



UWU JOURNAL *of* NATIONAL SECURITY

VOLUME III, ISSUE 2
FALL 2019

 UVU JOURNAL *of*
NATIONAL SECURITY

Volume III
Issue 2
Fall 2019

 UVU JOURNAL *of*
NATIONAL SECURITY

ISSN 2576-1595

Center for National Security Studies
Utah Valley University
800 West University Parkway
Orem, UT 84058

www.uvu.edu/nss/journal.html

 UVU JOURNAL *of*
NATIONAL SECURITY

The *UVU Journal of National Security* is Utah's first student-edited academic journal focused on national security issues. The *JNS* is published twice annually—in April and December—and it is supported by the Center for National Security Studies (CNSS) at Utah Valley University (UVU). The *JNS* publishes timely, insightful articles on critical national security matters, including topics relating to foreign affairs, intelligence, homeland security, terrorism, and national defense. The *JNS* accepts articles from UVU students, alumni, faculty, staff, and administration. Submissions should be sent to the *JNS* Editor-in-Chief at nationalsecurity@uvu.edu.

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A NOTE FROM THE EDITOR-IN-CHIEF

Samuel D. Elzinga

What an honor it is to mantle the responsibility of editor-in-chief for this edition of the *UVU Journal of National Security*. Filling this role, I have at times felt quite inadequate when comparing myself to past editors-in-chief, considering they are close friends and colleagues whom I hold in very high esteem. Much like our country's national security landscape, however, the journal is constantly evolving. In the four semesters I have been involved with the journal, both as an author, managing editor, and now editor-in-chief, I have witnessed the journal blossom and grow into a publication that continually raises the bar of scholarship both at Utah Valley University and the greater scholarly community.

This edition of the journal, however, is unique. It is the first time we have published a piece from beyond the ranks of UVU students and alumni, which was the next necessary and organic step for a journal of this caliber. This journal is the result of hundreds of collective hours spent on both the author and editor side to ensure the quality of this publication remains consistent with previous journals.

For me, this transition would not have been possible without a fabulous roster of motivated and bright individuals to get the pieces ready to publish. I would like to especially thank my executive editor, Bryce Krieger, and my managing editors, Cierra Peters and Mason Taylor, for their continued support and insight throughout the process of publishing this edition of the journal. Without them, keeping the strict deadlines a journal like this demands would have been impossible. I would also like to thank Deb Thornton and her English class for the countless class hours they spent to ensure the journal was ready to publish. Lastly, I would like to thank our new faculty mentor, Dr. Gregory Jackson, for his sage advice throughout the publication process and for sharing the

vision to expand the journal beyond our university.

I am additionally excited to have the contributions of Major General Jefferson Burton, Commanding General of the Utah National Guard, and Dr. David McEntire, dean of the College of Health and Public Service, in this journal. I am sincerely grateful for their willingness to share their expertise. In a time where rigorous discussion of security challenges are necessary, I sincerely hope this publication continues to contribute to the timely and necessary discussions we must participate in to ensure the best ideas are brought forth to solve these complex problems.

Samuel Elzinga

Editor-in-Chief

Journal of National Security



FOREWORD: HONORING THOSE WHO SERVED BEFORE,
75 YEARS SINCE THE D-DAY INVASION

*Major General Jefferson Burton, United States Army, Retired,
Former Adjutant General,
Utah National Guard*

In a rapidly changing world, perhaps no topic is more relevant than that of National Security. As a nation we face the complexities of providing effective security for our citizens, while at the same time protecting civil liberties. Maintaining this balance in a free society when facing totalitarian regimes and non-state actors that have no such constraints on power projection is the seminal challenge of our generation. The difficulties that we face, though not new, are multiplied by the rapid advancement and access to game-changing technology that make it difficult to remain competitive.

It was our first President, George Washington who stated that “the most important thing we can occupy our time with is “the education of our children in the science of government.” As students of National Security, we must be diligent in educating ourselves. Having spent much of my adult life in the third world, I have found that there are enough resources to feed and clothe all of mankind, but selfishness, greed and bad governance make the distribution of these resources virtually impossible. As Americans, we should be engaged in finding solutions to, first, ensure that we maintain our own Republic, and, second, that we show others how to leave chaos behind and develop functionality and stability of governance.

Our history is replete with great examples of personal self-sacrifice in the defense of these principles. This year, we celebrated the 75th Anniversary of the Normandy invasion, where thousands of young Americans stormed heavily fortified beaches to retake Europe and end Fascist oppression. Casualties were high, and thousands of our Soldiers

are laid to rest in cemeteries on the French coast. At the entrance to one of these cemeteries, the words of General Mark Clark are inscribed as a reminder to the world of their sacrifice. He said,

If ever proof were needed that we fought for a cause and not for conquest, it could be found in these cemeteries. Here was our only conquest: all we asked was enough soil in which to bury our gallant dead.

Our challenges are difficult ones, as we face aggressive peer competitors, non-state actors, and global transnational criminal organizations—all seeking to challenge the supremacy of the United States. It is done at home through orchestrated social media assaults; it is done on the high seas through piracy and the expansion of naval reach; and it is done on land through conventional and guerilla border incursions, and criminal organizations that seek to get gain by destabilizing and even toppling governments. Now more than ever, it is critical that we are ready as a nation to face these and other dynamic threats. The safety and security of the world depend upon our willingness to face these complex challenges. No one has ever said it better than our third President, Thomas Jefferson, when he stated:

I have sworn upon the altar of God, eternal hostility against all forms of tyranny over the mind of man.

May we re-dedicate ourselves to the maintenance of individual liberty and collective freedom, which are the hallmarks of the American Republic.



THE DALLAS EBOLA INCIDENT AS AN INDICATOR OF THE BIOTERRORISM THREAT: AN ASSESSMENT OF RESPONSE WITH IMPLICATIONS FOR SECURITY AND PREPAREDNESS

David A. McEntire, PhD and SFHEA

INTRODUCTION

In October of 2014, a man named Thomas Duncan traveled from Liberia to Dallas, Texas. He was unknowingly infected with Ebola and brought a very threatening disease to the United States. This, in turn, presented serious challenges for hospital administrators and public officials involved in the medical, public health, and emergency management professions. Consequently, the Ebola incident serves as an important illustration of what could happen in a potential bio-terrorism attack and is therefore a significant case for those involved in emergency management, public health, national security and homeland security.

With this context in mind, the following article will discuss several of the false assumptions made before and during the Ebola incident. It will also identify other challenges encountered in the response as well as recommended measures to better deal with the threat of such outbreaks or bio-terrorism attacks in the future. Before doing so, information about the methods for this article will be provided as well as background information on Ebola.

METHODS

The findings of this article are derived from a study undertaken by professors currently at Utah Valley University and the University of North Texas.¹ The purpose of the initial research was to explore how

¹ The authors express appreciation to the National Science Foundation for

government officials and emergency management personnel make decisions with limited information in dynamic and uncertain environments. This initial research concentrated on how the Ebola case relates to the concepts of spontaneous planning in emergency management and executive discretion in public administration. Qualitative research from this prior study, which included newspaper articles, after-action reports, and interviews with 20 key participants (mainly those working in emergency management), was adapted for the purpose of this article. The data collected revealed how the response to the Ebola incident succeeded and where it fell short. The lessons learned will serve as the focal point of the following article.

BACKGROUND ON EBOLA

Previously known as Ebola hemorrhagic fever, Ebola is a rare and deadly disease caused by infection of the Ebola virus strains (i.e., family *Filvoridae*, genus *Ebolavirus*). Ebola can affect non-human primates, such as monkeys, chimpanzees, and gorillas, through the Reston virus (*Reston ebolavirus*). Ebola may also impact humans through four strains, including Zaire virus (*Zaire ebolavirus*), Sudan virus (*Sudan ebolavirus*), Tai Forest virus (*Tai Forest ebolavirus*), and Bundibugyo virus (*Bundibugyo ebolavirus*). Symptoms in humans may appear anywhere from 2 to 21 days after exposure, but the average time of onset is between 8 to 10 days. Symptoms include fever, severe headache, muscle pain, weakness, fatigue, diarrhea, vomiting, abdominal pain, and hemorrhaging of the eyes, ears, nose, and mouth. If the virus is not treated quickly or with proper medicines and sophisticated medical techniques, death is likely to occur and the disease will spread.

For instance, one of the most concerning outbreaks of Ebola began in the African nation of Guinea on December 28, 2013, when a two-year-old child died from hemorrhagic fever. By March 2014, 59 deaths in Guinea were attributed to Ebola, and cases were subsequently reported in Liberia. Five months later, the World Health Organization put the death toll at 3,091 people and announced that the fatality rate was at an appalling 70%.

As this outbreak unfolded, a man named Thomas Duncan cared for his landlord's daughter, who was infected with the disease. A short

time later he boarded a plane from Africa and landed in Dallas, Texas, on September 19, 2014. Duncan started to run a fever on September 24 and checked into the Presbyterian hospital the next day. Thinking that Duncan had some strain of routine flu, doctors and nurses sent him home. Duncan's condition continued to deteriorate, and on September 28, Duncan returned to the hospital by ambulance and was isolated. Two days later, tests confirmed he was infected with Ebola. On October 8, 2014, Duncan succumbed to the disease and passed away.

During Duncan's treatment in the hospital, two nurses were also infected. Nina Pham became the first person to be infected by Ebola transmission in the United States. She developed a fever on October 10, 2014, and was isolated until she was declared Ebola free on October 24, 2014. Amber Vinson was another nurse who became concerned about possible infection when she felt sick while traveling to Ohio to make wedding plans. She returned to Dallas on October 13 and reported to the hospital on October 14. She tested positive the next day, was treated, and declared Ebola free on October 22.

While the loss of Duncan's life from Ebola was undoubtedly tragic and the recovery of infected nurses was fortunate, the large numbers of fatalities in Africa and the spread of the disease in the United States certainly illustrated the serious nature of this outbreak. The Ebola episode severely challenged decision makers in the medical community and in local/state government, and the costs associated with treatment and response were substantial. Although this small occurrence in the US proved to be extremely difficult, a wide-scale outbreak would clearly be even more overwhelming. Learning from this case is therefore vital to understanding the risk of bio-terrorism for those working for national security, homeland security, emergency management, and public health. Understanding the lessons of this incident may ultimately save lives in the future.

FALSE ASSUMPTIONS

One of the greatest problems associated with the Ebola incident was in relation to several false assumptions leaders had about disease transmission, national preparedness, treatment protocols, and response capabilities. Problems were witnessed in at least six areas.

1. Officials from various government agencies as well as President Obama mistakenly assumed that the disease would not spread to other parts of

the world. Their public comments indicate that they believed the disease was only present in Africa and that existing airport screenings would curtail the arrival of Ebola in the United States. No additional travel bans were seriously considered.² However, Dr. Thomas Frieden, the Director of the CDC, admitted that in today's world, "ultimately we are all connected."³ Rep. Edward Royce, Chairman of House Committee on Foreign Relations, also stated that because of the ease of world-wide travel, it should be recognized that "communicable diseases do not stop at borders."⁴ Others likewise pointed out that our standards for health screenings during immigration were too lax. Consequently, a reporter from the Dallas Morning News noted that Duncan "evaded all of the security measures in place to protect our nation from one of the deadliest diseases on the planet."⁵ One concerned citizen expressed serious reservations about our immigration policies in a letter to the editor:

- i. When we sent men to the moon and back, we kept them in isolation for 30 days to prevent any unknown germ from infecting the earth. Now, someone coming to the US from a region rife with one of the most deadly and highly infectious diseases can just hop on a crowded airplane, travel for hours and hop off to blend in with the population."⁶

Recognizing this threat, Senator Rob Portman of Ohio asserted that this case "serves as a reminder of the need for increased US prevention efforts," such as screening at the point of entry in the United States.⁷

- ii. A failure to take disease transmission seriously does not bode well for national security, homeland security, emergency management,

² Roberta Rampton, "'Americans Can't Give in to Hysteria or Fear' Over Ebola: Obama," Reuters, October 17, 2014, <https://reuters.com/article/us-help-ebola-usa/american-can-t-give-in-to-hysteria-or-fear-over-ebola-Obama-idUSKCN-0161BO20141018>.

³ Craig Schneider, "First U.S. Ebola Case Confirmed in Texas," *Atlanta Journal-Constitution*, October 1, 2014, <https://www.ajc.com/news/national/first-ebola-case-confirmed-texas/PfpG3dQTUj7fBRbjvOzg1M/>.

⁴ Kelly Riddell, "After First Ebola Case, Red Flags Emerge That U.S. Unprepared for Pandemic: Federal Reports Raise Concerns U.S. Defenses Stagnated, Waning," *Washington Times*, September 30, 2014. <https://www.washingtontimes.com/news/2014/sep/30/after-first-ebola-case-fears-turn-us-pandemic-prep/>.

⁵ Tod Robberson, "The Common Link Between Ebola and the White House Breach," *Dallas Morning News*, October 1, 2014.

⁶ Bill Burris, "Letter to the Editor," *Dallas Morning News*, 2014.

⁷ Riddell, "After First Ebola Case."

and public health.

2. Medical leaders also had incorrect beliefs about disease transmission. Officials, including CDC Director Frieden, believed that “the virus does not spread through the air—only through close contact with bodily fluids from a sick person.”⁸ Accordingly, it was assumed that blood, sweat, vomit, feces, urine, saliva, semen must penetrate skin or make contact with a cut. However, a concerned citizen pointed out that the CDC website reports that “if a symptomatic patient with Ebola coughs or sneezes on someone, the saliva or mucus come into contact with that person’s eyes, nose or mouth, [and] these fluids may transmit the disease.”⁹ In addition, there was reason to believe that contaminated bed sheets and clothing as well as the insertion of breathing tubes or removal of protective gear could also spread the disease.^{10,11} Therefore, it appears that there may have been insufficient knowledge about disease transmission in this particular case of Ebola.
3. Medical officials also seemed to be overly confident regarding their ability to diagnose and minimize the spread of the disease. CDC Director Frieden stated, “I have no doubt we will control this case of Ebola.”¹² Others, such as Dr. Scott Ries of the Christian Medical and Dental Association asserted that “we know how to deal with Ebola,”¹³ while Kyle Janek, Texas Health and Human Services Executive Commissioner, argued that “disease containment [. . .] is something we do every day.”¹⁴ In spite of this confidence, various mistakes were made as this event unfolded. Thomas Duncan “came to the emergency room on a certain day saying that he felt sick, and mentioned that he had come from Liberia. [. . .] The dots were not connected—sick African man just got back from Liberia where there’s a major Ebola epidemic.”¹⁵

⁸ Marilyn Marchione, “5 Things to Know about the U.S. Ebola Case,” September 30, 2014, <https://www.nbcwashington.com/news/health/The-Dallas-Ebola-Case-5-Things-to-Know-277677731.html>.

