



United Nations Human Rights Council (UNHRC)

MUNUC 33

ONLINE



TABLE OF CONTENTS

CHAIR LETTER.....	3
HISTORY OF COMMITTEE.....	5
TOPIC A: HUMAN RIGHTS OF PRIVATE MILITIA AND PARAMILITARY SOLDIERS.....	6
Statement of the Problem.....	6
History of the Problem.....	15
Past Actions.....	21
Possible Solutions.....	28
Bloc Positions.....	34
Glossary.....	37
Bibliography.....	39
TOPIC B: MODERN SLAVERY IN A GLOBALIZED WORLD.....	43
Statement of the Problem.....	43
History of the Problem.....	49
Past Actions.....	55
Possible Solutions.....	57
Bloc Positions.....	61
Glossary.....	67
Bibliography.....	69

CHAIR LETTER

Dear Delegates,

It is my pleasure to welcome you to MUNUC 33 and the United Nations Human Rights Commission. My name is Isabel Álvarez and I will be serving you as your committee chair. I look forward to meeting all of you and working alongside you to produce the best possible resolutions and diplomatic debate.

I am a Chilean second year undergraduate student at the University of Chicago double majoring in Political Science and Spanish Literature, Language and Culture. I plan to pursue a career in Political Theory, but I am also incredibly passionate about International Relations and Public Policy. Last year at MUNUC 32 I served as an Assistant Chair in the Social, Humanitarian and Cultural Committee (SOCHUM). On campus, I mostly work with Model United Nations. This summer I interned at a Chilean think tank, *Libertad y Desarrollo*. Currently, I am working in the Senate of Chile as a legislative analyst.

I wholeheartedly hope you are all as interested and thrilled as I am about this committee and topics: Human Rights of Private Militia and Paramilitary Soldiers, and Modern Slavery in a Globalized World. We cannot forget that these are very real and ongoing issues in the world. Furthermore, we should treat these issues with the utmost respect and seriousness that they deserve. With the issue of human rights of private militia and paramilitary soldiers, I aim for you to get acquainted with the world of International Humanitarian Law and its peculiarities, loopholes and content. While with the issue of Modern Slavery, I encourage you to look at the effects of globalization from a human rights perspective. Although you may have seen news about wars and human trafficking in current events, I wish for you to explore these issues through the lens of human rights and ask what we owe to each other as human beings. The message I want you all to take away from this committee is that human rights should not be politicized, as they are universal. Human rights do not belong to a certain political ideology.

Over the next few months, I hope you acquaint yourselves with these topics and absorb as much information as possible. Feel free to reach out to me if you have any questions regarding these background guides, MUNUC in general, or the University of Chicago.

Looking forward to seeing you!

Best regards,

Isabel Álvarez

COMMITTEE HISTORY

The United Nations Human Rights Council was created by the UN General Assembly as a product of resolution 60/251 in 2006. The first of their sessions took place mid-June in later that year. Its mechanisms and procedures were established during 2006 and 2007,¹ when it was established as an “intergovernmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them”.² Throughout the year, the UNHRC’s primary goal is to discuss prominent human rights issues and recommend ways to properly address them and bring justice to them. This council is composed of 47 UN Member States elected by the UN General Assembly.

Historically, the UNHRC replaced the previous United Nations Commission on Human Rights, which was established in 1946 to “weave the international legal fabric that protects our fundamental rights and freedom”.³ But due to reform, the UNCHR became the UNHRC. Some of the reforms were to establish the Universal Periodic Review mechanism, which works to determine the human rights situations of all UN member states. The Advisory Committee was added to serve as the Council’s “think tank” to provide “expertise and advice on thematic human rights issues”.⁴ Furthermore a Complaint procedure was established with which human rights violations could be brought to the Council’s attention.⁵ And lastly, the HRC works with the UN Special Procedures,⁶ which constitute special rapporteurs, special representatives, independent experts, and working groups dedicated to monitoring human rights situations around the world. Overall, the fundamental purpose of this body is to promote human rights standards.

¹ “Welcome to the Human Rights Council,” OHCHR, accessed October 03, 2020, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

TOPIC A: HUMAN RIGHTS OF PRIVATE MILITIA AND PARAMILITARY SOLDIERS

Statement of the Problem

In an armed or belligerent conflict when either paramilitary or militia soldiers are involved, the risks increase for all parties involved: soldiers, world leaders, civilians and legitimate militaries. The involvement of militia and paramilitary soldiers leads to an increased number of non-prosecutable human rights violations carried out by and done to these soldiers. In the case of militia soldiers, as they are harder to identify as combatants, they are both protected and exposed by this. They are protected from being charged with crimes against humanity or war crimes which they may commit, even when it cannot be proved that they are expert combatants in armed conflicts. However, they are vulnerable if they are victim to a crime against humanity or war crime, as they could be identified conveniently as legitimate combatants. The crime is written off as an act of war, even if militias are sometimes composed of inexperienced civilians joining an armed cause. Paramilitary soldiers are paradoxically exposed and protected by the same ambiguity. They, as individuals, may be charged for war crimes and crimes against humanity, instead of charging the commanding officer or government who gave out the instructions. They are also vulnerable if they are victim to a crime against humanity. Both militia and paramilitary soldiers may not retain prisoner of war statuses if captured, which could even make it “legal” for them to be tortured or killed for intelligence and information.

