50 Issue 2 (Spring 2015) p379-399.

Charter. Thus, on the discussion of cyber warfare, a violation of Resolution 3314 holds more importance for state actions and international stability than a violation of Resolution 2625. However, 'Definition of Aggression' lists seven general scenarios, which are considered acts of aggression, with each scenario entailing physical armed force or physical action by a state, such as the bombardment of cities, invasion of territory by armed forces, or the blockading of ports. The physical nature of this resolution has led many to conclude that cyber-attacks do not meet the physical requirements listed in the Resolution, nor do they constitute armed force under Resolution 3314.<sup>3</sup> International law must meet reality; reality cannot be forced to meet existing law. Therefore, to resolve any confusion with Resolution 3314, there should be a cyber warfare component added to the definition of aggression. This will enable states to act with surety when harmed by cyber weapons, and it will stabilize the currently unstable environment which the international community is operating in.

### **Current International Cyber Laws**

The current international legal system is built on principles which themselves are formed through customary practice by states. A customary practice, in the international legal sense, according to J.L. Brierly, "means something more than mere habit or usage; it is a usage felt by those who follow it to be an obligatory one. There must be present a feeling that, if the usage is departed from, some form of sanction will probably, or at any rate ought to, fall on the transgressor."<sup>4</sup> After a customary practice is identified and accepted by U.N. member states, it is drafted into written international law through treaties or U.N. resolutions.<sup>5</sup> However, it is important to understand that international law does not function like domestic law and there are no guaranteed, but only expected, consequences for violating international law. Moreover, states must consent to being subject to an international law. According to J.L. Brierly, international law is not meant to provide concrete solutions to specific problems, rather it is meant to create structures for understanding state conduct and actions, and provide a framework for response.<sup>6</sup> Through the use of international law, states are able to identify issues, such as acts of aggression, and understand the internationally accepted response options available to them. This creates a more stable environment in which states can interact in an understandable and predictable fashion.<sup>7</sup>

Crafting international law is a slow process because it entails the formation of consensus among states prior to the acceptance of a general practice as law, thereby making the process ill-suited to responding quickly to fast-developing technologies such as cyberspace. Existing international law on internet and computer technology has remained largely focused on international trade law and trademark law. While there are robust laws and practices regarding private, individual use of the internet, there is almost no precedent or customary practices

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<sup>3</sup> Chance Cammack, "The Stuxnet Worm and Potential Prosecution by the International Criminal Court Under the Newly Defined Crime of Aggression," *Tulane Journal of International and Comparative Law*, Vol: 20, 2011/01/01. p. 306, 322.

<sup>4</sup> J.L. Brierly, *The Law of Nations: An Introduction to the International Law of Peace*. (Oxford: Oxford University Press, 1963). p. 59.

<sup>5</sup> Anthony Clark Arend, "International Law and the Preemptive use of Military Force," *The Washington Quarterly* 26:2, Spring 2003. p. 90.

<sup>6</sup> J.L. Brierly, *The Law of Nations*. p. 76.

<sup>7</sup> *Ibid.* p. 77-78.

established to address state use of the internet as a weapon. The relative unprecedented nature of cyber warfare and the subsequent lack of international customs or practices on the subject have allowed states to “fill the void with their views on how international law applies in this area.”<sup>8</sup> Some individual states and organizations have attempted to address this void by creating understandings and guidelines, such as NATO’s creation of the Tallinn Manual; however, this manual was never officially adopted and remains more of an idea rather than a practice or custom.<sup>9</sup> Furthermore, many states believe that existing international law can be applied to cyberspace, thereby hindering the creation of new international law on cyberspace.<sup>10</sup> This void in international customs and practices has allowed states such as Russia and the United States to conduct cyber operations, which threaten global and regional stability, without defined consequences. While cyber-attacks certainly violate aspects of Resolution 2625, due to the physical nature of the definition of aggression and the lack of explicit cyber language in Resolution 3314, these attacks fall into a legal grey area in which they are not labelled acts of aggression. The obstacles facing the international community with regard to computer oriented international customs and practices are time, and the ability to create a functional and inclusive definition of cyber warfare.

### Defining “Cyber warfare”

As a relatively new development on the international stage, cyber warfare lacks a clear and concise definition. Various countries and even organizations within countries define cyber warfare differently. For example, the U.S. National Research Council’s Committee on Offensive Information Warfare does not include cyber-attacks with the goal of information-gathering as meeting the definition of cyber warfare or an offensive cyber-attack, but other organizations such as the U.S. Department of Defense, according to the “DoD Cyber Strategy” drafted in 2015 and still in effect today, consider information-gathering cyber-attacks as a direct threat to national security.<sup>11</sup> Furthermore, other attempts to define and outline responses to cyber-attacks on the international level, such as the Tallinn Manual, fall short as comprehensive approaches to the problem. The Tallinn Manual, created in response to Russian cyber-attacks on Estonia in 2007, is only an understanding among NATO states, not an international legal understanding or agreement. Having individual states or groups such as NATO create their own definitions for an international event such as a cyber-attack further complicates the issue and makes the development of a comprehensive international agreement on cyber warfare more important in order to avoid future conflict. Moreover, as technology advances, cyber weapons can take more varied forms, further hindering any attempts to provide clear or concise definitions. This inability and incoherence in providing a definition of what exactly constitutes an act of cyber warfare invites states to use cyber weapons against each other without conducting an explicit act of aggression.

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<sup>8</sup> Brian Egan J.D., International Law and Stability in Cyberspace,” *Berkeley Journal of International Law*. Nov. 10, 2016. p. 171.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid. 172.

<sup>11</sup> Jordan Peagler, “The Stuxnet Attack: A New Form of Warfare and The (In)Applicability of Current International Law”, *Arizona Journal of International and Comparative Law*.; U.S. Department of Defense, “The DoD Cyber Strategy”. 2015. p. 10, 13. Accessed 3/4/18. [https://www.defense.gov/Portals/1/features/2015/0415\\_cyber-strategy/Final\\_2015\\_DoD\\_CYBER\\_STRATEGY\\_for\\_web.pdf](https://www.defense.gov/Portals/1/features/2015/0415_cyber-strategy/Final_2015_DoD_CYBER_STRATEGY_for_web.pdf)

Furthermore, there remains a question of where cyber warfare and information warfare should be differentiated. Information warfare has multi-faceted definitions for both wartime and peacetime political and social influencing activities. In wartime, “information-based warfare is an approach to armed conflict focusing on the management and use of information in all its forms and at all levels to achieve a decisive military advantage.”<sup>12</sup> However, information warfare is also used in non-military applications to influence, manipulate, and control social movements and political discourse.<sup>13</sup> In recent years this non-military application of information warfare has become a pervasive peace-time activity between states. Recent cases, such as Russia’s attempts at influencing the U.S. election or Vietnam’s attempts to harm U.S.-Philippine relations, prove that cyber warfare contains vast potential for propaganda and information warfare.<sup>14</sup> Should information warfare involving a cyber aspect such as the hacking of emails or recordings of phone calls be considered an act of aggression?

As a concept of international law, the definition of aggression has been critical to the “strengthening of international peace and security,” without which it is safe to assume that the world would be in a much more precarious position.<sup>15</sup> Defining aggression through the international legal system and providing a legal framework for responses to aggression have allowed nations to act with surety if they feel they have been attacked by another state. Furthermore, this resolution and framework provides stability to the global environment by allowing all states subject to the international legal system to have a mutual understanding, which works to limit the escalation of conflicts. However, UN General Assembly Resolution 3314, which defines aggression, deals primarily with physical acts of states rather than individuals.<sup>16</sup> Therefore, while aggression and its internationally accepted definition have been highly significant to global stability, the current definition does not adequately cover cyber warfare. However, cyber-attacks, such as the cases discussed below, do violate other international laws such as Resolution 2625, making responding to cyber-attacks complicated.

Many argue that while cyber warfare does break international law, it does not rise to the level of armed force, nor does it meet the current definition of aggression under Resolution 3314.<sup>17</sup> The Russian cyber-attacks on the 2016 U.S. elections and 2008 attacks on Estonia are evidence enough to show that the current legal definition of aggression is inadequate with respect to cyber warfare. These attacks can be directly connected to Russian individuals and, in the case

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<sup>12</sup> Richard Aldrich, “The International Legal Implications of Information Warfare”, *Airpower Journal* Vol. 10, Issue 3 (Fall 1996).

<sup>13</sup> Stephan Blank, “Russian Information Warfare as Domestic Counterinsurgency”, *American Foreign Policy Interests* Vol. 35, Issue 1. (2013) p. 32.

<sup>14</sup> David E. Sanger, “Trump’s National Security Chief Calls Russian Interference ‘Incontrovertible’”, *The New York Times*. Accessed 2/17/2018. [https://www.nytimes.com/2018/02/17/world/europe/russia-meddling-mcmaster.html?rref=collection%2Fnewseventcollection%2Frussian-election-hacking&action=click&contentCollection=politics&region=stream&module=stream\\_unit&version=latest&contentPlacement=1&pgtype=collection](https://www.nytimes.com/2018/02/17/world/europe/russia-meddling-mcmaster.html?rref=collection%2Fnewseventcollection%2Frussian-election-hacking&action=click&contentCollection=politics&region=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection); Jensen, Valeriano and Maness. “Cyberwarfare”, *The Washington Post*. [https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/13/cyber-warfare-has-taken-a-new-turn-yes-its-time-to-worry/?utm\\_term=.d4df2c43cb1a](https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/13/cyber-warfare-has-taken-a-new-turn-yes-its-time-to-worry/?utm_term=.d4df2c43cb1a)

<sup>15</sup>United Nations General Assembly, General Assembly Resolution 3314 Article 3: Definition of Aggression. United Nations, 14 December 1974. Accessed 3/4/18. <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/739/16/IMG/NR073916.pdf?OpenElement>

<sup>16</sup> Elizabeth Wilmshurst. *Definition of Aggression, General Assembly resolution 3314*. United Nations, 14 December 1974. Accessed 3/4/18. <http://legal.un.org/avl/ha/da/da.html>

<sup>17</sup> Cammack, “The Stuxnet Worm”, p. 322.

of Estonia, Russian government addresses can be connected to the assaults.<sup>18</sup> However, due to the nature of cyber warfare, attacks are difficult to attribute directly to state operations. This inability to directly attribute attacks effectively circumvents the international legal system, making individual states solely responsible for their responses to such attacks with limited international legal support. However, U.N. Resolution 2625 states, “Every State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State...when the acts referred to in the present paragraph in a threat or use of force.”<sup>19</sup> The word “instigating” indicates that if a state encouraged private individuals, whether through physical or rhetorical support, to conduct cyber-attacks on another state, the sponsoring state would be guilty of a violation of international law. However, this supposes that acts of cyber warfare are indeed acts of aggression and cyber-attacks constitute a use of force, which is not the case in actual practice due to the physical nature of Resolution 3314 and the lack of a cyber warfare component.

U.N. Resolution 3314 Article 3: the Definition of Aggression, lists seven general scenarios, which the international system would consider acts of aggression, such as the crossing of territorial borders with an armed force, the bombardment of a state’s territory, or the blockade of a state’s ports.<sup>20</sup> In addition, Article 3 states that the list is not exhaustive and the Security Council can include other acts under the definition of an act of aggression.<sup>21</sup> However, while the list presented in Article 3 is not exhaustive, it has “led to a conclusion that only a physical action by a State would be considered an act of aggression.”<sup>22</sup> Case studies examined below on cyber-attacks on Estonia, Georgia, Iran, and the United States show that currently, while acts of cyber warfare do violate Resolution 2625, they do not meet the standards of aggression established in the Definition of Aggression, Resolution 3314. These cases highlight the need for the U.N. to incorporate a cyber warfare component to the definition of aggression to avoid future misunderstandings and conflict.

Given the clearly complicated nature of the topic, providing an inclusive and clear definition of cyber warfare is difficult, however, it must be addressed. Cyberwarfare and acts of cyber aggression should be defined in the following manner. Cyber aggression consists of the utilization of computer or internet technology to disrupt or harm a state's ability to function through economic, infrastructural, or political means, including invasive information warfare if it can be directly attributed to state actors. Furthermore, if it is proven that an act came from private individuals of a state, that state is responsible for the apprehension and prosecution of such individuals. If a state does not assist with the apprehension and conviction of an individual who has been proven to be involved in a cyber-attack, that state will be considered to be aiding or otherwise encouraging such an attack, and therefore would be subject to lawful reprisals including, but not limited to, economic sanctions and monetary compensation to the victim state subject to proceedings in the International Court of Justice. While this definition is far from

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<sup>18</sup> William C. Ashmore, “Impact of Alleged Russian Cyber-attacks,” *Baltic Security and Defense Review* Vol. 11, 2009. p. 8.

<sup>19</sup> “U.N. General Assembly Res. 2625 (XXV) (1970)” in *International Law and the Use of Force: Documentary Supplement*. ed. Mary Ellen O’Connell, (New York: Foundation Press, 2005) p. 570-571.

<sup>20</sup> United Nations General Assembly, General Assembly Resolution 3314 Article 3: Definition of Aggression. United Nations, Dec. 14, 1974. Accessed 3/4/18. <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/739/16/IMG/NR073916.pdf?OpenElement>

<sup>21</sup> Ibid.

<sup>22</sup> Cammack, “The Stuxnet Worm”, p. 306.

comprehensive, it is written in order to expand progressively with advancements in computer and internet technology as well as address the current issue relating to direct connections to State actors.

Some scholars, such as Nils Melzer, contend that the current international law system can be applied to cyber warfare. Melzer argues that cyber warfare is considered an act of aggression under the U.N. Charter.<sup>23</sup> Furthermore, Melzer contends that logically “the Charter cannot allow that the prohibition of interstate force be circumvented by the application of non-violent means and methods which, for all intents and purposes, are equivalent to a breach of the peace...”<sup>24</sup> In each case study discussed below, cyber warfare was conducted against other states. Yet even in the case of Georgia, where the cyber-attack began weeks prior to the use of conventional forces, the cyber-attack was not taken into consideration when investigating possible acts of aggression.<sup>25</sup>

In spirit, Melzer is correct, the U.N. cannot allow one of the core tenets of its Charter to be so easily circumvented. However, Melzer fails to consider that this circumvention is already occurring in practice due to the lack of a cyber component in Resolution 3314. International laws are created through the formulation of precedents and norms; the longer that cyber warfare remains unaddressed by the U.N. and the international legal system directly, a precedent is being set that cyber warfare can indeed circumvent Resolution 3314. However, Melzer does not entirely neglect the issues facing the international legal system with respect to cyber warfare. He agrees that there remains no consensus on the threshold beyond which a cyber operation amounts to a use of force.<sup>26</sup> This is a crucial problem facing the international community which, without clarification, invites states to conduct increasingly damaging cyber-attacks.

The case studies discussed below will show that while cyber-attacks do violate international law under the ‘Friendly Relations’ Resolution, the lack of a cyber component in Resolution 3314 as well as the physical nature of the Resolution have allowed states to conduct these attacks without fear of their actions being labelled as aggression. Melzer makes a convincing theoretical argument, but in actual practice, due to the lack of a cyber component in Resolution 3314, cyber warfare has proven in many cases to avoid international legal consequences. This should spur scholars such as Melzer to address the evident gaps in the definition of aggression and strengthen the international legal system involved with cyber aggression.

## **Estonia**

In 2007 and 2008, the countries of Estonia and Georgia suffered large scale cyber-attacks that crippled broad sections of their governments and economies. For nearly a month after announcing a decision to remove a WWII-era Soviet monument, Estonia faced an unrelenting “denial-of-service” (DDOS) cyber-attack on banks, government bodies, media outlets, and telecommunications services in what is known as the Bronze Soldier Incident. This type of cyber-attack overloads networks with requests until the network crashes, effectively ‘denying’ access to that network or service until the attack stops. Despite Estonia tracing some of the

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<sup>23</sup> Nils Melzer, “Cyber Warfare and International Law,” p. 7.

<sup>24</sup> *Ibid.*, p. 8.

<sup>25</sup> U.N. Press Release, Security Council Meeting 9419. United Nations. 10 August 2008.

<sup>26</sup> *Ibid.* p. 9.

DDOS attack to an address associated with the Russian government, Russia denied any official responsibility for the attack on Estonia, suggesting that the attack came from private, pro-Russian activists.<sup>27</sup> Despite economic and governmental damage, Estonia and NATO had few options for retaliation at the time.<sup>28</sup> This type of cyber warfare has been commonly used by state actors in recent years because it does not currently meet the threshold for a military response.<sup>29</sup>

#### *Under Resolution 2625: Friendly Relations*

In this case, a foreign state either conducted or encouraged an assault on Estonian infrastructure critical to government and civil function. Estonians used the internet for voting, education, government-civilian dialogue, security, and banking. At the time of the attack, an estimated 95% of banking operations in Estonia were conducted online.<sup>30</sup> The DDOS attack shut down these services and hindered intra-government communication. The damage done by this attack should not be measured in dollars and cents, rather it must be recognized as a violation of the political independence of a State. Estonia had built its government to function as a “paperless government” with the majority of civilian-government interaction occurring online. This attack limited and, in some respects, halted the ability for the Estonian government to communicate with its people. Therefore, this is a violation of Estonian political independence, as Resolution 2625 states, “No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference...are in violation of international law.”<sup>31</sup> The ‘Friendly Relations’ Resolution goes on to emphasize that all states have a duty to refrain from “organizing, instigating, assisting or participating in acts of civil strife.”<sup>32</sup> In the Bronze Soldier Incident and the resulting cyber-attacks Russia both directly and indirectly involved itself in the internal affairs of another state.<sup>33</sup> Furthermore, NATO and Estonia successfully traced some of the DDOS attacks to Russian government buildings; however, Russia denied involvement in the attack, and rejected to aid in the investigation to find the attackers.<sup>34</sup> First, by denying involvement, Russia is acknowledging that a state’s involvement in such an attack is unacceptable under international convention. However, despite this denial, by allowing their territory to be used by non-state actors to launch an attack on another state, Russia is already in violation of international law under Resolution 2625.<sup>35</sup>

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<sup>27</sup> Matthew Crandall, “Soft Security Threat and Small States: The Case of Estonia,” *Defense Studies* Vol. 14, No. 1, 2014. p. 36.

<sup>28</sup> Troy Anderson, “Fitting a Virtual Peg into a Round Hole: Why Existing International Law Fails to Govern Cyber Reprisals”, *Arizona Journal of International and Comparative Law*. 2017.

<sup>29</sup> Damien McGuinness, “How a cyber-attack transformed Estonia”, *BBC News*. April 27, 2017. <http://www.bbc.com/news/39655415> Accessed: 2/16/2018.

<sup>30</sup> Ashmore, “Impact of Alleged Russian Cyber-attacks,” p. 4.

<sup>31</sup> Mary Ellen O’Connell, *International Law and the Use of Force*, p. 570-572.

<sup>32</sup> *Ibid.*, 570-572

<sup>33</sup> Binoy Kampmark, “Cyber Warfare Between Estonia and Russia,” *Contemporary Review* Vol. 289, 2007. p. 288-290.

<sup>34</sup> Crandall, “Soft Security Threat,” p. 36.

<sup>35</sup> Mary Ellen O’Connell, *International Law and the Use of Force*, p. 570-571.

*Under Resolution 3314: Aggression*

However, despite the implications of such an attack, and the clear violation of Resolution 2625, this attack does not meet the current definition of aggression under Resolution 3314 Article 3; there was no armed invasion, no border crossed, no bombardment, and no physical damage to the infrastructure. The Definition of Aggression lists physical actions by states, making cyber-attacks, such as the one conducted against Estonia, difficult to concretely label as aggression under the current definition. The lack of a cyber component in the definition of aggression in Resolution 3314 creates a gray area in which cyber warfare is currently stuck in limbo, where it can be both understood as aggression and not aggression. The attack on Estonia resulted in no physical damage, allowing an argument to be made that it was not an act of aggression, despite the attack clearly being intended to inflict harm on another state.<sup>36</sup> Furthermore, scholars such as Larry May consider the “kind of disruption of services that cyber-attacks can achieve is insufficient...” to be considered an act of aggression.<sup>37</sup> The disruptions caused by the cyber-attacks on Estonia did not directly take any lives; therefore, scholars such as May believe that cyber-attacks should not be subject to the laws of war. This divide between cyber-attacks and acts of aggression or war displays the instability that arises in the absence of a cyber component in Resolution 3314. Moreover, it evinces the problem with forcing reality to fit existing laws instead of making laws fit that reality.

*Response*

In response to this attack, Estonia launched an investigation to positively identify the attackers. However, the Estonian investigators were denied access and aid by the Russian government, limiting the effectiveness of the investigation.<sup>38</sup> Having limited ability to conduct proactive investigations, Estonia and NATO instead invested heavily in cyber security infrastructure and aid. NATO's Computer Emergency Response Teams (CERTs) and the EU's European Network and Information Security Agency both aided in Estonia's recovery and electronic fortification.<sup>39</sup> Furthermore, NATO established its cyber security headquarters, the Cooperative Defense Centre of Excellence in Tallinn, Estonia. Finally, NATO unofficially drafted the Tallinn Manual to better understand cyber warfare; however, NATO does not consider cyber-attacks to be acts of war, and therefore, its member states are not obligated to respond militarily to such an attack.<sup>40</sup> This, in combination with the lack of a cyber component to Resolution 3314 left Estonia, a country with limited means to respond individually against Russia, with no avenues for legal recourse for this attack on their state.

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<sup>36</sup> Crandall, “Soft Security Threat,” p. 36.

<sup>37</sup> Larry May, “The Nature of War and the Idea of “Cyberwar””, in *Cyberwar: Law and Ethics for Virtual Conflicts* ed. Jens Ohlin, Claire Finkelstein, Kevin Govern (Oxford: Oxford University Press, 2015). p. 9.

<sup>38</sup> Crandall, “Soft Security Threat,” p. 36.

<sup>39</sup> Stephen Herzog, “Revisiting the Estonian Cyber-attacks: Digital Threats and Multinational Responses,” *Journal of Strategic Security* Vol. 4, No. 2, Summer 2011. p 53-54.

<sup>40</sup> Crandall, “Soft Security Threat,” p. 36.

## Georgia

The cyber-attack on Georgia represents a similar style of attack as was conducted against Estonia. In this case, Russia used a denial of service attack against the Georgian government in the days prior to the commencement of the conventional conflict on August 8, 2008. The cyber-attack intensified once open hostilities began between Russia and Georgia, with a denial of service attack targeting government servers, media outlets, and telecommunication services. This cyber-attack successfully and effectively limited the Georgian government's ability to communicate with its citizens as well as sympathizers around the world. The cyber-attack contained two stages: first, in the days leading up to the conventional invasion by Russian forces, Georgian electronic infrastructure suffered massive DDOS attacks, effectively isolating the nation from global communication.<sup>41</sup> While first stage continued, the second stage coincided with the launching of the Russian conventional invasion and targeted economic infrastructure such as banks and media outlets, which limited the ability of the Georgian government to disseminate information to their citizens, and inflicted significant harm to the national economy.<sup>42</sup>

While Russia has denied responsibility for the cyber-attacks in Georgia, and there is no conclusive evidence of their involvement, many national security and cyber warfare experts believe it was a Russian government operation.<sup>43</sup> While he did not directly connect Russia to the cyber-attacks, Colonel Anatoly Tsyganok, the head of the Russian Military Forecasting Center stated that the Russian cyber campaign focused on information warfare against the Georgian government. The goal of this campaign was to "isolate and silence" the Georgian government and media.<sup>44</sup>

### *Under Resolution 2625: Friendly Relations*

This attack occurred in the lead up to and during the conventional military conflict between Russia and Georgia in 2008. Examining the cyber aspect of this conflict separately from the conventional conflict makes clear that Russia violated international law under Resolution 2625. Similar to the attack on Estonia, this attack came from Russian territory. Furthermore, the Russian government denied involvement and refused to aid in any investigation.<sup>45</sup> With regard to Georgia, at best, Russia allowed their territory to once again be used in an assault on another state. At worst, as the analysis from leading cyber security experts would suggest, the Russian government facilitated and aided non-state actors in the assault on Georgia.<sup>46</sup> In either case, Russia violated the 'Friendly Relations' Resolution by allowing their territory to be used by non-state actors to launch an attack on another state.

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<sup>41</sup> Cpt. Paulo Shakarian, PH.D., "The 2008 Russian Cyber Campaign Against Georgia" *Military Review* Nov.-Dec. 2011. p. 63-64.

<sup>42</sup> Ibid. p. 65-66.

<sup>43</sup> John Markoff, "Before the Gunfire, Cyberattacks", *The New York Times*. August 12, 2008. <http://www.nytimes.com/2008/08/13/technology/13cyber.html> Accessed 2/16/2018.

<sup>44</sup> Cpt. Paulo Shakarian, "The 2008 Russian Cyber Campaign," p. 65-66.

<sup>45</sup> Andrzej Kozłowski, "Comparative Analysis of Cyber-attacks on Estonia, Georgia, and Kyrgyzstan," *European Scientific Journal* Vol. 3 February 2014. p. 240.

<sup>46</sup> Cpt. Paulo Shakarian, "The 2008 Russian Cyber Campaign," p. 64-65, 67.; Andrzej Kozłowski, "Comparative Analysis of Cyber-attacks," p. 240.

*Under Resolution 3314: Aggression*

As in the case of Estonia, the cyber-attacks in Georgia do not clearly meet the U.N. definition of an act of aggression due to the lack of a cyber component to the Definition of Aggression and the physical nature of the language used in the Resolution. Both the Georgian and Russian conventional military actions that followed could be considered acts of aggression, but the cyber aspect of the conflict was largely ignored, and attempts by the U.N. Security Council to attribute aggression focused solely on the conventional actions of Russia and Georgia.<sup>47</sup> The failure of the U.N. Security Council to consider the cyber-attacks when investigating aggression in this conflict establishes the notion that under the current definition, cyber-attacks are not interpreted as aggression. Indeed, had this attack taken place without a corresponding conventional conflict, the events would not have met the definition for an act of aggression. While this cyber-attack limited the flow of information within Georgia, it did not harm any physical infrastructure, and did not meet any of the seven general scenarios listed by UN Resolution 3314, Article 3. Furthermore, Resolution 3314 focuses entirely on physical actions of states or state-actors. In this cyber-attack, Russia either directly or indirectly supported non-state actors in a non-physical assault, which certainly violates Resolution 2625, but is not currently understood to meet the definition of aggression under Resolution 3314. Moreover, similar to the attack on Estonia, some believe that cyber-attacks that disrupt services and communication do not rise to the level of aggression.<sup>48</sup> If the international legal definition of an act of aggression had incorporated a cyber aspect, such as the definition proposed in this article, Russia may have been declared the aggressor, since the cyber-attack began weeks prior to the conventional conflict. Thus, the Georgian case is a clear example of the lack of an inclusive cyber warfare definition in Resolution 3314 leading to a failure of that system in maintaining peace and stability around the world.

*Response*

Numerous outside technologies and cyber-security organizations, both private and governmental, assisted Georgia in its recovery from this attack. Estonia, having recently been the subject of similar attacks, sent two CERTs experts to help establish better network security. Furthermore, other states, such as Poland, attempted to aid Georgian communication by posting messages on their websites from the Georgian government to the Georgian people during the attacks.<sup>49</sup> As an official response, Georgia attempted to use established U.N. channels to blame Russia for an act of aggression; however, as discussed above, the cyber-attacks were not considered when determining which state was the aggressor. These limitations restricted Georgia's ability to seek redress or respond in kind.