⁹ Jacque Vilet, “Letter to the Editor,” *Dallas Morning News*, October 4, 2014, <https://www.dallasnews.com/opinion/2014/10/04/ebola-in-dallas/>.

¹⁰ “Why Nation’s Top Docs Say.”

¹¹ Nomaan Merchant, “Dallas Health Care Worker Tests Positive for Ebola,” October 17, 2014, https://www.theadvocate.com/nation_world/article_bcf1b997-466e-5c69-aa9c-86b62b8c7c48.html.

¹² Schneider, “First U.S. Ebola Case.”

¹³ Riddell, “After First Ebola Case.”

¹⁴ Robert T. Garrett, “Texans Enjoy Strong Protections Against Ebola, Janek Says,” *Dallas Morning News*, October 7, 2014, <https://www.dallasnews.com/news/politics/2014/10/07/texans-enjoy-strong-protections-against-ebola-janek-says/>.

¹⁵ Todd J. Gillman, “Ebola: Dr. Fauci of NIH Says Dallas Hospital Should

Furthermore, the hospital released him, and he was in the community for two days. A reporter noted that “someone should have asked more questions and didn’t. [. . .] They sent him home, and for the next three to four days, the patient was contagious and exposed others to Ebola in Dallas” (Robberson 2014).¹⁶ Dr. Daniel Varga, Chief Clinical Officer with Texas Health Resources, commented, “Unfortunately, in our initial treatment of Mr. Duncan, despite our best intentions and a highly skilled medical team, we made mistakes. We did not correctly diagnose his symptoms as those of Ebola. We are deeply sorry.”¹⁷ Such errors, while understandable, can have grave consequences.

4. Others mistakenly believed that the hospital would have no challenges responding to the disease. For instance, “Edward Goodman, the infectious disease expert at the Dallas hospital, offered assurances that the hospital has robust facilities and protocols to handle Ebola.”¹⁸ As time unfolded, it was also conveyed by David Lakey, the Texas Health Services Commissioner, that “the man remains in strict isolation at the Dallas hospital, which officials said is equipped to contain and care for infectious diseases.”¹⁹ However, two nurses were infected while treating Thomas Duncan. The led Director Frieden to declare that “there was a breach in protocol, and that breach in protocol resulted in this infection.”²⁰ However, as instructed, “the hospital worker [. . .] wore protective gear while treating the Liberian patient. [. . .] The worker wore a gown, gloves, a mask and shield while she cared for Duncan.”²¹ This led Director Frieden to apologize for his statement about the nurse and comment that he felt awful that she had been infected.²² So, it appears that “the nation’s hospitals may be unprepared to deal with the waste caused by Ebola patients.”²³ Dr. Macgregor-Skinner states, “We

Have Admitted Duncan Right Away; ‘Tragic Mistake,’” November 21, 2014, <https://www.dallasnews.com/news/politics/2014/11/21/ebola-dr-fauci-of-nih-says-dallas-hospital-should-have-admitted-duncan-right-away-tragic-mistake/>.

¹⁶ Robberson, “The Common Link.”

¹⁷ “Hospital Official: ‘We Are Deeply Sorry’ for Ebola Mistakes,” NBC News, October 15, 2014, <https://www.nbcnews.com/storyline/ebola-virus-outbreak/hospital-official-we-are-deeply-sorry-ebola-mistakes-n227031/>.

¹⁸ Schneider, “First U.S. Ebola Case.”

¹⁹ Schneider, “First U.S. Ebola Case.”

²⁰ Merchant, “Dallas Health Care Worker.”

²¹ Merchant, “Dallas Health Care Worker.”

²² John Bacon and Marjorie Owens, “CDC to Change its Approach to Ebola Virus,” *USA Today*, October 14, 2014.

²³ Riddell, “After First Ebola Case.”

have a long way to go—we are nowhere near ready yet.”²⁴

5. Even the federal government overestimated its own understanding and capabilities. The White House and CDC stated on many occasions that the nation was prepared to deal with Ebola. Nevertheless, a local official stated, “The CDC did really not know what was going on.”²⁵ The after-action report also revealed that “agencies were receiving conflicting messages from the CDC throughout the event.”²⁶ In addition, had this been a broader event, the “DHS may not be able to provide sufficient [. . .] preparedness supplies to its employees to continue operations during a pandemic.”²⁷ The Inspector General of the Department of Homeland Security issued a report “warning that the Department was woefully prepared for a pandemic, with expired medicines and inadequate resources to effectively equip its top responders in the field.”²⁸ Consequently, one letter to the editor complained “as of the CDC’s public reassurances about the sophistication of the US medical industry in dealing with the Ebola virus aside, I think it is better to know that the CDC and medical system are woefully unprepared than to make the dangerous false assumption that they are well-prepared.”²⁹
6. The federal government may have also mistakenly assumed that the local and state government capacity and knowledge would be sufficient. However, resources to deal with a crisis such as this are limited. For instance, over 45,000 public health positions have been eliminated since the 2008 financial crisis.³⁰ There was also insufficient information on how to deal with the Ebola incident. Local and state leaders were constantly waiting for the federal government to step in with additional direction, recommendations, and support. Sgt. Christopher Dyer, who was involved in the implementation of quarantine order, said, “We were really looking for the CDC to come in [and] take control of the situation.”³¹ An Assistant City Manager in Dallas said, “We thought the

24 Riddell, “After First Ebola Case.”

25 Rocky Vaz, interview. May 5, 2015.

26 North Central Texas Council of Governments. 2015. North Central Texas Ebola After-Action Review. April. Arlington, Texas. <https://resources.nctcog.org/ep/News/AprilNewsletter.pdf>.

27 Riddell, “After First Ebola Case.”

28 Riddell, “After First Ebola Case.”

29 James D. Beare, “Letter to the Editor.” *Dallas Morning News*. October 4, 2014.

30 Riddell, “After First Ebola Case.”

31 Bud Kennedy, “Jenkins, Dallas Courthouse Leaders Stepped up after a Slow Start,” October 4, 2014, <https://www.star-telegram.com/opinion/bud-kennedy/article3876128.html>.

CDC was actually going to come in and really take the lead and tell us what to do. [. . .] The cavalry didn't come. One expert came for a few days, then left, and never came back.³² A Dallas City Emergency Manager commented, "We thought the CDC would get here and there would be some medical direction. [. . .] That was not something easily or in some cases at all gotten from the CDC. We realized we are not getting anything."³³ In spite of frequent meetings and conference calls, Campbell stated that "we felt we were operating blindly. We didn't have the current science. We didn't have current information."³⁴

OTHER CHALLENGES WITH THE RESPONSE

In addition to an excessive degree of confidence on the part of some individuals and agencies, there were numerous other problems evident in the response. First, the Ebola incident was a public health emergency, but there was no legal mechanism to make that declaration or structure the response organizationally. The Assistant City Manager stated,

It is unique when you talk about something biological because the county charter basically gives authority to the county as the health authority, and there is no seminal structure for something that is that broad based (like) [. . .] when we have disasters. [. . .] There was never a formal emergency [. . .] as in other disasters when it is manmade or natural.³⁵

A second and related problem was that there was a knowledge and communication gap between the emergency management and public health communities and the medical communities. Dallas Assistant City Manager Eric Campbell noted that "we don't have the technical health expertise we need."³⁶ Rocky Vaz, the Director of the Dallas Office of Emergency Management, also stated, "We as an EM community have to have a better understanding about how the medical community works."³⁷ Along these lines, there were too many delays in communication. The North Central Texas After-Action Review revealed that the

³² Eric Campbell (Dallas Assistant City Manager), discussion, interview, 2015.

³³ Kevin Oden (Dallas Office of Emergency Management), in discussion with the author, May 5, 2015.

³⁴ Campbell, interview.

³⁵ Campbell, interview.

³⁶ Campbell, interview.

³⁷ Vaz, interview.

“usual emergency communication structure was not in place because it was a “public health” emergency.³⁸ Rocky Vaz reiterated that “I don’t have that comfort level to wait for 4 days to call the state. I want to pick up the phone and call the state. I want you now.”³⁹ Others agreed. Kevin Oden of the Dallas Office of Emergency Management stated, “In a highly infectious disease situation, we don’t have 16 to 18 hours to wait to figure out if the county is doing what they are supposed to do.”⁴⁰

A third problem related to confusing media messages. Rocky Vaz pointed out that working with the media was challenging. He said, “We were telling everyone it is safe and then [in] the next picture frame is our people in Hazmat suits going to clean up [the] dog.”⁴¹ Eric Campbell agreed that the messages were contradictory: “There were images of people on TV with PPE and Hazmat protective gear. And we are saying it is not a big deal.”⁴² The North Central Texas After Action Review stated that “there were several challenges with managing the media—the content, accuracy, and timing of messages.” The After-Action Review also revealed that “authorities had to consult with their legal department on what and to who information could be released.”⁴³

A fourth problem concerned politics. Whether founded or not, there were allegations about racism due to treatment of Mr. Duncan. John Wiley Price, a Dallas County Commissioner at the time, said, “We know what happened at Presbyterian happened. It is historical what has happened in this community. If a person who looks like me shows up without insurance, they don’t get the same treatment.”⁴⁴ Such politics compounded an already difficult situation.

A fifth challenge pertains to quarantines. Public officials had a very difficult time determining whether a quarantine would be needed and how to implement it. For instance, “officials didn’t immediately guard

³⁸ North Central Texas, “Ebola After-Action.”

³⁹ Vaz, interview.

⁴⁰ Oden, discussion.

⁴¹ Vaz, interview.

⁴² Campbell, interview.

⁴³ North Central Texas, “Ebola After-Action.”

⁴⁴ Matthew Watkins, “John Wiley Price, County Health Director Emphatically Defend Dallas Response to the Ebola,” *Dallas Morning News*, October 7, 2014. <http://www.ragingelephantsradio.com/john-wiley-price-county-health-director-emphatically-defend-dallas-response-to-ebola/>.

the apartment to make sure people who were supposed to be isolated stayed inside.”⁴⁵ Rocky Vaz of the Dallas Office of Emergency Management asserted that this quarantine “was just isolation tracking progress 21 days.”⁴⁶ Even when this procedure was taken more seriously, some of the nurses refused to be quarantined even though they could have been infected themselves. This could have caused the disease to spread rapidly and to more individuals, exacerbating an already challenging occurrence. The dilemma regarding personal freedom and public safety needs to be resolved.

A sixth problem relates to fear in terms of how to interact with those who might be infected. People in the community were very concerned that they would be affected by Ebola if they interacted with the victim or his family members. Rocky Vaz noted how the family was potentially mistreated after receiving a bungalow from the Catholic Diocese in an isolated area. He said in an interview:

We asked the Red Cross to [. . .] go to Olive Garden and get food for the family. The sheriff set up their command 300 yards away and they said “we are not getting anywhere near there.” So, we had this Red Cross guy with an Olive Garden bag. He drove up the long drive, parked his car, put the food on the table and one of the kids opened the door and said “hi and thanked him.” They guy took off and called national headquarters in D.C. and said the Red Cross is not going to feed them anymore. [. . .] They said they would drop it off outside the gate about 400 yards away. [. . .] We also called the White House and did a no-fly zone over the Dioceses so the media could not see where we took them.⁴⁷

Based on this treatment, the Dallas Emergency Manager believed “they were treated like they were [. . .] Lepers. Everyone stared at them like they had Ebola.”⁴⁸

Medical waste, decontamination, debris removal, transportation, and disposal were other challenges identified during the response. Several individuals commented on this problem:

- Dr. Macgregor-Skinner noted that “Ebola patients create an enormous

⁴⁵ Watkins, “John Wiley Price.”

⁴⁶ Vaz, interview.

⁴⁷ Vaz, interview.

⁴⁸ Oden, interview.

amount of waste that is [. . .] highly infectious.”⁴⁹

- For instance, Atlanta’s Emory University was involved in the treatment of patients. It was reported that “as many as 40 bags of waste were generated each day, which placed a huge burden on the hospital’s waste disposal system.”⁵⁰
- Similar problems were evident at the victim’s residence. The Dallas Assistant City Manager stated, “We were not sure at all about what level of decontamination was needed. We knew we had to do some level of clean-up, but we didn’t have expert advice.”⁵¹
- Regarding the victim’s home, the Director of the Office of Emergency Management stated, “We chopped up everything including the TV. We had 90 barrels. [. . .] It had sheets and clothing and mattresses. It became medical waste. [. . .] It took us 8 hours and 14 city employees to get the house . . . [cleaned].”⁵²
- Once the medical debris was collected, transporting it became a serious problem. The Dallas Assistant City Manager noted that “you need a special license to transport HAZMAT waste.”⁵³ Unfortunately, there was disagreement about what type of license would be needed. Riddell reported that “the DOT classifies Ebola as a Category A agent,” but “the CDC, however, [categorizes it] as regulated medical waste.”⁵⁴
- The OEM Director also mentioned the urgency related to this transportation issue. He said, “We are getting pressure from the mayor because CNN and everybody else is looking around and seeing 90 barrels of medical waste inside. [. . .] So we told the mayor you have to call Secretary Fox.”⁵⁵ The issue was later resolved with the leader of the US Department of Transportation.
- Others experienced similar problems. “Conflicting classifications on Ebola waste forced the hospital to wait for the US Department of Transportation to issue a special permit before it could move the material.”⁵⁶
- Once the transportation permits had been obtained, additional problems

⁴⁹ Riddell, “After First Ebola Case.”

⁵⁰ Riddell, “After First Ebola Case.”

⁵¹ Campbell, interview.

⁵² Vaz, interview.

⁵³ Campbell, interview.

⁵⁴ Riddell, “After First Ebola Case.”

⁵⁵ Vaz, interview.

⁵⁶ Sharon Begley, “Ebola Waste Disposal Has Proven a Thorny Issue: CDC,” Reuters, October 4, 2014, <https://www.reuters.com/article/us-health-ebola-usa-waste-idUSKCN0HT0P520141004>.

became evident. According to the Dallas OEM Director, “The city found contractor in Missouri, but it got to a level of politics where the Governor stepped in and said you are not bringing Ebola waste here. [. . .] Then we found someone in Port Arthur to take it, but they would only take 90-gallon barrels. We had 45-gallon barrels. We put the 45-gallon barrels in the 90-gallon barrels [and] transported it with an escort. Then the truck got a flat tire at 2:00 a.m.”⁵⁷

Such problems with medical waste will need further attention in the future.