Furthermore, the involvement of militia and paramilitary soldiers can lead to an increase in the length of armed conflicts. Paramilitaries and militias are not part of a country’s armed forces, and commonly, they have their own independent aims or causes they fight for. When they are involved in armed conflicts, if they are hired to fight (the case for some paramilitaries and all private militias), they may purposefully extend the length of time the war is fought, as peace is not beneficial to them.

The involvement of militias and paramilitary soldiers also exposes civilians to more potential human rights violations. These soldiers do not represent a government, but they can be hired by one to carry out the “dirty work” of illegal strategic covert operations. This leaves them vulnerable to be charged

with human rights violations, which is appropriate, but the charge goes to the soldiers, individual paramilitary, or militia, rather than the government that gave them orders.

Law of War, or International Humanitarian Law (IHL) focuses on reducing the impact of armed conflict, especially in relation to people not participating in the conflict. It also lays rules for how warfare can be conducted.⁷ To discuss the law of war, three very different parties need to be differentiated: a military, a paramilitary and a private militia. The **military** is composed of the official armed forces of a country. A military is funded, sponsored, controlled and held accountable by a national government. The purpose of a military is to defend a country against external threats; only under extreme circumstances or situations of emergency are the military given actionable authority within a nation's borders. A **paramilitary** is a militarized police force or armed force.⁸ While they may have organizational structures, tactics, functions, missions, and training similar to a country's military, they are not officially part of a country's armed forces. Often, a paramilitary has authority within and outside a country's national borders.⁹ They often serve as enhanced police forces that defend the country from both external and internal threats. A militia can be public or private.¹⁰ A **public militia** is composed by volunteer citizens, so they are often self-funded and self-organized. This makes them completely independent; they are held accountable by civilian law, not law of war. Typically, they act within a country's borders. A **private militia** is slightly different as it is funded from a private source, and its soldiers often are considered mercenaries. Regardless, these militias operate independently from a government.

Within international law, an important distinction is the one between state actors and non-state actors. **State actors** are a national government or bodies, agencies, and forces that represent a national government. Either way, state actors officially work on behalf of a government or a governmental body. **Non-state actors** are either organizations or individuals who are unaffiliated with the government,¹¹ including multinational corporations (MCNs), non-governmental

⁷ "War & Law," International Committee of the Red Cross, January 31, 2020, <https://www.icrc.org/en/war-and-law>.

⁸ "Paramilitary," Merriam-Webster (Merriam-Webster), accessed June 1, 2020, <https://www.merriam-webster.com/dictionary/paramilitary>.

⁹ Tobias Böhmelt and Govinda Clayton, "Auxiliary Force Structure: Paramilitary Forces and Progovernment Militias - Tobias Böhmelt, Govinda Clayton, 2018," SAGE Journals, March 28, 2017, <https://journals.sagepub.com/doi/full/10.1177/0010414017699204>.

¹⁰ Ibid.

¹¹ "Non-State Actors," ESCR, accessed June 3, 2020, <https://www.escr-net.org/resources/non-state-actors>.

organizations (NGOs), international media conglomerates, religious groups, violent groups (within them militia and sometimes paramilitaries), and any large group of people or individuals with worldly influence. Despite these being independent from any government and governmental body, they hold significant influence within international affairs. This committee, the United Nations Human Rights Council, is a non-state actor, as it is a prominent NGO that influences opinion, legislation, and action.

In the realm of law of war, knowing these distinctions is imperative because of how each organization or body is held accountable for their actions.¹² The military, as it represents a national government, is a state actor. Paramilitaries are often non-state actors, as they are not part of an official government's armed forces or military. Militia (private or public) are always non-state actors. This is problematic as militaries, paramilitaries and militia are often not under the same national or international jurisdiction.

These four types of belligerent forces - militaries, paramilitaries, private militias and public militias - are very present in the world. Some examples of militaries include The United States Armed Forces, the Russian Armed Forces, the Argentine Army, and the Royal Saudi Land Forces. Paramilitaries are not as easy to identify; there are many types of paramilitaries. A paramilitary can be groups like the royal, imperial, national, presidential, republican guards. They could also be irregular military forces, such as a guerrilla or terrorist group. A paramilitary can even take the official form of police force organizations, gendarmeries, border guards, or defense corps. Some paramilitaries include the FBI Special Weapons and Tactics Team (SWAT), the National Gendarmerie of France, the People's Armed Police of China, and Hezbollah. Private militias are groups whose services are for hire. Examples include Pablo Escobar's private militia of the Medellín Cartel and most armies in the "Banana Wars" during the Caribbean and the Mexican Revolution. Famous examples of public militia are revolutionary movements like Cuba's M-26-7 led by Fidel Castro, the French National Guard during the French Revolution, and Russia's Red Army.

On International Humanitarian Law

¹² "Blurred Lines Between State and Non-State Actors," Council on Foreign Relations (Council on Foreign Relations, December 5, 2019), <https://www.cfr.org/blog/blurred-lines-between-state-and-non-state-actors>.