The attacks in Estonia and Georgia represent examples of one of the most straight forward cyber-attack methods. Additionally, these attacks show how difficult it is to find conclusive evidence of a foreign government's involvement. In both cases, both Georgia and Estonia had limited legally recognized response or retaliation options. Not only were they limited by their own capabilities, the absence of an explicit cyber component in Resolution 3314 also

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<sup>47</sup> UN Press Release, Security Council Meeting 9419. United Nations. 10 August 2008.

<sup>48</sup> Larry May, "The Nature of War," p. 9.

<sup>49</sup> Ashmore, "Impact of Alleged Russian Cyber-attacks," p. 11.

limited their avenues for retaliation or compensation. Due to the complicated nature and fast advancement of cyber warfare, antiquated international legal systems held no protections or avenues of redress for a victim state. The Tallinn Manual attempted to remedy this; however, as discussed above, even this document falls short of articulating allowable protective measures or systems of retaliation. Furthermore, the Tallinn's Manual is only unofficially used by NATO members and not recognized at all by the international legal system.<sup>50</sup>

### **U.S. Stuxnet Attack on Iran**

One of the most well-known cases of international cyber-attacks is the Stuxnet and Flame attacks on the Iranian nuclear program initiated by the United States and Israel. Discovered in 2010, the Stuxnet malware targeted Iran's centrifuges and, through malicious coding, caused the centrifuges to destroy themselves. Designed to be a persistent attack, Stuxnet's coding hid the malware from Iranian engineers, allowing it to damage or destroy approximately 1,000 of Iran's centrifuges, setting the Iranian nuclear program back an estimated two years.<sup>51</sup> Opposing Iran's nuclear advancements, the United States and Israel sought to slow progress while a solution could be found.<sup>52</sup>

This attack represented a new and more aggressive form of cyber weaponry. Prior to Stuxnet, cyber warfare remained largely within the scope of information gathering or "denial-of-service" attacks, with only a few small-scale instances of cyber weapons being used to cause physical infrastructural damage. To many cyber experts, this incident was a turning point in the realm of cyber warfare. This case provided evidence that cyber weapons can act in a similar fashion to conventional weapons in their ability to destroy or dismantle infrastructure.<sup>53</sup>

#### *Under Resolution 2625: Friendly Relations*

The 'Friendly Relations' Resolution 2625 states, "States parties to an international dispute, as well as other States, shall refrain from any action which may aggravate the situation so as to endanger the maintenance of international peace and security."<sup>54</sup> Furthermore, Resolution 2625 specifies that states cannot use force or coercion to subvert another state's sovereign rights.<sup>55</sup> Sovereignty is the principle that states have supreme authority within their own borders, and can only be limited by external laws if they consent.<sup>56</sup> By using Stuxnet, the U.S. government sought to hinder the Iranian nuclear program, a program which the Iranian government desired. This is a clear violation of Iranian sovereignty, and therefore a violation of Resolution 2625.

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<sup>50</sup> Egan, "Stability in Cyberspace," p. 171.

<sup>51</sup> Ralph Langer, "Stuxnet's Secret Twin", *Foreign Policy*. November 19, 2013. <http://foreignpolicy.com/2013/11/19/stuxnets-secret-twin/> Accessed 2/16/2018.

<sup>52</sup> Ellen Nakashima and Joby Warrick, "Stuxnet was work of U.S. and Israeli experts, officials say", *The Washington Post*. June 2, 2012. [https://www.washingtonpost.com/world/national-security/stuxnet-was-work-of-us-and-israeli-experts-officials-say/2012/06/01/gJQAlnEy6U\\_story.html?utm\\_term=.075bbf250423](https://www.washingtonpost.com/world/national-security/stuxnet-was-work-of-us-and-israeli-experts-officials-say/2012/06/01/gJQAlnEy6U_story.html?utm_term=.075bbf250423) Accessed: 2/16/2018.

<sup>53</sup> Ibid.

<sup>54</sup> Mary Ellen O'Connell, *International Law and the Use of Force*, p. 570-572.

<sup>55</sup> Ibid.

<sup>56</sup> David Bederman, *International Law Frameworks* (New York: Foundation Press, 2001) p. 50.

*Under Resolution 3314: Aggression*

Given the destruction of one state's physical infrastructure by a foreign state, the Stuxnet attack should be considered an act of aggression under Article 2 of the United Nations Charter.<sup>57</sup> Furthermore, this U.S./Israeli action directly led to the physical destruction of Iranian infrastructure which, under the current interpretation of Resolution 3314 Article 3, would constitute an act of aggression.<sup>58</sup> However, the fact that the initial action occurred in cyberspace confuses the subject, and by a rigid interpretation of Article 3, might not be classified as an act of aggression. Under the Definition of Aggression, the physical crossing of borders by physical bodies, be they human or armament, is an act of aggression. However, arguments can and have been made that a cyber-attack does not represent a physical event, and therefore, does not constitute an act of aggression or war.<sup>59</sup> This case study shows that without a focused cyber warfare addition to Resolution 3314 Article 3, an attack as straightforward as the Stuxnet virus can circumvent Resolution 3314. This places the world in a more precarious position, where states may assault each other using cyber weapons without worrying about the victim state being able to invoke Article 2. The addition of explicit cyber language to the Definition of Aggression would resolve any issues involving the interpretation or misinterpretation of the language in Resolution 3314 and make clear that cyber-attacks are indeed acts of aggression.

*Response*

The Iranian government, similar to the previous victim states discussed, found itself in an untenable position when attempting to respond to this attack. First, as with the attacks on Estonia and Georgia, cyber weapons remain extremely difficult to trace to their origination point. While circumstantial evidence points to the U.S. and Israeli governments, at the time, there was no conclusive evidence that Iran could use to officially accuse the two nations.<sup>60</sup> Secondly, similar to the attacks in Estonia and Georgia, no agreed upon system for responding to cyber warfare existed at the time.<sup>61</sup> Due to the lack of such a system, if Iran responded with a conventional attack on Israel, they would have risked being labeled the aggressor in the eyes of the international system, despite simply responding to a damaging attack on their state infrastructure. Instead, Iran strengthened its own electronic fortifications, and is suspected of having launched a series of increasingly sophisticated attacks in retaliation against both the United States as well as other states in the region.<sup>62</sup> If the Definition of Aggression Resolution included a cyber warfare component, such as that proposed in this article, Iran would have been on stable legal ground to accuse the U.S. of an act of aggression. The inclusion of this cyber component would have allowed for a more stable response, from both Iran and the international community, to the attack.

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<sup>57</sup> Matthew Hoisington, "Cyberwarfare and the Use of Force Giving Rise to the Right of Self-Defense" *Boston College International and Comparative Law Review*, 2009/04/01, Vol: 32, p 446-447.

<sup>58</sup> Cammack, "The Stuxnet Worm," p. 306.

<sup>59</sup> Larry May, "The Nature of War," p. 8.

<sup>60</sup> Cammack, "The Stuxnet Worm," p. 318.

<sup>61</sup> Anderson, "Fitting a Virtual Peg into a Round Hole."

<sup>62</sup> Andrea Shalal-Esa, "Iran Strengthens Cyber capabilities after Stuxnet," *Reuters*. January 17, 2013.

<https://www.reuters.com/article/us-iran-usa-cyber/iran-strengthened-cyber-capabilities-after-stuxnet-u-s-general-idUSBRE90G1C420130118> Accessed: 4/4/2018.

## The Philippines

The latest and currently most popular use of cyber weapons is to use these tools to wage information warfare. For example, in 2017, it is suspected but not conclusively proven that Vietnam or a group closely associated with the Vietnamese government launched a cyber espionage attack, which resulted in the release of private communications between United States President Trump and Philippine President Duterte.<sup>63</sup> Vietnam sought to expose warming relations between the Philippines and China, potentially harming U.S.-Philippines relations.<sup>64</sup> This attack and the subsequent release of private communications represent the latest evolution in the use of cyber weapons on the international political stage. Such attacks do not aim to physically damage infrastructure, an economy, or communications systems, but rather to publicize politically damaging information.

This case study presents an important issue in the debate over cyber warfare: when does information warfare in the digital age transition into an act of aggression? The hacking group, OceanLotus, a group indirectly connected to the Vietnamese government, used cyber-attacks against Philippine state agencies to attain sensitive data, and subsequently used the release of that data to damage the relations between the Philippines and China.<sup>65</sup> Such a release of information does not and should not be considered an act of aggression. However, the cyber aspect of this attack should be considered as a potential violation of Article 2, as the cyber-attack and the resulting release of sensitive data posed the risk of destabilizing diplomatic relations in the region.<sup>66</sup>

### *Under Resolution 2625: Friendly Relations*

If evidence can be found directly linking the Vietnamese government to this attack, it most certainly is a violation of international law under Resolution 2625. As discussed in the previous case studies, the 'Friendly Relations' Resolution states that no state may interfere with the sovereign rights or political independence of another. The goal of this attack was to influence the Philippine-U.S. relationship; therefore, it was an attack on Philippines' sovereignty and political independence.<sup>67</sup> Furthermore, Resolution 2625 makes clear that even though Vietnam is only indirectly linked to the OceanLotus group, their actions may still violate international law by allowing the attack to be executed from within their territory.

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<sup>63</sup> Adam Segal, "Frustrated with the Philippines, Vietnam Resorts to Cyber Espionage", *Council on Foreign Relations*. June 8, 2017. <https://www.cfr.org/blog/frustrated-philippines-vietnam-resorts-cyber-espionage> Accessed: 2/16/2018.

<sup>64</sup> Ibid.

<sup>65</sup> Reuters Staff, "Vietnam-linked hackers likely targeting Philippines over South China Sea dispute: FireEye," *Reuters*. May 25, 2017. Accessed: 3/25/18. <https://www.reuters.com/article/us-cyber-philippines-southchinasea/vietnam-linked-hackers-likely-targeting-philippines-over-south-china-sea-dispute-fireeye-idUSKBN18L1MR>

<sup>66</sup> Segal, "Frustrated with the Philippines," <https://www.cfr.org/blog/frustrated-philippines-vietnam-resorts-cyber-espionage>

<sup>67</sup> Ibid.

*Under Resolution 3314: Aggression*

As Resolution 3314 is currently written, this cyber-attack and the resulting release of information is not a violation. There is not a physical aspect to this attack which could meet any of the examples of aggression in the current definition. Furthermore, unlike the previous case studies of Estonia and Georgia, this attack did not hinder the economy, media, or telecommunications. While Resolution 3314 protects political independence, the nature of its language has led to a belief that only *physical* actions by states may violate the resolution.<sup>68</sup> Therefore, despite the harm to Philippines' political independence and sovereignty and the stability of the region, this attack does not violate Resolution 3314 under its current interpretation. Additionally, the lack of a clear cyber component to the definition of aggression leaves a void in which this attack might be understood to not be an act of aggression.

*Response*

Both the Philippines and the United States were limited in their response options to this attack. First, the information warfare side of this attack is not and should not be considered an act of aggression. Furthermore, due to the limitations of the current definition of aggression under Resolution 3314, neither victim state could respond with force under international law. In this case, there seems to have been almost no response from either the Philippines or the United States.

**Russia 2016 U.S. Election**

An additional example of the use of cyber weapons in information warfare is Russian attempts to influence the 2016 U.S. elections and exacerbate divisions among U.S. citizens. It is alleged that Russian state actors conducted cyber-attacks to access email servers owned by the Democratic National Committee (DNC) and subsequently released damaging information in an attempt to disrupt the U.S. democratic process.<sup>69</sup> Complicating this attack, it is also alleged that numerous private Russian citizens conducted a coordinated campaign which included identity theft and extensive use of social media platforms to sow divisions and exacerbate tensions between U.S. citizens on flash point issues such as immigration.<sup>70</sup> The U.S. Director of National Intelligence (DNI) released a report titled, "Assessing Russian Activities and Intentions in Recent U.S. Elections: The Analytic Process and Cyber Incident Attribution," which makes clear the U.S. intelligence communities' opinion that the Russian government directly conducted cyber campaigns to influence the 2016 U.S. presidential election.<sup>71</sup> These attacks on the U.S. democratic system are just that, attacks, by one state on another.

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<sup>68</sup> Cammack, "The Stuxnet Worm," p. 306.

<sup>69</sup> Jonathan Masters, "Russia, Trump, and the 2016 U.S. Election" *Council on Foreign Relations*. February 26, 2018. Accessed: 3/4/18. <https://www.cfr.org/search?keyword=Russia+U.S.+election>

<sup>70</sup> Matt Apuzzo, "13 Russians Indicted as Mueller Reveals Effort to Aid Trump Campaign," *The New York Times*. February 16, 2018. Accessed: 3/4/18. <https://www.nytimes.com/2018/02/16/us/politics/russians-indicted-mueller-election-interference.html>

<sup>71</sup> Office of the Director of National Intelligence, "Assessing Russian Activities and Intentions in Recent U.S. Elections: The Analytic Process and Cyber Incident Attribution", United States National Intelligence Council, January 6, 2017. p. 1-2. [https://www.dni.gov/files/documents/ICA\\_2017\\_01.pdf](https://www.dni.gov/files/documents/ICA_2017_01.pdf)

*Under Resolution 2625: Friendly Relations*

If the evidence discussed in the DNI report is taken as fact, this attack is undoubtedly a violation of international law under Resolution 2625. The government of Russia used a cyber campaign, which included the theft of communications and subsequent release of those communications to directly influence the political process of the United States. This is a clear violation of Resolution 2625. Furthermore, this campaign aimed to disrupt national unity and harmed U.S. political independence, both of which are violations of Resolution 2625, which states that, "...any attempt aimed at the partial or total disruption of national unity...or at its political independence is incompatible with the purposes and principles of the Charter."<sup>72</sup> These actions are certainly not the actions of a friendly nation and are clearly violating Resolution 2625; however, they do not rise to the level of aggression under the current definition.

*Under Resolution 3314: Aggression*

Current international law might hold that it was potentially a state attack on a private company, the DNC, with no economic or infrastructural damage, therefore not meeting the definition of an act of aggression. Alternatively, it could be argued that it was private Russian citizens conducting this information warfare, thus placing the case outside the jurisdiction of the international legal system. Additionally, while these cyber-attacks were meant to influence the political independence of a state, they do not clearly meet the threshold of 'an act of aggression' under Resolution 3314 Article 3, because no physical armed force was used. Moreover, the lack of an explicit cyber component in the definition of aggression creates a grey area in which attacks such as this are not labelled as aggression. This attack represents a failure of the international legal system to maintain and protect stability. Furthermore, because these attacks do not meet the international legal definition of aggression, the U.S. has limited options to respond that are justifiable under international law.

*Response*

In response to these attacks, the United States placed sanctions on Russian individuals and companies and government entities. These sanctions largely targeted individuals and private entities rather than the Russian government itself due to the difficulty in attributing the attacks. However, two government organizations were sanctioned in this action, the Russian Federal Security Service, and the GRU, Russia's chief military intelligence agency.<sup>73</sup> When compared to the responses in the other case studies, this response may seem more complete and proactive. However, it remains concerning that a cyber-attack of this magnitude, with direct attribution to a foreign government, only warranted limited sanctions. This response indicates that cyber-attacks continue to be understood as unfriendly acts of states, rather than as acts of aggression under Resolution 3314.

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<sup>72</sup> Mary Ellen O'Connell, *International Law and the Use of Force*, p. 569, 572.

<sup>73</sup> Ryan Lucas, Tamara Keith. "U.S. Imposes New Sanctions On Russia Over Election Interference, Cyberattacks," *National Public Radio* March 15, 2018. <https://www.npr.org/2018/03/15/593895383/us-imposes-new-sanctions-on-russia-over-election-interference-cyberattacks>

## States' Right to Respond

Given these examples of the evolution of cyber weapons as both tools of war as well as political coercion, and the failure of Definition of Aggression Resolution to adequately address this new weapon, it is clear that these attacks will continue to occur. However, until Resolution 3314 is amended to include cyber-attacks, states maintain the right to respond to such attacks with any means at their disposal. Sovereign states have a natural right to respond forcefully if they feel they have been attacked. Sovereignty in international law is an essential principle, both to domestic and international order.<sup>74</sup> Anél Ferreira-Snyman notes that state sovereignty, which is generally accepted as a fundamental principle of international law, upholds three norms: “first, that all sovereign States, irrespective of their size, have equal rights. Second, that the territorial integrity and political independence of all sovereign States is inviolable. Third, that intervention in the domestic affairs of sovereign States is not permissible.”<sup>75</sup> Furthermore, according to David Bederman, principle of sovereignty holds “that each nation answers only to its own domestic order and is not accountable to a larger international community, save only to the extent it has consented to do so.”<sup>76</sup> Using the principle of sovereignty, a state may take retaliatory action when threatened or harmed by another state, without consent or agreement from the international community. This concept is in fact enshrined in Article 51 of the U.N. Charter, which explicitly recognizes the “inherent right of individual or collective self-defense.”<sup>77</sup> Moreover, J.L. Brierly contends that if international law fails to protect a victim state, or give that victim state a legal avenue for redress, “it is likely that the injured state, if it is strong enough, will seek by other means the redress that the law cannot afford it.”<sup>78</sup> In the case studies examined above, all of the victim states could have responded with cyber-attacks of their own or conventional means as deemed necessary. Until the international legal system develops adequate definitions and frameworks for dealing with this new arena of conflict, states can defend themselves and retaliate as they see fit. Therefore, not having a cyber element to the U.N. definition of aggression threatens international stability. It is widely accepted that states may respond to threats or attacks in any manner they choose, including conventional armed attacks, and are only restricted by proportionality and the laws of war.<sup>79</sup> Furthermore, the lack of a cyber component may also limit a state’s legal ability to respond to these attacks. States such as Iran were limited in their response due to the ambiguity of Resolution 3314 on cyber-attacks. Due to the risk of being labelled the aggressor if they responded using conventional means, Iran instead chose to conduct cyber-attacks of their own. This response has the potential to create a series of increasingly damaging assaults between two states, which Resolution 3314 is unable to address. This void in legal structure creates instability.

As part of the discussion on states’ right to respond to cyber-attacks, there is debate over whether a cyber-attack constitutes a violation of the state’s territorial integrity. The idea of defined borders and the defense of territorial integrity is integral to the defense of a state’s

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<sup>74</sup>Brierly, *The Law of Nations*, p. 10.

<sup>75</sup> Anel Ferreira-Snyman, “Sovereignty and the changing nature of Public International Law: Towards World Law?” *The Comparative and International Law Journal of Southern Africa* Vol. 4 No. 3 (November 2007), p. 406-407.

<sup>76</sup> David Bederman, *International Law Frameworks* (New York: Foundation Press, 2001), p. 50.

<sup>77</sup> United Nations Charter: Article 51, United Nations (26 June 1945). <http://www.un.org/en/sections/un-charter/chapter-vii/index.html> Accessed: 4/18/2018.

<sup>78</sup> Brierly, *The Law of Nations*, p. 75.

<sup>79</sup> Bederman, *International Law Frameworks*, p. 219.

sovereignty.<sup>80</sup> Some scholars contend that cyber-attacks do not meet the threshold to be considered violations of a state's territory, and therefore are not acts of war.<sup>81</sup> However, it must be understood that if a state were to decide that a cyber-attack constitutes a violation of territorial integrity, they could respond with a conventional military attack. Victim states have an "inherent right" to self-defense protected by the U.N. Charter, and in the exercise of that right, states have no legal requirement to seek the approval of the U.N. or any other international body.<sup>82</sup> The state's ability to act unilaterally when responding to threats or aggressions of another state is undeniable. This ability to respond unilaterally and without condition, except proportionality and the laws of war, to cyber-attacks makes the addition of a cyber warfare component to Resolution 3314 imperative.

Furthermore, under the Effects Doctrine, victim states automatically hold jurisdiction over a cyber-attack if that attack inflicted economic costs. The Effects Doctrine "permits the exercise of jurisdiction over the extraterritorial activities of foreigners which produce economic effects within the territory."<sup>83</sup> Under this doctrine, states may hold foreign non-state actors legally responsible for cyber-attacks that caused economic damages. For example, in the Estonia case study, one bank reported \$1 million dollars in damages. If the Estonian government could trace the attack to an individual operating in Russia, that individual would be subject to Estonian law for their actions.<sup>84</sup> Through the Effect Doctrine, regardless of whether cyber-attacks are understood as aggression or not, individuals who conduct these attacks are automatically subject to the victim state's judicial system.

## Conclusion

The case studies discussed here provide evidence of not only an increase in cyber weapon use, but also the varied formats in which they have been utilized. These variations display why it remains difficult to provide a succinct definition to these new weapons. Yet, without a clear understanding of the danger these new weapons bring, along with the addition of a cyber component to the Definition of Aggression in Resolution 3314, there is the risk that cyber-attacks may act as a catalyst to conventional warfare. Laws must be made to fit reality. Attempting to force reality to fit laws creates gaps in understanding and protection, which endanger global peace and stability. As long as states believe that cyber warfare is not an act of aggression, they will continue to use these weapons, thereby endangering global stability. The case studies above prove that while cyber warfare certainly violates the 'Friendly Relations' Resolution 2625, it does not meet the definition of aggression under Resolution 3314. This gap in international law has created an unstable global environment, in which states are conducting increasingly damaging cyber-attacks against one another, and places victim states on unstable legal ground concerning retaliation. The inclusion of cyber warfare and its definition to Resolution 3314 Article 3 will help prevent the use of these destabilizing weapons in the future. However, until such a framework exists within the international legal system, states should

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<sup>80</sup> Bederman, *International Law Frameworks*, p. 51.

<sup>81</sup> Larry May, "The Nature of War," p. 8.

<sup>82</sup> Karl M. Meessen, "Unilateral Recourse to Military Force Against Terrorist Attacks," in *International Law and the Use of Force*. ed. Mary O'Connell, p. 584.

<sup>83</sup> Vaughan Lowe, *International Law and the Effects Doctrine in the European Court of Justice*, *The Cambridge Law Review* Vol. 48, Issue 1 (March, 1989). p. 9.

<sup>84</sup> Herzog, "Revisiting the Estonian Cyber-attacks," p 51-52.

maintain the right to respond to cyber-attacks by any reasonable means at their disposal. These response options should include the use of conventional weapons if the cyber-attack is deemed harmful to state economies, infrastructure, or political institutions. Moreover, a robust and immediate conversation within the international community is imperative to address the lack of understanding of cyber warfare as a weapon of war, to better define what constitutes an act of war in this new cyber dimension, and how states should respond to such attacks. Without this conversation and a cyber warfare addition to Resolution 3314, cyber-attacks will continue to have the potential to escalate into conventional war and the current global instability will continue.

## Bibliography

- Aldrich, Richard. "The International Legal Implications of Information Warfare." *Airpower Journal* Vol. 10, Issue 3 (Fall 1996).
- Anderson, Troy. "Fitting a Virtual Peg into a Round Hole: Why Existing International Law Fails to Govern Cyber Reprisals." *Arizona Journal of International and Comparative Law* Vol. 35 (2017): 135.
- Apuzzo, Matt. "13 Russians Indicted as Mueller Reveals Effort to Aid Trump Campaign." *The New York Times*. February 16, 2018.  
<https://www.nytimes.com/2018/02/16/us/politics/russians-indicted-mueller-election-interference.html>
- Arend, Anthony. "International Law and the Preemptive use of Military Force." *The Washington Quarterly* Vol. 26, no. 2 (Spring 2003): 89-103.
- Ashmore, William C. "Impact of Alleged Russian Cyber-attacks." *Baltic Security and Defense Review* Vol. 11, Issue 1 (2009): 4-40.
- Bederman, David. *International Law Frameworks*. New York: Foundation Press, 2001.
- Blank, Stephan. "Russian Information Warfare as Domestic Counterinsurgency", *American Foreign Policy Interests* Vol. 35, Issue 1. (2013).
- Brierly, J.L. *The Law of Nations: An Introduction to the International Law of Peace*. Oxford: Oxford University Press, 1963.
- Cammack, Chance. "The Stuxnet Worm and Potential Prosecution by the International Criminal Court Under the Newly Defined Crime of Aggression." *Tulane Journal of International and Comparative Law*, Vol. 20 (January 1, 2011): 303.
- Crandall, Matthew. "Soft Security Threat and Small States: The Case of Estonia." *Defense Studies* Vol. 14, No. 1 (2014): 30-55.
- Dev, Priyanka. "'Use of Force' and 'Armed Attack' Thresholds in Cyber Conflict: The Looming Definitional Gaps and the Growing Need for Formal U.N. Response," *Texas International Law Journal* Vol. 50, Issue 2 (Spring 2015) 379-399.
- Egan, Brian. "International Law and Stability in Cyberspace." *Berkeley Journal of International Law* Vol. 35, Issue 1 (Nov. 10, 2016): 169-180.
- Ferreira-Snyman, Anel. "Sovereignty and the changing nature of Public International Law: Towards World Law?" *The Comparative and International Law Journal of Southern Africa* Vol. 4, No. 3 (November 2007) 406-407.