Finally, dealing with Thomas Duncan’s dog proved problematic. The Dallas Office of Emergency Management “got implicit direction [from politicians] that you are not going to get rid of [put down] the dog.”⁵⁸ However, there was no “playbook” on how this should be done. The Assistant City Manager noted that they were “talking to veterinarians across the state and the universities asking [them if it can be] transmitted to a dog, can a dog transmit it to another human. [They said,] ‘Well, we don’t think so, but I am not going to tell you unequivocally that is cannot happen.’ [. . .] We even had people come up and say ‘I’ll take the dog,’ but you still have the issue of not knowing how it is transmitted.”⁵⁹ Eventually, Texas A&M brought a mobile vehicle to the house so two vets cleaned the dog and fed it three times a day. The Director of the Dallas Office of Emergency Manager said “that must have cost the state about \$200,000 to take care of the dog.”⁶⁰

CONCLUSION AND RECOMMENDATIONS

As can be seen, the Ebola incident in Dallas, Texas, created countless challenges for those working in homeland security, emergency management, public health, and hospitals. This was in spite of the fact that the incident affected a relatively small number of people. The spread of the disease was limited to two nurses, and those involved should be commended for their tireless efforts to treat patients and deal with the multitude of challenges that were continuously presented. However, because a larger outbreak would certainly magnify these challenges, several lessons must be seriously considered.

⁵⁷ Vaz, interview.

⁵⁸ Vaz, interview.

⁵⁹ Campbell, interview.

⁶⁰ Vaz, interview.

First, medical and public officials must have correct assumptions about the spread of Ebola (and other disease outbreaks and bioterrorism threats). This includes views about disease transmission, national preparedness, treatment protocols, and response capabilities.

Second, increased efforts must be given to build preparedness and response efforts in the private sector and at all levels of government. Hospitals must do more to prepare for contagious diseases, and there must be further coordination between emergency management and public health organizations.

Third, those involved with disease outbreaks and potential bioterrorism threats must resolve special concerns, such as communications, media messages, politics, quarantines, treatment of victims, debris management, pets, etc.).

Finally, public officials must pay attention more to effective decision making when disease outbreaks occur. Interviewees noted that they were constantly bombarded with limited/changing information and complex problems, and they had to make split second decisions about how to save lives and react effectively to unfolding concerns.

Should these and other measures be undertaken, the nation will ultimately be in a better position to prevent the spread of diseases and react should an unthinkable bio-terrorism attack occur in the future. Those involved in national security, homeland security, emergency management, and public health can take steps to protect our citizens and improve response operations.



TERRORISM AND ITS LEGAL AFTERMATH: THE LIMITS ON FREEDOM OF EXPRESSION IN CANADA'S ANTI-TERRORISM ACT & NATIONAL SECURITY ACT

A. Percy Sherwood

INTRODUCTION

On the bright autumn morning of October 22, 2014, Michael Zehaf-Bibeau shot and killed Cpl. Nathan Cirillo at the National War Memorial in Ottawa, Canada. Zehaf-Bibeau then entered the parliament buildings, where he exchanged gunfire with security personnel. He was shortly killed by Sergeant-at-Arms Kevin Vickers. In response to the shooting, former Canadian Prime Minister Stephen Harper said that “extreme jihadists have declared war on us, on all free people, and on Canada specifically.”¹

Canada introduced the controversial *Anti-terrorism Act of 2015*² (commonly known as Bill C-51) in the aftermath of the shooting; the Act created sweeping changes to Canadian security laws. In particular, Bill C-51 introduced a speech offense contained in s. 83.221 of the *Criminal Code* that made it illegal to communicate statements that advocate or promote the commission of terrorism offenses in general.³ Much of

¹ Stephen Harper, “Archived—PM Announces Anti-Terrorism Measures to Protect Canadians” (January 30, 2015): *Government of Canada News Releases*, available at: <<https://www.canada.ca/en/news/archive/2015/01/pm-announces-anti-terrorism-measures-protect-canadians.html>>.

² Bill C-51, *An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts*, 2nd Sess, 41st Parl, 2015 cl 20 (assented to 18 June 2015) [*Bill C-51*], available at: <<https://www.parl.ca/legisinfo/BillDetails.aspx?billId=6842344&Language=E>>.

³ *Bill C-51*, supra note 2. Also see: *Criminal Code*, RSC 1985, c C-46, s 83.221, as amended by *An Act respecting national security matters*, RS 2019, c 59, s 143. The speech offense in Bill C-51 provides as follows: “Every person who, by communicating statements, knowingly advocates or promotes the commission of terrorism

the scholarship about Bill C-51 has focused on the need for standards regarding the collection of personal information and methods to enhance the compliance of independent review procedures.⁴ Less attention has been paid to questions regarding whether the offense infringes upon freedom of expression and, if it does, whether this restriction on speech is legitimate under the *Canadian Charter of Rights and Freedoms*.⁵

This analysis aims to demonstrate how s. 83.221 in Bill C-51 is likely to violate freedom of expression guaranteed under the *Charter*. The first section employs the two-step *Irwin Toy*⁶ analysis to show that the speech offense infringes upon s. 2(b) of the *Charter*. The second section uses the *Oakes*⁷ test to determine whether the breach of freedom of expression is a reasonable limit. The *Oakes* analysis shows that (i) preventing terrorist acts from taking place is of sufficient importance to warrant overriding freedom of expression guaranteed under s. 2(b), and (ii) there is a rational connection between the objective of the prevention of terrorist acts and the prohibition of the advocacy and promotion of “terrorism offenses in general.” (iii) However, the speech offense does not impair freedom of expression as little as possible. There are existing offenses that prevent terrorism and are more closely connected to direct harm and violence; (iv) further, there is not an overall proportionality between the effects of the speech crime and the costs to freedom of expression because of its chilling effect on speech. Section three of this paper argues that the amendments contained in

offenses in general—other than an offense under this section—while knowing that any of those offenses will be committed or being reckless as to whether any of those offenses may be committed, as a result of such communication, is guilty of an indictable offense and is liable to imprisonment for a term of not more than five years.”

⁴ Craig Forcece and Kent Roach, *False Security: The Radicalization of Canadian Anti-terrorism* (Toronto: Irwin Law, 2015); Daniel Alati, *Domestic Counter-Terrorism in a Global World: Post-9/11 Institutional Structures and Cultures in Canada and the United Kingdom* (London: Routledge, 2017); Michael Geist, *Lam, Privacy and Surveillance in Canada in the Post-Snowden Era* ed. (Ottawa: University of Ottawa Press, 2015).

⁵ Section 2(b), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11 [Charter]. Section 2(b) states that everyone has the right to “freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.”

⁶ *Irwin Toy Ltd v Quebec (Attorney General)*, 1989 1 SCR 927 [*Irwin Toy*].

⁷ *R v Oakes*, 1986 1 SCR 103 [*Oakes*].

Part 7 of the *National Security Act*⁸ (also known as Bill C-59) are improvements to the speech crime in Bill C-51 because they are more likely to satisfy a proportionality test.

I. THE IRWIN TOY TEST

1. *Is s. 2(b) of the Charter infringed by the speech crime in Bill C-51?*

Canadian courts have interpreted freedom of expression as defined in the *Charter* quite generally and often easily find a breach.⁹ *Irwin Toy* provides a two-step analysis used to determine whether there has been an infringement upon freedom of expression. In the first step, *Irwin Toy* establishes that activity is expressive if it attempts to convey a meaning.¹⁰ The guarantee of freedom of expression protects all content of expression, except for speech that incites violence and threats of violence, as outlined in *Irwin Toy*.¹¹ Moreover, Chief Justice Dickson found in *Keegstra* that communications that intend to promote hatred against identifiable groups are protected under s. 2(b) unless they are expressed in a violent form.¹² However, the advocacy and promotion of terrorism offenses in general do not fall within the scope of direct incitement or acts of violence. For instance, boasting about radical ideologies could presumably be considered an offense only if such speech is directly inciting violence against an identifiable group. Section 83.221 thereby represents an infringement of s. 2(b).

2. *If so, does the government's restriction on it infringe s. 2(b), in purpose or effect?*

The second step distinguishes between purpose-based and effects-based restrictions on expressive activity. Purpose-based restrictions control the content of expression (e.g., hate speech) and effects-based restrictions control the physical consequences of the activity, regardless

⁸ Bill C-59, *An Act Respecting National Security Matters*, 1st Sess, 42nd Parl, 2019 cl 13 (assented to 21 June 2019) [Bill C-59], available at: <<https://www.parl.ca/legisinfo/BillDetails.aspx?billId=9057418&Language=E>>. Also see: *Criminal Code*, RSC 1985, c C-46, s 83.221.

⁹ Department of Justice, “Section 2(b)—Freedom of Expression” (June 17, 2019): *Government of Canada*, available at: <<https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art2b.html>>.

¹⁰ *Irwin Toy*, *supra* note 6 at para 42.

¹¹ *Irwin Toy* at para 43.

¹² *R v Keegstra*, 1990 3 SCR 697 at para 35 [*Keegstra*].

of the content.¹³ The prohibition in s. 83.221 represents a purpose-based restriction on speech in terrorist instruction and participation. This restriction therefore prevents the communication of expression and meets the second requirement of the *Irwin Toy* test. To summarize, the speech crime constitutes an infringement of the *Charter* guarantee of freedom of expression. The next step of this analysis examines whether such an infringement is justifiable under s. 1 of the *Charter* as a reasonable limit.

II. THE *OAKES* TEST

Oakes has become a central model for how to interpret the *Charter*, particularly in providing for an interpretive methodology to assess justifiable limitations on *Charter* rights.¹⁴ The case has been cited by courts in Australia,¹⁵ Ireland,¹⁶ South Africa,¹⁷ and the United Kingdom,¹⁸ which suggests that *Oakes* has gained international significance for constitutional law. In Canada, the four-pronged *Oakes* test is used to determine whether an infringement of a right is a “reasonable limit” that can be “demonstrably justified in a free and democratic society” under s. 1 of the *Charter*.¹⁹ This paper applies the *Oakes* test to the speech offense. The speech crime fails at the third and fourth step of the test: it does not minimally impair freedom of speech as little as possible, nor is there proportionality between the prevention of terrorist acts and the costs to free expression.

1. *Is the objective of the measure that limits freedom of expression “sufficiently important” to warrant the limit?*

Parliament’s objective for the security provisions is based on the

¹³ *Irwin Toy*, *supra* note 6.

¹⁴ Sujit Choudhry, “So What Is the Real Legacy of *Oakes*? Two Decades of Proportionality Analysis under the Canadian Charter’s Section 1” (2006) 34: 19 *The Supreme Court Law Review* at 503.

¹⁵ *Kartinyeri v The Commonwealth*, 1998 HCA 22.

¹⁶ *Blascaod Mor Teoranta v Commissioners of Public Works in Ireland*, 1998 IEHC 38.

¹⁷ *S v Singo*, 2002 4 SA 858.

¹⁸ *A v Secretary of State for the Home Department*, 2004 UKHL 56.

¹⁹ *Charter*, *supra* note 5 at s. 1. Section 1 states, “The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”

prevention of terrorism.²⁰ *Khawaja* establishes that the prevention of terrorism is rooted in the significant harm that acts of terror can cause.²¹ In this context, preventing terrorist acts from taking place is of sufficient importance to warrant overriding freedom of expression guaranteed under s. 2(b).

2. *Is there a “rational connection” between the objective of the measure that limits freedom of expression and the means chosen to achieve it?*

There is a rational connection between the objective of the prevention of terrorist acts and the communication of terrorism offenses in general. There is a logical connection between ensuring that individuals (e.g., vulnerable youths) are not incited or counselled to commit an act of terrorism through banning such speech. The dissenting opinion in *Keegstra* offers a slightly contrary position. Justice McLachlin, as she was then, argues in her dissent that the public may perceive the suppression of expression by the government with suspicion, which allows for the possibility that hate propaganda could be seen as containing an element of truth.²² However, an analysis of ISIS publications shows that its communication materials are misleading and sensational, and they contain vast overgeneralizations and inaccuracies.²³ These materials are used to avoid addressing “the messy nuances of complex political issues” in order to influence and mobilize their audiences.²⁴ It is unlikely that a “reasonable person” would see propaganda disseminated by terrorist organizations as containing basic truths, nor would such speech contribute to a marketplace of ideas.

3. *Does the measure impair the freedom in question as little as possible?*

The speech crime does not impair freedom of expression as little as possible. Several other offenses carry out the governmental objective of preventing terrorism that are more closely connected to direct harm

²⁰ Department of Justice, “About the Anti-Terrorism Act” (July 26, 2017): *Government of Canada*, available at: <<https://www.justice.gc.ca/eng/cj-jp/ns-sn/act-loi.html>>.

²¹ *R v Khawaja*, 2012 SCC 69 at para 55 [*Khawaja*].

²² *Keegstra*, *supra* note 12 at para 103.

²³ Greg Simons, “Brand ISIS: Interactions of the Tangible and Intangible Environments” (2018) 17: 4 *Journal of Political Marketing* at 346.

²⁴ Sarah Sobieraj and Jeffrey M. Berry, “From Incivility to Outrage: Political Discourse in Blogs, Talk Radio, and Cable News” (2011) 20: 1 *Political Communication* at 20.

and violence. Dickson writes in Keegstra that section 1 “should not operate in every instance so as to force the government to rely upon the only mode of intervention least intrusive to a Charter right or freedom.”²⁵ Dickson explains that the government may use a more restrictive measure “if that measure is not redundant, furthering the objective in ways that alternative responses could not, and is in all other respects proportionate to a valid s. 1 aim.”²⁶ In this respect, introducing the advocacy and promotion of terrorism offenses in general is redundant. These offenses already overlap with existing crimes set out in the 2001 Anti-terrorism Act; they include threatening, instructing, and counseling terrorist activity.

Moreover, the phrase “terrorism offenses in general” is difficult to interpret since it is not defined in Canadian law. It is unclear as to how it differs from “terrorist activity,” which already exists in the *Criminal Code*. Unlike the pre-existing crimes, “terrorism offenses in general” does not narrowly define crimes that are closely linked to violence and harm. For example, an ISIS recruitment video initially posted on YouTube features Canadian Andre Poulin saying that people who go to the territory that his group formerly controlled in Syria “will be very well taken care of here—your families will live here in safety just like back home.”²⁷ This statement does not directly threaten violence, but it could be captured under advocating or promoting terrorism offenses in general. An individual who reposts or publishes this statement could also possibly be charged under the speech offense, which is not closely connected to the direct incitement of violence. The government can pursue its objective of preventing acts of terror through less rights-invasive means by using existing offenses such as threats, instruction, or counselling of terrorist activity, which are more closely connected to actual violence. In this context, the speech crime does not satisfy the minimal impairment test.