International humanitarian law (IHL) contains law of war and law of armed conflict. It seeks to reduce the negative impacts of armed conflict through a legal framework.¹³ The two main principles of IHL are the following:

1. "Persons who are not, or are no longer, participating in hostilities must be protected; and
2. The right to parties to an armed conflict to choose methods and means of warfare is not unlimited."¹⁴

The IHL regulates armed conflict and is consonant to *jus in bello*, as they both seek to help and protect victims of armed conflict.¹⁵ *Jus in bello* is independent to *jus ad bellum*. This is because *jus ad bellum* dictates "the conditions under which states may resort to war or to the use of armed force in general. The prohibition against the use of force amongst states and the exceptions to it (self-defense and UN authorization for the use of force), set out in the UN Charter of 1945, are the core ingredients of *jus ad bellum* ("On the prohibition against war").¹⁶ *Jus ad bellum* establishes the conditions of justified use of armed force while *jus in bello* regulates it.

This is why IHL is public international law and applies to all belligerent parties regardless of the conflict, justness, or causes for which they are fighting.¹⁷ IHL is necessary in armed conflict in order to protect all of the victims, regardless of party or side affiliation. IHL also "recognizes obligations for both States and non-State armed groups that are parties to an armed conflict".¹⁸ Therefore, in an armed conflict, IHL applies to all parties involved, regardless of whether a party was legally justified in using force.¹⁹

¹³ "International Humanitarian Law," International Justice Resource Center, accessed June 3, 2020, <https://ijrcenter.org/international-humanitarian-law/>.

¹⁴ Ibid.

¹⁵ "What Are Jus Ad Bellum and Jus in Bello?," International Committee of the Red Cross, November 12, 2015, <https://www.icrc.org/en/document/what-are-jus-ad-bellum-and-jus-bello-o>.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ "International Humanitarian Law," International Justice Resource Center, accessed June 3, 2020, <https://ijrcenter.org/international-humanitarian-law/>.

¹⁹ Ibid.

In customary IHL, Annex I contains “The Principle of Distinction”.²⁰ Rule 4, the Definition of Armed Forces dictates that the armed forces of an armed conflict includes everyone who fights under a party to a conflict and serves them.²¹ Combatants participate in hostile acts for a party to the conflict, while being under responsible command; all these members are able to face attacks.²² As a result, this definition actually includes paramilitaries and militias, despite them being non-state actors.

The Hague Regulations and the Third Geneva Conventions aimed to establish what constitutes a prisoner of war. The first Article of the Hague Regulations applies laws, rights, and duties to volunteer and militia corps as well as armies, under four conditions:

1. “To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.”²³

In armed conflict, paramilitaries and militia are often denominated “irregular armies” — meaning they still fall under the term “army” even if they are not part at all of a country’s official armed forces or militaries. As per the Hague Regulations and the Third Geneva Convention, all armed forces members are considered as combatants as long as they abide by the four conditions outlined above. This also qualifies them for a prisoner of war status if the combatant were to be withheld by an enemy army.

Current Situation

There are 27 major armed conflicts currently active in the world with different levels of tensions and different numbers of casualties. Image 1 and 2 show this on a map. While Image 1 shows armed

²⁰ “IHL Database,” Customary IHL - By Rule, accessed May 11, 2020, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul.

²¹ Ibid.

²² Ibid.

²³ Ibid.

conflict by Status, Image 2 shows armed conflicts per conflict. Usually, these two correlate; when a conflict is worsening, it tends to be because there are more casualties. Unfortunately, none of the current armed conflicts are improving nor are near their end. As shown by Table 1, some of the conflicts have been ongoing since 1948, while the most recent ones began in 2011. For every year wars are extended, more humans are killed in battle - not only military soldiers but civilians as well. As more military soldiers are killed, more paramilitary or militia soldiers are drafted and recruited to make up for the losses in battle.

Paramilitaries are contemporarily used as alternatives to military reserves and are often an extension of police forces or armed forces. As seen in Table 2 (below), sometimes the paramilitary forces of a country are larger than their military and reserve forces combined. This is due to multiple reasons. First, paramilitary soldiers do not always have an active military status, which means a country's military force may seem smaller than it actually is. Another reason is that paramilitary soldiers often have a specialized role; either they work in Special Task forces, border patrols or governmental guards. Nonetheless, at a time of war, they can potentially partake in an armed conflict as another branch of the military (this depends on every country's own legislation).

Regarding militia, the numbers are harder to pinpoint as some militias are private, as are the statistics for them. Most public militia are composed of regular civilians that join a certain cause, and being a militia soldier is not their full-time job. In the United States, estimates find that there are at least 276 different militia groups. Most of these are extremist groups: far-right, far-left, anti-government, and anarchists.²⁴ However, this statistic is relevant because militia groups are more prone to form in places where there is less gun control or regulation, as well as places where there is political unrest and polarization.²⁵ A militia needs arms, or else it would be like any other sociopolitical organization. As a result, militias usually grow in places where arms are of easy access.