- Herzog, Stephen. "Revisiting the Estonian Cyber-attacks: Digital Threats and Multinational Responses," *Journal of Strategic Security* Vol. 4, No. 2 (Summer 2011).
- Hoisington, Matthew. "Cyberwarfare and the Use of Force Giving Rise to the Right of Self-Defense" *Boston College International and Comparative Law Review* Vol: 32 (April 1, 2009): 439.
- International Court of Justice. Statute of the International Court of Justice, Article 38. United Nations.
- Jensen, Benjamin, Maness, Ryan C., and Valeriano, Brandon. "Cyberwarfare has taken a new turn. Yes, it's time to worry." *The Washington Post*. July 13, 2017.  
[https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/13/cyber-warfare-has-taken-a-new-turn-yes-its-time-to-worry/?utm\\_term=.41b9f74519ec](https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/13/cyber-warfare-has-taken-a-new-turn-yes-its-time-to-worry/?utm_term=.41b9f74519ec)
- Kampmark, Binoy. "Cyber Warfare Between Estonia and Russia." *Contemporary Review* Vol. 289 (2007).
- Keith, Tamara, Lucas, Ryan. "U.S. Imposes New Sanctions on Russia Over Election Interference, Cyberattacks," *National Public Radio* March 15, 2018.  
<https://www.npr.org/2018/03/15/593895383/us-imposes-new-sanctions-on-russia-over-election-interference-cyberattacks>
- Kozlowski, Andrzej. "Comparative Analysis of Cyber-attacks on Estonia, Georgia, and Kyrgyzstan," *European Scientific Journal* Vol. 3 (February 2014).
- Langer, Ralph. "Stuxnet's Secret Twin." *Foreign Policy*. November 19, 2013.  
<http://foreignpolicy.com/2013/11/19/stuxnets-secret-twin/>
- Lowe, Vaughan. "International Law and the Effects Doctrine in the European Court of Justice," *The Cambridge Law Review* Vol. 48, Issue 1 (March 1989).
- Markoff, John. "Before the Gunfire, Cyberattacks." *The New York Times*, August 12, 2008.  
<http://www.nytimes.com/2008/08/13/technology/13cyber.html>
- Masters, Jonathan. "Russia, Trump, and the 2016 U.S. Election." *Council on Foreign Relations*. February 26, 2018. <https://www.cfr.org/search?keyword=Russia+U.S.+election>
- May, Larry. "The Nature of War and the Idea of "Cyberwar"", in *Cyberwar: Law and Ethics for Virtual Conflicts*. Edited by Jens Ohlin, Claire Finkelstein, Kevin Govern. Oxford: Oxford University Press, 2015.
- McGuinness, Damien. "How a cyber-attack transformed Estonia." *BBC News*, April 27, 2017.  
<http://www.bbc.com/news/39655415>

- Meessen, Karl M. "Unilateral Recourse to Military Force Against Terrorist Attacks," in *International Law and the Use of Force*. Edited by Mary O'Connell. New York: Foundation Press, 2005.
- Nakashima, Ellen and Warrick, Joby. "Stuxnet was work of U.S. and Israeli experts, officials say." *The Washington Post*. June 2, 2012. [https://www.washingtonpost.com/world/national-security/stuxnet-was-work-of-us-and-israeli-experts-officials-say/2012/06/01/gJQAlnEy6U\\_story.html?utm\\_term=.075bbf250423](https://www.washingtonpost.com/world/national-security/stuxnet-was-work-of-us-and-israeli-experts-officials-say/2012/06/01/gJQAlnEy6U_story.html?utm_term=.075bbf250423)
- Nils Melzer, "Cyber Warfare and International Law," United Nations Institute for Disarmament Research. 2011.
- O'Connell, Mary Ellen, ed. *International Law and the Use of Force: Documentary Supplement*. New York: Foundation Press, 2005.
- Office of the Director of National Intelligence, "Assessing Russian Activities and Intentions in Recent U.S. Elections: The Analytic Process and Cyber Incident Attribution", United States National Intelligence Council, January 6, 2017. [https://www.dni.gov/files/documents/ICA\\_2017\\_01.pdf](https://www.dni.gov/files/documents/ICA_2017_01.pdf)
- Peagler, Jordan. "The Stuxnet Attack: A New Form of Warfare and the (In)Applicability of Current International Law." *Arizona Journal of International and Comparative Law* Vol. 31(July 1, 2014).
- Reuters Staff. "Vietnam-linked hackers likely targeting Philippines over South China Sea dispute: FireEye." *Reuters*. May 25, 2017. <https://www.reuters.com/article/us-cyber-philippines-southchinasea/vietnam-linked-hackers-likely-targeting-philippines-over-south-china-sea-dispute-fireeye-idUSKBN18L1MR>
- Sanger, David E. "Trump's National Security Chief Calls Russian Interference 'Incontrovertible'." *The New York Times*, February 17, 2018. [https://www.nytimes.com/2018/02/17/world/europe/russia-meddling-mcmaster.html?rref=collection%2Fnewseventcollection%2Frussian-election-hacking&action=click&contentCollection=politics&region=stream&module=stream\\_unit&version=latest&contentPlacement=1&pgtype=collection](https://www.nytimes.com/2018/02/17/world/europe/russia-meddling-mcmaster.html?rref=collection%2Fnewseventcollection%2Frussian-election-hacking&action=click&contentCollection=politics&region=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection)
- Segal, Adam. "Frustrated with the Philippines, Vietnam Resorts to Cyber Espionage." *Council on Foreign Relations*. June 8, 2017. <https://www.cfr.org/blog/frustrated-philippines-vietnam-resorts-cyber-espionage>
- Shakarian, Paulo. "The 2008 Russian Cyber Campaign Against Georgia." *Military Review* Vol. 91, Issue 6 (Nov.-Dec. 2011): 63-68.

Shalal-Esa, Andrea. "Iran Strengthen Cyber capabilities after Stuxnet," *Reuters*. January 17, 2013. <https://www.reuters.com/article/us-iran-usa-cyber/iran-strengthened-cyber-capabilities-after-stuxnet-u-s-general-idUSBRE90G1C420130118>

United States Department of Defense, *The Department of Defense Cyber Strategy*. United States Government, Department of Defense (2015). Accessed 3/4/18. [https://www.defense.gov/Portals/1/features/2015/0415\\_cyber-strategy/Final\\_2015\\_DoD\\_CYBER\\_STRATEGY\\_for\\_web.pdf](https://www.defense.gov/Portals/1/features/2015/0415_cyber-strategy/Final_2015_DoD_CYBER_STRATEGY_for_web.pdf)

United Nations General Assembly. Definition of Aggression, General Assembly Resolution 3314, 14 December 1974. Accessed 3/4/18. <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/739/16/IMG/NR073916.pdf?OpenElement>

United Nations. U.N. Press Release, Security Council Meeting 9419, 10 August 2008.

United Nations. United Nations Charter, Article 2(4). United Nations. 26 June 1945. <http://www.un.org/en/sections/un-charter/chapter-i/index.html>

United Nations. United Nations Charter: Article 51. United Nations. 26 June 1945. <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>

Wilmshurst, Elizabeth. "Definition of Aggression, General Assembly Resolution 3314." United Nations. Accessed 3/4/18. <http://legal.un.org/avl/ha/da/da.html>

# Cauterization and Infection: Trying to Fix the Venezuelan Economy

Harry Nitzberg\*

**Abstract:** *In the past few months, the Bolivarian Republic of Venezuela has seen some of the greatest challenges to its democracy in a generation. Low oil prices and mismanagement of the state-run oil company PDVSA have sunk the country into an economic and political crisis. The downfall of the self-proclaimed “socialist” country has brought free-market economists out of the woodwork. The majority of their policy prescriptions boil down to a set of free-market oriented policies that have come to be called “neoliberal” policies. The problem with these policies is that they do not allow for the political and economic intricacies of individual countries to be accounted for. This paper is an attempt to set forth a set of economic suggestions for Venezuela based on its economic and political realities. Economic reforms will take a two-pronged approach; reforms that are set to address short term and long-term problems. The short-term reforms will be composed of three parts: (1) decreasing inflation through counter-inflationary policies, while introducing social programs to help poor Venezuelans survive the policies; (2) bringing in foreign human capital to increase productivity in the oil sector; and (3) decreasing Venezuela’s sovereign debt. The long-term plan is centered on diversification of the Venezuelan economy.*

## Introduction

In the past few months, the Bolivarian Republic of Venezuela has seen some of the greatest challenges to its democracy in a generation. The streets are lined with protesters, there are mass shortages of all basic necessities, and the National Assembly has been temporarily stripped of its powers by the Venezuelan Supreme Court. Furthermore, low oil prices and lack of economic diversification have left the economy in ruin. The Organization of American States encouraged President Nicolas Maduro to step down to no avail. In August 2017, Maduro used a referendum to replace the suspended national assembly with a new legislative body that has the power to change the constitution. Nicolas Maduro and other Venezuelan government officials have been sanctioned by the US Treasury Department for their involvement in the election and its potential to hinder democracy in Venezuela. In addition, sanctions imposed in August 2017 bar US persons from “engaging in specified dealings involving the government of Venezuela and its instrumentalities...includ[ing] state owned oil company PDVSA.”<sup>1</sup> Recently, the questionable results of regional elections led the European Union to approve an arms embargo against

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<sup>1</sup> The White House Office of the Press Secretary. 2017. *Press Briefing by Press Secretary Sarah Sanders, et al.*, 8/25/2017, #7. August 25. <https://www.whitehouse.gov/the-press-office/2017/08/25/press-briefing-press-secretary-sarah-sanders-et-al-8252017-7>.

Venezuela,<sup>2</sup> and Venezuela has begun the slow process of debt restructuring negotiations. By any measure, Venezuela is facing a political and economic crisis.

This paper will argue a specific set of economic reforms that are constructed to meet Venezuela's economic and political realities. The reforms will draw on elements of the preexisting schools of economic development, as well as pragmatic historical reforms by states that have experienced similar economic and political crises. While the reforms will only be economic, they will be made in anticipation of political obstacles and with the intention of lasting more than a single election cycle.

### *Defining the Problem*

For the purposes of this paper, the primary short-term problems of the Venezuelan economy will be defined as follows: (1) inflation projected to rise as high as 2,350 percent by the end of 2018;<sup>3</sup> (2) decreased oil revenue resulting in a major loss in foreign currency reserves for the heavily oil dependent economy; and (3) a total foreign debt between \$60 and \$140 billion USD, divided between holders of sovereign Venezuelan and Petróleos de Venezuela S.A. (PDVSA: the state run oil company) bonds (depending on the source of the estimate).<sup>4</sup>

Given the interconnectedness of an economy, each of these problems feeds and exacerbates the others. As such, the more detailed explanations of each problem and their potential solutions will be interconnected.

### *Viable Treatments*

Economic reforms will take a two-pronged approach, as they are set to address short-term and long-term problems. The short-term reforms will be composed of three parts: (1) decreasing inflation through counter-inflationary policies, while introducing social programs to help poor Venezuelans survive the policies; (2) bringing in foreign capital and human capital to increase productivity in the oil sector; and (3) decreasing Venezuela's debt. The long-term plan is centered on diversification of the Venezuelan economy via encouragement of infant industries using protectionist policies.

While the proposed policy solutions of this paper may seem sound, it is worth noting that they are based on past experiences in other countries, at different times or both. As such, the goal of this paper is not to fix the Venezuelan economy by providing perfect solutions. These policy suggestions are meant to start a dialogue on how to fix the Venezuelan economy in ways that fit its political and economic realities, rather than relying on the sort of one-size-fits-all policies that dominated economic development discourse in the international monetary institutions and in much

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<sup>2</sup> European Council: Council of the European Union. 2018. *Venezuela: EU sanctions 7 individuals holding official positions*. January 22. Accessed April 25, 2018. <http://www.consilium.europa.eu/en/press/press-releases/2018/01/22/venezuela-eu-sanctions-7-individuals-holding-official-positions/>.

<sup>3</sup> International Monetary Fund. 2017. *World Economic Outlook (October 2017)- Inflation Rate, Average Consumer Prices*. October. <https://www.imf.org/external/datamapper/PCPIPCH@WEO/WEOWORLD/VEN>.

<sup>4</sup> Buitrago, Deisy, and Jack Stubbs. 2017. *Venezuela wins Russia and China backing as it says it is honoring debt*. November 15. <https://www.reuters.com/article/us-venezuela-debt/venezuela-wins-russia-and-china-backing-as-it-says-it-is-honoring-debt-idUSKBN1DF2WC>.

of the developed world's think tanks and schools during the 1980s and 90s, and arguably continue to lesser extent today.<sup>5</sup>

## Short Term Solutions

### *Bringing Down Inflation*

For the economy to be fixed, inflation must be brought back down before the other two steps can be attempted. There are two reasons for this: (1) low inflation will help attract desperately needed foreign human capital (the importance of which will be explored in the “low oil production” and “diversification” sections) and (2) lower inflation will help restore foreign currency reserves desperately needed to buy medicine, food, and other basic goods<sup>6</sup>. With high inflation, it is difficult to attract potential foreign talent (including Venezuelan emigrants in other countries) that needed to help reinvigorate Venezuelan oil production. These workers would need to be offered decent salaries, on a currency that can buy things, in a place where there are things to be bought. Inflation decreases buying power by making things require more of the currency to buy the same things.

Inflation in Venezuela has continued to spike according to external estimates (the Venezuelan government has ceased to report figures). The International Monetary Fund (IMF) estimates that inflation has reached 652.7 percent and estimated that it will reach 2.35 thousand percent by the end of 2018.<sup>7</sup> What is more, the World Bank has estimated that inflation reached 254.5 percent in 2016.<sup>8</sup> In either case, the consensus is that Venezuela has entered what economists call hyperinflation, meaning that inflation has risen over 50 percent per month.<sup>9</sup> Inflation of this magnitude is an impediment to economic growth because it leads to disruption of coordination in the economy,<sup>10</sup> may cause currency to “[cease to be] a useful medium of exchange, and leads to a bartering economy and breakdown of the country’s financial system”.<sup>11</sup>

Traditionally, during times of such great inflation, Latin American countries have taken two courses of action. The first is tying their currency to a stronger currency. This method usually takes one of two forms, “currency pegging” or “currency boarding.” Currency pegging is tying the worth of one country’s currency to another. All of the Latin American countries that have

<sup>5</sup> Gerber, James. 2014. *International Economics*. Upper Saddle River, New Jersey: Pearson Education, Inc.

<sup>6</sup> Venezuela imports the vast majority of its food, medicine, and other basic goods. In order to buy foreign goods, foreign currency is needed. By decreasing the quantity of Venezuelan Bolivars in circulation, the Venezuelan government will be able to buy foreign reserves on the open market. These reserves can then be used to further stabilize the currency by buying Venezuelan Bolivars from the open market, decreasing their quantity and increasing their value; Vera, Leonardo. 2017. "In Search of Stabilization and Recovery: Macro Policy and Reforms in Venezuela." *Jornal of Post Keynesian Economics* 9-26.

<sup>7</sup> International Monetary Fund. 2017. *World Economic Outlook (October 2017)- Inflation Rate, Average Consumer Prices*. October. <https://www.imf.org/external/datamapper/PCPIPCH@WEO/WEOWORLD/VEN>.

<sup>8</sup> World Bank. 2016. *Inflation, consumer prices (annual %)* | Data. Accessed April 10, 2018. <https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?locations=VE>.

<sup>9</sup> Salemi, Michael. 2008. *Hyperinflation: the Concise Encycloedia of Economics*. Accessed February 11, 18. <http://www.econlib.org/library/Enc/Hyperinflation.html>.

<sup>10</sup> Selgin, George. 1988. *The Theory of Free Banking: Money Supply under Competitive Note Issue*. Lanham, Maryland: Rowman & Littlefield.

<sup>11</sup> Irwin, Neil. 2018. *The Stock Market Is Worried About Inflation. Should It Be?* February 8. Accessed February 11, 2018. <https://www.nytimes.com/2018/02/07/upshot/the-stock-market-is-worried-about-inflation-should-it-be.html>.

implemented this policy in the past have pegged their currencies to the American dollar, given the relative stability of the dollar and high levels of trade between Latin American countries and the United States. Similarly, in a currency boarding system, a central bank “issues notes and coins convertible on demand into a foreign anchor currency at a fixed rate of exchange. It holds low-risk, interest-bearing bonds denominated in the anchor currency as reserves.”<sup>12</sup> In addition, under an orthodox currency board, the state implementing it has no control over the state’s monetary policy.<sup>13</sup> Currency boards and pegging have produced mixed results in Latin America and beyond. The currency boarding of the Argentinian peso to the American dollar in 1991 eventually led to an economic crisis in 2002.<sup>14</sup>

The second is a set of policies that have come to be called “neoliberal” economic policies, which aim to pull down inflation and encourage foreign investment. These policies typically include extreme reductions in government deficits and the removal of what economists call “trade barriers.” This typically means slashing social programs, privatizing government-run enterprises (by selling them to private investors), eliminating subsidies, opening the country to foreign direct investment (when foreign companies open factories in a country), and eliminating tariffs/trade quotas (self-imposed limits on the amount of a good that a country can import). The logic is that by decreasing government expenditures, the need to print extra money to pay for such expenditures is reduced, thus decreasing the amount of that country’s currency entering the economy, and by extension slowing inflation. The logic to reducing barriers to trade and foreign investment is that by reducing such barriers, the domestic economy will be better able to import the foreign machines and money it needs to build its industries and develop its economy. Usually, these policies are accompanied by an infusion of foreign capital (money) via one of the international monetary institutions: the International Monetary Fund (IMF). The infusion of money allows the countries to meet their short-term debt payments, fund day-to-day operations, and implement the aforementioned neoliberal economic policies.

For Venezuelan president Nicolas Maduro, both courses are political suicide. Over the course of Maduro’s presidency and the presidency of his predecessor Hugo Chavez, their party, the Partido Socialista Unido de Venezuela (PSUV), thrived on galvanizing impoverished Venezuelans with anti-American/imperial rhetoric. In addition, he railed against the international monetary institutions that created the inflation countering “neoliberal” reforms mentioned earlier; the IMF and World Bank. Currently, despite Venezuela’s deep economic crisis, a very sizable percentage of the population still supports Maduro because he continues to resist what is seen as an American-orchestrated push by the international community for Maduro to step down. As such, any attempt by Maduro to peg the Venezuelan Bolivar to the American dollar would be seen as nothing short of traitorous by the true “Chavistas” (supporters of Hugo Chavez’s nationalist, social-capitalist ideology) in his support base.

In a similar vein, implementation of neoliberal economic reforms would likely be met with intense backlash, not only due to the sheer hypocrisy of it, but because of the negative disproportionate effect that such policies have had on the lowest sections of the socioeconomic

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<sup>12</sup> Hanke, Steve. 2017. *Venezuela's Maduro Flunks His Economic Literacy Test*. September 10. Accessed September 11, 2018. <https://www.forbes.com/sites/stevehanke/2017/09/10/venezuelas-maduro-flunks-his-economic-literacy-test/#79c948457480>.

<sup>13</sup> Ibid.

<sup>14</sup> Bloomberg News. 2002. *Dollar Peg Nearing End In Argentina*. January 3. Accessed February 11, 2018. <http://www.nytimes.com/2002/01/03/business/dollar-peg-nearing-end-in-argentina.html>.

ladder,<sup>15</sup> which makes up Maduro's largest support base. Neoliberal economic reform would likely include the slashing of social programs aimed at helping the poorest Venezuelans (implemented by Chavez and maintained by Maduro), privatization of many (if not all) assets of the state-run Venezuelan oil company PDVSA, and removal of price controls. For this reason, such reforms must be implemented with a safety net for the poorest Venezuelans, the money for which will be drawn from reinvigorated oil revenues (refer to "productivity through PDVSA reform" section).

### *Where to Go from Here*

With all of the aforementioned limitations of borrowing options in mind, Venezuela must embark on counter-inflationary measures (including some elements of the neoliberal counter-inflation recipe) without the help of international monetary institutions or American banks — at first. Implementing counter-inflationary measures will serve several purposes at once. It will (1) signal to foreign banks that the government is taking steps to stabilize the economy, helping to decrease the reluctance of potential investors (both foreign and domestic), including the international monetary institutions; and (2) increase productivity in the oil sector for reasons that will be explained later on. The counter-inflationary measures include lifting price controls, partially privatizing the state oil company PDVSA, and floating the Venezuelan currency, the Bolivar. To compliment these reforms, a large portion of government expenditures will be temporarily shifted to bolster existing social programs and institute temporary new ones (part of the funding for which will explained in the "decreased oil revenue section").

### *Floating the Bolivar*

The most basic cause of inflation is the overprinting of money by governments<sup>16</sup> and Venezuela is no different. Record oil lows have robbed the Venezuelan government of its most valuable revenue stream. Rather than risk the "political dangers that increasing taxes can create, governments around the world... [resort] to inflation".<sup>17</sup> After the onset of the Venezuelan economic crisis, Maduro had little choice but to run the Venezuelan currency presses for all they were worth, until 2016, when the Venezuelan government became so broke that merely printing money became too much of a burden on the budget.<sup>18</sup> By then, the damage had already been done. The more money that is printed, the higher producers increase their prices, forcing governments to tighten price controls. The tighter price controls are implemented, the more money is needed to buy basic goods, prompting the government to print more money, and so on, until the currency is not worth the paper or the ink used to print it.

To stop this cycle, the Venezuelan government must remove the two sources of the inflation: shortages and an excessive money supply (more money is in circulation than is demanded to be held). For the sake of clarity, this paper will focus on food shortages.

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<sup>15</sup> Furceri, Davide, Prakash Loungani, and Jonathan D. Ostry. 2016. "Neoliberalism Oversold? --Fiance and Development." *Finance and Development* 53 (2). Accessed 11 2018, 2018. <http://www.imf.org/external/pubs/ft/fandd/2016/06/ostry.htm>; Gerber, James. 2014. *International Economics*. Upper Saddle River, New Jersey: Pearson Education, Inc. .

<sup>16</sup> Sowell, Thomas. 2004. *Basic Economics*. New York, New York: Basic Books.

<sup>17</sup> Ibid.

<sup>18</sup> Rosati, Andrew. 2016. *Venezuela Doesn't Have Enough Money to Pay for Its Money*. April 27. Accessed April 9, 2018. <https://www.bloomberg.com/news/articles/2016-04-27/venezuela-faces-its-strangest-shortage-yet-as-inflation-explodes>.

To fix the money supply, Venezuela must implement a “managed float” of its currency. A managed float is when a state allows the international currency market to determine the worth of its currency, within a range determined by that country’s central bank. This style should seem familiar to many readers because that is currently what the United States, Europe, and most of the developed countries do. The central bank sets goals on the levels it wants for inflation, unemployment,<sup>19</sup> and sometimes economic growth. Then, the central bank uses a series of tools to influence the money supply in ways that pushes it closer to the desired target.<sup>20</sup> The goal of implementing a “managed float” in Venezuela is a stabilization of the Venezuelan Bolivar. Without the long held “fixed” exchange rate between the Bolivar and USD, the widely used black-market price of the Bolivar and the official price will eventually come closer together, leading to stable prices. With stable prices, investors will have more confidence to invest in Venezuela and the central bank will be better able to regulate the money supply.

Floating currencies after prolonged periods of price controls are often popular among the upper-middle and upper classes, and unpopular among the business class because while they do *eventually* stabilize currencies, they will lead to extreme disruptions in the short run. When currencies are floated, the black-market price of the currency falls to meet the official price and the official price rises to meet the black-market price. The problem is that this does not happen instantaneously, and the results are wildly different across the economy, leading to price discoordination across the economy in the short term. For individuals with larger incomes, this is easier to deal with because they have the income to afford different prices in different areas of the economy. For low income individuals, this may mean that they are not able to afford the prices of basic products that had previously been held down by price controls. To assure that the poor are able to at least feed themselves and have proper medical care, social programs are needed.

## Social Programs

### *Fixing the Food*

During the presidency of former Hugo Chavez, subsidized food programs and price controls were successfully implemented for years. As Rhoda Howard-Hassmann summarizes:

Chávez established the *Mercals*, or special people's markets, where a large range of subsidized goods could be purchased. By 2007, about 9.3 million people (out of a total population of about 28 million) shopped for food at the *Mercals*. The missions also distributed free, ready to-eat foods to the very poor. The free food was distributed to groups of neighborhood women who cooked hot lunches for the extremely poor in their own kitchens.<sup>21</sup>

The problem with the *Mercals* is that they targeted individuals based on location rather than need. In effect, this allowed people to take advantage of the *Mercals* by buying food cheaply from the

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<sup>19</sup> For Venezuela and the rest of Latin America, setting goals for unemployment is not valid because they have such large “informal sectors”, i.e. individuals who do not have formal employment (such as street vendors).

<sup>20</sup> Howitz, Steven. 2013. "An Introduction to Us Monetary Policy." *Mercatus Research*.

<sup>21</sup> Howard-Hassmann, Rhoda E. 2015. "The Right to Food under Hugo Chavez." *Human Rights Quarterly* 37 (4): 1024-1045, 1120.

*Mercals* and selling it in other places for a profit.<sup>22</sup> Prior to the fall in oil prices, this was less of a problem because food was more plentiful, but today, shortages have caused such leakages to have devastating effects on the lives of poor Venezuelans.

To reform the food subsidies and replace the price controls, Venezuela must adopt a system that better targets beneficiaries. This system must make sure that only individuals that are in need can use them and that no one can take advantage of the system by buying up a large amount of the subsidized good and selling it elsewhere. To help better target beneficiaries, Venezuela can reform its food subsidy system in ways that have been successful in other countries.

One such example is a recent technological innovation in Egypt, called the smartcard. These electronic cards are used as identity cards that ensure that only eligible persons can purchase bread under Egypt's "baladi bread" food subsidy program. Each card permits participating families to purchase a limited amount of bread per day.<sup>23</sup> While the smartcard may prove too expensive for the exasperated government coffers of Venezuela, the program can be altered to still be effective. The cards serve as identification cards for beneficiaries. The Venezuelan government may be able to get by with just requiring beneficiaries to provide some other form of state-issued identification when purchasing subsidized food and limiting the amount of food that a family can buy from stores in their area. An obvious problem with this is that given the massive shortages in food in Venezuela, local stores may run out of food quickly. For the food subsidies to be effective, the food shortages must be addressed.

### *Price Controls and Shortages*

Prior to the onset of the economic crisis, President Chavez began to rely increasingly on price controls as a means of ensuring the support of his low income political base. In April of 2012, "to contain inflation...price controls [were expanded] to include diapers, laundry detergent...bottled water," shampoo, and toilet paper among other items.<sup>24</sup>

Inflation had begun to put pressure on producers to increase their prices to continue to profit; however, with price controls, they could not raise prices. According to Jose Nino of the Mises Institute,

When price ceilings are implemented... An artificially low price leads consumers to demand more of a good than producers are willing to supply. When demand outstrips supply, shortages emerge... [because] many businesses are forced to incur losses, especially if the legislated price falls below the natural market price that is needed to meet operational costs. Less fortunate enterprises will find themselves compelled to shut down their operations as they can no longer afford to supply goods to the market given the artificially low prices.<sup>25</sup>

Put more simply, when the government imposes price controls on an industry, producers often cannot make a profit from the price at which they are forced to sell. When sellers cannot make a

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<sup>22</sup> Ibid.

<sup>23</sup> EgyptSmartcards.com. 2016. *Smart Cards Applications*. Accessed April 6, 2018.

<http://www.egyptsmartcards.com/#portfolio>.

<sup>24</sup> Associated Press. 2012. *Venezuela expands price controls to new products*. April 2. Accessed April 23, 2018.

<sup>25</sup> Nino, Jose. 2016. *Price Controls Are Disastrous for Venezuela, and Everywhere Else*. November 16. Accessed April 5, 2018. <https://mises.org/wire/price-controls-are-disastrous-venezuela-and-everywhere-else>.

profit, they either reduce costs by selling less or cease to produce entirely.<sup>26</sup> When all the sellers in an industry are faced with this choice, shortages spring up.

One of the most commonly cited examples of price controls leading to shortages is the effect that rent controls had on the American housing market following World War II. Although the number of houses and population of the United States had both risen by ten percent, the rent control laws introduced during the war made housing more affordable for many people, resulting in less houses than people wanting to live in them. The result was that people had to wait for months to find an affordable apartment, if they could find one at all. Once the rent controls were removed, prices rose, thus decreasing the amount of people demanding houses and eliminating the shortages.<sup>27</sup>

As such, in order to eliminate the food shortages in Venezuela, price controls must be removed. While this may seem to pose a political risk, as it will make the price of food skyrocket, the aforementioned food subsidies will help to ease the burden on poor families until the shortages are eliminated and prices return to normal.

### *Decreased Oil Revenue*

Since the onset of the Venezuelan economic crisis in 2014, Venezuelan oil production has fallen from around 2,700 barrels per day to 1,769 barrels a day in February.<sup>28</sup> This decrease only tells half of the story. After the oil is produced, it is not always sold for immediate cash. As the economic crisis began to worsen, foreign governments demanded more concrete payments for their loans than the Bolivar (which is virtually worthless outside of Venezuela) or USD (that the government was starting to run short on). These concrete payments were oil. China and Russia agreed to give Venezuela advanced loans in exchange for oil to be sent at a later date, and now, almost 500,000 barrels per day are committed to paying them back.<sup>29</sup> With Venezuela falling behind in payments during 2017,<sup>30</sup> Russia negotiated licenses to develop two offshore Venezuelan oil fields in December of 2017.<sup>31</sup>

In addition to using oil to pay off debts, the Venezuelan government also gives Cuba and Nicaragua a considerable amount of oil with a discount.<sup>32</sup> According to PDVSA documents seen by Reuters, as recently as March 2017, 88,000 barrels per day were still being sent “to Cuba,

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<sup>26</sup>Neuman, William. 2012. *With Venezuelan Food Shortages, Some Blame Price Controls*. New York Times. April 20. Accessed April 23, 2018. <https://www.nytimes.com/2012/04/21/world/americas/venezuela-faces-shortages-in-grocery-staples.html>.

<sup>27</sup> Sowell, Thomas. 2004. *Basic Economics*. New York, New York: Basic Books.

<sup>28</sup> Trading Economics. 2018. *Venezuela Crude Oil Production*. February. <https://tradingeconomics.com/venezuela/crude-oil-production>.