4. *Is there proportionality—or an overall balance—between the effects of the measure and the objective which has been identified as of “sufficient importance”?*

²⁵ Keegstra, *supra* note 12 at para 135.

²⁶ Keegstra.

²⁷ Michael Schmidt, “Canadian Killed in Syria Lives On as Pitchman for Jihadis” (July 15, 2014): *New York Times*, available at: <<https://www.nytimes.com/2014/07/16/world/middleeast/isis-uses-andre-poulin-a-canadian-convert-to-islam-in-recruitment-video.html>>.

The offense has the objective of preventing terrorist acts. However, the effects of the speech crime disproportionately outweigh the costs to freedom of expression. The chilling effect on speech is immense. In particular, the offense could disproportionately affect certain minority groups in Canada. McLachlin writes in *Khawaja* that “police should not target people as potential suspects solely because they hold or express particular views. Nor should the justice system employ improper stereotyping as a tool in legislation, investigation, or prosecution.”²⁸ Racial profiling is significant, considering that existing research about representations of terror shows that Islam and Muslims are regularly associated with violent extremism and this negative attention is linked to increased prejudice against Muslims and Arabs in general.²⁹ The securitization of Muslims and Arabs in the War on Terror in Canada has also resulted in increased national security and police profiling amongst these communities.³⁰ This research suggests that the speech offense could have a direct chilling effect on Arab and Muslim communities in their legitimate exercise of speech due to the increased scrutiny that these marginalized groups face.

Other literature suggests that the speech offense could have counterproductive effects for outreach involving Muslim communities in counter-violent extremism (CVE) programs that engage those who have deeply felt grievances and may be inclined to use extremist rhetoric.³¹ The speech offense could also help drive extremist speech underground, consequently making it difficult for CVE programs and intelligence agencies to detect.³² The effects of the speech crime designed to

²⁸ *Khawaja*, *supra* note 21 at para 83.

²⁹ Henrik Andersen and Jochen Mayerl, “Attitudes Towards Muslims and Fear of Terrorism” (2018) 41: 15 *Ethnic and Racial Studies*; Keon West and Joda Lloyd, “The Role of Labeling and Bias in the Portrayals of Acts of ‘Terrorism’: Media Representations of Muslims vs. Non-Muslims” (2017) 37: 2 *Journal of Muslim Minority Affairs*; Mahmoud Eid and Karim H. Karim, eds, *Re-imagining the Other: Culture, Media, and Western-Muslim Intersections* (New York: Palgrave Macmillan, 2014).

³⁰ Amanda L. Smith and Susan E. Mason, “The Age of Racial Profiling in the Context of Terrorism” (2016) 21: 2 *Modern Psychological Studies*; Uzma Jamil, “The War on Terror in Canada: Securitizing Muslims” (2016) 1: 2 *Journal of Islamic and Muslim Studies*; Wayne Hanniman, “Canadian Muslims, Islamophobia and National Security” (2008) 36: 4 *International Journal of Law, Crime and Justice*.

³¹ Forcese and Roach, *False Security*, *supra* note 4 at 314.

³² Forcese and Roach.

promote Parliament's objective thereby do not outweigh the costs to freedom of expression.

III. AMENDMENTS IN BILL C-59

The Part 7 of Bill C-59 amends the crime of advocating or promoting the commission of terrorism offenses in general into a “counselling” offense.³³ Canada’s Privacy Commissioner told the Senate that this law is “fairly balanced and clearly an improvement.”³⁴ Indeed, the “counselling” offense is more likely to satisfy a proportionality test. This investigation finds that speech that does not directly threaten violence or harm could be captured under the speech crime. In addition, radical boasting would not likely be captured in the amendments because these statements do not directly incite violence against an identifiable group. For example, the statement made by Poulin that people “will be very well taken care of” in now-former ISIS-controlled territory advances an extreme argument, but it does not directly threaten violence. Despite it being a disreputable claim, the listener is left to decide whether the claim has merit.

This analysis also finds that the effects of the existing speech crime do not outweigh the costs to freedom of expression due to the possible chilling effect on Arab and Muslim communities. McLachlin raises a relevant argument in *Keegstra* that “theories of a grand conspiracy between government and elements of society wrongly perceived to be malevolent can become all too appealing if government dignifies them by completely suppressing their utterance.”³⁵ A free and democratic society certainly should not criminalize unfavorable ideas. The amendments reduce the chilling effect for those holding deep grievances with the state by allowing those individuals to engage in discussion if they

³³ *Bill C-59*, *supra* note 8; *Criminal Code*, *supra* note 8 at s. 83.221. Section 83.221 of the *Criminal Code* states “Every person who counsels another person to commit a terrorism offense without identifying a specific terrorism offense is guilty of an indictable offense and is liable to imprisonment for a term of not more than five years.”

³⁴ Daniel Therrien, “Appearance before the Senate Standing Committee on National Security and Defence (SECD) on C-59, *An Act Respecting National Security Matters*” (April 29, 2019): *Privacy Commissioner of Canada*, available at: <https://www.priv.gc.ca/en/opc-actions-and-decisions/advice-to-parliament/2019/parl_20190429/>.

³⁵ *Keegstra*, *supra* note 12.

are not directly inciting violence.

Finally, the amendments improve way they convert the concepts of advocacy and promotion into the existing offense of counselling others to commit a terrorism offense. Counselling or inciting others to carry out an act of terrorism is traditionally understood to be a crime and is an established concept in the *Criminal Code*.³⁶ The concepts of advocacy and promotion of terrorism offenses in general are exceptionally vague in how they set out to further Parliament's objective in ways that counselling, instructing, and threatening terrorist activity cannot.³⁷ The new Bill removes the offense of advocating or promoting terrorism offenses in general and replaces it with a counselling offense.³⁸

CONCLUSION

One of the dangers of enacting legislation in the aftermath of terrorism events is overreacting to the threat. Bill C-51, including its broad speech offense, is indicative of such a forcible response. The Act presents a serious challenge to the established rights and freedoms of Canadians.³⁹ This heavy-handed approach to security echoes the emergency use of the now-repealed *War Measures Act of 1914* during the 1970 kidnapping of the British trade commissioner in Montreal, a past overreaction to the threat of terrorism that unduly compromised fundamental freedoms.⁴⁰

Of the problematic elements of Bill C-51, this investigation has shown how the speech crime contained in this Act is likely to violate

³⁶ Craig Forcese and Kent Roach, "A Report Card on the National Security Bill" (June 22, 2017): *Institute for Research on Public Policy*.

³⁷ The Canadian Civil Liberties Association has stated that Bill C-59's counselling offense includes a "clearer and more appropriate legal structure surrounding them, and this change limits the risk of uncertainty, overbreadth, or a chilling effect on protected speech." Canadian Civil Liberties Association, "The Terrorist Speech Offense and Bill C-59" (September 12, 2017): *Canadian Civil Liberties Association*, available at: <<https://ccla.org/terrorist-speech-bill-c-59/>>.

³⁸ *Criminal Code*, *supra* note 8 at s 83.221.

³⁹ Forcese and Roach, *False Security supra* note 4 at viii.

⁴⁰ Forcese and Roach, at 30–31. The now-repealed *War Measures Act* provided for emergency measures in wartime. As Forcese and Roach argue, the *War Measures Act* "authorized the warrantless arrest of those who police had 'reason to suspect' where members of any unlawful association." Like Bill C-51's terrorism speech crime, the *War Measures Act* speech crime was "an indictable offense subject to five years imprisonment" (30–31).

s. 2(b) of the *Charter*. The two-step *Irwin Toy* test shows that the speech offense violates freedom of expression. On whether the speech offense can be justified under s. 1 of the *Charter* as a reasonable limit, the legislation fails at the third and fourth step of the *Oakes* test. On step three, the speech offense does not impair freedom of expression as little as possible because statements that do not directly threaten violence or harm are likely to be captured. On step four, the effects of the speech crime also disproportionately outweigh the costs to freedom of expression because the speech offense has a chilling effect, specifically on Arab and Muslim communities. The amendments to the speech crime in Bill C-59 are improvements over the speech crime contained in Bill C-51 as they convert the concepts of advocacy and promotion into the existing offense of counselling others, which is an established concept in the *Criminal Code*. The revised speech offense in Bill C-59 clarifies these overly broad concepts and, in doing so, adequately addresses the one of many constitutional flaws in Bill C-51.



CHINA'S IMPACT ON US NATIONAL SECURITY

Nicole Nielsen

INTRODUCTION

China and Africa have been long-time diplomatic partners,¹ but recently, these relations have explored new heights.² The changes have taken place across many sectors: humanitarian aid, trade, personnel training, student exchanges, even military. According to the *Council on Foreign Relations*, “China has participated in energy, mining, and telecommunications industries and financed the construction of roads, railways, ports, airports, hospitals, schools, and stadiums.”³ Additionally, Chinese funds, both private and state, have been put towards tobacco, sugar, sisal, and rubber plantations.⁴ While many see China’s providing funding as a positive action—helping a continent that has long been the epitome of poverty and the third world—there are strong negative ramifications. Not only does it cripple Africa and stunt its economic growth,⁵ it also impacts United States national security. Many in Africa believe China’s aid is done out of the goodness of its heart. Larry Hanauer and Lyle Morris of RAND Corporation, a global policy nonprofit, note in their article *China in Africa: Implications of a Deepening Relationship*, “Many

¹ Larry Hanauer and Lyle J. Morris, “China in Africa: Implications of a Deepening Relationship,” RAND Corporation, 2014, https://www.rand.org/pubs/research_briefs/RB9760.html.

² David H. Shinn, “China’s Economic Impact on Africa,” Oxford Research Encyclopedia of Politics, Oxford University Press, March 20, 2019, <https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-831>.

³ Eleanor Albert, “China in Africa,” Council on Foreign Relations, July, 12, 2017, <https://www.cfr.org/background/china-africa>.

⁴ Deborah Brautigam, *Will Africa Feed China?* (Oxford University Press, 2015), 8.
⁵ Shinn, “China’s Economic Impact on Africa.”

African leaders believe that as a fellow developing country, China has more altruistic motives than Western governments and corporations do.”⁶ While this may be the perspective among many leaders throughout the region, it can be argued that China’s relationship with Africa has many negative side effects that not only impact the African countries, but also US national security. The effects on US national security are demonstrated by the growth of the Chinese economy through its relations with Africa. The negative impacts can also be seen in Africa’s increased dependence on China and the increase in corruption in many of the governments throughout all of Africa.

The diversity of the countries across the continent of Africa should be noted. From South Africa to Egypt to Mali to Chad, each country has its own set of natural resources, its own terrain, its own people, unique to each country. It does not do the countries or continent justice to clump them all under one label of “Africa.” However, for purposes of this paper, Africa will refer to the entire continent as a whole, as China’s relations have had affect across the giant land mass.

CHINA’S ECONOMY

The economic growth China has experienced through its relations with Africa are a concern for US national security. China’s relations and partnership with various African countries have been hugely stimulating to the Chinese economy, as “trade between Africa and China has grown at a breathtaking pace. It was \$10.5 billion in 2000, \$40 billion in 2005 and \$166 billion in 2011. China is currently Africa’s largest trading partner, having surpassed the US in 2009.”⁷ The United Nations’ magazine, *African Renewal*, published an article called “China in the Heart of Africa,” which shows the impact on China’s economy. It states, “In an article in *This Is Africa*, a *Financial Times* publication, Sven Grimm and Daouda Cissé state that in recent years China’s economy at times has grown at more than 10 percent a year.”⁸ This partnership has been very beneficial for China, increasing its economic power. With increased Chinese economic power comes a stronger threat to the United States. Without the power of economy, China would not be a force with which

⁶ Hanaur and Morris, “China in Africa.”

⁷ Kingsley Ighobor, “China in the Heart of Africa,” *Africa Renewal*, January 2013, <https://www.un.org/africarenewal/magazine/january-2013/china-heart-africa>.

⁸ Ighobor, “China in the Heart of Africa.”

to be reckoned. These quotes, however, show that its economy is booming and should be taken seriously. A strong economy gives China the power to carry out potential national security threats.

It is well known that China's behavior has been increasingly provocative to the United States. Some examples of such behavior are the building of artificial islands in the South China Sea, increasing its naval and military capacity, and constructing additional battleships, etc.⁹ All of this is expensive, and the economic benefits China gains from relations and trade with Africa help to fund these actions. These actions are a threat to many countries, including the United States and other South-eastern Asian countries; they allow China to continue to build threats and potentially carry out more aggressive actions.

Another problem this poses for the United States is the lack of entry into African markets. China passed the United States as Africa's number one trade partner. In an article titled "Why Africa Matters to U.S. National Security," Grant Harris states the: "In the long run, the strength of the U.S. economy will, in some way, depend on the interest and capacity of American businesses to operate in Africa, as well as the willingness of African consumers to purchase American goods and services."¹⁰ He also notes that "other countries—and particularly China—are outpacing the United States, seizing economic opportunities that could otherwise be contributing to U.S. growth and jobs."¹¹ The countries within Africa are vital to the progression of the US economy. Without building the partnerships on the continent and increasing trade, the United States will be lagging behind, as China continues to grow economically and further its political influence.

AFRICA'S INCREASING DEPENDENCE ON CHINA

With the immense amount of aid that has been given to countries on the African continent, many nations have become very reliant on China. This, as has been noted, stifles Africa's ability to grow and to develop. It also spreads Chinese interests and mentality throughout the

⁹ Shen Dingli et al., "China's Maritime Disputes," Council on Foreign Relations, Retrieved from https://www.cfr.org/interactives/chinas-maritime-disputes?cid=otr-marketing_use-china_sea_InfoGuide.

¹⁰ Grant T. Harris, "Why Africa Matters to US National Security," Atlantic Council, May 2017, https://www.atlanticcouncil.org/wp-content/uploads/2017/05/Why_Africa_Matters_to_US_National_Security_0524_web.pdf.