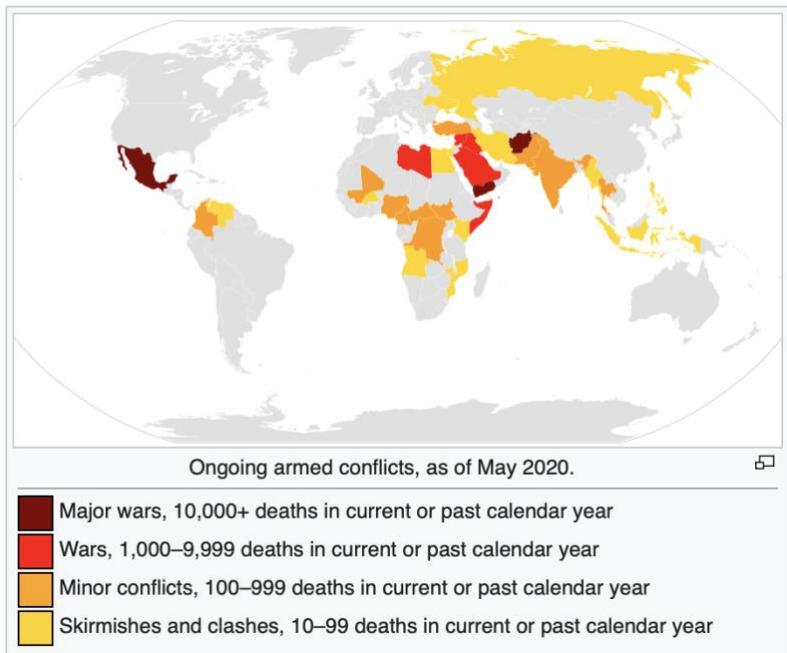
²⁴ Julian Hatter, "Militia Movement Growing at Rapid Rate," The Hill, February 4, 2016, <https://thehill.com/policy/national-security/265062-militia-movement-growing-at-rapid-rate>.

²⁵ Stefan Grobe, "How Many Civilian Guns Does a Well-Regulated Militia Need?," euronews, October 2, 2017, <https://www.euronews.com/2017/10/02/guns-in-america-after-charleston-why-it-s-becoming-like-a-western-movie>.



26

Image 1. Ongoing Armed Conflict by Status



27

Image 2. Major Ongoing Belligerent Armed Conflicts per Casualties

²⁶ “Global Conflict Tracker | Council on Foreign Relations,” Council on Foreign Relations (Council on Foreign Relations), accessed August 15, 2020, <https://www.cfr.org/global-conflict-tracker/?category=usConflictStatus>.

²⁷ CC BY-SA 3.0

Table 1. Major Ongoing Belligerent Conflicts per Casualties²⁸

Conflict	Year of Start	Cumulative Fatalities
Iraqi Conflict	2003	650,000-2,400,000
Somali Civil War	1991	500,000
Ethnic violence in South Sudan	2011	383,000-400,000
Syrian Civil War	2011	362,266-586,100
Colombian conflict	1964	220,000
Afghanistan Conflict	1978	227,510-2,000,000
Mexican Drug War	2006	151,000 homicide victims + 41,034 battle deaths since 1989
Internal conflict in Myanmar	1948	130,000-210,000
Indo-Pakistani Wars (Insurrection in Kashmir)	1948	45,000-130,000+
Arab-Israeli Conflict	1948	25,000

²⁸ Data from Global Conflict Tracker.

Table 2. Countries' Active Militaries, Reserve Military and Paramilitary Forces by Largest Paramilitary Forces²⁹

Country	Active Military	Reserve Military	Paramilitary
North Korea	1,280,000	600,000	5,889,000
Vietnam	482,000	0	5,040,000
South Korea	599,000	3,100,000	3,009,000
India	1,455,550	1,155,000	2,526,950
Cuba	49,000	39,000	1,146,500
Iran	610,000	350,000	1,050,000
China	2,035,000	510,000	660,000
Russia	900,000	2,000,000	554,000
Egypt	438,000	469,000	397,000
Brazil	334,500	1,340,000	395,000

²⁹ Data from the International Institute of Strategic Studies.

History of the Problem

The history of the use of paramilitaries and private militia is incredibly complex as it is parallel to the history of war—and war has been present in the history of mankind since its origins. The etymology of the word militia shows that its first use dates back to the 16th and 17th century.³⁰ It comes from the Latin, *militia*; referring to “military service, warfare” performed by *miles*, “soldier”.³¹ In 1690, the word was redefined to describe a “sense of citizen army”.³² In the 19th century, when the philosophy of war was developed and scrutinized, militias were established to be bound to military law and law of war, but not as regular soldiers belonging to a national army or military.³³ The etymology of the word paramilitary is more recent, as it refers to “organizations or forces analogous or auxiliary to that of military units but not professional” in its 1935 definition³⁴.

Both of these words and concepts evolved as time went on and philosophy of war was developed. Contemporarily, the definitions of these words are very different.³⁵ Although the origins of the word militia somewhat match its contemporary definition and fundamental concepts, the word paramilitary has been redefined multiple times throughout the past three centuries.

As just war theory was developed (*jus bellum justum*), the parameters of what is ethical in situations of war was established. Just war theory is broken down into three sections: *jus ad bellum*, *jus in bello* and *jus post bellum*. *Jus ad bellum* describes what is the right to go to war; it describes the ethical and moral grounds to start and participate in war. *Jus in bello* includes the right conduct and practices carried out during war, describing the ethical and moral behavior belligerent parties should partake in. *Jus post bellum* consists of post-war appropriate practices, such as reconstruction, reparations, settlements and responsibilities. International Humanitarian Law only concerns *jus in bello*, as it aims to regulate activity and conduct during armed conflicts. In other words, IHL is essentially a synonym for *jus in bello*, as they both aim to establish ethical guidelines within armed conflict.

³⁰ “Militia (n.),” Index, accessed July 1, 2020, <https://www.etymonline.com/word/militia>.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ “Paramilitary (adj.),” Index, accessed July 1, 2020, <https://www.etymonline.com/word/paramilitary>.