<sup>29</sup> Baker Institute. 2018. *The Death Spiral of Venezuela's Oil Sector and What Can Be Done About It*. January 24. <https://www.forbes.com/sites/thebakersinstitute/2018/01/24/the-death-spiral-of-venezuelas-oil-sector-what-if-anything-can-be-done-about-it/#163a75077e60>.

<sup>30</sup> Reuters. 2017. *Venezuela falls behind on oil-for-loan deals with China, Russia*. February 10. <https://www.cnn.com/2017/02/10/venezuela-falls-behind-on-oil-for-loan-deals-with-china-russia.html>.

<sup>31</sup> Reuters Staff. 2017. *Venezuela gives Russia's Rosneft gas field concessions: Rosneft*. December 17. <https://www.reuters.com/article/us-russia-venezuela-rosneft-pdvsa/venezuela-gives-russias-rosneft-gas-field-concessions-rosneft-idUSKBN1EB0JN>.

<sup>32</sup> Ulmer, Alexandra, and Deisy Buitrago. 2017. *Maduro taps major general to lead Venezuela's deteriorating oil industry*. November 26. <https://www.reuters.com/article/us-venezuela-politics-pdvsa/maduro-taps-major-general-to-lead-venezuelas-deteriorating-oil-industry-idUSKBN1DQ0R9>.

Nicaragua and other countries...equivalent to a fifth of domestic consumption.”<sup>33</sup> Finally, if the aforementioned drain of production was not enough, the government of Venezuela heavily subsidized domestic sales of petroleum at a consistent rate for 20 years, until February of 2016, when the subsidy was slightly decreased.<sup>34</sup> With oil debts to China/Russia, the already low production levels of PDVSA, and the large oil subsidies given to the Venezuelan people and Venezuelan socialist allies, oil production (and, by extension, government revenue from oil sales) is in desperate need of change.

### **Productivity through PDVSA Reform**

The needed change is twofold: (1) partial privatization of PDVSA and (2) the return of former Venezuelan oil managers from outside of the country. The purpose of these changes is to give the Venezuelan oil industry the two things that any industry needs to increase productivity, human capital, investment, and up-to-date technology in that sector. Privatization of PDVSA will bring human capital, foreign investment, and technology. The return of Venezuelan emigrant human capital will bring human capital.

Human capital is “the skills the labor force possesses and is regarded as a resource or asset.”<sup>35</sup> It is necessary for the functioning of a company because without the managerial and technical skills needed to extract and transport oil efficiently, production and revenue suffers. In the Venezuelan case, this reality is illustrated by the impact of Hugo Chavez’s firing of 22,000 workers following a general strike that lasted from 2002-2003.<sup>36</sup> Since their firing, Venezuelan oil production levels in terms of barrels per day have not exceeded pre-strike levels.<sup>37</sup>

#### *Partial Privatization*

National ownership of any company has long been criticized by free market advocates as a recipe for inefficiency and corruption. In the case of PDVSA, the argument is accurate. In February 2018, three former employees of PDVSA were accused of embezzling more than \$60 million USD between 2008 and 2014.<sup>38</sup> In November of 2017, Major General Manuel Quevedo of the Venezuelan National Guard was appointed president of PDVSA,<sup>39</sup> despite having no

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<sup>33</sup> Ibid.

<sup>34</sup> Brodzinsky, Sibylla. 2016. *Venezuela president raises fuel price by 6,000% and devalues bolivar to tackle crisis*. February 17. <https://www.theguardian.com/world/2016/feb/18/venezuela-president-raises-fuel-price-by-1300-and-devalues-bolivar-to-tackle-crisis>.

<sup>35</sup> Oxford Dictionaries. n.d. *Human Capital* |Definition of Human Capital in English by Oxford Dictionaries. Accessed March 21, 2018.

<sup>36</sup> Al Jazeera. 2012. *Timeline: Venezuela's Tumultuous History*. September 20. Accessed May 2, 2018. (Al Jazeera 2012)<https://www.aljazeera.com/indepth/features/2012/09/201292121430533264.html>.

<sup>37</sup> Trading Economics. 2018. *Venezuelan Crude Oil Production*. May 2. Accessed May 2, 2018. <https://tradingeconomics.com/venezuela/crude-oil-production>.

<sup>38</sup> Telesur. 2018. *Venezuela: Former PDVSA Execs Accused of Siphoning Off US\$60m*. February 3. <https://www.telesurtv.net/english/news/Former-Venezuelan-State-Executives-Suspected-of-Corruption-20180203-0031.html>.

<sup>39</sup> BBC. 2017. *PDVSA: Maduro names general to head Venezuela oil firm*. November 26. <http://www.bbc.com/news/world-latin-america-42132694>.

experience in the energy sector.<sup>40</sup> On March 9, a “trust linked to Venezuela’s state oil company PDVSA...filed a lawsuit against major international energy trading firms for their alleged role funneling bribes to corrupt company officials in exchange for rigged oil purchase contracts.”<sup>41</sup> The lawsuit alleges “billions in lost revenue since 2004.”<sup>42</sup> To address the problems with corruption while maintaining revenue flow from the oil sector to state coffers, and subsequently to the Venezuelan people, a combination of two extra-national case studies is needed: Chile and Bolivia. After the military coup in Chile in 1973, an authoritarian military junta rose to power in Chile under the leadership of General Augusto Pinochet. Under junta’s leadership, the Chilean economy was recrafted by a group of Chilean “free market” economists.<sup>43</sup> In 1980, Pinochet added a provision to the newly created Chilean constitution which ensured that ten percent of the revenue from Chilean copper exports would go directly to the Chilean military.<sup>44</sup> According to data from Cochilco, Chile’s copper regulatory agency, during the two decades following privatization, copper production rose by approximately 244 percent (in the decade before privatization, it only rose approximately 50 percent).<sup>45</sup> During the commodity boom of the early-to-mid 2000s, “the substantial increase in international copper prices, [gave] the armed forces...important sums from this source, which were mostly spent on modernizing their military equipment.”<sup>46</sup> By taking ten percent of revenue from Chilean copper exports, the Chilean military was able to take full advantage of the efficiency brought on by private ownership.

In a similar vein, the socialist government of Bolivia has been able to harness the efficiency of the private sector for the benefit of Bolivians. On May first, 2006, newly elected president Evo Morales nationalized Bolivia’s oil and natural gas reserves. The decree gave foreign companies 180 days to renegotiate contracts with the state<sup>47</sup> and compensated the foreign companies by the value of their shares.<sup>48</sup> While the Bolivian government does officially own the natural gas deposits and production, the foreign companies, who renegotiated contracts, are allowed to sell the natural gas and oil in the international market.<sup>49</sup> In turn, Morales has used the revenue from taxes on the companies to “deploy a set of social policies designed to alleviate poverty, inequality and shortcomings in the areas of health and education.”<sup>50</sup> Between 2006 and December 2011, Bolivian

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<sup>40</sup> Ulmer, Alexandra, and Deisy Buitrago. 2017. *Maduro taps major general to lead Venezuela's deteriorating oil industry*. November 26. <https://www.reuters.com/article/us-venezuela-politics-pdvsa/maduro-taps-major-general-to-lead-venezuelas-deteriorating-oil-industry-idUSKBN1DQ0R9>.

<sup>41</sup> Goodman, Joshua. 2018. *Venezuela-linked trust sues foreign oil traders for bribes*. March 9. [https://www.washingtonpost.com/world/the\\_americas/us-lawsuit-venezuela-cheated-of-billions-by-rigged-oil-bids/2018/03/08/fe336a60-2332-11e8-946c-9420060cb7bd\\_story.html?utm\\_term=.55e2dfe324e6](https://www.washingtonpost.com/world/the_americas/us-lawsuit-venezuela-cheated-of-billions-by-rigged-oil-bids/2018/03/08/fe336a60-2332-11e8-946c-9420060cb7bd_story.html?utm_term=.55e2dfe324e6).

<sup>42</sup> Ibid.

<sup>43</sup> Dávila, Jerry. 2013. *Dictatorship in South America*. Chichester, West Sussex, United Kingdom: Wiley-Blackwell.

<sup>44</sup> Cambero, Fabian, and Dave Sherwood. 2017. *Whoever wins election, Chile state copper giant may get boost*. November 22. <https://uk.reuters.com/article/us-chile-codelco/whoever-wins-election-chile-state-copper-giant-may-get-boost-idUSKBN1DM1DZ>.

<sup>45</sup> Cochilco. 2011. *Mining Production / Cochilco*. Accessed April 23, 2018.

<https://www.cochilco.cl/Paginas/English/Statistics/Data%20Base/Mining-Production.aspx>.

<sup>46</sup> Fainboim, Israel. 2009. *Changing the Financial Management of the Defense Sector in Chile: Leaving Expenditure Earmarks Behind*. November 25. <https://archive.is/yNEu#selection-543.267-543.452>.

<sup>47</sup> Zissis, Carin. 2006. *Bolivia's Nationalization of Oil and Gas*. May 12. <https://www.cfr.org/backgrounder/bolivias-nationalization-oil-and-gas>.

<sup>48</sup> Ceppi, Natalia. 2015. "Energy on the Public Agenda: Changes in Bolivia with Impact on Adjoining Countries." *Journal of International Relations*.

<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

natural gas barrels per day increased<sup>51</sup> and between 2006 and 2016, economic inequality in Bolivia (as measured by the GINI coefficient) decreased.<sup>52</sup>

The success of the Bolivia's loose-nationalization and Chilean copper revenue appropriation created the possibility of implementing similar policies in Venezuela. Furthermore, the implementation of a mere partial privatization, which was done by Bolivia, may allow President Maduro to save face in the eyes of his hardened nationalist supporters.

### *Buyers*

The most daunting obstacle to partial privatization of PDVSA is finding a buyer. A buyer must have enough money to buy PDVSA and finance the PDVSA's debts. The latter of the aforementioned responsibilities brings up another concern. In March 2018, the United States Treasury Department announced new sanctions that forbade American commercial entities from buying debts connected to the Venezuelan government, like PDVSA debt.<sup>53</sup> As such, the buyer cannot be American (which severely limits the number of buyers). Similarly, finding a buyer in the European Union may be difficult because potential buyers may fear that the European Union may place sanctions on Venezuela that will mirror American sanctions. In addition, it may be difficult to attract a Middle Eastern, Russian, or Chinese buyer for reasons that will be explained in the following section. With these limitations, there may be one potential buyer with the money and freedom from politics to purchase PDVSA, an English oil company.

Besides the process of elimination, there are more reasons that English companies are more likely to buy PDVSA. In 2016, citizens of the United Kingdom voted to leave the European Union (EU). In the aftermath, many saw the potential for omelets to be made of the broken eggs. One such omelet was the diversification of England's economic ties beyond what the politics of the European Union would allow. Prime Minister Theresa May has made clear that in the aftermath of the British exit from the European Union (Brexit), her government would push for Europe to become a leader of global free trade.<sup>54</sup> One form of this is the pursuit of trade agreements that would have been impossible had England stayed in the EU.

An example of this is Dr. Nile Gardiner's testimony before the Subcommittee on Terrorism, Nonproliferation, and Trade and the Subcommittee on Europe, Eurasia, and Emerging Threats of the Committee on Foreign Affairs in February 2015. When asked if Brexit would make it easier to "resolve some of the perennial issues of GMOs and other aspects that often make it impossible for U.S. agricultural products to have a fair opportunity to enter those markets?":

I would say, you know, firstly, that with regard to TTIP that you mentioned earlier, there were major problems in terms of U.S.-EU discussions because of the EU's common agricultural policy, which some in Britain would describe as a vast

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<sup>51</sup>Yacimientos Petroliferos Fiscales Bolivianos. 2011. *Technical Reports*. December. Accessed April 25, 2018. <file:///C:/Users/hnitzb1/Downloads/produccioncertificadadehidrocarburos.pdf>.

<sup>52</sup> World Bank. 2016. *Inflation, consumer prices (annual %)* | Data. Accessed April 10, 2018. <https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?locations=VE>.

<sup>53</sup> Department of the Treasury. 2017. *Venezuela-Related Sanctions*. August 24. Accessed April 25, 2018. <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13808.pdf>.

<sup>54</sup> Blanchard, Ben, and William James. 2018. *China's Li says ties with Britain to stay unchanged through Brexit*. January 30. <https://www.reuters.com/article/us-china-britain/chinas-li-says-ties-with-britain-to-stay-unchanged-through-brexit-idUSKBN1FK023>.

protectionist racket basically...And once Britain leaves the European Union, it will not be subject to the common agricultural policy.<sup>55</sup>

Another example is Britain's desire to create a free trade agreement with Australia.<sup>56</sup> Today, the European Union does not have an all-encompassing trade agreement with Australia.<sup>57</sup> Similarly to the US case, trade between the European Union and Australia has been strained for decades due to the EU's agricultural protectionist policies, which blocked access of many Australian agricultural products from the EU market.<sup>58</sup>

Based on British expansion of economic relations with countries that EU politics have delayed, it is possible that a British company would be more able to buy PDVSA than its counterparts in the EU, the United States, the Middle East, or China. After an official Brexit in March of 2019, British companies may no longer be bound to sanctions initiated by the European Union. As such, British companies would not have to fear impending sanctions by the European Union that could derail such a deal or dampen their profits once a deal to purchase PDVSA was made.

## Debt Management

Of all of Venezuela's economic troubles, this is by far the hardest to tackle. As previously mentioned, Venezuela's foreign debt has reached \$60 billion by conservative estimates and Venezuela has had to resort to selling off licenses to oil fields to pay back loans to Russia. While \$60 billion dollars in debt may not seem high by American standards, keep a few things in mind: (1) much of this debt is in the form of government and PDVSA bonds, which are all coming due (or "maturing") around the same time, and (2) these bonds are maturing at a time when oil revenue is at the lowest point that Venezuela has seen while governed by Chavez's party.

The maturation of Venezuelan bonds and demands for repayment by Russia and China have left Venezuela in dire need of immediate cash. Recently risen obstacles have limited potential sources of said cash. China has ceased to give new loans to Venezuela.<sup>59</sup> Sanctions issued in the aftermath of the election of representatives for the newly created "Constituent Assembly" forbid American businesses from buying new debt from PDVSA or the Venezuelan government.<sup>60</sup> Worse

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<sup>55</sup>2017. *Next steps in the "special relationship"-impact of a U.S.-U.K. free trade agreement: joint hearing before the Subcommittee on Terrorism, Nonproliferation, and Trade and the Subcommittee on Europe, Eurasia, and Emerging Threats of the Committee on Foreign Affairs, House of Representatives, One Hundred Fifteenth Congress, first session, February 1, 2017.* n.p.: Washington: U.S. Government Publishing Office, 2017., 2017. *USMAI Catalog*, EBSCOhost (accessed May 2, 2018).

<sup>56</sup> Swinford, Steven, and Neil Connor. 2016. *Britain and Australia talk up free trade deal at G20.* September 5. Accessed May 2, 2018. <https://www.telegraph.co.uk/news/2016/09/05/britain-and-australia-talk-up-free-trade-deal-at-g20/>.

<sup>57</sup> The European Commission. 2018. *Australia-Trade-European Commission.* April 16. Accessed May 2, 2018. <http://ec.europa.eu/trade/policy/countries-and-regions/countries/australia/>.

<sup>58</sup> Zolin, Bruna, and Philomena Murray. 2012. "Australia and the European Union: conflict, competition or engagement in agricultural and agri-food trade?" *Australia Journal of International Affairs* 66 (2): 186-205. Accessed 2018.

<sup>59</sup> Gillespie, Patrick. 2016. *China is Cutting Off Cash to Venezuela.* September 30.

<sup>60</sup> US Treasury. 2018. *OFAC FAQs: Other Sanctions Programs.* [https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_other.aspx#venezuela](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#venezuela).

yet, the international financial institutions that usually provide cash to countries in economic or financial crises are not politically viable for Maduro's government or for the United States.

Studies have found that IMF lending is often "systematically biased" with preferential treatment being "largely driven by the degree of similarity between beliefs held by IMF officials and key economic policy makers in the borrowing countries."<sup>61</sup> Given the democratic socialist nature of the Venezuelan government and the well-known free-market ideology of the IMF, loans are unlikely. Conversely,, the government of Nicolas Maduro would not be inclined to accept a loan. As mentioned previously, Maduro and his predecessor, Hugo Chavez, thrive on the use of anti-American and anti-international financial institution rhetoric. The acceptance of any loan deal between the IMF and the Maduro government would be seen by Maduro's political base as a betrayal of the late Hugo Chavez.

With these limited options, Maduro must find alternative means to finance the most immediate payments of Venezuela's debt. This alternative cannot include the United States, China, Russia, or the IMF. This seemingly leaves two major potential sources, Europe and the Middle East. Unfortunately, the only states in the Middle East with large enough economies to provide such funds are states whose economies are heavily dependent on oil, which have already been forced to cut government expenditures immensely in response to the global fall in oil prices.<sup>62</sup> On the other end of the spectrum, Europe has faced weak economic growth since the 2008 financial crisis and subsequent Euro crisis. As a result of these two crises, European GDP has not yet returning to pre-2008 levels.<sup>63</sup>

This debt burden and limitation of access to credit gives the Venezuelan government further incentive to partially privatize PDVSA. In the next year, of the \$9 billion dollars in payments that will become due, \$2.9 billion dollars will be from PDVSA. By privatizing PDVSA while maintaining government revenue from it (as suggested in the previous section), Venezuela may effectively be able to dump some of its debt burden onto PDVSA's new owner (who would probably have more access to the credit needed to finance the debt). This buys the Venezuelan government some breathing room to focus on paying off its sovereign debt; a debt that the Venezuelan government itself owes to bondholders.

In addition to offloading some debt by privatizing PDVSA, as mentioned earlier, the Venezuelan government may be able to regain access to foreign banks after it has initiated counter-inflation measures. To do this, investor confidence in the economy must be restored. Investor confidence can be boosted by a change of government leadership and from the managed float of the Venezuelan Bolivar.

As previously noted, Maduro and the United Socialist Party, to which he belongs, cannot afford to lose their base by seeking help from the IMF. As such, in any other situation, the opposing political coalition would be the optimal choice to step into power. In any other situation, a change to a ruling party of the center-right would be a good signal to foreign banks and investors; it would mean that Venezuela would be willing to accept help from the IMF and that the IMF would be willing to give it. However, the main opposition coalition in Venezuela, the Mesa de la Unidad Democrática (MUD), has been fractured since the creation of the Constituent Assembly in August,

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<sup>61</sup> Nelson, Stephen C. 2014. "Playing Favorites: How Shared Beliefs Shape the IMF's Lending Decisions." *International Organization* 297-328.

<sup>62</sup> The Gulf Times. 2018. *IMF chief urges Arab states to cut spending*. February 10. <http://www.gulf-times.com/story/581201/IMF-chief-urges-Arab-states-to-cut-spending>.

<sup>63</sup> World Bank. 2016. *GDP (current US\$) | Data*. <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=EU>.

with some members accepting the Constituent Assembly as the new rules of the Venezuelan political game and others refusing to accept it as a legitimate institution.<sup>64</sup> Furthermore, MUD has announced that it will be boycotting elections in May on the grounds that the election will be fraudulent, despite the presence of United Nations observers.<sup>65</sup>

With a fractured and weak opposition, Venezuela must do the best that it can with the political party that it has, but not necessarily with the current face of that party. Contrary to popular belief, there is a sea of difference between the leadership of Nicolas Maduro and that of his predecessor Hugo Chavez. In contrast to Chavez, “who often managed to resolve social tension or make unexpected alliances at key moments, Maduro easily falls for provocations.”<sup>66</sup> In the words of *The Nation* reporter Greg Grandin, “Maduro has responded to extremists in the opposition by assuming everyone in the opposition is an extremist, presiding over an ineffective and incoherent mix of distributivist carrots and repressive sticks, aimed not so much at consolidating his personal power as at digging in a besieged and out-of-touch revolutionary bureaucracy.”<sup>67</sup> For a more concrete look at the difference in public support between the Maduro and Chavez, consider their electoral successes. Prior to the massive downturn of the economy, Maduro only won the presidency by 1.5 percent of the votes cast,<sup>68</sup> while Chavez consistently won by huge majorities in 1999, 2001, and 2007.<sup>69</sup>

Having established Maduro’s poor political skills and the MUD’s impotence, only one option remains: the replacement of Maduro with another member of his own party. Currently, such an individual has not presented themselves yet.

### *Policies for Economic Sustainability*

Once inflation has been decreased and government revenues have been refilled by reinvigorated oil production, the Venezuelan government will not have much time to celebrate their short-term victory, they must focus on sustainability. Under the umbrella of sustainable economic growth is one necessity, economic diversification. In the case of Venezuela, economic diversification would entail a decrease in the percentage of GDP that can be tied back to the oil sector. To put the dependence of the Venezuelan oil exports in perspective, 95 percent of Venezuela’s export earnings and 25 percent of Venezuela’s GDP are from oil and gas exports.<sup>70</sup>

With Venezuela’s large amount of oil reserves, should oil prices continue to steadily rise, Maduro’s government may be tempted to just ride the wave of growth that would surely follow—directly into an economic trough when prices fall again. This is what economists call a “resource

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<sup>64</sup> Deutsche Welle. 2017. *Venezuela opposition MUD fractures after Constituent Assembly loyalty oaths*. October 25. Accessed April 4, 2018. <http://www.dw.com/en/venezuela-opposition-mud-fractures-after-constituent-assembly-loyalty-oaths/a-41099061>.

<sup>65</sup> BBC. 2018. *Venezuela Presidential Election Postponed to May*. March 2. Accessed April 4, 2018. <http://www.bbc.com/news/world-latin-america-43241884>.

<sup>66</sup> Zabala, Santiago. 2017. *Maduro Is Not Chavez*. May 16. Accessed April 4, 2018. <https://www.aljazeera.com/indepth/opinion/2017/05/maduro-chavez-170513145531916.html>.

<sup>67</sup> Grandin, Greg. 2017. *What Is to Be Done in Venezuela?* May 1. Accessed April 4, 2018. <https://www.thenation.com/article/what-is-to-be-done-in-venezuela/>.

<sup>68</sup> Neuman, William. 2013. *Venezuela Gives Chávez Protégé Narrow Victory*. April 14. Accessed April 4, 2018. <https://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-chavez.html>.

<sup>69</sup> Carter Center. 2018. *Venezuela*. Accessed April 4, 2018. <https://www.cartercenter.org/countries/venezuela.html>.

<sup>70</sup> Organization of Petroleum Exporting Countries. 2018. *OPEC: Venezuela*. [http://www.opec.org/opec\\_web/en/about\\_us/171.htm](http://www.opec.org/opec_web/en/about_us/171.htm).

curse” or stagnation in economic development that accompanies booms and busts in the price of the product that an economy overly depends on.<sup>71</sup> When the price of the main export is high, the value of the country’s currency rises. When a country’s currency becomes stronger, that country’s exports become more expensive. As the other industries’ prices rise, their ability to compete in international markets is decreased.<sup>72</sup> Without the ability to compete, these firms die off.<sup>73</sup> When the domestic firms that are needed for technological development die off, economic development is hindered.<sup>74</sup>

Rather than wholeheartedly throwing the percentage of oil revenue that the government would receive on social programs and in oil production investment (extraction related machines/labor or land surveying), the Venezuelan government can attempt to counteract the “resource curse” by reinvesting a portion of the revenue in what economists call “infant industries.”

An infant industry is a group of new companies in a country that cannot sell their product at a price that is competitive in the international market for that good. To help these infant industries compete and grow, governments often give them some sort of help, whether it be in the form of subsidies, tax credits, money to foreign firms to buy domestic goods (as the American Import/Export Bank does), tariffs on imports of the good that the foreign firm is selling, etc. The use of any of these strategies is called “protectionism.”

In the case of Venezuela, the temptation to rely on oil is so great that government protectionism is necessary to develop infant industries. Without the aforementioned protectionist measures, Venezuelans will continue to rely on the import of basic necessities, which become scarce in times of crisis. The main industry to be developed in the meanwhile is agriculture, an industry that former president Hugo Chavez passively attempted to grow during his presidency.<sup>75</sup> As the current crisis in Venezuela is showing, food production infrastructure is vital to sustain the Venezuelan population during sustained periods of low oil prices. With protectionist policies to protect the infant agricultural industry and removal of price controls on food, Venezuela may be able to better sustain downturns in oil prices in the future and become less reliant on oil revenue at the same time.

## Human Rights

It is no secret that the Venezuelan government has been violating human rights during the economic and political crisis. Freedom of the press is virtually non-existent, protesters have been killed and many people that have opposed Maduro’s government are jailed for their dissent.<sup>76</sup> In regards to fixing the economy, the human rights abuses create three obstacles to the aforementioned policy suggestions: (1) human rights violations scare off potential foreign direct

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<sup>71</sup> Collier, Paul. 2007. *The Bottom Billion*. New York, New York: Oxford University Press.

<sup>72</sup> Ibid.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> Newman, Simeon J., and J. Laura Enriquez. 2016. "The Conflicted State and Agrarian Transformation in Pink Tide Venezuela." *Journal of Agrarian Change* 16 (4): 594-626.

<sup>76</sup> Human Rights Watch. 2017. *Crackdown on Dissent: Brutality, Torture, and Political Persecution in Venezuela*. Accessed April 25, 2018. <https://www.hrw.org/report/2017/11/29/crackdown-dissent/brutality-torture-and-political-persecution-venezuela>.

investment (FDI)<sup>77,78</sup> (2) they cause the flight of human capital<sup>79</sup> from Venezuela,<sup>80</sup> and (3) they have led to economic sanctions.<sup>81</sup> In order to remove these obstacles, the Venezuelan government must (at the very least) cease the violation of the opposition's human rights.

Specifically, the Venezuelan government must cease the arrest of political opponents. This serves to alleviate all three obstacles. Ceasing to arrest political opponents may encourage the return of educated Venezuelans, who have left the country, by making them less fearful that they would be arrested if they were to return. Should the human capital return, it may increase the likelihood the Venezuela may receive more (desperately needed) foreign direct investment, because studies have shown that multinational corporations (MNCs) may be more reluctant to invest in an country if they fear that its human rights record may have a negative impact on the company's image, even if that country has a large amount of human capital.<sup>82</sup> Finally, the cessation of politically motivated arrests may lead to the removal—or at least avoidance—of future sanctions. In the announcement of sanctions by the European Union in January 2018<sup>83</sup> and in the announcement of American sanctions in August 2017 and March 2018,<sup>84</sup> the motivations of the sanctions were explicitly stated to be human rights violations. As previously mentioned, the presence of existing sanctions and the threat of further sanctions makes potential buyers of PDVSA and Venezuelan debt, reluctant to buy debt or PDVSA. Hopefully, if human rights violations were to be ceased, the sanctions would be removed and probability of future sanctions will be reduced.

## Conclusions

This paper took a two-pronged approach in trying to reduce Venezuela's economic crisis. Short term reforms sought to decrease inflation by floating the Bolivar and removing price controls, while reforming existing social programs to better target at-risk populations. The point of reforming these social programs was to reduce waste and help poor Venezuelans deal with the further economic downturn that floating the currency and removing price controls will do in the

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<sup>77</sup> Foreign Direct Investment is when a company moves some of its operations into a country rather than contracting work to a foreign company.

<sup>78</sup> Blanton, Shannon Lindsey, and Robert G. Blanton. 2007. "What Attracts Foreign Investors? An Examination of Human Rights and Foreign Direct Investment." *The Journal of Politics* 143-155.; Vadlamannati, Chaitanya Krishna, Nicole Janz, and Isachsen Oyvind Bertsen. 2018. "Human Rights Shaming and FDI: Effects of the UN Human Rights Commission and Council." *World Development* 222-237.