¹¹ Harris, "Why Africa Matters to US National Security."

entire continent. Examples of the spread of influence are noted in the Ministry of Foreign Affairs of the People's Republic of China's article, "China–Africa Relations," which states, "Continuing to grant scholarships to African students every year to study in China, the Chinese government hosted various study and training courses to help African countries forming professional contingents."¹² These classes include "the classes of advanced-studies for both Chinese and African management personnel and the training courses for young and mid-aged African diplomats."¹³ The article continues,

China also organized study-tours for high-ranking African diplomats to visit China and exchange experiences. China announced to establish an African Human Resources Development Fund during the Forum on China-Africa Cooperation—Miniserial Conference 2000 to help African countries train more professionals of different disciplines.¹⁴

China is taking drastic measures to build a dependent relationship with African countries. Some may think this is done out of China's good will, as China calls its approach to this partnership "no strings attached." This implies the aid given requires no *quid pro quo*; nothing is demanded in return. It can be argued, however, that there are other motives and expectations behind it. China is making these countries dependent on China, which gives China power and leverage, allowing China to advance its objectives. Typically, these objectives are in conflict with United States' interests.

Some African people have recognized these ulterior motives and noticed the impact on their people. They have protested Sino–African relations and how involved China has been with African affairs. Morris and Hanauer of RAND Corporation state,

Some in Africa, however, are critical of Chinese engagement. Labor unions, civil society groups, and other segments of African societies criticize Chinese enterprises for poor labor conditions, unsustainable environmental practices, and job displacement. In their view, China perpetuates a neo-colonial relationship. . . . In some countries, resentment at Chi-

¹² "China–Africa Relations," Accessed June 18, 2019, http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/tl8059.shtml.

¹³ "China–Africa Relations."

¹⁴ "China–Africa Relations."

nese business practices has led to popular protests and violence against Chinese businessmen and migrants.¹⁵

As an attempt to improve China's image with disgruntled Africans, "Beijing has adjusted its policies to assuage Africans' concerns and put the Sino–African relationship on a more balanced footing. These modifications include . . . the promotion of Chinese soft power, culture, and people-to-people exchanges."¹⁶ These alternative methods do not address the people's concerns and protests. Hanauer and Morris state that these modifications are ways to improve relations with the African people. On the contrary, these adjustments are merely ways to increase Chinese influence and way of thinking on the African continent.

The spread of a Chinese way of thinking and Africa's dependence on China are harmful to US national security; they pose the threat of communism spreading. It can almost be viewed as China doing the same thing as the United States did after World War II: The Marshall Plan. The United States aided Europe and built up weak countries to look more like the US, to prevent the spread of communism and to aid in the spread of democracy. The works of China in Africa can be seen as the same thing, only in reverse. The Chinese version of the Marshall Plan is being furthered by taking over the news in Africa. Kingsley Ighobor from *African Renewal* explains,

Xinhua, China's state-run news agency, has increased its bureaus in Africa to more than 20. Yu-Shan Wu, a researcher at the South African Institute of International Affairs, sees a broader motive. "China is actively introducing its culture and values," she says, and calls the push "the rise of China's state-led media dynasty in Africa."¹⁷

Knowing China is infringing on African news should be concerning to many, as it is clear China is trying to control the message being conveyed to the public.

The impact of China's infringement on African news can already be seen in Africa's support of Chinese policies. According to the Ministry of Foreign Affairs of the People's Republic of China, "African countries firmly support China in its endeavor for national unification. And

¹⁵ Hanauer and Morris, "China in Africa."

¹⁶ Hanauer and Morris, "China in Africa."

¹⁷ Ighobor, "China in the Heart of Africa."

most of them support China's "one China" policy."¹⁸ Furthering this point, in an article "China in Africa by Council on Foreign Relations," Eleanor Albert states, "Experts from Aid Data, a research lab at the College of William & Mary, found a link between Chinese assistance and the alignment of recipient countries with Beijing's UN voting and its One China principle."¹⁹ This policy expands China's power and territory, acknowledging that Taiwan is a part of mainland China. While the United States recognizes the One China policy, it also acknowledges Taiwan and has informal relations with it, limiting China's power.²⁰ African countries that have received Chinese aid recognize China as the sole power and Chinese government, which contributes to Chinese expansion. The support of Chinese policies continues because of the dependence Africa has on China.

Additionally, Africa's dependence on China grows with the many generous loans China has given to many African countries. African debt to China is increasing, again, allowing China power over these countries. David Shinn, former US ambassador to Burkina Faso and Ethiopia, writes in Oxford's Research Encyclopedia, "African governments welcome Chinese loans, which are usually used for infrastructure projects, but there are signs these loans are contributing to a debt problem in an increasing number of countries."²¹ This debt and feeling of obligated loyalty increases with donations and assistance described in the United Nations' magazine *African Renewal*:

China had either donated or assisted in building a hospital in Luanda, Angola; a road from Lusaka, Zambia's capital, to Chirundu in the southeast; stadiums in Sierra Leone and Benin; a sugar mill and a sugarcane farm in Mali; and a water supply project in Mauritania, among other projects. At the fifth Forum on China-Africa Cooperation, held in Beijing in July 2012, Chinese President Hu Jintao listed yet more, including 100 schools, 30 hospitals, 30 anti-malaria centres and 20 agricultural technology demonstration centres²²

¹⁸ "China-Africa Relations."

¹⁹ Albert, "China in Africa."

²⁰ "What Is the 'One China' Policy?"

²¹ Shinn, "China's Economic Impact on Africa."

²² Ighobor, "China in the Heart of Africa."

Clearly, China is leaving its mark on the countries of Africa by controlling the media and creating African dependence. This is damaging the African economy in that it is not self-sufficient and “saddled with giant piles of debt.”²³ Without China, Africa’s economy has potential for an extreme crash, as it has “alienate[d] people who were willing to help”²⁴ with such high reliance on the Chinese help. Some leaders in African governments are recognizing this and calling for change. *African Renewal* makes the point that catastrophe is looming as dependence increases, “South African President Jacob Zuma warned in July that the current ‘unbalanced’ trade pattern is unsustainable.”²⁵ This is a justified fear. This lopsided partnership cannot continue forever. As Africa’s reliance and debt to China is racking up, a crash seems inevitable.

The situation is problematic for the United States. As China increases its power over these countries and maintains leverage over them, the African countries are at the mercy of the Chinese government. This progresses Chinese objectives, which hinders those of the United States. As African debt increases, so does the risk of an economic collapse. With a crippled economy, this would leave plenty of room for anarchy, corruption, and violence, as will be discussed further in the following section.

CORRUPT GOVERNMENTS

The corruption of many governments in Africa is no secret to the international world, as is noted in the Council of Foreign Relations article, “Corruption in Sub-Saharan Africa,” in which Stephanie Hanson notes, “Africa is widely considered among the world’s most corrupt places, a factor seen as contributing to the stunted development and impoverishment of many African states. Of the ten countries considered most corrupt in the world, six are in sub-Saharan Africa.”²⁶ Adding to the discussion of a crippled African economy, according to BBC Africa analyst, Elizabeth Blunt, corruption costs the continent roughly \$150

²³ Lydia Polgreen, “As Chinese Investment in China Drops, Hope Sinks,” *The New York Times*, March 25, 2009, https://www.nytimes.com/2009/03/26/world/africa/26chinaafrica.html?_r=1.

²⁴ Polgreen, “As Chinese Investment in China Drops, Hope Sinks.”

²⁵ Ighobor, “China in the Heart of Africa.”

²⁶ Stephanie Hanson, “Corruption in Sub-Saharan Africa,” Council on Foreign Relations, August 6, 2009, <https://www.cfr.org/backgrounder/corruption-sub-saharan-africa>.

billion a year.²⁷ This corruption is seen by African leaders making deals for their own benefit, keeping money and profit for themselves, perpetrating human rights violations, and doing other inappropriate and unacceptable behaviors. Again, from the Council of Foreign Relations' article "China in Africa," Albert says, "China's activity in Africa has faced criticism from Western and African civil society over its controversial business practices, as well as its failure to promote good governance and human rights."²⁸ Relations with other countries, including the United States, are limited because of actions by leaders and governments. China, however, does not hold its allies or partners to the same standard.

The West African country of Guinea-Bissau has a perfect example of a corrupt government. Having personally been to this country, I have witnessed this corruption firsthand and how China influences it. In a personal interview I had with a native to Guinea-Bissau and a local activist, Macote Ambrozio, he described the impact China has on his home country. He's experienced the inequality created by his corrupt government. He states that government leaders make deals with China to export much of its cashew plant and mangos. The Chinese pay the government officials for access to these resources at a very low cost to China, and the money is paid directly to the government officials instead of to the country. China then sells them internationally and makes all the money from Guinea-Bissau's resources.²⁹ Guinea-Bissau is not the only corrupt government that is gaining from Chinese partnerships. Transparency International explained, "Several Chinese companies, including the Chinese Energy Fund Committee, the telecommunications firm ZTE and the China Roads and Bridge Construction Company, have been accused of bribing senior government officials in Chad and Uganda, Zambia and Kenya."³⁰ China's partnership with Africa cripples the African economy through corrupt governments.

Of the many obvious problems with corrupt governments, one of the biggest currently affecting Africa is that of stunted economies. China aids in this by preventing growth to many industries on the

²⁷ Elizabeth Blunt, "Corruption Costs Africa billions," BBC News, September 18, 2002, <http://news.bbc.co.uk/2/hi/africa/2265387.stm>.

²⁸ Albert, "China in Africa."

²⁹ Macote Ambrozio, Personal Interview with the author, June 1, 2019.

³⁰ "Where Are Africa's Billions?" Transparency International, July 19, 2019, http://www.transparency.org/news/feature/where_are_africas_billions.

continent. As stated in Oxford's Research Encyclopedia, "The influx of inexpensive Chinese products is also stifling Africa's ability to produce similar goods."³¹ The efforts of China, its loans, and the products it is introducing to African markets are causing local job displacement and costing natives their livelihood.³²

Corrupt African governments want to engage in relations with China specifically for personal strategic reasons, but not for the people of the country. According to Hanauer and Morris, "Good-governance watchdogs warn that China negotiates unfair deals that take advantage of African governments' relative weaknesses and that foster corruption."³³ The deals made by China with African governments allow for the perpetuation of corruption. Hanauer and Morris continue,

To some degree, many African leaders hope that China will interact with them in ways that the United States and other Western governments do not—by engaging economically without condescendingly preaching about good governance, for example, or by investing in high-risk projects or in remote regions that are not appealing to Western governments or companies.³⁴

The leaders get all the "benefits" from China's partnership without any demand for improving or overcoming corruption, which clearly poses a threat to United States national security. China is allowing Africa to perpetuate mistreatment of its people and human rights violations. China allows the leaders of governments to continue to seek gain for themselves while causing their people to suffer in poverty and hunger. Building such relations with the United States and other countries would require Africa to respect human rights and uphold the democratic process. This would strengthen US national security and form more alliances for the United States, giving access to strategic locations on the African continent, while also improving conditions and treatment of the African people and disposing of corrupt governments.

Another danger to corrupt governments is the inability to lead, which leaves room for terrorism to breed. Charles B. Holmes, co-director of the Center for Global Health and Quality and visiting associate

³¹ Shinn, "China's Economic Impact on Africa."

³² Hanauer and Morris, "China in Africa."

³³ Hanauer and Morris, "China in Africa."

³⁴ Hanauer and Morris, "China in Africa."

professor of medicine at Georgetown University, discusses this issue: “Africa is home to several states teetering on a fragile edge, with unstable political, economic, and security conditions characterizing much of the Sahel region, including Mali, Chad, South Sudan, and the Central African Republic. These countries are increasingly home to terrorist cells linked to Al-Qaeda and other networks.”³⁵ Of course, as China fosters this kind of corruption, terrorism continues to grow, which expands the ongoing terrorist threat to United States national security. Such terrorist groups have targeted the United States several times before. Grant Harris states, “African-based groups such as Boko Haram—the second most lethal terrorist group in the world—and al-Qaeda in the Islamic Maghreb (AQIM) espouse dangerous anti-American and/or anti-Western ideologies.”³⁶

Though there are some that say the Sino–African relationship poses no threat to the United States, these terrorist groups are one example that proves them wrong. The Chinese continue to support corrupt African governments, decreasing their ability to govern, leaving plenty of space for dangerous terrorist groups. This is a serious threat to not just the United States, but the rest of the world, as well.

CONCLUSION

Some acknowledge the China–African relationship as a zero-sum relationship and a problem for US national security. Still, others claim this partnership benefits all involved and that there is no effect on the United States, a position Hanauer and Morris support: “While China’s ‘no strings attached’ approach may foster inefficient decision making and official corruption, Chinese engagement does not fundamentally undermine U.S. economic and political goals on the continent.”³⁷ Their argument is

Chinese-built infrastructure helps reduce businesses’ operating costs and expand the size of regional markets, increasing opportunities for profitable ventures by indigenous and

³⁵ Charles B. Holmes, “Why Africa Matters to the United States and How President Donald Trump’s New Africa Strategy Falls Short,” Health Affairs Blog, March 8, 2019, <https://www.healthaffairs.org/doi/10.1377/hblog20190306.413630/full/>.

³⁶ Harris, “Why Africa Matters to US National Security.”

³⁷ Hanauer and Morris, “China in Africa.”

U.S. investors. U.S. and Chinese approaches and interests do not inherently contradict each other, and U.S. officials, including Presidents George W. Bush and Barack Obama, have denied that Washington and Beijing are engaged in a “zero sum” competition for influence and access in Africa.³⁸

While it is true there are some benefits of the Sino–African relationship to African countries, it is not true that the United States is left unaffected. As has been stated throughout this paper, the growth to China’s economy through African partnerships threatens US national security. It allows China to continue to build its military and disrupt the South China Sea. This partnership also increases Africa’s dependence on China, leaving these countries at the mercy of China. This increases China’s power, allowing it to spread communism and Chinese objectives. Lastly, the Sino–African relationship fosters corruption and breeds terrorism. For obvious reasons, this is dangerous to many parts of the world, especially the United States and its allies, as they are often targets of terrorism.

Because of these very real and prevalent risks to the United States, it is necessary to start acting against the negative aspects of Sino–African relations. Africa is too big a player to leave for China to control. Again, from Holmes makes a crucial point, “How Africa grows and evolves today will not only shape the future of the African continent, it will also shape the future of the world.”³⁹ If the United States steps in too late, these African countries will have already chosen the Chinese side, posing a huge threat to US national security. Ignoring the potential harm of the Sino–African relationship could prove catastrophic for the United States of America.

³⁸ Hanaur and Morris, “China in Africa: Implications of a Deepening Relationship.”