³⁵ Reference section “Statement of the Problem” for the current definitions.

The Origins of International Humanitarian Law

There are two ways international lawyers and philosophers of war think about the history of international law. The first one is a “story of the humanization of war and law”, while the second one is “a story of imperialism and oppression”.³⁶

The first perspective establishes that, despite war culture, traditions and rules vary according to different nations and regions, the one “universal” aim is that “laws of war have always existed to limit the destruction of war”.³⁷ Yet, it was not until the 19th century that this concern was made explicit, universal and codified in formal legislation. The first example of written laws of war is the Lieber Code, which was written during the American Civil War for the Union forces to abide by.³⁸ Nonetheless, international lawyers consider the 1859 Battle of Solferino as a more important step towards modern humanitarian law.³⁹ Swiss citizen, Henry Dunant, was witness to the atrocities and suffering of war, which inspired him to found and establish the Red Cross movement. The movement aimed to be “a promoter and custodian of the humanitarian idea and the primary initiation for its transition into international humanitarian law”. Dunant also was an advocate for the adoption of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field in 1864. As a result, the Geneva Convention became the genesis of formal international humanitarian law. Its famous successors are the 1907 Hague Convention, the 1949 Geneva Conventions and the 1977 Additional Protocols. As it is established that “international humanitarian law” and “law of war” are often interchangeable, there is a certain emphasis on humanity, universality and compassion when discussing this type of law.

The second perspective is different insofar as it rejects the perspective that international humanitarian law is about compassion and civilization. It proposes that the history of humanitarian law is actually a history of oppression and imperialism as it draws on “post-colonial and critical methodologies”.⁴⁰ It analyses a history “in which military or Western needs have consistently

³⁶ Amanda Alexander, “Short History of International Humanitarian Law,” OUP Academic (Oxford University Press, March 31, 2015), <https://academic.oup.com/ejil/article/26/1/109/497489>.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

trumped humane values, exposing civilians to the violence of war and legitimizing their suffering". This version claims that the Hague Conventions of 1907 were a failure, as they added greater value to the military and left citizens more vulnerable.⁴¹ It argues that the Nuremberg Tribunal "actually helped legitimate unrestrained conduct in war by refusing to convict, or even prosecute, based on violations of laws of war".⁴² This perspective is allegedly more pragmatic because it focuses on criticizing the actual practice and not theory of international humanitarian law.

Nonetheless, the term of international humanitarian law was first used in the 1960s to particularly describe the field of law that regarded war. Prior to that, the law of war was referred to as the law of armed conflict. International humanitarian law became synonymous to *jus in bello* and law of war once international lawyers and historians attempted to reconcile "the contradictory principles of humanity and military". International law theorist Georg Schwarzenberger found the laws of war as a way to introduce civilization's standards to a world with war.⁴³ He claimed that military and other belligerent groups would not be likely to abide by any type of universal law of war, unless the law did not restrict the military's main needs. As a result, he argues that international humanitarian law does not really protect civilization but rather exists "to cover up the inability or unwillingness"⁴⁴ to safeguard civilization. Many other theorists claim all of the results of important conventions held and declarations established are simply diplomatic cover-ups. These laws are easy to undermine and ignore, but difficult to prosecute and convict if violated.

21st Century Examples of Lethal Paramilitary and Militia Involvement in Armed Conflicts

The Rwandan Genocide

In the span of 100 days of 1994, 800,000 people in Rwanda were slaughtered.⁴⁵ Hutu extremists targeted the minority of Tutsi and anyone who opposed their mission, regardless of ethnic background. Historically, although the Hutu made up 85% of the country, the Tutsi minority

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ "Rwanda Genocide: 100 Days of Slaughter," BBC News (BBC, April 4, 2019), <https://www.bbc.com/news/world-africa-26875506>.

dominated Rwanda socioeconomically and politically.⁴⁶ This is due to the Hutus overthrowing the Tutsi monarch in 1959, causing Tutsis to flee to the surrounding countries. Tutsi exiles formed a rebel militia, the Rwandan Patriotic Front (RPF), and invaded Rwanda in 1990. They fought until peace was negotiated in 1993, but the Hutu president's plane was shot down in 1994, resulting in his death. Hutu extremists blamed the RPF and organized a campaign of slaughter, while the RPF claimed the plane was shot down by Hutu extremists to justify the imminent genocide. Lists of government opponents were "handed out to militias who went and killed them, along with all of their families" and Tutsis were slaughtered.⁴⁷ The governing party, the MRDN, had a youth wing, the Interahamwe, which turned into a heavily armed militia to carry out the slaughter systematically. The Interahamwe killed everyone they could find who was registered as a Tutsi in their ID cards. 2 million Hutu extremists participated in militias that killed around 800,000 Tutsis.

The Syrian Civil War

The Syrian conflict is one of the most complex belligerent armed conflicts of the 21st century. Although its complexity is rooted in the issue itself, the proxy battles, and the ideological differences, it is also very complex given the parties involved. Many of these parties are small or large militias or paramilitaries. To summarize and somewhat oversimplify, the conflict is about who supports and opposes President Bashar al-Assad.

"Supporting the current Syrian government (in favor of Assad):

- Russia (carries out air strikes and provides political support at the UN)
- Iran (provides arms, credit, military advisers and reportedly combat troops)
- Hezbollah (The Lebanese Shia movement has sent thousands of fighters)
- Shia Muslim militias (recruited by Iran from Iraq, Afghanistan and Yemen)

And [opposing the Syrian government], on the side of the rebels*:

⁴⁶ Ibid.