<sup>79</sup> Barry, Colin M., Clay K. Chad, and Michael E. Flynn. 2013. "Avoiding the Spotlight: Human Rights Shaming and Foreign Direct Investment." *International Studies Quarterly* 57 (3): 532-544.

<sup>80</sup> Paez, Thomas, and Leonardo Vivas Penalver. 2017. "The Venezuelan Diaspora, Another Impending Crisis?" *Freedom House* 2-32.

<sup>81</sup> European Council: Council of the European Union. 2018. *Venezuela: EU sanctions 7 individuals holding official positions*. January 22. Accessed April 25, 2018. <http://www.consilium.europa.eu/en/press/press-releases/2018/01/22/venezuela-eu-sanctions-7-individuals-holding-official-positions/>; Department of the Treasury. 2017. *Venezuela-Related Sanctions*. August 24. Accessed April 25, 2018. <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13808.pdf>.

<sup>82</sup> Blanton, Shannon Lindsey, and Robert G. Blanton. 2007. "What Attracts Foreign Investors? An Examination of Human Rights and Foreign Direct Investment." *The Journal of Politics* 143-155.

<sup>83</sup> European Council: Council of the European Union. 2018. *Venezuela: EU sanctions 7 individuals holding official positions*. January 22. Accessed April 25, 2018. <http://www.consilium.europa.eu/en/press/press-releases/2018/01/22/venezuela-eu-sanctions-7-individuals-holding-official-positions/>.

<sup>84</sup> Department of the Treasury. 2017. *Venezuela-Related Sanctions*. August 24. Accessed April 25, 2018. <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13808.pdf>.

short run. To increase oil production from current record lows, it was suggested Venezuela try to encourage the return of educated Venezuelan emigrants and encourage foreign investment by partially privatizing the Venezuelan state-run oil company PDVSA. Partial privatization of PDVSA also aims to increase government revenue that can be used to help pay off Venezuela's short debt and help fund the aforementioned social programs. Long term reforms sought to diversify the Venezuelan economy by encouraging the growth of industries that were unprofitable during the oil boom years due to an oil-driven increase in the value of the Venezuelan Bolivar currency. Finally, both short-term and long-term reforms must be complemented by the protection of the political opposition's human rights. Arguably, violations of human rights will decrease the likelihood that the aforementioned economic reforms will be successful.

To reiterate the disclaimer in the introduction, these policy suggestions are solely meant to be a means of generating discussion on how to fix the Venezuelan economy in ways that fit Venezuela's political and economic realities. Many of these ideas are drawn from the economic experiences of other countries, and as such may not work in Venezuela.

### *Future Economic Concerns*

It is worth noting that should Venezuela somehow be able to find the funds to finance its debt repayments, it may face more obstacles down the road. One of the most fearsome potential concerns is the threat of foreign bondholders suing in foreign courts. The most prevalent regional precedent is the case of Argentina. After Argentina exited its economic crisis that lasted from 1998-2002 by re-negotiating with debt holders, it left a time bomb in the form of foreign vulture funds that refused the terms offered by the Argentinian government.<sup>85</sup> In 2014, the Supreme Court of the United States confirmed a lower ruling by a lower American court that said that Argentina had to pay back all of the holdout bondholders in full. Two years later, after grueling negotiations, Argentina made a precedent-setting deal with foreign vulture funds that rewarded the funds with \$2.4 billion dollars for bonds bought for \$117 million during the Argentine economic crisis of 2001.<sup>86</sup> Should the Venezuelan economy show signs of returning to stability, many of the vulture funds that observed or participated in the outcome of the Argentinian debt negotiations may swoop down and pick at the bones of Venezuela (if they have not begun to already). Should the same thing that happened to Argentina happen to Venezuela in the future, it would prove to be a great drag on the economy.

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<sup>85</sup> Vernengo, Matías. 2014. "Argentina, Vulture Funds, and the American Justice System." *Challenge* (05775132) 57, no. 6: 46-55. *Business Source Premier*, EBSCOhost (accessed May 7, 2018).

<sup>86</sup> Merle, Renae. 2016. *How one hedge fund made \$2 billion from Argentina's economic collapse*. March 29. [https://www.washingtonpost.com/news/business/wp/2016/03/29/how-one-hedge-fund-made-2-billion-from-argentinas-economic-collapse/?utm\\_term=.1785f0a65e0c](https://www.washingtonpost.com/news/business/wp/2016/03/29/how-one-hedge-fund-made-2-billion-from-argentinas-economic-collapse/?utm_term=.1785f0a65e0c).

## Bibliography

- Al Jazeera. 2012. *Timeline: Venezuela's Tumultuous History*. September 20. Accessed May 2, 2018. <https://www.aljazeera.com/indepth/features/2012/09/201292121430533264.html>.
- Ant, Omar. 2017. *Saudi Arabia Weighs Slower Subsidy, Budget Cuts to Aid Economy*. October 12. <https://www.bloomberg.com/news/articles/2017-10-12/saudis-mull-slower-subsidy-and-spending-cuts-to-support-economy>.
- Associated Press. 2012. *Venezuela expands price controls to new products*. April 2. Accessed April 23, 2018.
- Baker Institute. 2018. *The Death Spiral of Venezuela's Oil Sector and What Can Be Done About It*. January 24. <https://www.forbes.com/sites/thebakersinstitute/2018/01/24/the-death-spiral-of-venezuelas-oil-sector-what-if-anything-can-be-done-about-it/#163a75077e60>.
- Balch, Oliver. 2015. *Bread rationing and smartcards: Egypt takes radical steps to tackle food waste*. March 20. Accessed April 6, 2018. <https://www.theguardian.com/global-development-professionals-network/2015/mar/20/bread-rationing-egypt-food-waste-grain-wheat>.
- Barry, Colin M., Clay K. Chad, and Michael E. Flynn. 2013. "Avoiding the Spotlight: Human Rights Shaming and Foreign Direct Investment." *International Studies Quarterly* 57 (3): 532-544.
- BBC. 2017. *PDVSA: Maduro names general to head Venezuela oil firm*. November 26. <http://www.bbc.com/news/world-latin-america-42132694>.
- . 2018. *Venezuela Presidential Election Postponed to May*. March 2. Accessed April 4, 2018. <http://www.bbc.com/news/world-latin-america-43241884>.
- Blanchard, Ben, and James William. 2018. *China's Li Says ties with Britain to stay unchanged through Brexit*. January 30.
- Blanton, Shannon Lindsey, and Robert G. Blanton. 2007. "What Attracts Foreign Investors? An Examination of Human Rights and Foreign Direct Investment." *The Journal of Politics* 143-155.
- Bloomberg News. 2002. *Dollar Peg Nearing End In Argentina*. January 3. Accessed February 11, 2018. <http://www.nytimes.com/2002/01/03/business/dollar-peg-nearing-end-in-argentina.html>.
- Borges, Fabian. 2018. "Neoliberalism with a Human Face? Ideology and the Diffusion of Latin America's Conditional Cash Transfer." *Comparative Politics* 50 (2): 147-167.
- Brodzinsky, Sibylla. 2016. *Venezuela president raises fuel price by 6,000% and devalues bolivar to tackle crisis*. February 17. <https://www.theguardian.com/world/2016/feb/18/venezuela-president-raises-fuel-price-by-1300-and-devalues-bolivar-to-tackle-crisis>.

- Buitrago, Deisy, and Jack Stubbs. 2017. *Venezuela wins Russia and China backing as it says it is honoring debt*. November 15. <https://www.reuters.com/article/us-venezuela-debt/venezuela-wins-russia-and-china-backing-as-it-says-it-is-honoring-debt-idUSKBN1DF2WC>.
- Camero, Fabian, and Dave Sherwood. 2017. *Whoever wins election, Chile state copper giant may get boost*. November 22. <https://uk.reuters.com/article/us-chile-codelco/whoever-wins-election-chile-state-copper-giant-may-get-boost-idUSKBN1DM1DZ>.
- Carter Center. 2018. *Venezuela*. Accessed April 4, 2018. <https://www.cartercenter.org/countries/venezuela.html>.
- Casey, Nicholas, and Ana Vanessa Herrero. 2017. *Venezuela Arrests 2 Former Oil Officials, Claiming Corruption*. November 30. <https://www.nytimes.com/2017/11/30/world/americas/venezuela-maduro-oil-corruption-arrests.html>.
- Cepi, Natalia. 2015. "Energy on the Public Agenda: Changes in Bolivia with Impact on Adjoining Countries." *Journal of International Relations*.
- Cochilco. 2011. *Mining Production / Cochilco*. Accessed April 23, 2018. <https://www.cochilco.cl/Paginas/English/Statistics/Data%20Base/Mining-Production.aspx>.
- Collier, Paul. 2007. *The Bottom Billion*. New York, New York: Oxford University Press.
- Dávila, Jerry. 2013. *Dictatorship in South America*. Chichester, West Sussex, United Kingdom: Wiley-Blackwell.
- Department of the Treasury. 2017. *Venezuela-Related Sanctions*. August 24. Accessed April 25, 2018. <https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13808.pdf>.
- Deutsche Welle. 2017. *Venezuela opposition MUD fractures after Constituent Assembly loyalty oaths*. October 25. Accessed April 4, 2018. <http://www.dw.com/en/venezuela-opposition-mud-fractures-after-constituent-assembly-loyalty-oaths/a-41099061>.
- Dictionary.com. 2018. *Inflation / Define inflation at Dictionary.com*. Accessed February 11, 2018. <http://www.dictionary.com/browse/inflation>.
- Easterly, William, and Fischer Stanley. 2000. "Inflation and the Poor." *The World Bank: Development Research Group*. Accessed February 11, 2018. <http://documents.worldbank.org/curated/en/667341468767111866/pdf/multi-page.pdf>.
- EgyptSmartcards.com. 2016. *Smart Cards Applications*. Accessed April 6, 2018. <http://www.egyptsmartcards.com/#portfolio>.
- European Council: Council of the European Union. 2018. *Venezuela: EU sanctions 7 individuals holding official positions*. January 22. Accessed April 25, 2018.

- <http://www.consilium.europa.eu/en/press/press-releases/2018/01/22/venezuela-eu-sanctions-7-individuals-holding-official-positions/>.
- The European Commission. 2018. Australia-Trade-European Commission. April 16. Accessed May 2, 2018. <http://ec.europa.eu/trade/policy/countries-and-regions/countries/australia/>.
- Fainboim, Israel. 2009. *Changing the Financial Management of the Defense Sector in Chile: Leaving Expenditure Earmarks Behind*. November 25. <https://archive.is/yNEu#selection-543.267-543.452>.
- Furceri, Davide, Prakash Loungani, and Jonathan D. Ostry. 2016. "Neoliberalism Oversold? -- Fiance and Development." *Finance and Development* 53 (2). Accessed 11 2018, 2018. <http://www.imf.org/external/pubs/ft/fandd/2016/06/ostry.htm>.
- Gerber, James. 2014. *International Economics*. Upper Saddle River, New Jersey: Pearson Education, Inc. .
- Gillespie, Patrick. 2016. *China is Cutting Off Cash to Venezuela*. September 30. Accessed April 4, 2018.
- . 2018. *EU heaps sanctions on Venezuela as isolation grows*. January 22. Accessed April 18, 2018. <http://money.cnn.com/2018/01/22/news/economy/eu-venezuela-sanctions/index.html>.
- . 2018. *Half the Venezuelan economy has disappeared*. January 25. <http://money.cnn.com/2018/01/25/news/economy/venezuela-imf/index.html>.
- Goodman, Joshua. 2018. *Venezuela-linked trust sues foreign oil traders for bribes*. March 9. [https://www.washingtonpost.com/world/the\\_americas/us-lawsuit-venezuela-cheated-of-billions-by-rigged-oil-bids/2018/03/08/fe336a60-2332-11e8-946c-9420060cb7bd\\_story.html?utm\\_term=.55e2dfe324e6](https://www.washingtonpost.com/world/the_americas/us-lawsuit-venezuela-cheated-of-billions-by-rigged-oil-bids/2018/03/08/fe336a60-2332-11e8-946c-9420060cb7bd_story.html?utm_term=.55e2dfe324e6).
- Grandin, Greg. 2017. *What Is to Be Done in Venezuela?* May 1. Accessed April 4, 2018. <https://www.thenation.com/article/what-is-to-be-done-in-venezuela/>.
- The Gulf Times. 2018. *IMF chief urges Arab states to cut spending*. February 10. <http://www.gulf-times.com/story/581201/IMF-chief-urges-Arab-states-to-cut-spending>.
- Hanke, Steve. 2017. *Venezuela's Maduro Flunks His Economic Literacy Test*. September 10. Accessed September 11, 2018. <https://www.forbes.com/sites/stevehanke/2017/09/10/venezuelas-maduro-flunks-his-economic-literacy-test/#79c948457480>.
- Hazlitt, Henry. 1978. *Economics in One Lesson*. Three Rivers Press.
- Hernandez, Sujatha. 2008. *Social Policy in Chávez's Venezuela | ReVista*. Accessed February 11, 2018. <https://revista.drclas.harvard.edu/book/social-policy-ch%C3%A1vezs-venezuela>.
- Howard-Hassmann, Rhoda E. 2015. "The Right to Food Under Hugo Chavez." *Human Rights Quarterly* 37 (4): 1024-1045, 1120.

- Howitz, Steven. 2013. "An Introduction to Us Monetary Policy." *Mercatus Research*.
- Human Rights Watch. 2017. *Crackdown on Dissent: Brutality, Torture, and Political Persecution in Venezuela*. Accessed April 25, 2018.  
<https://www.hrw.org/report/2017/11/29/crackdown-dissent/brutality-torture-and-political-persecution-venezuela>.
- International Monetary Fund. 2017. *IMf and Egypt Frequently Asked Questions*. December 20. Accessed April 4, 2018. <https://www.imf.org/en/Countries/EGY/Egypt-qandas#Q2>.
- . 2018. *IMF Members' Quotas and Voting Power, and IMF Board of Governors*. Accessed April 4, 2018. <http://www.imf.org/external/np/sec/memdir/members.aspx>.
- . 2017. *World Economic Outlook (October 2017)- Inflation Rate, Average Consumer Prices*. October. <https://www.imf.org/external/datamapper/PCPIPCH@WEO/WEOWORLD/VEN>.
- . 2017. *World Economic Outlook (October 2017)-inflation rate, average consumer prices*. October. Accessed February 11, 2018. <http://www.imf.org/external/datamapper/PCPIPCH@WEO/VEN>.
- Irwin, Neil. 2018. *The Stock Market Is Worried About Inflation. Should It Be?* February 8. Accessed February 11, 2018. <https://www.nytimes.com/2018/02/07/upshot/the-stock-market-is-worried-about-inflation-should-it-be.html>.
- Krauss, Clifford. 2017. *Russia Says It Will Ease Debt Burden on Venezuela*. November 8. Accessed February 11, 2018. <https://www.nytimes.com/2017/11/08/business/energy-environment/russia-venezuela-debt.html>.
- Merle, Renae. 2016. *How one hedge fund made \$2 billion from Argentina's economic collapse*. March 29. [https://www.washingtonpost.com/news/business/wp/2016/03/29/how-one-hedge-fund-made-2-billion-from-argentinas-economic-collapse/?utm\\_term=.1785f0a65e0c](https://www.washingtonpost.com/news/business/wp/2016/03/29/how-one-hedge-fund-made-2-billion-from-argentinas-economic-collapse/?utm_term=.1785f0a65e0c).
- Nelson, Stephen C. 2014. "Playing Favorites: How Shared Beliefs Shape the IMF's Lending Decisions." *International Organization* 297-328.
- Neuman, William. 2013. *Venezuela Gives Chávez Protégé Narrow Victory*. April 14. Accessed April 4, 2018. <https://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-chavez.html>.
- . 2012. *With Venezuelan Food Shortages, Some Blame Price Controls*. New York Times. April 20. Accessed April 23, 2018. <https://www.nytimes.com/2012/04/21/world/americas/venezuela-faces-shortages-in-grocery-staples.html>.
- Newman, Simeon J., and J. Laura Enriquez. 2016. "The Conflicted State and Agrarian Transformation in Pink Tide Venezuela." *Journal of Agrarian Change* 16 (4): 594-626.

- Nino, Jose. 2016. *Price Controls Are Disastrous for Venezuela, and Everywhere Else*. November 16. Accessed April 5, 2018. <https://mises.org/wire/price-controls-are-disastrous-venezuela-and-everywhere-else>.
- Organization of Petroleum Exporting Countries. 2018. *OPEC: Venezuela*. [http://www.opec.org/opec\\_web/en/about\\_us/171.htm](http://www.opec.org/opec_web/en/about_us/171.htm).
- Oxford Dictionaries. n.d. *Human Capital* /Definition of Human Capital in English by Oxford Dictionaries. Accessed March 21, 2018.
- Paez, Thomas, and Leonardo Vivas Penalver. 2017. "The Venezuelan Diaspora, Another Impending Crisis?" *Freedom House* 2-32.
- Reuters Staff. 2018. *Algeria sends more oil to Cuba as Venezuelan supplies fall*. January 10. <https://www.reuters.com/article/us-algeria-oil-cuba/algeria-sends-more-oil-to-cuba-as-venezuelan-supplies-fall-idUSKBN1EZ28O>.
- . 2018. *Venezuela 2017 annual inflation at 2,616 percent: opposition lawmakers*. January 8. Accessed February 11, 2018. 2018.
- . 2017. *Venezuela gives Russia's Rosneft gas field concessions: Rosneft*. December 17. <https://www.reuters.com/article/us-russia-venezuela-rosneft-pdvsa/venezuela-gives-russias-rosneft-gas-field-concessions-rosneft-idUSKBN1EB0JN>.
- Reuters. 2017. *Venezuela falls behind on oil-for-loan deals with China, Russia*. February 10. <https://www.cnbc.com/2017/02/10/venezuela-falls-behind-on-oil-for-loan-deals-with-china-russia.html>.
- Rosati, Andrew. 2016. *Venezuela Doesn't Have Enough Money to Pay for Its Money*. April 27. Accessed April 9, 2018. <https://www.bloomberg.com/news/articles/2016-04-27/venezuela-faces-its-strangest-shortage-yet-as-inflation-explodes>.
- Royal, Todd. 2018. *Venezuela's Loss Is Russia and China's Gain*. 4 January. <http://nationalinterest.org/feature/venezuelas-loss-russia-chinas-gain-23937?page=2>.
- Rubio, Gloria, and Laura Rawlings. 2005. "Evaluating the Impact of Conditional Cash Transfer Programs." *The World Bank*.
- Salemi, Michael. 2008. *Hyperinflation: the Concise Encyclopedia of Economics*. Accessed February 11, 18. <http://www.econlib.org/library/Enc/Hyperinflation.html>.
- Scott Morton, Fiona. 2001. *The Problems of Price Controls*. Accessed April 6, 2018. <https://www.cato.org/publications/commentary/problems-price-controls>.
- Selgin, George. 1988. *The Theory of Free Banking: Money Supply under Competitive Note Issue*. Lanham, Maryland: Rowman & Littlefield.
- Semple, Kirk. 2017. *Venezuela Appoints General to Tighten Grip on Oil Industry*. November 27. <https://www.nytimes.com/2017/11/27/world/americas/venezuela-maduro-oil-industry.html>.

- Silva, Julio Soto. 2018. "La Conduccion de La Defensa en Chile 1960 al 2010: ¿Un Problema de los Militares O de Todos Los Chilenos?" *Academia Nacional de Estudios Politicos y Estrategicos*.
- Sowell, Thomas. 2004. *Basic Economics*. New York, New York: Basic Books.
- Swinford, Steven, and Neil Connor. 2016. *Britain and Australia talk up free trade deal at G20*. September 5. Accessed May 2, 2018. <https://www.telegraph.co.uk/news/2016/09/05/britain-and-australia-talk-up-free-trade-deal-at-g20/>.
- Telesur. 2018. *Venezuela: Former PDVSA Execs Accused of Siphoning Off US\$60m*. February 3. <https://www.telesurtv.net/english/news/Former-Venezuelan-State-Executives-Suspected-of-Corruption-20180203-0031.html>.
- The Gulf Times. 2018. *IMF chief urges Arab states to cut spending*. February 10. <http://www.gulf-times.com/story/581201/IMF-chief-urges-Arab-states-to-cut-spending>.
- The White House Office of the Press Secretary. 2017. *Press Briefing by Press Secretary Sarah Sanders, et al., 8/25/2017, #7*. August 25. <https://www.whitehouse.gov/the-press-office/2017/08/25/press-briefing-press-secretary-sarah-sanders-et-al-8252017-7>.
- Tornarolli, Leopoldo, and Marco Stampini. 2012. "The Growth of Conditional Cash Transfers in Latin America and the Caribbean: Did They Go Too Far?" *Inter-American Development Bank*.
- Trading Economies. 2018. *Venezuela Crude Oil Production*. February. <https://tradingeconomics.com/venezuela/crude-oil-production>.
- . 2018. *Venezuelan Crude Oil Production*. May 2. Accessed May 2, 2018. <https://tradingeconomics.com/venezuela/crude-oil-production>.
- Ulmer, Alexandra, and Deisy Buitrago. 2017. *Maduro taps major general to lead Venezuela's deteriorating oil industry*. November 26. <https://www.reuters.com/article/us-venezuela-politics-pdvsa/maduro-taps-major-general-to-lead-venezuelas-deteriorating-oil-industry-idUSKBN1DQ0R9>.
- Ulmer, Alexandra, and Marianna Parraga. 2017. *Exclusive: Venezuela increased fuel exports to allies even as supply crunch loomed*. March 24. <https://www.reuters.com/article/us-venezuela-gasoline/exclusive-venezuela-increased-fuel-exports-to-allies-even-as-supply-crunch-loomed-idUSKBN16V2D5>.
2017. *Next steps in the "special relationship"-impact of a U.S.-U.K. free trade agreement: joint hearing before the Subcommittee on Terrorism, Nonproliferation, and Trade and the Subcommittee on Europe, Eurasia, and Emerging Threats of the Committee on Foreign Affairs, House of Representatives, One Hundred Fifteenth Congress, first session, February 1, 2017*. n.p.: Washington: U.S. Government Publishing Office, 2017., 2017. *USMAI Catalog*, EBSCOhost (accessed May 2, 2018).

- US Treasury. 2018. *OFAC FAQs: Other Sanctions Programs*.  
[https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq\\_other.aspx#venezuela](https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#venezuela).
- Vadlamannati, Chaitanya Krishna, Nicole Janz, and Isachsen Oyvind Bertsen. 2018. "Human Rights Shaming and FDI: Effects of the UN Human Rights Commission and Council." *World Development* 222-237.
- Vera, Leonardo. 2017. "In Search of Stabilization and Recovery: Macro Policy and Reforms in Venezuela." *Jornal of Post Keynesian Economics* 9-26.
- Vernengo, Matías. 2014. "Argentina, Vulture Funds, and the American Justice System." *Challenge (05775132)* 57, no. 6: 46-55. *Business Source Premier*, EBSCOhost (accessed May 7, 2018).
- Vyas, Kejal, and Anatoly Kurmanaev. 2018. *Venezuela's Oil Production Is Collapsing*. January 18. <https://www.wsj.com/articles/venezuelas-oil-industry-takes-a-fall-1516271401>.
- Weisbot, Mark. 2017. *Trump's Sanctions Make Economic Recovery in Venezuela Nearly Impossible*. September 7. Accessed February 11, 2018.  
<https://www.thenation.com/article/trumps-sanctions-make-economic-recovery-in-venezuela-nearly-impossible/>.
- n.d. *White House debates new punishments for Venezuela as April elections approach*.  
<http://www.mcclatchydc.com/news/nation-world/article202267834.html>.
- World Bank. 2016. *GDP (current US\$) | Data*.  
<https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=EU>.
- . 2016. *GINI Index*. Accessed April 25, 2018.  
<https://data.worldbank.org/indicator/SI.POV.GINI?locations=BO>.
- . 2016. *Inflation, consumer prices (annual %) | Data*. Accessed April 10, 2018.  
<https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?locations=VE>.
- World Health Organization. 2008. "Conditional Cash Transfers: What's in it for Health." *Technical Briefs for Policy-Makers*.
- Yacimientos Petrolíferos Fiscales Bolivianos. 2011. *Technical Reports*. December. Accessed April 25, 2018.  
<file:///C:/Users/hnitzb1/Downloads/produccioncertificadadehidrocarburos.pdf>.
- Zabala, Santiago. 2017. *Maduro Is Not Chavez*. May 16. Accessed April 4, 2018.  
<https://www.aljazeera.com/indepth/opinion/2017/05/maduro-chavez-170513145531916.html>.
- Zissis, Carin. 2006. *Bolivia's Nationalization of Oil and Gas*. May 12.  
<https://www.cfr.org/backgrounder/bolivias-nationalization-oil-and-gas>.

Zolin, Bruna, and Philomena Murray. 2012. "Australia and the European Union: conflict, competition or engagement in agricultural and agri-food trade?" *Australian Journal of International Affairs* 66 (2): 186-205. Accessed 2018.

# Case Studies of Statelessness: North Koreans Born in China, Rohingya in Myanmar, and Palestinians under the Arab League

Kyle Van Fleet\* & Dr. Shin Ji Kang\*\*

**Abstract:** *Statelessness is an ongoing issue where millions of people lack citizenship or legal residency in any country. Most importantly, being stateless affects the scope of human rights that people enjoy. This paper analyzes in greater detail the legal definition of statelessness and current phenomenon of statelessness by presenting three cases of stateless groups: North Korean children born in China, Rohingya in Myanmar, and Palestinians under the Arab League. We will then provide potential solutions to each of their specific contexts, as well as discuss the importance of the state's role in ending statelessness.*

## Introduction

As defined in Article 15 of the Universal Declaration of Human Rights, “everyone has the right to a nationality and no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” While nationality is a UN-declared universal human right, there are millions of people who lack an officially recognized nationality.<sup>1</sup> This is known as statelessness. As defined by the United States Department of State, a stateless person is “someone who, under national laws, does not enjoy citizenship – the legal bond between a government and an individual – in any country.”<sup>2</sup> In 2011, the UN High Commissioner for Refugees (UNHCR) announced that there were over 3.5 million stateless persons in 64 countries as of 2011, but the actual number could be as high as 12 million.<sup>3</sup>

It is possible to be stateless as well as a refugee or asylum seeker. But it is also very possible to be stateless and have never crossed any international borders. Stateless individuals have few to no legal rights within the borders where they live. This reality makes life difficult for stateless individuals and often leads to impoverishment and a lower standard of living.

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<sup>1</sup> Kingston, Lindsey. 2013. "A Forgotten Human Rights Crisis': Statelessness and Issue (Non)Emergence." *Human Rights Review* 14, no. 2: 73-87. *Legal Collection*. (accessed August 7, 2017).

<sup>2</sup> "Statelessness." U.S. Department of State. Accessed January 05, 2018. <https://www.state.gov/j/prm/policyissues/issues/c50242.htm>.

<sup>3</sup> U.S. Department of State. Accessed August 06, 2017. <https://www.state.gov/j/prm/policyissues/issues/c50242.htm>.

While stateless people share many similar experiences and problems, legal situations differ widely between the varying groups of stateless people. The topic of statelessness is therefore a complex and context-specific issue, which further complicates efforts to assuage its harmful conditions. The purpose of this paper is to explore three different stateless groups (North Korean children born in China, Rohingya in Myanmar, and Palestinians under the Arab League) and discuss unique policies by and possible responses from individual states.