³⁹ Holmes, “Why Africa Matters To The United States And How President Donald Trump’s New Africa Strategy Falls Short.”



COMMAND VERSUS COMMERCE: COMPARING AND
ANALYZING THE POST-WORLD WAR II ECONOMIES
OF EASTERN AND WESTERN EUROPE

Brandon Amacher

The second World War was one of the greatest man-made catastrophes in human history. The conflict wrought a truly unprecedented level of both physical and economic destruction across the European continent. After the war, the nations of Europe were faced with the daunting challenge of rising from the ashes and attempting to rebuild their once-strong economies. The people of Europe were desperate for relief, and theories and opinions on how to do provide them succor varied immensely. The once widely accepted ideology of free market economics faced a serious threat in the form of growing support for the command economic systems of socialism and communism. While these ideas were not new, they now posed a more imminent threat. Marxist ideologies had gained significant support in the early twentieth century, even to the point of being adopted in some eastern parts of Europe, most notably in the Soviet Union. These distinct ideologies not only differed from the status-quo free markets of the west in thought, but also in the outcomes they produced. The respective economic recoveries of the capitalist nations of Western Europe and those under communism in Eastern Europe provide a significant case study as to the effectiveness of the policies and ideologies that determined their disparate courses. This paper will undertake to prove that the use of market economies and free trade in Western Europe were the primary reasons for its superior post-WWII recovery when compared to the command economies of Eastern Europe. This will be done by analyzing the extent of economic destruction following the war, investigating and analyzing the differences in recovery policies in the East and the West, particularly the Marshall Plan, and analyzing the respective degrees of success in the two regions.

To understand the recoveries of the nations of Europe clearly, the extent of the economic devastation it experienced during the war must first be understood. Before the war, some of the most powerful economies in the world resided in the Western part of the continent. For centuries, the colonial empires of Great Britain and France had essentially ruled the world. This prosperous past, however, was not enough to shield them from the devastation of World War II.

Before the war, the economy of France was among the strongest on Earth. In 1939, the year the war broke out, France boasted a Gross Domestic Product (GDP) of 199 billion dollars (at 1990 price level) with a GDP per capita of \$4,424. For reference, this per capita number was about 72% of the per capita GDP of the United States at the time. Following the war, France's economic output had decreased by almost 50 percent, with GDP falling to only 101 billion dollars in 1945. Also, France's new GDP per capita in 1950 represented only 55 percent of the value of the GDP per capita of the United States at the same time.¹ To put this into perspective, an economic loss of this scale would be comparable to the modern-day United States losing the combined economic output of California, Texas, New York, Florida, Pennsylvania, Illinois, and Ohio.²

Britain also experienced economic strife as a result of the war but not to the same extent that France did. This disparity can be partially attributed to the fact that, with the exception of bombings, no battles were fought in mainland Britain. Nevertheless, Britain's economy was hit hard by the conflict. In 1939, the British economy boasted a GDP of about 300 thousand Geary-Khamis Dollars (GK). Following the war, the GDP of Britain had increased to 327 thousand GK in 1947.³ These numbers may seem to constitute a positive change due to the fact that the economy continued to grow; however, when compared to past performance, it is clear that these numbers represent a significant

¹ Mark Harrison, *The Economics of World War II: Six Great Powers in International Comparison* (Cambridge: Cambridge University Press, 1998), 3-8, 10, 34.

² Regional Data: GDP and Personal Income [US GDP 2018= 18566442 Million USD. Combined output of listed States=9287696.2 Million USD. (9287696.2 Million/18566442 Million)x100=50.02% of national GDP].

³ Angus Maddison, "Statistics on World Population, GDP and Per Capita GDP, 1-2008 AD" (XLS), online supplement to *Historical Statistics of the World Economy 1-2008 AD*, (Groningen: University of Groningen, 2018) <http://www.ggdc.net/maddison/oriindex.htm>.

downturn in the British economy. Over this period the GDP growth rate of Britain was only around 1.5% annually whereas over the previous eight years the economy had grown at a rate of 3.75% annually.⁴ This data constitutes a significant downturn in British economic prowess. These numbers are even more staggering when compared to the United States, another combatant that did not experience conflict on their home soil, whose economy grew at an average of 7.2% annually over the same period.⁵ Despite their economy not shrinking, this significant decrease in growth illustrates just how devastated the island nation was despite not experiencing a ground invasion.

Nations in the eastern part of Europe were no better off than their western counterparts. Economic data from Eastern Europe in the early twentieth century is scarce, and information regarding some major nations, like Poland, is not readily available or not very reliable. The data for the nations with statistics available, however, tells a horrific tale. In 1939 Bulgaria had a GDP of about \$10.6 billion. By the end of the war in 1945, the nation's GDP had dropped to only \$7.5 billion.⁶ In other words, during the war, thirty percent of the nation's economy had simply vanished. Hungary had also been ravaged by the war, seeing their GDP drop from about \$26 billion in 1939 to \$15.6 billion in 1946.⁷ Hungary had lost an even greater portion of their economy to the war, with over 40% of their output having been utterly destroyed.

The once-robust economies of Europe were in shambles. The threat of Fascist invasion may have passed, but new threats of hyperinflation, massive debt, decimated infrastructures, and fiscal uncertainties now occupied nearly the entirety of the continent. The region had to start the long and painful process of rebuilding, and ideas varied widely on what economic systems and practices would best alleviate the suffering of the people of Europe. One of the prevailing ideologies relied heavily on the free market economic philosophy of Adam Smith. This philosophy had been the predominant system of many European nations for some time, and its ideology essentially posits that free markets will typically self-regulate and achieve allocative and productive efficiency through free trade of goods and private property ownership. The

⁴ Maddison, "Statistics on World Population."

⁵ Maddison, "Statistics on World Population."

⁶ Maddison, "Statistics on World Population."

⁷ Maddison, "Statistics on World Population."

theory of free-market capitalism is based on the idea that people are rational and self-interested; it further assumes that typically when people act upon these motivations, total societal well-being increases. On the other side of the argument, the followers of Karl Marx's communist and socialist ideologies believed that capitalism inherently led to the oppression of the working class and an unacceptable level of inequality in society. Under a communist system, private property does not exist, and the government is the sole decision-making body when it comes to the regulation of the economy and interactions. The government decides the quantity of goods produced and the amount of goods allotted to each individual in society.

During the first part of the twentieth century, contingents of these two ideologies existed in nearly all European nations. Both traditional capitalist and communist parties had followers and competed for seats in legislative bodies ranging from British Parliament to the Reichstag. However, it was not until 1917 that communism attained a real foothold as the Bolsheviks seized control of the Russian government. The formation of the USSR, and its subsequent expansion, rapidly spread communism through much of Eastern Europe. Following the Second World War, the territory conquered by the Allies was essentially divided into two spheres of influence, each dominated by a world power: the American-led free markets of the West, and the Soviet-command economies of the East.

The United States had experienced highly atypical economic results from the war. Because the war had not touched the continental United States, the nation not only did not experience economic downturn, but it had indeed seen its economy bolstered by the war effort. The already-formidable US economy had now become a behemoth, especially compared to its significantly weakened European counterparts. The suffering of Europe did not go unnoticed by the Americans. The destruction of Europe was indeed of great concern to the US, as was the potential spread of communism. In an effort to combat these crises, the Truman administration undertook the most ambitious foreign aid program in human history, the Marshall Plan.

Although the plan is sometimes portrayed as a purely benevolent act on the part of the Americans, in reality, the motivations behind the plan were a mixture of strategic and altruistic factors. As Diane Kunz explains in her article, "The Marshall Plan Reconsidered: A Complex

of Motives,” the plan had many factors that led to its creation. The primary factors cited by Kunz are the United States had a vested interest in having stronger allies in Europe, the United States wanted, literally, to buy an increased measure of influence in the region and, the Americans believed that maintaining a positive image of the capitalist United States would stop the spread of communism and prevent communist parties from obtaining more power in Europe.⁸ Clearly, the motivations behind the plan were not as simple as they are often presented to be.

At the time, the idea of sending millions of dollars overseas to help rebuild Europe was neither universally accepted nor popular. Many in the general public and in high levels of government were not convinced of the necessity of such large amounts of foreign aid. The swaying point for many skeptics came in the form of a speech given by Secretary of State George Marshall, which was has not been intended to be nationally released. Invited to speak at an alumni association event at Harvard University in 1947, Marshall decided to speak on the need for American intervention in the European economic crisis. The speech would go on to be published and distributed by the State Department and is often seen as the beginning of the process that eventually led to the Marshall Plan. In the speech, Secretary Marshall outlined the need for American assistance in Europe, saying,

In considering the requirements for the rehabilitation of Europe the physical loss of life, the visible destruction of cities, factories, mines and railroads was correctly estimated, but it has become obvious during recent months that this visible destruction was probably less serious than the dislocation of the entire fabric of European economy. [. . .] The rehabilitation of the economic structure of Europe quite evidently will require a much longer time and greater effort than had been foreseen.⁹

Marshall went on to explain that the need for help was not only the need for monetary infusion in order to help the economies of Europe to get back on their feet, but also a need of a source of confidence to

⁸ Diane Kunz, “The Marshall Plan Reconsidered: A Complex of Motives,” *Foreign Affairs* 75, no. 3 (May 1997): 162–170. <https://doi.org/10.2307/20048105>.

⁹ George Marshall, “The Marshall Plan.” (Speech, Harvard University Commencement, Cambridge, MA, June 5, 1947). <https://www.marshallfoundation.org/marshall/the-marshall-plan/marshall-plan-speech/>.

kick start economic cooperation across the whole of Europe. Marshall drove this point home by saying,

The remedy lies in breaking the vicious circle and restoring the confidence of the European people in the economic future of their own countries and of Europe as a whole. The manufacturer and the farmer throughout wide areas must be able and willing to exchange their products for currencies the continuing value of which is not open to question.¹⁰

The quotation illustrates another area in which the plan was far more complex than many realize. The Marshall Plan was not simply handing out of a few billion dollars in the hopes that it would help Europe bounce back, but it marked the beginning of a new American doctrine when it came to the markets of Europe, under which the increased integration and cooperation of the economies of Europe would be fully backed.

Following the speech, deliberations began as to how to put these concepts into action, and after months of debate and modifications, the Marshall Plan finally became more than just an idea. The Foreign Assistance Act and the Economic Assistance Act constitute the hard documentation of the plan and were passed in 1948. The Foreign Assistance Act states that its purposes are three-fold:

- (1) promoting industrial and agricultural production in said countries;
- (2) furthering the restoration or maintenance of the soundness of European currencies, budgets, and finances; and
- (3) facilitating and stimulating the growth of international trade of participating countries with one another and with other countries by appropriate measures including reduction of barriers which may hamper such trade.¹¹

Again, it is reiterated in the text of the law that the purpose behind the plan is not to singularly to transfer money to Europe in the hope that it would stabilize the situation, but that the plan was intended to make Europe integrate economically, knock down trade barriers, and unify. The creation of a unified democratic Europe that shared a love of free trade and capitalism was not only an unintended consequence

¹⁰ Marshall, "The Marshall Plan Speech."

¹¹ Foreign Assistance Act of 1948, H.R. 169, 80th Cong. (1948).

of the plan but the central purpose for its creation.

The list of nations offered money under the Marshall Plan was surprisingly inclusive, including nations that had not been directly involved in the war, such as Switzerland. It also offered aid to Eastern European nations under Soviet influence and the Soviet Union itself, but all of these nations declined the aid; many were compelled to decline by their Soviet superiors.¹² The nations that accepted and were granted aid included Austria, Belgium, Denmark, Luxembourg, France, Greece, West Germany, Iceland, Ireland, Italy, the Netherlands, Norway, Portugal, Sweden, Switzerland, Turkey and the United Kingdom. The total amount of aid distributed from 1948 to 1951 was about 12.7 billion dollars, with Britain and France as the largest beneficiaries, receiving 3.3 and 2.3 billion, respectively.¹³

Although at first glance these numbers may seem to represent large quantities of capital, upon further inspection it is clear that the aforementioned 12.7 billion could not possibly be the sole cause of the remarkable economic recovery that took place in Europe following the war. To explain, between 1947 and 1952 the GDP across nations that received Marshall Plan aid grew by about 384 billion dollars.¹⁴ In order to produce this amount of economic growth, a government spending multiplier (a number used in economics to correctly weigh the impact of spending on GDP) of slightly over 25 would be required; in reality, government spending multipliers typically range between -0.5 to about 2.5 per the International Monetary Fund.¹⁵ This is to say that in order for the infusion of capital to account for the totality of the growth, the spending multiplier would have to be more than ten times larger than the uppermost point on the range put forth by the International Monetary Fund, which is essentially impossible,¹⁶ which means that the

¹² Geoffrey Roberts, "Moscow and the Marshall Plan: Politics, Ideology and the Onset of the Cold War, 1947," *Europe-Asia Studies* 46, no. 8 (1994): 1371–1386. <https://doi.org/10.1080/09668139408412234>.

¹³ New World Encyclopedia, "Marshall Plan." https://www.newworldencyclopedia.org/entry/Marshall_Plan#Expenditures.

¹⁴ Maddison, "Statistics on World Population."

¹⁵ Batini, Nicoletta, Luc Eyraud, Lorenzo Forni, and Anke Weber. "Fiscal Multipliers: Size, Determinants, and Use in Macroeconomic Projections." *International Monetary Fund*, (September 2014): 8. <https://www.imf.org/external/pubs/ft/tnm/2014/tnm1404.pdf>.

¹⁶ These calculations were done by the author using data from Maddison,

growth created by the Marshall Plan was clearly not attributable to the expenditures alone. Again, this was never its purpose. The creators of the Marshall Plan knew that the influx of capital would not be enough to remedy the economic woes of Europe; the money was simply a means to an end which was the greater economic integration and cooperation in Europe. The establishment of organizations such as the European Economic Community and European Coal and Steel Community, in 1957 and 1951, respectively, indicated the attainment of this end. Regardless of the motivations behind the Marshall Plan, however, it was immensely successful.