⁴⁷ Ibid.

- Turkey (provides arms, military [militia and paramilitary] and political support)
- Gulf Arab states (provide money and weapons)
- The US (provides arms, training and military assistance to "moderate" groups [and paramilitary assistance])
- Jordan (provides logistical support and training)

*The term "rebels" is used to describe a huge and diverse array of fighters, some of whom cooperate with jihadists like those from Hayat Tahrir al-Sham, an al-Qaeda-linked alliance. Different foreign states often back different rebel factions."⁴⁸



⁴⁸ "Syria War: A Brief Guide to Who's Fighting Whom," BBC News (BBC, April 7, 2017), <https://www.bbc.com/news/world-middle-east-39528673>.

For instance, most of the Syrian fighters that have extended the conflict into Libyan territory have been hired by Turkey, making them mercenaries and part of private militias. This is problematic because Turkey sponsors militias inside Syria that oppose the government of Assad. However, Turkey also supports Libya's UN Government of National Accord, and they have mercenaries on both sides.

Syrian citizens are turned into mercenaries and part of private militias by whichever side offers more money. As the country continues to collapse into economic crisis, Syrians are offering their ability (or lack thereof) to fight as work.⁴⁹

Mexican Drug War

In the Mexican Drug War, three main parties - drug dealer militias, the government armed forces, paramilitaries, and vigilante militias - take matters into their own hands to exterminate drug cartels. In 2013, a new force joined the Mexican Drug War: vigilante militias composed of groups of civilians claiming they fight crime.⁵⁰ There is major concern over these vigilante militia groups being used by criminals to fight rivals and control territories. These past few years, there have been tensions to push first the Peña Nieto and now the Lopez Obrador administration to create policies to handle vigilantes. Already, the country is plagued with violence due to this ongoing war with cartels. Now, militias are spreading more violence in the country and are going against Mexican rule of law.

⁴⁹ Ibid.

⁵⁰ "Justice at the Barrel of a Gun: Vigilante Militias in Mexico," Crisis Group, August 9, 2016, <https://www.crisisgroup.org/latin-america-caribbean/mexico/justice-barrel-gun-vigilante-militias-mexico>.

Past Actions

Important Conventions and Declarations in the History of International Humanitarian Law

The Red Cross and the Geneva Conventions

As previously mentioned, the Red Cross was founded by Henry Dunant in 1863. Later that year, delegates from 16 different countries and military medical personnel in Geneva discussed what a wartime humanitarian agreement would look like.⁵¹ The resultant convention (treaty) from this meeting was signed by 12 nations in 1864.

Later, the First Geneva Convention was held, termed as The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. This Convention aimed to protect “soldiers who were hors de combat (out of the battle)”. Those original treaties from 1864 contained 10 articles and were expanded in the First Geneva Convention to 64 which protected several parties who were out of the battlefield (the wounded and sick, medical personnel, civilians trying to defend themselves, etc).⁵²

The Second Geneva convention was held on the same days as the first, and it was titled *The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces*. This convention altered the First Geneva Convention to account for conditions at sea.

The Third Geneva Convention, again of the same day, is titled “*The Geneva Convention Relative to the Treatment of Prisoners of War*”. This convention specifically focused on how prisoners of war (POWs) should be treated, dictating that “POWs should be treated humanely, adequately housed and receive sufficient food, clothing and medical care”.⁵³ Interestingly, POWs can include members of the armed forces, volunteer militia, and civilians accompanying the armed forces.

⁵¹ History.com Editors, “Geneva Convention,” History.com (A&E Television Networks, November 17, 2017), <https://www.history.com/topics/world-war-ii/geneva-convention>.

⁵² “Summary of the Geneva Conventions of 1949 and Their Additional Protocols,” American Red Cross, April 2011, Summary of the Geneva Conventions of 1949 and Their Additional Protocols.

⁵³ Ibid.

The Fourth Geneva Convention (of the same day) is “The Geneva Convention Relative to the Protection of Civilian Persons in Time of War”. This convention addresses the treatment of civilians “in areas of armed conflict and occupied territories”. In 159 articles, this convention sought to distinguish civilians from being part of armed forces, as well as protect those same civilians if they happen to be under siege or living under enemy control.⁵⁴

In 1977, Two Protocols to the Conventions were adopted.⁵⁵ Protocol I “increased protections for civilians, military workers and journalists during international conflicts” and also established a ban on using weapons that cause an unnecessary amount of damage and destruction. Essentially, Protocol I seeks to protect civilians from the dangers that military operations can present.⁵⁶

Protocol II was established to protect victims of civil wars and national internal conflicts. The Protocol stated that “all people not taking up arms be treated humanely and there should never be an order by anyone in command for “no survivors””.⁵⁷



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58

⁵⁴ Ibid.

⁵⁵ “History of the ICRC,” International Committee of the Red Cross, September 11, 2017, <https://www.icrc.org/en/document/history-icrc>.

⁵⁶ History.com Editors, “Geneva Convention,” History.com (A&E Television Networks, November 17, 2017), <https://www.history.com/topics/world-war-ii/geneva-convention>.

⁵⁷ Ibid.