### **Definition and Status of Statelessness**

The concept of statelessness can be understood in at least two different ways. First, those who are stateless *de jure* are not considered a national by any state. Second, individuals who are stateless *de facto* “are nationals of some state by law but are not treated as citizens”.<sup>4</sup> The latter definition is problematic since it encompasses various interpretations. Some include “ineffective citizenships,” the inability to prove one’s nationality, and those who cannot rely on the state.<sup>5</sup>

Most people are, in legal terminology, born *jus soli* and/or *jus sanguinis*, which translates to the “law of the soil” and the “law of blood.”<sup>6</sup> People are given citizenship from the country in which they are born or from their parents’ nationality. Most states offer naturalization opportunities, and some have simpler processes such as “registration” or “declaration” in cases that children are not born under *jus soli* or *jus sanguinis* jurisdiction.

While most states maintain formal systems to grant citizenship or legal residency, certain groups of people are deprived this opportunity, which presents a significant human rights challenge. Documented causes of such denial include “administrative oversights, conflicts of law, procedural problems such as excessive fees or unrealistic deadlines, renunciation of one nationality before acquiring another, failure to register a child at birth, and being born to stateless parents.”<sup>7</sup> But more often than not, it is the arbitrary deprivation of nationality by the state based on one’s race, ethnicity, religion, and sometimes gender that ultimately hinders one’s ability to earn citizenship. Arbitrary deprivation is also done for political reasons, regardless of an individual’s social markers.

International support to solve statelessness has been strengthened through different legal instruments, including the Convention Relating to the Status of Stateless Persons in 1954, the Convention on the Reduction of Statelessness in 1961, the Convention on the Elimination of All Forms of Discrimination against Women in 1979, and the Convention on the Rights of the Child in 1989. Despite these improvements, not all states have ratified the aforementioned agreements. This reality makes the issue of statelessness more complicated and perpetuates the absence of human rights protections.

### **Challenges of Being Stateless in the Human Development and Rights**

The Universal Declaration of Human Rights identifies universal rights for every human being in the form of 30 articles. Implementations of these rights, however, are decided by and

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<sup>4</sup> Walton-Roberts, Margaret, and Rhoda E. Howard-Hassmann. 2015. *The human right to citizenship: a slippery concept*. Philadelphia : University of Pennsylvania Press, 2015.

<sup>5</sup> Ibid.

<sup>6</sup> Kohn, Sebastian , Julia Harrington, and Indira Goris. "Statelessness: what it is and why it matters." FMR Review, April 1, 2009, 4-6.

<sup>7</sup> Kingston, “A Forgotten Human Rights Crisis’: Statelessness and Issue (Non)Emergence.”

dependent on each state. International human rights law is limited in its ability to protect those who are not nationals of a state. Consequently, the gap between human rights law and its actual operation heavily affects the livelihood of stateless individuals.

By not having a nationality, one's access to freedom is significantly reduced. Basic rights such as legal protection, voting, healthcare, and education are not guaranteed and the freedom of movement is also restricted since it requires legal documentation, such as a passport.<sup>8</sup> Another significant obstacle is the freedom to be legally employed. Since employment requires a certain form of legal status, this leads many stateless individuals to do illegal work. As a result, they inevitably find themselves exploited and impoverished. Stateless people, due to lack of economic freedom and access to other supposedly guaranteed human rights, also face significantly lower levels of income, education, and health.<sup>9</sup>

In addition to being denied human rights, stateless individuals also suffer from social and emotional stress stemming from a lack of acceptance. If the attitudes of a host community and ideologies of its culture are counter to stateless individuals based on social membership such as race, ethnicity, or religion, the daily interactions of stateless individuals are significantly impacted. Recent research conducted in United Kingdom found inequality in mental health among various ethnic groups that were caused by their experiences of racism.<sup>10</sup>

Similar results stem from other studies: North Korean refugees living in South Korea are discriminated against, as they are often called "commies" or accused of being spies. Thus, they attempt to hide their true identities to protect themselves. Unjust treatment and feelings of loneliness and homesickness add another layer of mental burden.

In another study examining mental health issues in the stateless Rohingya community, researchers found that 36% of respondents had symptoms of Post-Traumatic Stress Disorder, 89% had symptoms of depression, 67% had headaches, 55% had back pain, and 49% had pain all over their bodies.<sup>11</sup> The research indicates that both mental and physical health issues are prevalent among stateless populations and are mainly caused from the violence and trauma associated with their stateless statuses. In the following section, three stateless groups will be analyzed in depth through the inclusion of unique geopolitical contexts of each case and examinations of how human development and rights are affected by stateless status. Moreover, the implications of statelessness and the potential responses of each state will be included in the following section.

### **Three Cases of Statelessness: Undocumented North Koreans Born in China, Rohingya in Myanmar, and Palestinians under the Arab League**

There are many different communities around the world that are considered stateless. While they share similar challenges in the scope and quality of human rights, each stateless community has unique geopolitical backgrounds which might suggest different approaches to the

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<sup>8</sup> Ibid.

<sup>9</sup> Guay, Jennifer. "How Being Stateless Makes You Poor." *Foreign Policy*. June 30, 2016. <http://foreignpolicy.com/2016/06/30/how-being-stateless-makes-you-poor/>.

<sup>10</sup> Wallace, Stephanie, Nazroo, James, and Bécaries, Laia. 2016. "Cumulative Effect of Racial Discrimination on the Mental Health of Ethnic Minorities in the United Kingdom." *American Journal Of Public Health* 106, no. 7: 1294-1300.

<sup>11</sup> Riley, Andrew, et al. "Daily stressors, trauma exposure, and mental health among stateless Rohingya refugees in Bangladesh." *Transcultural Psychiatry* 54, no. 3 (June 2017): 304-331.

potential alleviation of their problems. Understanding unique contexts provides critical insights into how complicated and diverse issues actually are. In this section, three stateless groups will be reviewed.

### *Undocumented North Koreans Born in China*

Undocumented North Koreans born in China are considered stateless from their birth; they are neither North Korean nor Chinese citizens. In particular, stateless children are born in China during their North Korean parents' (mostly mothers) undocumented stay in China. Since the conclusion of World War II, the Korean Peninsula has been divided into two countries: North and South Korea. While South Korea has joined the Organisation for Economic Co-operation and Development (OECD), enjoying both capitalist and democratic success, North Korea has remained the most strictly-controlled and closed society in the world. Following their *Juche* ideology (i.e., the idea of self-reliance), North Korea has operated a command economic system that leaves little room for upward mobility.<sup>12</sup> After the fall of the Soviet Union, a series of natural disasters, and general political instability in the early 1990s, an economic crisis further plagued the North Korean people. Such economic crises led to the deaths of an estimated 200,000 to four million North Koreans.<sup>13</sup>

As a result of the great famine that occurred in the early 1990s, an increased number of North Koreans have chosen to leave their home communities and cross borders searching for economic means and political freedom. This journey almost always consists of traveling through China to places like Thailand, Mongolia, or other neighboring countries. As undocumented migrants, North Koreans cannot be protected and, thus, become easy targets for human trafficking and violence. Some North Korean women become wives for Chinese men voluntarily under the condition of protection and shelter. These marriages, however, often remain unofficial, resulting in Chinese husbands' fear of marital abandonment.

Although international law regards North Korean refugees as political refugees, the Chinese government denies this population legal protection due to political reasons.<sup>14</sup> In fact, China deports these refugees if they are caught — which could result in imprisonment, brutal punishment, or death.

Most of the children attempting to flee North Korea are the result of forced marriages.<sup>15</sup> It is estimated that approximately 80 to 90% of North Koreans in China end up being trafficked according to a report by the Catholic Relief Services.<sup>16</sup> The human traffickers approach the “hungry, desperate and often unaccompanied [women, and] promise them food, shelter, employment and protection before forcing them to ‘marry’ or become the concubines of Chinese men.”<sup>17</sup> Making the North Korean context more unique, the community of these migrants is

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<sup>12</sup>Lee, Emily Seulgi and Kang, Shin Ji. 2017. “The lives of refugee children: A Korean example”. In *Early Childhood Policy*, 467-481.

<sup>13</sup> Lee and Kang, “The lives of refugee children: A Korean example”.

<sup>14</sup> Kim, S. K. 2014. “I am well-cooked food: Survival strategies of North Korean female border-crossers and possibilities for empowerment.” *Inter-Asia Cultural Studies*, 15, no. 4: 553-571.

<sup>15</sup> Kang, Emery, & Lee, Life after the pan and the fire: Depression, order, attachment, and the legacy of abuse among North Korean refugee youth and adolescent children of North Korean refugees.

<sup>16</sup> Ibid.

<sup>17</sup> Kim, S., & Park, Y. (2015, December). *Invisible Children: The Stateless Children of North Korean Refugees*.

predominantly made up of women.<sup>18</sup> Because a large portion of refugees are women, an overwhelming portion of the undocumented North Koreans in China are more prone to being forced into fraudulent marriages and sex slavery. Thus, a significant number of stateless children are born who cannot be protected or educated in China.

Some Chinese fathers pay a large bribe to the state officials to “look the other way” when enrolling their children in school, while other families save money to purchase legal documents for their children. These bribes can be as large as a year’s worth of salary, and a failure to provide the officials with the money would mean termination of educational opportunities as well. In addition, these children are often excluded from receiving basic health care benefits. According to the information gathered from vaccination cards and caregivers’ self-reports, stateless children received significantly lower rates of vaccination for diphtheria-tetanus-pertussis, hepatitis B, measles-mumps-rubella, and polio in comparison to their Chinese and North Korean refugee children counterparts.<sup>19</sup> Because these children are stateless, they cannot seek medical care for fear of being caught by the Chinese officials.

Hoping for a better future, North Korean mothers attempt to bring their children when they seek asylum in South Korea, where citizenship and resettlement support are granted. However, this does not always solve the statelessness problem. Since the children are not North Koreans themselves, they are not treated as refugees in South Korea, thus citizenship and resettlement support are not applied to these *Biboho* – “un-protected” in Korean – children.<sup>20</sup> Separation from their fathers and placement into different linguistic and cultural environments following the mothers’ plans serve as major stressors and increase risks of physical and mental health issues. Because of these potentially harmful experiences, many have decided to stay undocumented in China despite the fact that being caught would mean deportation.

To solve this, China would eventually have to amend its laws to accept North Korean defectors, as well as their children, and recognize them as refugees. However, this is idealistic and unlikely, as it would likely result in the destabilization of relations with North Korea, affecting other pressing issues such as denuclearization. A more realistic solution is for China to quietly reduce deportations and restrictions for North Koreans. China could shift toward a more relaxed and tolerant approach to the North Koreans living in China. This approach would be least likely to provoke North Korea and would allow safer passage for the North Koreans as well as their stateless children.

As for South Korea, in 2017, the South Korean government amended the North Korean Refugee Resettlement Support Law, granting additional child reading funds to the families of “children born in the third country with North Korean backgrounds.” South Korea also expanded educational support by providing one-semester tuition for students entering college.<sup>21</sup> There are still many other issues these children face when coming to South Korea, but progress has been made.

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<sup>18</sup> Lee, “The Lives of Refugee Children: A Korean Example.”

<sup>19</sup> Chung, H. J., S. H. Han, H. Kim, & J.L Finkelstein. 2016. “Childhood immunizations in China: disparities in health care access in children born to North Korean refugees.” *BMC International Health and Human Rights* 16: 1-12.

<sup>20</sup> McPhee, S. 2014. “KOTJEBI: North Korean children in China.” *Asian Affairs*, 45, no. 3: 484-489.

<sup>21</sup> Mok, Yongjae. February 8, 2017. “Korean government expanded support for the children born in 3<sup>rd</sup> countries with North Korean background”. Radio Free Asia. Retrieved from [https://www.rfa.org/korean/in\\_focus/human\\_rights\\_defector/defectoryouth-02082017081122.html](https://www.rfa.org/korean/in_focus/human_rights_defector/defectoryouth-02082017081122.html)

*Rohingya in Myanmar*

The Rohingya are an ethnic group that have been living in Myanmar for centuries, and reside in the Rakhine (previously called Arakan) region.<sup>22</sup> The origin of the Rohingya is a point of contention, but most scholars agree that they are indigenous to the Arakan region, and once lived side by side with Arakenese Buddhists in peace.<sup>23</sup> However, this is not what the Myanmar government chooses to believe. Instead, its narrative states that they were transported during the British Colonial era as laborers starting in 1823.<sup>24</sup> Building on this belief, the Myanmar government amended its citizenship law in 1982 to specify that citizenship is for those from ethnic groups that have made Myanmar their permanent home before 1823. This specifically targets the Rohingya people, excluding them from being one of the country's recognized 135 ethnic groups, effectively rendering them stateless. More significantly, not only have they been stateless for decades, "they have had their land removed from them, their civil rights have been rendered meaningless, their livelihoods have been destroyed, and they have been forced into detention camps."<sup>25</sup> The military has systematically burnt down homes, raped and killed members of the Rohingya community, and the government has ignored these abuses. In fact, some make the argument that Myanmar's government is completing an organized genocide.<sup>26</sup> State Counselor Aung San Suu Kyi, a Nobel-Peace Prize recipient, has also been criticized for her inaction and startling indifference on the issue.

The Rohingya people not only face excruciating challenges in Myanmar, but also in surrounding countries. Over the last several years, there has been a significant increase in the amount of Rohingya people trying to escape Myanmar. Bangladesh has accepted 30,000 Rohingyas as refugees, but as of December 2017, an estimated 600,000 have fled to Bangladesh as undocumented immigrants.<sup>27</sup> This overwhelming influx has not been welcomed by local Bangladeshis and ultimately exacerbates tensions between the two parties. For example, Ukhia and Teknaf have become more overcrowded and poor by hosting the unregistered Rohingyas.<sup>28</sup> In response, surrounding countries such as Malaysia and Indonesia have refused to accept Rohingya people as refugees. Some Rohingyas that successfully escaped to Thailand "have been victimized by human traffickers, or even set adrift again on the sea by Thai military forces. [Even] Australia has adamantly refused to accept any Rohingya on its shores, as well."<sup>29</sup> While the Philippines, Saudi Arabia, and the United States have accepted some Rohingya refugees over the past few years, the genocidal behavior of Myanmar's government and other

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<sup>22</sup> Yasmin, Khaleda. "Rohingyas' Debate and 1951 International Refugee Convention: A Security Concerns Analysis." *Journal Of Alternative Perspectives In The Social Sciences* 8, no. 4 (August 2017): 401-423.

<sup>23</sup> Long, Mary Kate. 2013. "Dynamics of State, Sangha, and Society in Myanmar: A Closer look at the Rohingya Issue." *Asian Journal Of Public Affairs* 6, no. 1: 79-94.

<sup>24</sup> Ibid.

<sup>25</sup> "Campaigns of violence towards Rohingya are highly organised and genocidal in intent." Queen Mary University of London. October 29, 2015. Accessed August 11, 2017. <http://www.qmul.ac.uk/media/news/items/hss/165941.html>.

<sup>26</sup> Ibid.

<sup>27</sup> Siddiqui, Danish. "Persecuted Rohingya Muslims flee violence in Myanmar." Reuters. Accessed December 26, 2017. <https://widerimage.reuters.com/story/persecuted-rohingya-muslims-flee-violence-in-myanmar>.

<sup>28</sup> Howard-Hassmann, & Walton-Roberts, *The Human Right to Citizenship: A Slippery Concept*.

<sup>29</sup> Szczepanski, Kallie. "The Embattled Rohingya Minority of Myanmar." ThoughtCo. February 28, 2017.

countries' reluctance to take a bigger role in aiding the Rohingya keeps this stateless group one of the most at-risk in the world.

The persecution of the Rohingya is an example of how a state utilizes the statelessness of a population due to ethnocentrism. Myanmar should amend its citizenship laws to include all ethnic groups native to Myanmar, which includes the Rohingya. Anti-discrimination laws should also be implemented to ensure that Rohingya individuals are protected from further persecution and given treatment equivalent to that enjoyed by as other citizens of Myanmar. This will all prove difficult, however, because the hatred towards the Rohingya runs deep in Myanmarese society.

Unlike China, where the Chinese people do not necessarily have a dislike for North Koreans, the hatred for Rohingya people is prevalent in Myanmar's society. In this case, addressing gaps between Rohingya and non-Rohingya members of the community seems fundamental to the agenda. Therefore, the Rohingya Crisis will most likely require pressure from foreign countries according to the international commitment of "Responsibility to Protect" (R2P). R2P is the global and political principle that UN member states must protect their populations against genocide, war crimes, ethnic cleansing, and crimes against humanity. If they fail, the international community must assist or intervene sometimes militarily. Other approaches using smart power should also be discussed to pressure the Myanmar government into stopping the massacre of the Rohingya. Smart power combines elements of military power with economic or cultural influences. It underscores the importance of mixed and multifaceted interventions through military, economic sanctioning, alliances, diplomacy, and institutions. If countries implement various forms of influences against the Myanmar government using both hard and soft powers, ideally, solutions will be reached.

There are several actions utilizing smart power that states can use to take initiative against Myanmar's behavior. One action should be the implementation of a multilateral arms embargo, which has been proved successful in altering targeted policies and would specifically target the weaponization of Myanmar's military.<sup>30</sup> Another should be the elimination of military cooperation with Myanmar— which countries like Australia have failed to do.<sup>31</sup> Failing to reduce military cooperation with an abusive government sends the wrong international message concerning human rights abuses; it condones the actions of the Myanmar government. A third action should concentrate on international pressure to convince Myanmar to open its doors to international aid organizations.<sup>32</sup> Further, multilateral diplomacy to pressure Myanmar to end its genocidal practices is necessary immediately. Diplomacy by state actors is the most effective form of political problem-solving, and a combination of different diplomacy tracks are important.<sup>33</sup>

Given the immediate needs of the Rohingya people and their life-threatening situation as stateless people, countries with the means to do so should consider accepting more Rohingya refugees. This could include the United States, Australia, Japan, and others. This may be unpopular among citizens within particular countries, but these countries can be most effective in

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<sup>30</sup> Brzoska, Michael. 2008. "Measuring the Effectiveness of Arms Embargoes." *Peace Economics, Peace Science, & Public Policy* 14, no. 2: 1-32.

<sup>31</sup> Thomas, Elise. "Australia to Train Myanmar Military despite Ethnic Cleansing Accusations." March 05, 2018.

<sup>32</sup> "Myanmar: International Humanitarian Access to Rakhine State Must Urgently Be Permitted." Médecins Sans Frontières (MSF) International.

<sup>33</sup> Bohmelt, Tobias. 2010. "The Effectiveness of Tracks of Diplomacy Strategies in Third-Party Interventions." *Journal Of Peace Research* 47, no. 2: 167-178.

their resettlement strategies and ensure that both host communities and refugees can create a mutually beneficial relationship.<sup>34</sup> Without refugee resettlement, many Rohingya are trapped in refugee camps which have very poor conditions. In these camps, while individuals might be away from the violence of Myanmar's military, their suffering is far from improvement.<sup>35</sup> Accepting refugees and resettling them should correspond with the other above diplomatic actions so that Rohingya people can thrive in better conditions as well as create long-term solutions in Myanmar itself.

### *Palestinians under the Arab League*

Never having an official independent state of their own, the nationality of Palestinians has always been ambiguous. After the Arab-Israeli War in 1948, many Palestinians have henceforth been rendered stateless. Israel "gave" citizenship to Palestinians living in Israel proper in an official manner, but in reality, their citizenship is not equal to that of their Jewish counterparts.<sup>36</sup> Palestinians who fled from the violence of the Arab-Israeli War in 1948 and the Six-Day War in 1967 to neighboring countries (e.g., Iraq, Syria, Lebanon, & Saudi Arabia) also did not find any greater or more specific citizenship protections.

In response to the mass influx of refugees, the Arab League established two main principles in Casablanca in 1965: First, the Arab League granted Palestinian refugees full citizenship rights (but no naturalization) and second, issued them Refugee Travel Documents.<sup>37</sup> However, Arab League countries, with exception to Syria and Jordan, did not endorse these agreements.<sup>38</sup> As a result, these actions or inactions have virtually rendered Palestinian refugees stateless to this day. This is because the Arab League members believed in the right for Palestinians to be able to go back to their homeland and were reluctant to allow Palestinians to stay in their own countries. Keeping Palestinians in this position also brought diplomatic benefits to the Arab League; the Arab League portrayed Israel as the aggressor by pushing a political agenda that comes at the cost of Palestinian suffering. It is estimated that more than half of Palestinians in the world are stateless as a result of these conditions.<sup>39</sup>

In many of these Arab League countries, the Palestinians are denied the right to work, social security benefits, health services, and access to public education.<sup>40</sup> Many of them are forced to live in camps with inhumane conditions. In Egypt, for example, the Palestinians initially received fair treatment as Egyptian citizens under President Nasser. But following the agreement signed at the Camp David Accords between succeeding head of state President Sadat

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<sup>34</sup> Smith, R. Scott. 2008. "Improving the Refugee Resettlement Process in the U.S.: Developing a Knowledge Base to Guide Policies." *International Journal Of Diversity In Organisations, Communities & Nations* 8, no. 5: 219-224.

<sup>35</sup> Chan, Emily Y.Y., Cheuk Pong Chiu, and Gloria K.W. Chan. 2018. "Medical and health risks associated with communicable diseases of Rohingya refugees in Bangladesh 2017." *International Journal Of Infectious Diseases, Vol 68*, Pp 39-43.

<sup>36</sup> Molavi, Shourideh C. "Stateless Citizenship and the Palestinian-Arabs in Israel." *Refuge (0229-5113)* 26, no. 2 (Fall 2009): 19-28.

<sup>37</sup> Shibliak, Abbas. "Stateless Palestinians." *Forced Migration Review* 1, no. 26 (August 2006): 8-9.

<sup>38</sup> "Palestine Refugees: Locations and Numbers." IRIN. January 17, 2018.

<http://www.irinnews.org/report/89571/middle-east-palestinian-refugee-numberswhereabouts>.

<sup>39</sup> Shibliak, Abbas. "Stateless Palestinians." *Forced Migration Review* 1, no. 26 (August 2006): 8-9.

<sup>40</sup> Albadawi, Sobhi. 2015. "Palestinian refugees: stateless, exiled and excluded." *International Humanities Studies* 2, no. 1: 40-61.

and Israeli Prime Minister Menachem Begin, the treatment of the Palestinians was established by more arbitrary standards. This further widened the gap between the Palestinians living in Egypt and Egyptian citizens, especially after the President banned equality in relations between Egyptians and Palestinians.<sup>41</sup> Moreover, as of 2003, most Palestinians in Egypt still continued living below the poverty line and their ability to continue living in Egypt depended on paying fees and citing sufficient reasons for remaining in Egypt. School, employment, or family ties could be considered for residency, but their ability to travel outside the country was still limited.<sup>42</sup> The legal limbo of Palestinians is also heavily dependent on the relations and politics of Israel, the Palestinian Territory, and neighboring Arab countries. Changes in leadership and policies can help improve the status of these stateless individuals, but it can also prove detrimental. Until the Israeli-Palestinian conflict is solved, the status of Palestinian statelessness is undetermined and subject to fluctuation.

Similar to North Koreans born in China, this is an example of states utilizing the statelessness of a group of people due to political strategy rather than discrimination. The ultimate solution requires a peace agreement between Israel and Palestine —whatever that agreement might be. But given the immediate needs and low probability that the Israeli-Palestinian conflict will be solved anytime soon, the Arab League is responsible for elevating the living standards of Palestinians living within its borders

Other Arab League countries may find positive examples from the Syrian and Jordanian cases: These two countries implemented legislation that provides Palestinian residents equal rights as citizens. Of course, Syria and Jordan could possibly improve the current legislation to make it is more comprehensive, as equality still remains unaccomplished.<sup>43</sup> This may happen without “appeasing Israel”; instead, it will better position the countries of the Arab League as “good guys” by giving the Palestinians equal rights. At the moment, by ultimately decreasing their status in society, these countries are plagued by hypocrisy. If the Arab League and international community take measures to grant Palestinians equal rights as citizens in their respective countries, Palestinians will become more economically independent and be better equipped to escape human right abuses. Such results would benefit both host countries and Palestinians.

### **The Role of the State and International Organizations**

It is declared in the Universal Declaration of Human Rights that every human being has the right to a nationality. What makes statelessness an even more severe problem is the fact that every stateless population’s situation is unique and requires context-specific understandings in order to explore solutions.

The United Nations should be more effective in motivating member countries to become signatories to conventions protecting stateless persons. The United Nations must provide legal advice to governments to create legislation to better respond to global issues. They also should continue working with NGOs, human rights groups, and other partners to end statelessness and provide humanitarian aids to stateless people in need because it brings together the greatest

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<sup>41</sup> Albadawi, "Palestinian refugees: stateless, exiled and excluded."

<sup>42</sup> Howard-Haussmann & Walton-Roberts, *The Human Right to Citizenship: A Slippery Concept*.

<sup>43</sup> "Palestine Refugees: Locations and Numbers." IRIN. January 17, 2018.

amount of resources and finances. Collaboration is invaluable, especially in efforts to protect stateless people from things like trafficking, detention, and violence.

Although global efforts are necessarily involved with the United Nations and other intergovernmental organizations, the well-being of stateless populations is heavily determined by the states within which refugees currently reside. The irony of human rights being guaranteed to all humans is that it can only be truly guaranteed by states, and even then, protections are generally limited to those with particular nationalities. The United Nations is useful, but it does not have direct authority. Governments are the entities that establish who their nationals truly are and ultimately assume the responsibility for making legal reforms that are necessary to effectively addressing statelessness. Thus, it is necessary for states to mend their citizenship laws in order to end statelessness by guaranteeing no child born in their territory is born stateless and that no individual is subjected to broad discrimination. Moreover, states should guarantee a system that provides protection for and supports stateless persons with regard to law and citizenship. Although it did not pass, states can take note of the provisions suggested in H.R. 2185 (112<sup>th</sup>): Refugee Protection Act of 2011—which would have set up such a system.

But states need not only focus on themselves. States can also implement smart power to pressure other states to make reforms in favor of their stateless populations. Also, able-bodied states must take in their fair share of stateless refugees, as the immediate dangers and needs of these people cannot always wait for institutional and structural reform. States can also help fund groups that are on-site trying to care for and help stateless populations.

## **Conclusion**

While some aspects of statelessness are universal and faced by all stateless persons, each stateless population finds itself in a uniquely precarious situation. The major challenges involved with statelessness concern human rights deprivations, which negatively impact human development. While the United Nations and non-government groups could make positive and constructive impacts, individual states are the most important actors in the movement to end statelessness.

Statelessness has yet to be regarded as a popular topic attracting public attention, but unlike many other topics, international legal frameworks on the issue already exist and can foster solutions. It will take great efforts to enforce the international legal frameworks at the domestic level and put an end to this violation of human rights. But as Hillary Clinton once said, “the challenge now is to practice politics as the art of making what appears to be impossible, possible.” Clinton was not necessarily referring to statelessness in her quote, but this perspective implies important levels of determination that could be applied to the fight to end statelessness.