The Eastern Bloc, on the other hand, was not receiving the same treatment from their Soviet neighbors. On the contrary, many Eastern nations (particularly former Axis powers) not only were not receiving aid from the USSR, but they were actually being forced to pay large reparations to the USSR. East Germany, Hungary, Romania, Finland, and Austria all had to pay large sums to the USSR in addition to shipping large amounts of resources and supplies to them.¹⁷ From these forced reparation payments, the USSR received nearly as much money as the United States gave to Europe in total under the Marshall Plan.¹⁸ The Soviets were extremely concerned about the nations that were under their sphere of influence being lured into cooperation with the US because of the assistance the US had given its allies. Soviet paranoia was the justification behind not allowing Soviet satellite states to participate in and receive funds from the Marshall Plan. The formation of a unified community in the West resulting from the Marshall Plan further concerned the USSR and led to the creation of COMECON (Council for Mutual Economic Assistance), which was meant to mimic the economic communities of the West, but in reality it was simply another means by which the USSR controlled its neighbors. Stalin did not, in

“Statistics on World Population,” online supplement to Historical Statistics of the World Economy 1-2008 AD, (<http://www.ggdnc.net/maddison/oriindex.htm>); New World Encyclopedia, “Marshall Plan”; https://www.newworldencyclopedia.org/entry/Marshall_Plan#Expenditures; Batini et al., “Fiscal Multipliers.” [It should also be noted that Iceland and Czechoslovakia are left out of these calculations due to lack of GDP data.]

¹⁷ Peter Nettle, “German reparations in the Soviet Empire.” *Foreign Affairs* 29, no. 2 (January 1951): 300–307. <https://doi.org/10.2307/20030835>.

¹⁸ Adam Zwass, *The Council for Mutual Economic Assistance: The Thorny Path from Political to Economic Integration* (Armonk: M.E. Sharpe, 1989), 16.

reality, consider these satellite states as allies but more as a buffer zone between the USSR and the West, and, therefore, he felt no need to treat them with high regard.

The differences in the relationships between the superpowers and their allies does not end there. The USSR had chosen to take a position of absolute power over its neighbors while the United States assumed a leading, but not overtly controlling, role. In addition, the Soviet command system inherently afforded more control over economic functions and trade to the central governing body, in this case the general secretary and top party officials of the USSR. Stalin initially exerted strong control over the nations surrounding him in order to create a buffer zone between the USSR and the West. As has been noted above, Stalin believed that these states would prove to be an economic asset for the USSR, but maintaining this imperial control came at a cost. Due to the USSR's neglect of the economies of Eastern Europe, the soviet satellite states quickly turned from potential assets into liabilities. As Valerie Bunce noted,

First, the Soviets established political and economic dominance in the region by creating derivative regimes headed by externally dependent elites; as a result, the Soviet role within the bloc has eventually evolved from one of coercion to one of captivity. The rubles expended to hold the bloc together were not just a serious drain on the Soviet economy. They were also spent without any guarantee of achieving their stated objectives, that is, enhancing the political and economic solvency of the region.¹⁹

Over the years, the price of Soviet control of the region increased to the point of becoming unsustainable. Economic pressure would prove to be one of the factors in the eventual downfall of the USSR.

The data concerning the varying degrees of success points to a clear supremacy of Western policy over that of the East. In the Western part of the continent, the cooperation between the free markets yielded stunning economic recoveries. In France, the five years following the war were an economic explosion, with the GDP of the nation more

¹⁹ Valerie Bunce, "The Empire Strikes Back: The Evolution of the Eastern Bloc from a Soviet Asset to a Soviet Liability?" *International Organization* 39, no. 1 (1985): 45. <https://doi.org/10.1017/S0020818300004859>.

than doubling from \$102 billion in 1945 to \$220 billion in 1950.²⁰ Currently, France has one of the largest and healthiest economies in the world. With the tenth-largest GDP in the world at \$2.85 trillion and a GDP per capita of \$44,100, France has once again assumed a position of great importance on the global economic stage.²¹

Likewise, the United Kingdom was able to recover at an astonishing pace. Within the 15 years following the war, the British economy grew 33% in size.²² The UK has been able to maintain steady economic growth over the last 50 years with a GDP growth rate that has seldom been negative. The UK currently boasts the tenth-largest economy in the world with a GDP of \$2.925 trillion.²³ Western Europe is currently a beacon of development and economic success to the world and has managed to rebuild their infrastructures and nations into something truly marvelous to behold.

Eastern Europe, however, did not have such luck during their stint of communist control. Heavy reparation payments and air-tight governmental economic controls did not allow the booming recoveries that were seen in the West. Additionally, Eastern Bloc nations were less incentivized to do trade with one another due to individual production quotas and lack of competition. Economic data from the Eastern Bloc tells the story of just how much these practices slowed growth. From 1950–1956 the nations of Western Europe outpaced the nations of Eastern Europe by approximately 1% GDP growth annually.²⁴ This difference is significant, especially considering the sizeable difference in the sizes of the economies of the two regions. During the span of 1950–1960 the combined output of Albania, Bulgaria, Czechoslovakia, Hungary, Poland, Romania, and Yugoslavia was smaller than the individual GDP of France or Britain on their own.²⁵ The difference not only in size but also in respective rate of growth illustrates just how far in the dust the East was in comparison to the West.

²⁰ Maddison, “Statistics on World Population.”

²¹ Central Intelligence Agency, “The World Factbook—Europe:: France:: Economy,” <https://www.cia.gov/library/publications/the-world-factbook/geos/fr.html>

²² Federal Reserve Economic Data.

²³ Central Intelligence Agency, “World Factbook.”

²⁴ Maddison, “Statistics on World Population.”

²⁵ Maddison, “Statistics on World Population.”

Until 1991, these patterns continued to affect the nations of Eastern Europe in a detrimental manner, but with the fall of the Soviet Union and the subsequent dissolution of soviet satellite states, the economic communities and cooperative nature of Western Europe began to welcome the nations of the former communist bloc. Additionally, upon the fall of the USSR, the majority of Eastern Bloc governments were replaced by more democratic and capitalist counterparts, changes that brought a significant period of growth in the Eastern Europe. In 1992, the combined GDP of the aforementioned seven Eastern European nations equaled only 52% and 59% of French and British GDP, respectively, whereas in 2008, the output of the Eastern European nations was equivalent to 72% of French and 71% of British GDP.²⁶ Eastern Europe is on the rise, and its increased rate of growth since the change from communist to capitalist systems and their subsequent addition to organizations such as the European Union is no coincidence.

The economic crisis following the second world war was just as real and, in many ways, equally as dire as the war had been for the citizenry of Europe. Some of the world's greatest powers had been brought to their knees. Economies had been reduced to shadows of their former selves, and GDP losses of 30–50% were commonplace among the nations of the continent. The task of recovering from the war was daunting, and the continent was split along eastern and western lines. In the East, communist-controlled economics were adopted, and these economies were characterized by central governmental planning, government set production quotas for each industry, government resource allocation to individuals, and limited and often coerced interchange of goods and services among nations. In the West, free markets and free trade among nations were the defining characteristics of the chosen economic theories. While the West experienced an immense economic boom, the nations of the East lagged behind and struggled to keep up with the growth and prosperity of their Western counterparts.

The juxtaposition of the economies of Eastern and Western Europe following the second world war provide valuable insights into the efficacy of the systems implemented. Clearly, the market economies of the West outperformed the command economies of the East during the 45-year period between the end of the war and the fall of Eastern communism. Furthermore, the supremacy of the Western system is

²⁶ Maddison, "Statistics on World Population."

evident in that since the nations of the East have adopted more Western economic practices and joined Western Economic communities, the momentous gap in prosperity East and the West has begun to close. Often, the gap in the initial success between the East and the West has been written off as a direct result of the capital allotted to many Western nations as part of the Marshall Plan. This paper, however, has clearly elucidated the fact that these capital allotments were disproportionately small when compared to the resulting economic recoveries. Additionally, it has been made clear that the primary objective of the Marshall Plan was never simply to infuse capital into Europe, but to encourage economic cooperation and the implementation of free markets in order to foster economic recovery and success. The attainment of these goals and the implementation of these systems are the reason why the Marshall Plan is hailed as the most successful economic recovery plan ever put into effect. These simple concepts of free trade, economic cooperation, and integration were the primary causes of the most impressive economic recovery on record in the West while the lack thereof caused the implosion and downfall of an empire in the East. When presented with the challenge of building or rebuilding an economy, the world should look upon these examples and remember what caused the success and the failures of the nations of Europe, particularly, that the use of market economies and free trade in Western Europe were the primary reasons for its superior post-WWII recovery when compared to the command economies of Eastern Europe.

The United States in particular should draw from the lessons learned from these two regions and their respective success and failure. The application of these post-war policies used in Western Europe could prove critically valuable to the United States and her allies in terms of stabilizing and rebuilding war-torn regions. The Marshall Plan and its accompanying ideas and policies not only helped rebuild the economies of Western Europe, they created stability and strengthened American influence in the region. The application of this doctrine in regions that are not as philosophically comparable to the United States as Western Europe was may not create the same type of strong alliances with democratic and economically stable nations but would likely still yield an increased measure of stability and prosperity. If a region is willing to implement free-market principles and engage in trade with its neighbors, it is in the United States' best interest to encourage them to do so.



THE “TAIWAN ACTS” AND THE CASE FOR STRONG US–TAIWAN RELATIONS

Joseph Chowen

INTRODUCTION

The political status of the island of Taiwan has been in dispute since the end of the Chinese Civil War.¹ This Civil War was fought off and on from 1927 to 1949 between the Communist Party of China (CPC) led by Mao Zedong, and the nationalist Republic of China (ROC), led by the Kuomintang Party (KMT) and Chiang Kai-shek.² The end of the war saw Chiang and the nationalists expelled to Taiwan while the CPC controlled Mainland China.³ The communists founded a new government, The People’s Republic of China (PRC), and claimed ownership over all of China (including the nationalist stronghold in Taiwan) while Chiang and his forces continued to consider themselves as the rightful government and claimant to Chinese territory.⁴ This has resulted in the status quo of two de facto states, each regarding themselves as the only government of a single China, which has created political tensions that are still felt today. As the PRC continues to grow economically and militarily, this complicated situation affects the political stability and future of the Chinese/Taiwanese people, has regional impacts in East Asia,

¹ Sigrid Winkler, “Biding Time: The Challenge of Taiwan’s International Status,” *Brookings*, November 17, 2011, <https://www.brookings.edu/research/biding-time-the-challenge-of-taiwans-international-status/>.

² Jennifer Lynn Cucchisi, “The Causes and Effects of the Chinese Civil War, 1927–1949,” Seton Hall University Dissertations and Theses (ETDs), June 30, 2002, <https://scholarship.shu.edu/dissertations/2361/>.

³ Cucchisi, “The Causes and Effects.”

⁴ “Adoption of the Eighth Meeting of the National Unification Committee Date: August 1, the Republic of China.” 大陸資訊及研究中心. Mainland Affairs Council, Republic of China (Taiwan). <https://www.mac.gov.tw/MAIRC/cp.aspx?n=B64DFEE4D7371490&s=AC4A64318B66ADCA>.

and national security implications for the United States.⁵ The United States currently recognizes the PRC as the government of China⁶ though it maintains unofficial relations with Taiwan through the Taiwan Relations Act,⁷ and the Taiwan Travel Act of 2018.⁸ However, it benefits the United States to maintain a strong relationship with Taiwan to promote democracy and defend US geopolitical interests of a liberal, rules based international system; a system the PRC has undercut through aggressive economic and military expansion.⁹ This paper aims to examine the history of US relations with the PRC and Taiwan, including the text and implications of the two aforementioned “Taiwan Acts,” and finally why a robust US–Taiwan relationship is in the best interest of the United States.

HISTORY OF US–SINO RELATIONS 1927–1979

In 1927, the Island of Taiwan and most of Mainland China were under the control of the nationalist Republic of China and Chiang Kai-shek.¹⁰ The United States, ideologically opposed to communism and the CPC, officially recognized the ROC.¹¹ Chiang’s distrust of the growing CPC was high, and he feared that they would take over China,¹² so during that same year he turned his forces on the CPC. This is widely

⁵ Ana Nicolaci da Costa, “How the World Is Grappling with China’s Rising Power,” BBC News, October 26, 2018, <https://www.bbc.com/news/business-45948692>.

⁶ US Department of State, “U.S. Relations With China,” *US Department of State*, August 22, 2018, <https://www.state.gov/u-s-relations-with-china/>.

⁷ “Taiwan Relations Act (Public Law 96-8, 22 U.S.C. 3301 et seq.),” American Institute in Taiwan, January 1, 1979, <https://www.ait.org.tw/our-relationship/policy-history/key-u-s-foreign-policy-documents-region/taiwan-relations-act/>.

⁸ “H.R.535 - Taiwan Travel Act,” *Congress.gov*, March 16, 2018, <https://www.congress.gov/bill/115th-congress/house-bill/535/text>.

⁹ Kori Schake, “China Has Been Welcomed into the Liberal World Order, but It Isn’t Held to the Same Standard,” *ABC News*, December 2, 2018, <https://www.abc.net.au/news/2018-12-03/china-xi-jinping-donald-trump-chinese-military-economic-power/10568398>.

¹⁰ Cucchisi, Chinese Civil War.

¹¹ US Department of State, “A Guide to the United States’ History of Recognition, Diplomatic, and Consular Relations, by Country, since 1776: China,” *US Department of State*, <https://history.state.gov/countries/china>.

¹² Cucchisi, Chinese Civil War.

considered the start of the Chinese Civil War.¹³ The Civil War was interrupted by the Japanese invasion of Chinese territory in 1937, during which The United States provided military support to the united Chinese forces.¹⁴ After the end of World War II, Taiwan held China's seat at the United Nations and enjoyed military relations with the United States through the "Mutual Defense Treaty Between the United States and the Republic of China."¹⁵ The treaty granted the United States "the right to dispose such United States land, air and sea forces in and about Taiwan [. . .] as may be required for their defense, as determined by mutual agreement."¹⁶ The United States followed through on this and in 1954 deployed ground and naval assets to Taiwan to dissuade the communists. The US continued to maintain close ties with the ROC until the 1970s, when, seeking to exploit a division between Soviet Russia and the PRC, the US normalized relations with the PRC and later swapped their recognition of the government of China from the ROC to the PRC in the "Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China."¹⁷ Part of the communiqué states:

The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan. The People's Republic of China and the United States of America reaffirm the principles agreed on by the two sides in the Shanghai Communiqué and emphasize once again that:

¹³ Cucchisi, Chinese Civil War.

¹⁴ Donald M. Bishop, "The United States and China During World War II: An Operational Outline," US Embassy and Consulates in China, September 15, 2005, <https://china.usembassy-china.org.cn/our-relationship/policy-history/io/shared-sacrifice-u-s-china-cooperation-world-war-ii/united-states-china-world-war-ii-operational-outline/>.