⁵⁸ *Map Showing States That Are Party to the Geneva Conventions and Their Additional Protocols.*, Encyclopædia Britannica (Encyclopædia Britannica, inc., n.d.), <https://www.britannica.com/event/Geneva-Conventions#/media/1/229047/237847>.

While Protocol I and II differ in the sense that Protocol I protects victims of international conflicts and Protocol II protects victims of national conflicts, they offer the same aid. Both are thorough in establishing protection for civilians and medical workers.⁵⁹

The Hague Conventions (1899 and 1907)

These conventions are two treaties adopted at the Peace Conferences held in The Hague, Netherlands respectively in 1899 and 1907. The treaties “establish the laws and customs of war in the strict sense, but define the rules that belligerents must follow during hostilities”.⁶⁰ The difference between these conventions and the Geneva Conventions is that this branch of international law is law of war, while the Geneva Conventions correspond to the branch that addresses “the right to receive relief” and the “limitation of methods of warfare”.⁶¹

The Hague conventions essentially outline the behavior that is forbidden for belligerents in terms of weapons allowed and neutral territories. Interestingly, they have an early definition of what it means to be a belligerent. The 1907 convention outlines in “Section I: On Belligerents in Chapter I: The qualifications of belligerents:

Article I. The laws rights, and duties of war apply not only to armies, but also to militia and volunteer corps fulfilling the following conditions:

1. To be commanded by a person responsible for his subordinates;
2. To have a fixed distinctive emblem recognizable at a distance;
3. To carry arms openly; and
4. To conduct their operations in accordance with the laws and customs of war.

⁵⁹“Summary of the Geneva Conventions of 1949 and Their Additional Protocols,” American Red Cross, April 2011, Summary of the Geneva Conventions of 1949 and Their Additional Protocols.

⁶⁰ “The Practical Guide to Humanitarian Law,” Doctors without borders | The Practical Guide to Humanitarian Law, accessed August 14, 2020, <https://guide-humanitarian-law.org/content/article/3/the-hague-conventions-of-1899-and-1907/>.

⁶¹ Ibid.

In countries where militia or volunteer corps constitute the army, or form a part of it, they are included under the denomination of army".⁶²

This served as the groundwork for the updated Principle of Distinction used in contemporary International Humanitarian Law.

"The Principle of Distinction"

In International Humanitarian Law, the first chapter focuses on the Principle of Distinction,⁶³ which sets out six different rules. This principle aims to distinguish civilians from combatants, to launch attacks in proportion to that distinction. The most important rule is the first, "The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians".⁶⁴ This principle is based on the project of the St. Petersburg Declaration of 1868, which states that "the only legitimate object which States should endeavor to accomplish during war is to weaken the military forces of the enemy".⁶⁵ Although this declaration failed to acknowledge that there can be belligerent forces that are not militaries controlled by a nation state, the main idea still prevails: civilians are off limits and belligerent forces must fight with other belligerent forces. Under the statute of the International Criminal Court, attacking civilians intentionally,⁶⁶ both in international and non-international armed conflicts, is considered a war crime which can be prosecuted.

In order to distinguish between these parties, IHL defines belligerent combatant explicitly in rule three, which dictates, "All members of the armed forces of a party to the conflict are combatants, except medical and religious personnel".⁶⁷ Section "On international law" of this Background Guide

⁶² "Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land. The Hague, 18 October 1907," Treaties, States parties, and Commentaries - Hague Convention (IV) on War on Land and its Annexed Regulations, 1907 - -, accessed August 14, 2020, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/o/1d1726425f6955aec125641e0038bfd6>.

⁶³ "IHL Database," Customary IHL - By Chapter, accessed July 14, 2020, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha.

⁶⁴ "Rule 1. The Principle of Distinction between Civilians and Combatants," Customary IHL - Rule 1. The Principle of Distinction between Civilians and Combatants, accessed July 14, 2020, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1_rule1.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ "Rule 3. Definition of Combatants," Customary IHL - Rule 3. Definition of Combatants, accessed July 14, 2020, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter1_rule3.

briefly mentioned four criteria combatants must fulfill to be considered as such. But more specifically, these are all the terms that must be fulfilled in order for a person to be considered a combatant: "Combatant describes those persons with a right to directly participate in hostilities between States.

1. Members of the armed forces, except medical personnel and religious personnel.
2. Members of other militias and members of other volunteer corps, including those organized resistance movements, belonging to a Party to the conflict, provided that such militias or volunteer corps, including such organized resistance movements, fulfill the following conditions:
 - a. They are commanded by a person responsible for his subordinates;
 - b. They wear a fixed distinctive sign recognizable at a distance;
 - c. They carry arms openly;
 - d. They conduct their operations in accordance with the laws and customs of war.
3. Members of the regular armed forces who profess allegiance to a government or authority not recognized by the other Party to the conflict.
4. Participants in a levée en masse⁶⁸,⁶⁹

The distinction is important as combatants must be easily distinguished as non-civilians during attacks.⁷⁰ Otherwise, a combatant could lose their prisoner of war status and even be tried for an act of war. While under the third Geneva Convention, prisoners of war are given protection even when falling power to an adverse party; those who commit acts of war are vulnerable to be tried for acts of

⁶⁸ Defined as: "inhabitants of a territory which has not been occupied, who on the approach of the enemy spontaneously take up arms to resist the invading troops without having had time to organize themselves into regular armed forces" NOT to be confused with resistance movements. "Levée En Masse," Levée en masse | How does law protect in war? - Online casebook, accessed August 14, 2020, <https://casebook.icrc.org/glossary/levee-en-masse>.