## Bibliography

- Albadawi, Sobhi. 2015. "Palestinian refugees: stateless, exiled and excluded." *International Humanities Studies* 2, no. 1: 40-61.
- Bengali, Shashank. "In Myanmar, Hatred for Rohingya Muslims Runs so Deep That a Diplomat Called Them 'ugly as Ogres' - and Got Promoted." *Los Angeles Times*. December 26, 2017.
- Bohmelt, Tobias. 2010. "The Effectiveness of Tracks of Diplomacy Strategies in Third-Party Interventions." *Journal Of Peace Research* 47, no. 2: 167-178.
- Brzoska, Michael. 2008. "Measuring the Effectiveness of Arms Embargoes." *Peace Economics, Peace Science, & Public Policy* 14, no. 2: 1-32.
- "Campaigns of violence towards Rohingya are highly organised and genocidal in intent." Queen Mary University of London. October 29, 2015.
- Chan, Emily Y.Y., Cheuk Pong Chiu, and Gloria K.W. Chan. 2018. "Medical and health risks associated with communicable diseases of Rohingya refugees in Bangladesh 2017." *International Journal Of Infectious Diseases, Vol 68 , Pp 39-43*.
- Chung, H. J., S. H. Han, H. Kim, & J.L Finkelstein. 2016. "Childhood immunizations in China: disparities in health care access in children born to North Korean refugees." *BMC International Health and Human Rights* 16,1-12.
- Guay, Jennifer. "How Being Stateless Makes You Poor." *Foreign Policy*. June 30, 2016. <http://foreignpolicy.com/2016/06/30/how-being-stateless-makes-you-poor/>.
- Kang, C., Emery, C., & Lee, J. 2015. Life after the pan and the fire: Depression, order, attachment, and the legacy of abuse among North Korean refugee youth and adolescent children of North Korean refugees. In *Child Abuse and Neglect*, 45, 90-100.
- Kim, S. K. 2014. "I am well-cooked food: Survival strategies of North Korean female border-crossers and possibilities for empowerment." *Inter-Asia Cultural Studies*, 15, no. 4: 553-571.
- Kim, S., & Park, Y. (2015, December). Invisible Children: The Stateless Children of North Korean Refugees.
- Kingston, Lindsey. 2013. "'A Forgotten Human Rights Crisis': Statelessness and Issue (Non)Emergence." *Human Rights Review* 14, no. 2: 73-87.
- Kohn, Sebastian , Julia Harrington, and Indira Goris. "Statelessness: what it is and why it matters." *FMR Review*, April 1, 2009, 4-6.

- Lee, Emily Seulgi and Kang, Shin Ji. 2017. "The lives of refugee children: A Korean example". In *Early Childhood Policy*, 467-481.
- Long, Mary Kate. 2013. "Dynamics of State, Sangha, and Society in Myanmar: A Closer look at the Rohingya Issue." *Asian Journal Of Public Affairs* 6, no. 1: 79-94.
- McPhee, S. 2014. "KOTJEBI: North Korean children in China." *Asian Affairs*, 45, no. 3: 484-489.
- Mok, Yongjae. February 8, 2017. "Korean government expanded support for the children born in 3<sup>rd</sup> countries with North Korean background". Radio Free Asia. Retrieved from [https://www.rfa.org/korean/in\\_focus/human\\_rights\\_defector/defectoryouth-02082017081122.html](https://www.rfa.org/korean/in_focus/human_rights_defector/defectoryouth-02082017081122.html)
- Molavi, Shourideh C. "Stateless Citizenship and the Palestinian-Arabs in Israel." *Refuge (0229-5113)* 26, no. 2: 19-28.
- "Myanmar: International Humanitarian Access to Rakhine State Must Urgently Be Permitted." Médecins Sans Frontières (MSF) International.
- Riley, Andrew, et al. "Daily stressors, trauma exposure, and mental health among stateless Rohingya refugees in Bangladesh." *Transcultural Psychiatry* 54, no. 3 (June 2017): 304-331.
- "Palestine Refugees: Locations and Numbers." IRIN. January 17, 2018.
- Safdar, Anealla. "Who are the Rohingya?" Al Jazeera English. October 28, 2015.
- Shiblak, Abbas. "Stateless Palestinians." *Forced Migration Review* 1, no. 26 (August 2006): 8-9.
- Siddiqui, Danish. "Persecuted Rohingya Muslims flee violence in Myanmar." Reuters. Accessed December 26, 2017. <https://widerimage.reuters.com/story/persecuted-rohingya-muslims-flee-violence-in-myanmar>.
- Smith, R. Scott. 2008. "Improving the Refugee Resettlement Process in the U.S.: Developing a Knowledge Base to Guide Policies." *International Journal Of Diversity In Organisations, Communities & Nations* 8, no. 5: 219-224.
- "Statelessness." U.S. Department of State. <https://www.state.gov/j/prm/policyissues/issues/c50242.htm>.
- Szczepanski, Kallie. "The Embattled Rohingya Minority of Myanmar." ThoughtCo. February 28, 2017.
- Thomas, Elise. "Australia to Train Myanmar Military despite Ethnic Cleansing Accusations." March 05, 2018.

U.S. Department of State. <https://www.state.gov/j/prm/policyissues/issues/c50242.htm>.

Wallace, Stephanie, James Nazroo, and Laia Bécáres. 2016. "Cumulative Effect of Racial Discrimination on the Mental Health of Ethnic Minorities in the United Kingdom." *American Journal of Public Health* 106, no. 7: 1294-1300.

Walton-Roberts, Margaret, and Rhoda E. Howard-Hassmann. 2015. *The human right to citizenship : a slippery concept*. n.p.: Philadelphia : University of Pennsylvania Press, 2015.

Yasmin, Khaleda. "Rohingyas' Debate and 1951 International Refugee Convention: A Security Concerns Analysis." *Journal Of Alternative Perspectives In The Social Sciences* 8, no. 4 (August 2017): 401-423.

Yun, Jenna Yoojin. "30,000 North Korean children living in limbo in China." *The Guardian*, February 5, 2016.

# Arts of Evasion: North Korea, Sanctions, and the World

Dr. Robert E. Rook\*

***Abstract:** As the United States and the international community search for more effective sanctions to force the DPRK to the negotiating table, the need for improved understanding of North Korea's complex sanction evasion techniques becomes pressing. The purpose of this article is to explore the mechanisms that the DPRK has used, and continues to use, to evade sanctions. These include the manufacture and sale of small arms and munitions, the development and sale of ballistic missile technology, and extensive counterfeiting operations. One important and innovative sanction evasion mechanism used by the DPRK is the commission and sale of painting and other works of art through the North Korean art company, Masundae. Through these and other methods, North Korea has successfully overcome international pressure; any future sanctions regime, if it is to be effective in curbing North Korean nuclear ambitions, must take cognizance of them.*

In September 2013, NBA basketball player Dennis Rodman returned from his second trip to North Korea (Democratic People's Republic of Korea—DPRK).<sup>1</sup> The trip was his then most recent attempt to undertake 'basketball diplomacy' between the United States and North Korea.<sup>2</sup> At a press conference shortly after his return, the NBA Hall of Fame and multi-championship winning legend sat at a podium that prominently featured a life-size bronze bust of his head.<sup>3</sup> The statue, a gift to Rodman, was a product of Mansudae Art Company, one of North Korea's many non-military corporate conglomerates. Three years later, in December 2016, the United States Department of Treasury's Office of Foreign Assets Control (OFAC) added Mansudae to a steadily expanding list of sanctioned North Korean enterprises in response to continuing North Korean nuclear and ballistic missile tests. Although none of Rodman's five trips to date to North Korea have been officially endorsed by the United States government, Rodman has spoken with U.S. President Donald J. Trump about North Korea and recently endorsed the impending meeting between Trump and North Korean leader Kim Jong-Un, tweeting "Hoping for this after my two friends and leaders meet next month. #Peace #Love #NotWar #Diplomacy." The 'this' Rodman refers to is a Photoshop photograph of Kim Jong-Un wearing a "Make America Great Again" ball cap.<sup>4</sup>

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<sup>1</sup> For the purposes of consistency and clarity, North Korea and DPRK will be used interchangeably rather than the official name of the country.

<sup>2</sup> "Is Dennis Rodman Smart On North Korea?," CNN On-Line, <https://www.cnn.com/2013/09/10/opinion/pinkston-dennis-rodman/index.html> Accessed January 10, 2018.

<sup>3</sup> Dennis Rodman won five NBA championships with two separate teams, the Detroit Pistons and the Chicago Bulls, between 1989 and 1998. He was a 2011 inductee into the Hall of Fame.

<sup>4</sup> Dennis Rodman, "Hoping for this after my two friends and leaders meet next month. #Peace #Love #NotWar #Diplomacy." Twitter post, March 30, 2018, 10:07am, [https://twitter.com/dennisrodman?ref\\_src=twsrc%5Etfw&ref\\_url=https%3A%2F%2Fwww.usatoday.com%2Fstory%2Fnews%2Fworld%2F2018%2F03%2F30%2Fdennis-rodman-kim-jong-un-meeting-trump%2F474502002%2F](https://twitter.com/dennisrodman?ref_src=twsrc%5Etfw&ref_url=https%3A%2F%2Fwww.usatoday.com%2Fstory%2Fnews%2Fworld%2F2018%2F03%2F30%2Fdennis-rodman-kim-jong-un-meeting-trump%2F474502002%2F) Accessed April 7, 2018.

Mark Twain's oft quoted 'truth is stranger than fiction' rightfully seems a strange reference for an article on contemporary world affairs. What is perhaps stranger is that the complete quote, 'truth is stranger than fiction, but it is because fiction is obliged to stick to the possibilities; truth isn't,' is actually more appropriate when it comes to emerging developments between the United States and North Korea.<sup>5</sup> Rarely in recent modern history has there been a diplomatic convergence of an American professional basketball player, a real estate developer/reality television show host become president, and a now sanctioned North Korean art company. That this convergence of circumstances involves nuclear weapons, ballistic missiles, and two nation-states still technically at war makes the truth even stranger and all the more significant. Yet, at some point in 2018, Donald Trump and Kim Jong Un will meet to discuss the denuclearization of the Korean Peninsula.<sup>6</sup> Although the outcome of this meeting is at present unknowable, the mere prospect of such a meeting is historic on several fronts, not the least of which being the first time any sitting American president has met with a North Korean leader.

While the meeting outcome indeed is yet to be decided, the purpose of this article is to explore the mechanisms that the DPRK has used, and continues to use, to evade sanctions that seemingly have been one factor in bringing North Korea back to the negotiating table. To be clear, sanctions alone undoubtedly did not bring about North Korea's changed posture with regard to the United States and its demand for denuclearization of the Korean peninsula. As a former Director of the Central Intelligence Agency (CIA) and Deputy Director of National Intelligence, General Michael Hayden noted recently that a 'multi-pronged' approach including sanctions, diplomatic engagements beyond North Korea, and military posturing most likely accounts for the change.<sup>7</sup> Such an approach recently prompted the Republican Senator from Tennessee, Bob Corker, to suggest that President Trump, if successful in the negotiations, might well deserve a Nobel Peace Prize.<sup>8</sup> However, other factors suggest that North Korea might also once again be offering great change in pursuit of immediate relief from sanctions that likely have been more effective, depriving North Korea of vital foreign income and other resources necessary to keep the regime afloat. The eventuality and durability of any proffered real change in North Korea's nuclear capabilities or its ballistic missile development is both an absolute unknown and an outcome that, unfortunately, past performance does not indicate as likely. What is clear is that North Korea has a robust and well-developed capacity for circumventing economic sanctions, a capacity that has evolved not only in concert with its financial needs, but also in response to the sanctions imposed against the regime over the past decades.

The current focus of the most intense sanctions ever imposed on North Korea, beginning in 2013 after North Korea's nuclear test, target all North Korean weapons programs with an announced aim of curtailing and eventually ending North Korea's nuclear weapons ambitions and its arsenal. Under the leadership of U.S. President Donald Trump, the United States has taken unambiguous direct steps to convince Kim Jong Un to end his nuclear program. Direct negotiations between the governments of North Korea and the United States on nuclear and ballistic missile programs are not new, however. The actual process, albeit in fits and starts, is nearly thirty years old, beginning in the earliest days of the George H.W. Bush administration

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<sup>5</sup> Mark Twain, *Following the Equator: A Journey Around the World* (Hartford: American Publishing Company, 1897).

<sup>6</sup> At the time of this article, most open-source media strongly indicate that the meeting likely will occur in Singapore sometime in June.

<sup>7</sup> General Michael Hayden, CNBC On-Line, May 2, 2018, <https://www.cnbc.com/2018/05/02/sen-corker-if-north-korea-works-out-trump-deserves-nobel-peace-prize.html?yptr=yahoo> Accessed May 4, 2018.

<sup>8</sup> Ibid.

and continuing through the next three presidential administrations (William J. Clinton, George W. Bush, Barack H. Obama) before entering the current round of negotiations.<sup>9</sup> There is an element of irony in the current nuclear crisis on the Korean Peninsula. The prevailing media coverage of the United States' insistence that North Korea denuclearize rarely mentions that it was the United States that first 'nuclearized' the Korean peninsula and introduced nuclear weapons capable missiles in the mid to late 1950s, an act that explicitly violated of the 1953 armistice agreement at the end of the Korean War. The target then was not North Korea but rather the Soviet Union and China, both allies of North Korea and America's Cold War adversaries. Ironically, both Russia and China currently stand as North Korea's most reliable major power partners in sanctions evasions. The United States steadily expanded its South Korean-based nuclear weapons and missile capabilities across the 1950s and 1960s; the count peaked in 1967 at almost one thousand warheads.<sup>10</sup> Ultimately, the United States removed its nuclear weapons from the peninsula in 1991, amid the dissolution of the Soviet Union and the de facto end of the Cold War. Fifteen years later, in October 2006, North Korea tested its first nuclear weapon, reigniting a sanctions regime against it that had first been imposed in response to its ballistic missile tests in the 1990s.<sup>11</sup> However, North Korea now has a clearly demonstrated capability to develop both ballistic missiles and nuclear weapons despite threats of war, economic sanctions, and myriad diplomatic efforts via third parties, namely China. North Korean abilities to circumvent sanctions via a complex, highly effectively network of mechanisms pose a continuing challenge to the international community in its efforts to pressure North Korea. The ongoing success of this network suggests two problematic realities for policymakers and the world community. First and most obviously, North Korea's success in circumventing sanctions, albeit with increasing difficulty given the growing range of sanctions, also makes it possible for Kim Jong Un to limit the effects of sanctions, both on the North Korean people and the regime's weapons development. Secondly, given North Korea's history of non-compliance with agreements, there is a strong possibility that any 'grand bargain' brokered on the Korean peninsula in the coming months will not stand the test of time. The pessimism inherent in such an assessment is predicated upon several premises each resting on prior North Korean performance. The history of North Korea's non-compliance with agreements lies beyond the scope of this article and is well covered by others.<sup>12</sup> However, some basic history of prior and on-going North Korean sanctions evasion practices is necessary.

North Korean sanctions evasion operates on multiple fronts. Leaving aside North Korea's nuclear ambitions and activities for the moment, the most notorious conduct (yet more vulnerable to sanctions) is North Korea's profiteering from conventional weapons sales, including ballistic missile technologies.<sup>13</sup> One key actor in this dynamic is the former Soviet Union. As an element of both the export of Marxist-Leninist revolution and as a form of de facto

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<sup>9</sup> See Michael Rubin, *Dancing with the Devil: The Perils of Engaging Rogue Regimes* (New York: Encounter Books, 2014), particularly the chapter, "Team America and the Hermit Kingdom," pp. 85-134.

<sup>10</sup> Hans M. Kristensen and Robert S. Norris, "A History of U.S. Nuclear Weapons in South Korea," *Bulletin of the Atomic Scientist*, October 26, 2017, pp. 349-357. See also Bruce Cumings, *Korea's Place in the Sun: A Modern History* (New York: W. W. Norton, 2005).

<sup>11</sup> For details on these prior, and current, sanctions see Michael Rubin, *Dancing with the Devil*, Andrea Berger, "From Paper to Practice: The Significance of New UN Sanctions On North Korea," *Arms Control Today*, May 2016, pp. 8-15, and Evan Osnos, "On The Brink," *The New Yorker*, September 18, 2017, pp.

<sup>12</sup> See Michael Rubin's, *Dancing with the Devil* cited previously.

<sup>13</sup> For the purposes of this article I employ a definition of conventional weaponry that *excludes* all non-nuclear, non-chemical, and non-biological from the conventional category.

economic support, the Soviet Union shared weapons technology and allowed the manufacture of many of their small arms and munitions abroad, most notably the now famous AK-47 assault rifle and RPG shoulder-fired antitank/antipersonnel rocket launcher.<sup>14</sup> Like many Eastern European nations, notably the former Czechoslovakia and East Germany, North Korea was a major beneficiary of this lower-level weapons technology transfer and subsequently continues to manufacture these and other Soviet origin weapons for use at home and for sale abroad. Given the widespread adoption of Soviet weaponry by nations around the world during the Cold War, the collapse of the Soviet Union in 1991 created new openings for former Soviet allies capable of manufacturing such weapons. Moreover, given the relative simplicity and ruggedness of Soviet-era weapons and the wide network of former Soviet clients, North Korea was not short of customers. A further unfortunate wrinkle in a seemingly paradoxical puzzle is that given the expense and complexity of American and other western weapons, even nominally staunch American allies were often in the market for North Korean produced, former Soviet-designed arms. The recent scandal involving the sale and transport of North Korean small arms weapons and munitions to Egypt is an excellent specific case in point.<sup>15</sup> This unfortunate yet significant episode illustrates not only a potential divergence in interests between the United States and Egypt when it comes to a matter of major global importance but also highlights a clear case of Egypt's more local, regional concerns prevailing over more globally oriented American interests. This incident prompted a United States' rebuke of Egypt for the endeavor, but it nonetheless illustrates the opportunistic environment within which North Korea circumvents sanctions. In this instance, Egypt's purchase of North Korean weapons suggests that Egyptian concerns over an ISIS-led insurrection in northern Egypt (the Sinai) and support for an Egypt-backed partner in Libya's continuing civil war required weapons the United States itself was unable or unwilling to provide despite a very robust long-standing arms trade between the United States and Egypt. Such 'zones of interest divergence' is but one example of the fertile terrain in which North Korea continues to operate despite increasingly stringent sanctions.

The case of Egypt also raises the specter of more strategically important weaponry, specifically the transfer of ballistic missile technology and assistance with nuclear weapons development. North Korea's military relationship with Egypt is nearly fifty years old, with North Korean military advisors replacing many of the Soviet advisors that Egyptian President Anwar Sadat expelled in the year prior to the 1973 Arab-Israeli War. The Egyptians were responsible for the introduction of Russian-designed ballistic missile technology into North Korea in the 1980s, a byproduct of Egyptian efforts to reverse engineer Soviet supplied SCUD missiles. The effort succeeded. Both countries now possess ballistic missiles based on the original Soviet missiles supplied to Egypt in the early 1970s. However, North Korea's more

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<sup>14</sup> "The Soviet-era Weapons That Are Never Going Away," Twenty-First Century Asian Arms Race, July 19, 2015, <https://21stcenturyasianarmsrace.com/2015/07/19/the-soviet-era-weapons-that-are-never-going-away/> Accessed March 1, 2018 and C. J. Chivers, "Mikhail Kalashnikov, Creator of the AK-47, Dies at 94," *New York Times*, December 24, 2013, p. A26.

<sup>15</sup> Joby Warrick, "A North Korean Ship Was Seized Off Egypt With A Huge Cache of Weapons Destined for a Surprising Buyer," *Washington Post*, October 1, 2017. [https://www.washingtonpost.com/world/national-security/a-north-korean-ship-was-seized-off-egypt-with-a-huge-cache-of-weapons-destined-for-a-surprising-buyer/2017/10/01/d9a4e06e-a46d-11e7-b14f-f41773cd5a14\\_story.html?utm\\_term=.462774acdba5](https://www.washingtonpost.com/world/national-security/a-north-korean-ship-was-seized-off-egypt-with-a-huge-cache-of-weapons-destined-for-a-surprising-buyer/2017/10/01/d9a4e06e-a46d-11e7-b14f-f41773cd5a14_story.html?utm_term=.462774acdba5) Accessed January 12, 2018.

advanced engineering capabilities and more developed ballistic missile program eventually led to North Korean experts assisting Egypt in its current efforts to upgrade its ballistic missile capabilities. This transfer of ‘personnel expertise’ also occurred with Sudan, Libya, Syria, and possibly Iran. North Korea’s export of both missile components and technical expertise has led many strategic analysts to label North Korea, “Missiles R Us.”<sup>16</sup> More ominously, North Korea’s assistance to Syria in building its al-Kubar nuclear reactor ultimately provoked an Israeli attack that destroyed the facility in 2007, an attack that Israel only recently acknowledged.<sup>17</sup>

Furthermore, as in both cases of small arms weaponry and larger strategic weaponry, the actual sale of weaponry is only one element of North Korea’s subsequent revenue stream generated by weapons sales. The export of military personnel, the training of local forces in the region by North Koreans, and the assistance of higher level, more technical, Korean weapons development and deployment personnel generates either direct cash payments, transferred by any number of still available financial payment mechanisms for the North Koreans or in various in-kind non-cash payments that, while less fungible, nonetheless provide support for the government in Pyongyang.<sup>18</sup> In the case of Egypt, and also Syria, not only are they direct beneficiaries of North Korean weaponry and military expertise, but they also allow North Korean embassies in their respective countries to market North Korean military hardware and expertise regionally. Egypt’s geographic proximity and historical political connectivity with African states provides an ideal regional sales office for North Korea.

North Korea’s African sanctions evasion pathways remain among the most difficult to preempt given the governments and local circumstances in many African states. North Korean arms sales to Sudan, Tanzania, Namibia, and several other nations in the surrounding region are in direct violation of prevailing sanctions against North Korea.<sup>19</sup> The sales and other North Korean economic activities continue to bedevil efforts by the wider international community to disrupt Pyongyang’s economic lifelines, while at the same time furnishing North Korea with still significant sources of income. Indeed, as sanctions expert George Lopez of Notre Dame University has noted, “It’s good to go after the big fish, but even our best efforts can be undermined by lots of small fish”<sup>20</sup> While the United Nations, the United States, and much of the western world has been successful in steadily reducing and even shutting down many of the ‘big fish’ North Korean customers in a global arms ocean, there remain sufficient numbers of small fish to float North Korea’s international financial activities.

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<sup>16</sup> “Egypt’s Ballistic Missile Program Succeeds with Help of North Korea,” Wisconsin Project on Nuclear Arms Control, September 1, 1996. <https://www.wisconsinproject.org/egypts-missile-efforts-succeed-with-help-from-north-korea/> Accessed, December 28, 2017. Graham T. Allison, “North Korea’s Lesson: Nukes for Sale,” *New York Times*, February 12, 2013. <https://www.nytimes.com/2013/02/12/opinion/north-koreas-lesson-nukes-for-sale.html> Accessed, March 30, 2018.

<sup>17</sup> “Israel Admits Bombing a Suspected Syrian Reactor in 2007—and It’s a Warning to Iran,” *Reuters*, March 21, 2018. <http://www.businessinsider.com/israel-admits-bombing-syria-nuclear-reactor-warn-iran-2018-3> Accessed April 1, 2018.

<sup>18</sup> Declan Walsh, “Sales of North Korean Weapons in Cairo Anger the US,” *New York Times*, March 4, 2018, p. A11.

<sup>19</sup> Salem Solomon, “Sanctioned and Shunned, North Korea Finds Arms Deals in Africa,” VOA News, March 22, 2017, <https://www.voanews.com/a/sanctioned-and-shunned-north-korea-finds-arms-deals-in-africa/3777262.html> Accessed February 17, 2018.

<sup>20</sup> Kambiz Foroohar, “The U.N.’s Problem with North Korea is Africa,” Bloomberg News, November 20, 2017, <https://www.bloomberg.com/news/articles/2017-11-30/north-korean-arms-trade-among-loopholes-un-struggling-to-close> Accessed February 6, 2018.

Weapons sales and the export of North Korean technical expertise understandably capture most of the world's attention in terms of North Korean economic activities abroad. However, arms sales and the provision of military technical expertise abroad constitute only one of the many facets of North Korea's ability to evade sanctions against it. For decades, North Korea has engaged in extensive counterfeiting operations, everything from the production of fake American and Chinese cigarettes to counterfeit U.S. currency, specifically \$100 bills, the latter instance ultimately resulting in a redesign of the U.S. currency.<sup>21</sup> Such activities are neither unique nor exclusively practiced by North Korea. However, North Korean sanctions evasion goes beyond the routine and mundane and often approaches the sublime bordering on the bizarre. North Korean workers filled vacant jobs in Eastern Europe as the fall of the Berlin Wall freed Poles, Czechs, Hungarians, and other Eastern European workers, who fled west in search of more lucrative employment in the European Union.<sup>22</sup> North Korea has been implicated in rhino poaching in Africa, seeking an entrée into the Chinese and other Asian traditional medicines trade.<sup>23</sup> North Korea operated a youth hostel as an ancillary enterprise on the grounds of its embassy in Berlin, Germany.<sup>24</sup> North Korean expatriate skilled and unskilled laborers helped build sports stadiums in Qatar as that nation prepares to host the 2022 World Cup Football Championship.<sup>25</sup> And, in a true east helps west art moment, North Korea's state-run Mansudae Art Company won a contract from Germany to refurbish a fountain in Frankfurt as a part of the "Fairy Tale Trail," a theme park depicting the stories of the Brothers Grimm.<sup>26</sup>

Given these and other North Korean efforts to generate revenue despite escalating sanctions in late August, 2017, the United States Treasury Department's Office of Foreign Asset Control (OFAC) announced further sanctions targeting several North Korean state enterprises including Mansudae Overseas Projects Architectural and Technical Services, legally and hereafter (MOP).<sup>27</sup> Mansudae began as a domestic North Korean art company, initially heavily influenced by Soviet 'Socialist Realist' art produced during the Stalinist years. However, for over thirty years, Mansudae's overseas activities gradually grew into a separate state entity and invaluable generator of hard currency.<sup>28</sup> OFAC had previously sanctioned MOP much earlier (December 2016) for its use of North Korean laborers abroad to generate revenue that subsequently was used by other previously sanctioned North Korean companies engaged directly in the production both of conventional munitions and in support of North Korea's ballistic

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<sup>21</sup> Steven Mihn, "No Ordinary Currency," *New York Times*, July 23, 2006.

<https://www.nytimes.com/2006/07/23/magazine/23counterfeit.html> Accessed, February 28, 2018.

<sup>22</sup> Peter S. Goodman, Choe Sang-Hun, Joanna Berendt, "Earning Wages for Pyongyang in a Polish Port," *New York Times*, January 1, 2018, P. A1.

<sup>23</sup> Rachel Nuwer, "North Korean Diplomats Accused of Smuggling Ivory and Rhino Horn," *National Geographic*, October 16, 2017, <https://news.nationalgeographic.com/2017/10/wildlife-watch-north-korea-illegal-wildlife-trade/> Accessed March 1, 2018.

<sup>24</sup> Alison Smale, "A Berlin Hostel Runs Afoul of Penalties on North Korea," *New York Times*, May 11, 2017, p. A11.

<sup>25</sup> Elizabeth Shim, "North Korean Workers Under Scrutiny in Qatar, Mongolia," United Press International Online, July 8, 2016, [https://www.upi.com/Top\\_News/World-News/2016/07/08/North-Korean-workers-under-scrutiny-in-Qatar-Mongolia/7411468000805/](https://www.upi.com/Top_News/World-News/2016/07/08/North-Korean-workers-under-scrutiny-in-Qatar-Mongolia/7411468000805/) Accessed March 1, 2018.

<sup>26</sup> Amy Qin, "An Art Powerhouse from North Korea," *New York Times*, January 26, 2016, p. C1.

<sup>27</sup> Press Release, United States Department of Treasury, August 22, 2017. <https://www.treasury.gov/press-center/press-releases/Pages/sm0148.aspx> Accessed February 27, 2018.

<sup>28</sup> BG Muhn, "Colouring Inside the Red Lines: North Korea Expert Debunks Myths and Expectations About the Country's Art," *Index on Censorship* 20, no. 2, (July 1, 2017): 8-11.

missile program. The latter activity was the target of United Nations (U.N.) sanctions via a U.N. Security Council Resolution (UNSCR 2371) addressing several U.N. member states' concerns over North Korea's ballistic missile development and testing.