¹⁵ "Mutual Defense Treaty Between the United States and the Republic of China, December 2, 1954," Yale Law School, http://avalon.law.yale.edu/20th_century/chin001.asp.

¹⁶ Mutual Defense Treaty.

¹⁷ "Joint Communiqué on the Establishment of Diplomatic Relations between the People's Republic of China and the United States of America (December 16, 1978)," Embassy of the People's Republic of China in the United States of America, <http://www.china-embassy.org/eng/zmgx/doc/ctc/t36256.htm>.

Both wish to reduce the danger of international military conflict. Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.¹⁸

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states. The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.¹⁹

This had three significant impacts. First, The United States recognized the PRC as the sole government of China. Second, The United States was allowed unofficial communications and relations with Taiwan. Finally, the United States and the PRC would agree to not seek hegemony over the Asia Pacific region. As formal recognition of the PRC changed the US political view of China, this monumental communique leads directly to the next era of US and China-Taiwan relations, with the 1979 passage of the Taiwan Relations Act.

THE TAIWAN RELATIONS ACT, THIRD COMMUNIQUE, AND SIX ASSURANCES

While the United States recognized the PRC as “China”, it still shared relations and military alliances with Taiwan. To rectify this, in April of 1979 President Carter signed perhaps what is the most important legislation regarding US Foreign Policy with China-Taiwan: the Taiwan Relations Act.²⁰ The Taiwan Relations Act (TRA), set out to define US-Taiwan relations, as well as provide a mechanism for the US to supply Taiwan with arms in order to deter Chinese military action. In accordance with Act 10 of the defense treaty with Taiwan, as the TRA revoked formal diplomatic relations with Taiwan, the military alliance was also terminated in 1980.²¹ However, the United States still wished to have another anti-communist ally to counter China in the region. Though the TRA does not give official diplomatic recognition

¹⁸ Joint Communique.

¹⁹ Joint Communique.

²⁰ Taiwan Relations Act.

²¹ Mutual Defense Treaty.

to Taiwan, it did establish the American Institute in Taiwan (AIT),²² a corporate, nonprofit entity authorized to manage relations between the United States and Taiwan. The passage of the TRA holds implications for the US–PRC relationship as well; the act stipulates that Taiwan’s future should be determined peacefully, and that the United States may provide weapons to aid Taiwan’s defense.²³ The act is a message to the PRC that the US will consider any attempt to take Taiwan by force as a matter of US interest and that the US, whether through arms transfers or direct military force, will defend Taiwan’s de facto sovereignty. In the Joint Communiqué published in August of 1982, the United States declared its intention to limit arms sales to Taiwan in order to preserve normalized US–China relations.²⁴ In 1982, the United States clarified by passing the “Six Assurances” to Taiwan,²⁵ which stated:

1. The United States would not set a date for termination of arms sales to Taiwan.
2. The United States would not alter the terms of the Taiwan Relations Act.
3. The United States would not consult with China in advance before making decisions about US arms sales to Taiwan.
4. The United States would not mediate between Taiwan and China.
5. The United States would not alter its position about the sovereignty of Taiwan, which was, that the question was one to be decided peacefully by the Chinese themselves, and would not pressure Taiwan to enter into negotiations with China.
6. The United States would not formally recognize Chinese sovereignty over Taiwan.

These assurances set a formal guide to US–Taiwan relations, which, in practice, would ensure that US military support of the island would

²² “Our Relationship,” American Institute in Taiwan, <https://www.ait.org.tw/our-relationship/>.

²³ Taiwan Relations Act.

²⁴ “Joint Communiqué of the United States of America and the Peoples Republic of China,” *CLA.gov*, August 21, 2007, <https://www.cia.gov/library/readingroom/docs/CIA-RDP83B00551R000200010003-4.pdf>.

²⁵ “The ‘Six Assurances’ to Taiwan,” *Taiwan Documents Project*, July 1982, <http://www.taiwandocuments.org/assurances.htm>.

continue, and that the island would remain a thorn in the US–PRC relationship. The TRA stands as a key piece in US–Sino relations, providing enough ambiguity for the US to claim that it does not recognize the ROC, while providing the legal basis to ensure the US does have a de facto partner in the region.

THE RISE OF CHINA AND THE TAIWAN TRAVEL ACT

Since the passage of the TRA the geopolitical balance of power in the region has changed. China reformed economically and has grown to rival the United States,²⁶ and has stated ambitions to be a global power by 2050.²⁷ Not only has China's economic competition increased, but US interests in democracy has led to an ideological preference in supporting Taiwan, as Taiwan transitioned from a one-party state under the KMT to a flourishing democracy by the start of the twenty-first century. Taiwan now has multiple parties, most notably with the Democratic Progressive Party (DPP) emerging as an independence leaning alternative to the KMT.²⁸ Meanwhile, China would infamously crack down on pro-democracy protests in 1989²⁹ and has continued to consolidate the power of the Communist Party,³⁰ this has raised fears that a Chinese led world order would ignore human rights.³¹ In recent years,

²⁶ “World Economic Outlook (October 2019) GDP Based on PPP, Share of World:Percent of World,” *International Monetary Fund*, October 2019, [https://www.imf.org/external/datamapper/PPP\\$SH@WEO/OEMDC/WEOWORLD/ADVEC/CHN/USA](https://www.imf.org/external/datamapper/PPP$SH@WEO/OEMDC/WEOWORLD/ADVEC/CHN/USA).

²⁷ Ting Shi and Bloomberg News, “Xi Jinping Lays out Blueprint to Make China a Global Superpower by 2050,” *National Post*, October 18, 2017, <https://nationalpost.com/news/world/xi-jinping-lays-out-plan-to-make-china-a-global-superpower-by-2050>.

²⁸ Taipei Bureau, “Timeline: Taiwan’s Road to Democracy,” *Reuters*, December 12, 2011, <https://www.reuters.com/article/us-taiwan-election-timeline/timeline-taiwans-road-to-democracy-idUSTRE7BC0E320111213>.

²⁹ Agence France-Presse, “China Says Tiananmen Crackdown Was ‘Correct’ Policy,” *The Guardian*, June 2, 2019, <https://www.theguardian.com/world/2019/jun/02/china-says-tiananmen-crackdown-was-correct-policy>.

³⁰ Alexandra Fiol-Mahon, “Xi Jinping’s Anti-Corruption Campaign: The Hidden Motives of a Modern-Day Mao,” *Foreign Policy Research Institute*, August 17, 2018, <https://www.fpri.org/article/2018/08/xi-jinping-anti-corruption-campaign-the-hidden-motives-of-a-modern-day-mao/>.

³¹ Chris Walsh, “China’s World Order Doesn’t Play Well with Democracy,” *RealClearWorld*, August 20, 2019, https://www.realclearworld.com/articles/2019/08/20/chinas_world_order_doesnt_play_well_with_democracy_113077.html.

the United States’ strategy in the region has intensified on containing China. Shifting away from a main focus on terrorism towards a global focus on rival powers, in 2017 the National Security Strategy (NSS) was published, highlighting that China’s rise “risks diminishing the sovereignty of many states in the Indo-Pacific”.³² Overall, the United States has recognized China as a strategic competitor for regional hegemony, with the US Department of Defense (DOD) labeling China as a rising threat to national security,³³ and with the 2017 NSS being reinforced with the 2018 National Defense Strategy, which calls for a renewed long-term focus on China.³⁴ In light of this the United States has passed two more acts directed at Taiwan, the first being the Taiwan Relations Act Affirmation and Naval Vessel Transfer Act of 2014,³⁵ which allowed for the sale of advanced warships, such as Oliver Hazard Perry-class frigates, to Taiwan.

The second act was the Taiwan Travel Act of 2018,³⁶ which made US–Taiwan relations more official by allowing peer-to-peer travel and meetings between US and Taiwanese officials, including defense officials. This act can be seen as a continuation of the 1979 Taiwan Relations Act, not only by giving Taiwan the recognition of official visits by US officials, but by setting a precedent for a more official recognition of Taiwan. In particular, the act states “visits to a country by United States Cabinet members and other high-ranking officials are an indicator of the breadth and depth of ties between the United States and

³² National Security Strategy of the United States of America DECEMBER2017 <https://www.whitehouse.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

³³ David Vergun, “China a Rising Threat to National Security, Say DOD Leaders,” US Department of Defense, March 13, 2019, <https://dod.defense.gov/News/Article/Article/1784442/china-a-rising-threat-to-national-security-say-dod-leaders/>.

³⁴ “Summary of the 2018 National Defense Strategy of the United States of America: Sharpening the American Military’s Competitive Edge,” *US Department of Defense*, <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf>.

³⁵ Cristina Marcos, “House Approves Sale of Missile Frigates to Taiwan,” *The Hill*, April 7, 2014, <https://thehill.com/blogs/floor-action/votes/202884-house-approves-sale-of-missile-frigates-to-taiwan>.

³⁶ “H.R.535: Taiwan Travel Act,” *Congress.gov*, March 16, 2018, <https://www.congress.gov/bill/115th-congress/house-bill/535>.

such country,”³⁷ strongly implying that the meetings between Taiwan and the United States could rise to the designation of state to state relations. As the strategic competition between the United States and China grows, the future of Taiwan and its relations with the United States are of importance to US national security interests.

THE CASE FOR STRONG US–TAIWAN RELATIONS

The Taiwan Travel Act heralded Taiwan as “a beacon of democracy in Asia,” and that “Taiwan’s democratic achievements inspire many countries and people in the region.”³⁸ As a leader of the free world in both political influence and military strength, the United States has a vested interest in promoting democracy and human rights abroad. Unfortunately, China’s grip on its people has tightened, with concentration camps for religious minorities³⁹ and the introduction of a social credit score, a system where rights and privileges are allowed depending on the deemed amount of loyalty and efficiency of the individual.⁴⁰ Furthermore, China seeks to exercise economic and military control of the region through the militarization of islands in the South China Sea,⁴¹ and with the Belt and Road Initiative, a transcontinental economic initiative designed to restructure global trade.⁴² These actions, combined with PRC President Xi Jinping’s wish to unify China and Taiwan under the authoritarian regime of the Communist Party, pose a threat to the island and to the United States economic and political standing in the world by shifting economic influence to China, thus giving it more

³⁷ Summary of National Defense Strategy.

³⁸ “H.R.535: Taiwan Travel Act.”

³⁹ Phil Stewart, “China Putting Minority Muslims in ‘Concentration Camps,’ U.S. Says,” *Reuters*, May 3, 2019, <https://www.reuters.com/article/us-usa-china-concentrationcamps/china-putting-minority-muslims-in-concentration-camps-us-says-idUSKCN1S925>.

⁴⁰ Erin Handley and Bang Xiao, “China Tests Opening Up Social Credit Scores to Social Media Platform WeChat with Debt Map,” *ABC News*, January 23, 2019, <https://www.abc.net.au/news/2019-01-24/new-wechat-app-maps-deadbeat-debtors-in-china/10739016>.

⁴¹ Hannah Beech, “China’s Sea Control Is a Done Deal, ‘Short of War With the U.S.’” *New York Times*, September 20, 2018, <https://www.nytimes.com/2018/09/20/world/asia/south-china-sea-navy.html>.

⁴² China Power Team, “How Will the Belt and Road Initiative Advance China’s Interests?” *ChinaPower*, October 18, 2019, <https://chinapower.csis.org/china-belt-and-road-initiative/>.

influence over other nations.⁴³ China continues to hack US companies⁴⁴ and military networks, and seeks to develop a global navy capable of challenging the United States.⁴⁵ With this in mind, the United States must continue to support the de facto independence of Taiwan to promote a free and multipolar Asia. Without US support of Taiwan and substantial US military presence in the region, authoritarian regimes such as China or even North Korea might be emboldened to inflict significant cyber, economic, or military harm on their democratic rivals without fear of US intervention.⁴⁶ While formal recognition of Taiwan would be provocative towards China and increase the likelihood of war as the PRC holds Taiwan as a renegade province, the United States has other options: it can forward deploy ground and naval assets into the Indo-Pacific theater, sell more defensive arms and equipment to Taiwan, and work with Taiwan and other regional partners such as Japan to form a united diplomatic front against Chinese militarization and expansion.

CONCLUSION

For now, Taiwan enjoys its freedom and economic success, though a more ambitious China seeks to eventually unify and dominate the island. While China may not be in the military or economic position to take on both the United States and Taiwan, it can continue to militarize and prepare itself for such a conflict. Therefore, out of concern for human rights and for a strong diplomatic partner, the United States must not retreat from the Taiwan issue but continue its support of the island economically and militarily through arms sales and regional deployments. In doing so the United States can send a message that it will not retreat from democratic ambition, nor authoritarian aggression.

⁴³ Thomas P. Cavanna, “What Does China’s Belt and Road Initiative Mean for US Grand Strategy?” *The Diplomat*, June 5, 2018, <https://thediplomat.com/2018/06/what-does-chinas-belt-and-road-initiative-mean-for-us-grand-strategy/>.

⁴⁴ Zak Doffman, “National Security Threat’ As Chinese Hackers Are ‘Allowed’ To Target U.S. Businesses,” *Forbes*, April 13, 2019, <https://www.forbes.com/sites/zakdoffman/2019/04/13/u-s-businesses-allowing-chinese-government-hackers-to-steal-american-secrets/#3b1a3cfca4d4>.

⁴⁵ Steven Lee Myers, “With Ships and Missiles, China Is Ready to Challenge U.S. Navy in Pacific,” *New York Times*, August 29, 2018, <https://www.nytimes.com/2018/08/29/world/asia/china-navy-aircraft-carrier-pacific.html>.

⁴⁶ Angela O’Mahony, Miranda Priebe, Bryan Frederick, et al., “U.S. Presence and the Incidence of Conflict,” *RAND Corporation*, 2018, https://www.rand.org/pubs/research_reports/RR1906.html.



CONTRIBUTORS

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Brandon Amacher is a senior at Utah Valley University. He is pursuing a degree in integrated studies with emphases in business management and national security studies. Brandon is fluent in Spanish and is on track to earn the highest recognition offered to foreign students by the government of Spain and the University of Alcalá for business Spanish. Brandon was born in Sandy, Utah, to a Cuban-American family and was raised to honor and protect American values. He currently works in government relations and marketing at a cyber security firm. Following college, He hopes to peruse graduate degrees in business administration and public policy and to start a family with his wife, Aulola.

Joseph “Joey” Chowen is a sophomore studying national security studies at UVU. He has always had a passion for US Government and security matters and hopes to pursue an internship and a further career in intelligence analysis or journalism. Joey has participated in the NSS program at UVU and follows politics and college sports in his spare time.

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