MOP has a long-lived and global reputation as a major purveyor and contractor of North Korean art, undertaking projects in more than a dozen countries including Egypt, Syria, Namibia, Cambodia, Germany, and several others. The actual history and products of MOP lies beyond the scope of this article; however, two central elements of MOP's decades-long endeavors that ultimately provoked the sanctions against it require comment. First, as a state-sponsored art company, Mansudae builds monuments and museums, renovates extant museums, and provides additional arts services. For example, North Korea built panoramas in Cairo depicting Egypt's crossing of the Suez Canal and Damascus celebrating Syria's attack into the Golan Heights in the 1973 Arab-Israeli War, monuments celebrating African leaders in the Democratic Republic of the Congo and Mozambique, and victories against various enemies in Ethiopia and Cambodia. According to some estimates, Mansudae has generated millions of dollars annually for North Korea in direct cash payments. Often lost in the analysis of North Korea's general pattern of overseas revenue generation, and specific to MOP, the collapse of the Soviet Union in 1991 resulted in North Korea's loss of its largest and most vital source of foreign currency and economic assistance. MOP's activities increased significantly in the late 1980s, as Soviet aid began to dwindle and again in the aftermath of the Soviet Union's collapse.

Secondly, as mentioned briefly previously, each art/architecture project abroad employed North Korean artists, laborers, and administrators with each worker generating income for Pyongyang while being paid a subsistence wage while employed abroad.<sup>29</sup> North Korean state contract laborers were at work seemingly everywhere in the Persian Gulf, the wider Middle East, and in Eastern Europe throughout the 1990s and continuing until quite recently. North Korean laborers often filled labor shortages created by Polish, Hungarian, Romanian, and other Eastern Europeans who sought higher wages and a better life further west in the European Union. In the Persian Gulf, North Korean laborers filled positions that were too hazardous and less desired, particularly as South Asian nations, most notably India, began to demand better treatment for their expatriate workers in the region. In short, then-celebrated European integration and the collapse of the Soviet Union opened yet another niche for North Korean opportunistic economic behavior in support of Pyongyang's revenue requirements and its increasing need to evade sanctions. Export of North Korean labor was one of the stated rationales for the U.S. Department of Treasury's eventual imposition of sanctions against MOP in late 2016.

According to Robert Litwak, a Wilson Center expert on nuclear policy, Kim Jong Un's North Korea faces a dilemma. Its military capacities, including its nuclear arsenal, stand in sharp contrast to its very much constrained domestic economy and alleged rising expectations of the North Korean people, particularly as the latter become more aware of the lives and livelihoods of their Chinese neighbors. Litwak suggests that this

juxtaposition of strength and weakness that you have in North Korea – where, according to projections, it could have nuclear arsenal half the size of Great Britain's by 2020 in terms of number of warheads... and an economy of \$1,800 per capita. [That's] is 43

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<sup>29</sup> Jason Aldag, "How North Korea Takes a Cut from Its Workers Abroad," *Washington Post*, November 1, 2017. [https://www.washingtonpost.com/world/asia\\_pacific/how-north-korea-takes-a-cut-from-its-workers-abroad/2017/10/31/98728d28-b98d-11e7-9e58-e6288544af98\\_story.html?utm\\_term=.85155415c69c](https://www.washingtonpost.com/world/asia_pacific/how-north-korea-takes-a-cut-from-its-workers-abroad/2017/10/31/98728d28-b98d-11e7-9e58-e6288544af98_story.html?utm_term=.85155415c69c) Accessed January 15, 2018.

billion dollars a year... in contrast with South Korea's 1.4 trillion dollars... so this is the dilemma that Kim Jong Un is in."<sup>30</sup>

This theme of weakness and vulnerability, given North Korea's history on one side of the equation and the need to show strength in the face of potential aggressors regardless of the required sacrifices to do so on the other hand, can be found throughout the political culture and society of North Korea.<sup>31</sup> Kim Jong Un's dilemma is certainly one plausible reason for his new openness to negotiations with the United States on nuclear issues. It also constitutes a plausible explanation for the North Korean leaders' now well-established record of building waterparks, amusement theme parks, and other affordable leisure venues for the North Korean people, an undertaking that also has the optical effect of countering foreign claims that his people are starving, oppressed, and without hope.<sup>32</sup> Not surprisingly, North Korean workers recently completed a water park in Russia as a "symbolic [gesture] of goodwill" between North Korea and Russia. The price of the Russian water park has not been disclosed. Water parks and amusement theme parks aside, Mansudae and its overseas unit, MOP, remain one of the more prominent, non-lethal enterprises that North Korea currently employs in its efforts to evade sanctions.

While this article only touches the surface of North Korea's sanctions evasion mechanisms, it does suggest the complexity of those mechanisms and subsequent challenges in identifying and restricting them. As General Hayden has suggested, North Korea's recent openness to negotiations on its nuclear program likely is the product of more factors than the effectiveness of increasingly stringent sanctions. However hopeful and perhaps fruitful the impending negotiations may be, there is another factor that, over time, will likely present more opportunities for North Korea to continue funding its various programs, both military and civilian, via international commerce, both legal and illegal (sanctioned).

Geopolitical circumstances, that initially greatly facilitated the development of North Korea's sanctions evasion mechanisms in the late 1980s and throughout the 1990s, have changed, in North Korea's favor. In these final decades of the American Century (roughly 1945 to the dawn of the 21<sup>st</sup> century), both China and Russia, for differing reasons, were more amenable to and less inclined to disrupt an American-dominated international legal and commercial framework. That framework emerged in the immediate post-World War Two era, endured throughout the Cold War, and initially survived that conflict. But, costly American interventions in the post-9/11 world, financial volatility in global markets, and other disruptive moments in the early 2000s (Arab Spring, the Brexit movement, the emergence of democratically generated anti-democratic movements in Europe and beyond) challenged, weakened, and now threaten this environment. The Russian and Chinese governments, initially cautious and seeking greater cooperation with the United States in the 1990s, have reemerged as major rivals and competitors, openly challenging and disrupting established American-led

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<sup>30</sup> Robert S. Litwak, "Is North Korea Ready for Peace or Playing for Time?," Ground Truth Briefing, Wilson Center, Washington, D.C., May 3, 2018. [https://www.wilsoncenter.org/event/north-korea-ready-for-peace-or-playing-for-time?mkt\\_tok=eyJpIjoiWXPkNek9UTmtZek00WkRobCIsInQiOiIwaFIGdHFySFQ5Z05oYWt0aUxjU2VnQzRWZUMONVp4QUF0N3VwYzVMsno0dUd3eFfrWXY5dHE3bk1YNE5EdWoyZIE2TFdBSHNFME45dEpycnBhQit1eVZ1Z3hyM3hQR3BleXU2ajNHblZ4ZVpES2xUVlh6QUFcl1N5U0tlXC9EOVp0In0%3D](https://www.wilsoncenter.org/event/north-korea-ready-for-peace-or-playing-for-time?mkt_tok=eyJpIjoiWXPkNek9UTmtZek00WkRobCIsInQiOiIwaFIGdHFySFQ5Z05oYWt0aUxjU2VnQzRWZUMONVp4QUF0N3VwYzVMsno0dUd3eFfrWXY5dHE3bk1YNE5EdWoyZIE2TFdBSHNFME45dEpycnBhQit1eVZ1Z3hyM3hQR3BleXU2ajNHblZ4ZVpES2xUVlh6QUFcl1N5U0tlXC9EOVp0In0%3D) Accessed, May 4, 2018.

<sup>31</sup> Tessa Morris-Suzuki, "Remembering the Unfinished Conflict" in *East Asia Beyond the History Wars: Confronting the Ghosts of Violence*, edited by Tessa Morris-Suzuki, Morris Low, Leonid Petrov, and Timothy Y. Tsu (New York: Routledge, 2013), pp. 135-139.

<sup>32</sup> Julia Glum, "North Korea's Kim Jong Un Loves Water Parks and Wants Visitors," *Newsweek*, May 7, 2018, <http://www.newsweek.com/kim-jong-un-water-park-fan-637200> Accessed May 7, 2018.

international systems. China has moved beyond Tiananmen Square era upheaval and Russia has shaken off its post-collapse of the Soviet Union malaise. These developments unfortunately coincided with the continued rise of anti-democratic, authoritarian, nationalist movements throughout Asia and Europe. Pakistan, Iran, Turkey, and an increasingly fractured and fractious Europe constitute a much more challenging reality for 21<sup>st</sup> century American policy. Prevailing indicators suggest that the 21<sup>st</sup> century global political environment likely will be less friendly and possibly more openly hostile to American interests.

Unfortunately, and paradoxically, this emerging reality is a nearly perfect medium for North Korean sanctions evasion. Both China and Russia continue to allow North Korean workers and companies to generate income in their respective countries. While technically supportive of the sanctions and more stringent in their enforcement of sanctions, both China and Russia view North Korea as a valuable strategic lever in their relations with the United States.<sup>33</sup> A politically neutered North Korea, much less North Korea's collapse, either politically or via any reunion of the Korean peninsula, is not in China's or Russia's interest. Consequently, Vladivostok shipping companies and Siberian forests and mines continue to provide reliable incomes for North Korean workers and subsequently the regime in Pyongyang.<sup>34</sup> Similarly, Chinese border cities of Dandong and Hunchun continue to serve as major gateways for North Korean-Chinese cross-border trade, providing a robust conduit for North Korean commercial endeavors beyond China. While China has begun more strict enforcement of sanctions in these cities, significant trade continues.<sup>35</sup> And, in the middle of this conduit, much closer to North Korea, Mansudae is pursuing an emerging Chinese middle class that, according to a 2015 Credit-Suisse report, now outnumbers America's middle class, offering its paintings and other art products to Chinese consumers eager to collect and to decorate households earning incomes that were, to so many Chinese, unimaginable in the 1980s.<sup>36</sup> In fact, Mansudae has an office in Beijing to facilitate access to the Chinese art market, yet one more mechanism that offers another 'escape route' from sanctions.

China's ambitious domestic and foreign policy agenda provides multiple opportunities for North Korea. The 'One Belt, One Road' policy, and China's vision of a maritime Silk Road, broadening China's economic and political reach across the Asian and European land mass and

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<sup>33</sup> Jonah Shepp, "Don't Count on China or Russia to Resolve the North Korea Crisis," *New York Magazine* August 9, 2017 <http://nymag.com/daily/intelligencer/2017/08/dont-count-on-china-or-russia-to-end-the-north-korea-crisis.html> Accessed February 17, 2018. Josh Rogin, "Inside Russia's Growing Role in the North Korean Nuclear Crisis," *Washington Post*, September 6, 2017 [https://www.washingtonpost.com/news/josh-rogin/wp/2017/09/06/inside-russias-growing-role-in-the-north-korean-nuclear-crisis/?utm\\_term=.5de77ceb53e0](https://www.washingtonpost.com/news/josh-rogin/wp/2017/09/06/inside-russias-growing-role-in-the-north-korean-nuclear-crisis/?utm_term=.5de77ceb53e0) Accessed February 17, 2018. Uri Friedman, "Why China Isn't Doing More to Stop North Korea," *The Atlantic* August 9, 2017 <https://www.theatlantic.com/international/archive/2017/08/north-korea-the-china-options/535440/> Accessed February 10, 2018

<sup>34</sup> Andrew Osborn, "Russia Throws North Korea Lifeline to Stymie Regime Change," *Reuters*, October 4, 2017, <https://www.reuters.com/article/us-northkorea-missiles-russia-analysis/russia-throws-north-korea-lifeline-to-stymie-regime-change-idUSKBN1C91X2> Accessed March 10, 2018

<sup>35</sup> Matt Rivers and Steven Jiang, "North Korea Sanctions Are Strangling This Chinese City," *CNN Money*, January 28, 2018, <http://money.cnn.com/2018/01/25/news/economy/dandong-china-north-korea-sanctions/index.html> Accessed February 28, 2018. Sue-Lin Wong, Gisela Vagnoni, and Fanny Potkin, "White Tiger, Dark Horse: North Korean Art Market Heats Up," *Reuters Online*, October 4, 2017. <https://www.reuters.com/article/us-northkorea-china-art-insight/white-tiger-dark-horse-north-korean-art-market-heats-up-idUSKCN1C90Z0> Accessed March 10, 2018.

<sup>36</sup> Will Heilpern, "Western Companies Will Fail In China If They Cannot 'Seduce the Farmer,'" March 12, 2016, <http://www.businessinsider.com/chinese-middle-class-is-huge-and-growing-2016-3> Accessed February 28, 2018.

expanding its seaborne trade network across both the Pacific and the Atlantic ocean basins can rightly be seen as a security challenge for the United States and its allies.<sup>37</sup> But China's strategic agenda also offers additional networked pathways for further North Korean sanctions evasion, or, absent sanctions, continued North Korean commerce along its long-demonstrated weapons, labor, and art/architecture pathways. Indeed, Panama's recent decision to rescind its diplomatic recognition of Taiwan reinforced this reality, a change that greatly pleased China and only reinforced Chinese control of major port facilities on either side of the Panama Canal, providing another possible future option for North Korea in terms of goods transiting in search of potential Caribbean partners in trade.

In July 2013, Panama seized a North Korean cargo ship headed east, filled with Cuban brown sugar covering Soviet-era weaponry presumably bound for repair and return in North Korea.<sup>38</sup> Regardless of any probable outcome of the talks between President Trump and Kim Jong Un, North Korea's efforts to generate revenue, either illegally or legally (absent sanctions), likely are almost certain to travel along well-established avenues within a truly sophisticated network of front companies, diplomatic actors, weapons-related enterprises, and one now very prominent North Korean art company. Whether it is a bust of Dennis Rodman, or North Korean *kitsch* art hanging in Chinese middle-class households, or giant statues of aging dictators in Africa, Masundae Art Company is a name that is unlikely to fade away.

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<sup>37</sup> "Posture Statement of Admiral Kurt W. Tidd, Commander, United States Southern Command," Before the 115th Congress, Senate Armed Services Committee, February 15, 2018.

[http://www.southcom.mil/Portals/7/Documents/Posture%20Statements/SOUTHCOM\\_2018\\_Posture\\_Statement\\_FINAL.PDF?ver=2018-02-15-090330-243](http://www.southcom.mil/Portals/7/Documents/Posture%20Statements/SOUTHCOM_2018_Posture_Statement_FINAL.PDF?ver=2018-02-15-090330-243) Accessed May 5, 2018.

<sup>38</sup> Lomi Kriel, "Panama Finds Weapons on North Korean Ship Coming From Cuba," *Reuters Online* July 16, 2013, <https://www.reuters.com/article/us-panama-northkorea/panama-finds-weapons-on-north-korean-ship-coming-from-cuba-idUSBRE96F0N120130717> Accessed January 15, 2018

## Bibliography

- Aldag, Jason. "How North Korea Takes a Cut from Its Workers Abroad." *Washington Post* (November 1, 2017). [https://www.washingtonpost.com/world/asia\\_pacific/how-north-korea-takes-a-cut-from-its-workers-abroad/2017/10/31/98728d28-b98d-11e7-9e58-e6288544af98\\_story.html?utm\\_term=.85155415c69c](https://www.washingtonpost.com/world/asia_pacific/how-north-korea-takes-a-cut-from-its-workers-abroad/2017/10/31/98728d28-b98d-11e7-9e58-e6288544af98_story.html?utm_term=.85155415c69c) Accessed January 15, 2018.
- Allison, Graham T. "North Korea's Lesson: Nukes for Sale." *New York Times*. (February 12, 2013). <https://www.nytimes.com/2013/02/12/opinion/north-koreas-lesson-nukes-for-sale.html> Accessed, March 30, 2018.
- Berger, Andrea. "From Paper to Practice: The Significance of New UN Sanctions On North Korea." *Arms Control Today*. (May 2016).
- Bruce Cumings, *Korea's Place in the Sun: A Modern History* (New York: W. W. Norton, 2005).
- Chivers, C. J. "Mikhail Kalashnikov, Creator of the AK-47, Dies at 94." *New York Times*. (December 24, 2013).
- Foroohar, Kambiz. "The U.N.'s Problem with North Korea is Africa." *Bloomberg News* (November 20, 2017). <https://www.bloomberg.com/news/articles/2017-11-30/north-korean-arms-trade-among-loopholes-un-struggling-to-close> Accessed February 6, 2018.
- Friedman, Uri. "Why China Isn't Doing More to Stop North Korea," *The Atlantic* (August 9, 2017). <https://www.theatlantic.com/international/archive/2017/08/north-korea-the-china-options/535440/> Accessed February 10, 2018.
- Glum, Julia. "North Korea's Kim Jong Un Loves Water Parks and Wants Visitors," *Newsweek* (May 7, 2018). <http://www.newsweek.com/kim-jong-un-water-park-fan-637200> Accessed May 7, 2018.
- Goodman, Peter S., Sang-Hun, Choe, Berendt, Joanna. "Earning Wages for Pyongyang in a Polish Port." *New York Times* (January 1, 2018).
- Hayden, General Michael. *CNBC On-Line*. (May 2, 2018). <https://www.cnbc.com/2018/05/02/sen-corker-if-north-korea-works-out-trump-deserves-nobel-peace-prize.html?yptr=yahoo> Accessed May 4, 2018.
- Heilpern, Will. "Western Companies Will Fail In China If They Cannot 'Seduce the Farmer.'" *Business Insider* (March 12, 2016). <http://www.businessinsider.com/chinese-middle-class-is-huge-and-growing-2016-3> Accessed February 28, 2018.
- Kriel, Lomi. "Panama Finds Weapons on North Korean Ship Coming From Cuba," *Reuters Online* (July 16, 2013). <https://www.reuters.com/article/us-panama-northkorea/panama-finds-weapons-on-north-korean-ship-coming-from-cuba-idUSBRE96F0N120130717> Accessed January 15, 2018.

- Kristensen, Hans M., Norris, Robert S. "A History of U.S. Nuclear Weapons in South Korea." *Bulletin of the Atomic Scientists*. (October 26, 2017).
- Litwak, Robert S. "Is North Korea Ready for Peace or Playing for Time?." *Ground Truth Briefing*, Wilson Center, Washington, D.C. (May 3, 2018).  
[https://www.wilsoncenter.org/event/north-korea-ready-for-peace-or-playing-for-time?mkt\\_tok=eyJpIjoiWXpNek9UTmtZek00WkRobCIzInQiOiIwaFlGdHFySFQ5Z05oYWt0aUxjU2VnQzRWZUM0NVp4QUF0N3VwYzVMsno0dUd3eFIrWXY5dHE3bk1YNE5EdWoyZiE2TFdBSHNFME45dEpycnBhQit1eVZlZ3hyM3hQR3BleXU2ajNHblZ4ZVpES2xUVlh6QUFcL1N5U0tXC9EOVp0In0%3D](https://www.wilsoncenter.org/event/north-korea-ready-for-peace-or-playing-for-time?mkt_tok=eyJpIjoiWXpNek9UTmtZek00WkRobCIzInQiOiIwaFlGdHFySFQ5Z05oYWt0aUxjU2VnQzRWZUM0NVp4QUF0N3VwYzVMsno0dUd3eFIrWXY5dHE3bk1YNE5EdWoyZiE2TFdBSHNFME45dEpycnBhQit1eVZlZ3hyM3hQR3BleXU2ajNHblZ4ZVpES2xUVlh6QUFcL1N5U0tXC9EOVp0In0%3D) Accessed, May 4, 2018.
- Mihm, Steven. "No Ordinary Currency." *New York Times* (July 23, 2006).  
<https://www.nytimes.com/2006/07/23/magazine/23counterfeit.html> Accessed, February 28, 2018.
- Morris-Suzuki, Tessa. "Remembering the Unfinished Conflict" in *East Asia Beyond the History Wars: Confronting the Ghosts of Violence*, edited by Tessa Morris-Suzuki, Morris Low, Leonid Petrov, and Timothy Y. Tsu (New York: Routledge, 2013).
- Morris-Suzuki, Tessa, Low, Morris, Petrov, Leonid, and Tsu, Timothy Y. ed. *East Asia Beyond the History Wars: Confronting the Ghosts of Violence*. New York: Routledge, 2013.
- Muhn, BG. "Colouring Inside the Red Lines: North Korea Expert Debunks Myths and Expectations About the Country's Art." *Index on Censorship* 20, no. 2. July 1, 2017.
- Nuwer, Rachel. "North Korean Diplomats Accused of Smuggling Ivory and Rhino Horn." *National Geographic* (October 16, 2017).  
<https://news.nationalgeographic.com/2017/10/wildlife-watch-north-korea-illegal-wildlife-trade/> Accessed March 1, 2018.
- Osborn, Andrew. "Russia Throws North Korea Lifeline to Stymie Regime Change." *Reuters* (October 4, 2017). <https://www.reuters.com/article/us-northkorea-missiles-russia-analysis/russia-throws-north-korea-lifeline-to-stymie-regime-change-idUSKBN1C91X2> Accessed March 10, 2018.
- Osnos, Evan. "On The Brink." *The New Yorker*. (September 18, 2017).
- Pinkston, Daniel. "Is Dennis Rodman Smart On North Korea?." *CNN On-Line*. (September 10, 2013). <https://www.cnn.com/2013/09/10/opinion/pinkston-dennis-rodman/index.html> Accessed January 10, 2018.
- Press Release, United States Department of Treasury. (August 22, 2017).  
<https://www.treasury.gov/press-center/press-releases/Pages/sm0148.aspx> Accessed February 27, 2018.

- Qin, Amy. "An Art Powerhouse from North Korea." *New York Times* (January 26, 2016).
- Rivers, Matt, Jiang, Steven. "North Korea Sanctions Are Strangling This Chinese City." *CNN Money* (January 28, 2018). <http://money.cnn.com/2018/01/25/news/economy/dandong-china-north-korea-sanctions/index.html> Accessed February 28, 2018.
- Rodman, Dennis. "Hoping for this after my two friends and leaders meet next month. #Peace #Love #NotWar #Diplomacy." *Twitter*, (March 30, 2018, 10:07am). [https://twitter.com/dennisrodman?ref\\_src=twsrc%5Etfw&ref\\_url=https%3A%2F%2Fwww.usatoday.com%2Fstory%2Fnews%2Fworld%2F2018%2F03%2F30%2Fdennis-rodman-kim-jong-un-meeting-trump%2F474502002%2F](https://twitter.com/dennisrodman?ref_src=twsrc%5Etfw&ref_url=https%3A%2F%2Fwww.usatoday.com%2Fstory%2Fnews%2Fworld%2F2018%2F03%2F30%2Fdennis-rodman-kim-jong-un-meeting-trump%2F474502002%2F) Accessed April 7, 2018.
- Rogin, Josh. "Inside Russia's Growing Role in the North Korean Nuclear Crisis," *Washington Post* (September 6, 2017). [https://www.washingtonpost.com/news/josh-rogin/wp/2017/09/06/inside-russias-growing-role-in-the-north-korean-nuclear-crisis/?utm\\_term=.5de77ceb53e0](https://www.washingtonpost.com/news/josh-rogin/wp/2017/09/06/inside-russias-growing-role-in-the-north-korean-nuclear-crisis/?utm_term=.5de77ceb53e0) Accessed February 17, 2018.
- Rubin, Michael. *Dancing with the Devil: The Perils of Engaging Rogue Regimes*. New York: Encounter Books, 2014.
- Shepp, Jonah. "Don't Count on China or Russia to Resolve the North Korea Crisis," *New York Magazine* (August 9, 2017). <http://nymag.com/daily/intelligencer/2017/08/dont-count-on-china-or-russia-to-end-the-north-korea-crisis.html> Accessed February 17, 2018.
- Shim, Elizabeth. "North Korean Workers Under Scrutiny in Qatar, Mongolia." *United Press International Online* (July 8, 2016). [https://www.upi.com/Top\\_News/World-News/2016/07/08/North-Korean-workers-under-scrutiny-in-Qatar-Mongolia/7411468000805/](https://www.upi.com/Top_News/World-News/2016/07/08/North-Korean-workers-under-scrutiny-in-Qatar-Mongolia/7411468000805/) Accessed March 1, 2018.
- Smale, Alison. "A Berlin Hostel Runs Afoul of Penalties on North Korea." *New York Times* (May 11, 2017).
- Solomon, Salem. "Sanctioned and Shunned, North Korea Finds Arms Deals in Africa." *VOA News*. (March 22, 2017). <https://www.voanews.com/a/sanctioned-and-shunned-north-korea-finds-arms-deals-in-africa/3777262.html> Accessed February 17, 2018.
- Tidd, Admiral Kurt W. "Posture Statement of Admiral Kurt W. Tidd, Commander, United States Southern Command," Before the 115th Congress, Senate Armed Services Committee (February 15, 2018). [http://www.southcom.mil/Portals/7/Documents/Posture%20Statements/SOUTHCOM\\_2018\\_Posture\\_Statement\\_FINAL.PDF?ver=2018-02-15-090330-243](http://www.southcom.mil/Portals/7/Documents/Posture%20Statements/SOUTHCOM_2018_Posture_Statement_FINAL.PDF?ver=2018-02-15-090330-243) Accessed May 5, 2018.
- Twain, Mark. *Following the Equator: A Journey Around the World*. Hartford: American Publishing Company, 1897.

- Twenty-First Century Asian Arms Race. “The Soviet-era Weapons That Are Never Going Away.” *Twenty-First Century Asian Arms Race*. (July 19, 2015). <https://21stcenturyasianarmsrace.com/2015/07/19/the-soviet-era-weapons-that-are-never-going-away/> Accessed March 1, 2018.
- Walsh, Declan. “Sales of North Korean Weapons in Cairo Anger the US.” *New York Times* (March 4, 2018).
- Warrick, Joby. “A North Korean Ship Was Seized Off Egypt With A Huge Cache of Weapons Destined for a Surprising Buyer.” *Washington Post*. (October 1, 2017). [https://www.washingtonpost.com/world/national-security/a-north-korean-ship-was-seized-off-egypt-with-a-huge-cache-of-weapons-destined-for-a-surprising-buyer/2017/10/01/d9a4e06e-a46d-11e7-b14f-f41773cd5a14\\_story.html?utm\\_term=.462774acdba5](https://www.washingtonpost.com/world/national-security/a-north-korean-ship-was-seized-off-egypt-with-a-huge-cache-of-weapons-destined-for-a-surprising-buyer/2017/10/01/d9a4e06e-a46d-11e7-b14f-f41773cd5a14_story.html?utm_term=.462774acdba5) Accessed January 12, 2018.
- Williams, Dan, Farrell, Stephen. “Israel Admits Bombing a Suspected Syrian Reactor in 2007—and It’s a Warning to Iran.” *Reuters*. (March 21, 2018). <http://www.businessinsider.com/israel-admits-bombing-syria-nuclear-reactor-warn-iran-2018-3> Accessed April 1, 2018.
- Wilson Project on Nuclear Arms. “Egypt’s Ballistic Missile Program Succeeds with Help of North Korea,” Wisconsin Project on Nuclear Arms Control. (September 1, 1996). <https://www.wisconsinproject.org/egypts-missile-efforts-succeed-with-help-from-north-korea/> Accessed, December 28, 2017.
- Wong, Sue-Lin, Vagnoni, Gisela, Potkin, Fanny. “White Tiger, Dark Horse: North Korean Art Market Heats Up.” *Reuters Online* (October 4, 2017). <https://www.reuters.com/article/us-northkorea-china-art-insight/white-tiger-dark-horse-north-korean-art-market-heats-up-idUSKCN1C90Z0> Accessed March 10, 2018.