⁶⁹ "Combatants," Combatants | How does law protect in war? - Online casebook, accessed August 14, 2020, <https://casebook.icrc.org/glossary/combatants>.

⁷⁰ Ibid.

war, crimes against humanity and war crimes, while an official military officer doing the same thing might not. This is why paramilitary members and private militia soldiers are more exposed to have their prisoner of war rights revoked if they do not make it fully explicit they are a combatant. Furthermore, if not clearly identified, military or paramilitary forces may harm or kill civilians they thought were combatants, which would be a war crime.

From a military, paramilitary and militia's perspective, this distinction is beneficial as it minimizes their vulnerability to be charged with war crimes or imprisoned without POW rights. Nonetheless, this distinction is not often abided by and, sometimes, is even blatantly ignored. Civilians are often targeted by belligerents in order to distract and make an enemy's force more vulnerable.

The United Nations and the UN Human Rights Commission and Council

The Commission on Human Rights was established in 1946 in order to "weave the international legal fabric that protects our fundamental rights and freedoms".⁷¹ Originally, 53 member states were part of it, presenting voices from numerous countries, NGOs, and human rights defenders.⁷² Annually, in Geneva, over 3000 delegates - as state and non-state actors - participated and debated different resolutions. Eventually, the CHR evolved into the UNHRC.

While the UNHRC advocates for human rights, the Commission also allows the UN Human Rights Council (established in 2005) to investigate alleged human rights violations. The council through the UN Security Council may request to refer cases to the International Criminal Court or the International Court of Justice. Although the UNHRC is responsible to raise awareness and denounce human rights violations, only the ICC has jurisdiction and the authority to prosecute crimes of war committed by or against paramilitary or militia soldiers.

Assessment of Previous Action

⁷¹ "Introduction to the UNHRC," OHCHR, accessed August 14, 2020, <https://www.ohchr.org/en/hrbodies/chr/pages/commissiononhumanrights.aspx>.

⁷² Ibid.

There is no doubt that a clear and rigorous theoretical and legislative framework has been established in the international community. Nonetheless: war is war. No matter how many guidelines, laws, distinctions and limits are established in place, belligerent conflict is violent, lethal, reckless, and cataclysmic for all parties, countries, combatants and civilians involved.

The concept and the practice of war is directly incompatible with human rights and the Universal Declaration of Human Rights (UDHR). Human rights violations occur every second, no matter how much international humanitarian law tries to limit them. War may be legal and certain practices of war are legal, but their legality does not guarantee they are humane. The aim of war is to incapacitate or destroy an enemy's ability and will to fight. This aim is in direct clash with a fundamental principle of the UDHR, Article 3 "Everyone has the right to life, liberty and security of person".⁷³ War is paradoxically inhumane and a human instinct at the same time.

These conventions, declarations, and non-governmental bodies are remarkable and undoubtedly have made progress in ensuring war is as safe, legal and as compartmentalized as it can be. The protection of civilians has been the main priority of politicians, leaders and international legislators. This is valid as the regular human being should be as far from the epicenter of conflict as possible — yet this is hardly the reality. Casualties, victims of genocides, indirect parties of war are often the largest fraction of war victims. Even for civilians who do survive international or civil conflict, the wounds of war are present in destroyed infrastructure, socioeconomic unrest, tolls on physical and mental health, and other crises.

Avoiding war is a monumental task, but so is the decision to start a war. Wars are fought over political corruption, socioeconomic conditions, land conflicts, ethnic conflicts, religious conflicts, and for many other reasons. While there is no justification for blood being shed, there are certainly explanations.

⁷³ "Universal Declaration of Human Rights," United Nations (United Nations), accessed August 14, 2020, <https://www.un.org/en/universal-declaration-human-rights/>.

Possible Solutions

Minimizing Belligerent Conflict and War

In order to minimize the human rights violation committed by and/or against paramilitary and militia soldiers, belligerent conflict and war must be minimized as well. Paramilitary soldiers and militia soldiers are indispensable and ever-present members of war, which makes it more difficult to regulate their involvement. Most paramilitary soldiers or members are more protected, as they usually are already militarized forces. However, private and public militia soldiers may not be so protected, as private militia soldiers are only soldiers when they act as mercenaries; furthermore, public militias are mostly composed of regular civilians who are inspired to fight for a certain revolutionary cause. In other words, being part of a militia is rarely a full-time job unless they are part of a long-term armed conflict. Minimizing armed conflict and war would certainly be beneficial to more people than would having paramilitary and militia soldiers. Long term peace would bring benefits to civilians, armed forces and third parties.

Nonetheless, appeasement⁷⁴ is not the way to go either. Most notoriously in history, the League of Nations' (the United Nations' predecessor) practice of appeasement directly led to Germany's invasion of the Saar, the Rhineland, Sudetenland, Czechoslovakia and eventually Poland which led to the start of World War II.

One solution would be to hold mediated diplomatic conversations to resolve conflict. As it has been proven along the years, the UN does not have much authority to be involved in a belligerent conflict, and all policies are mere recommendations to nation states. However, what the UN can provide is a neutral ground for world leaders to converse and diplomatically resolve conflict, as opposed to deploying thousands of soldiers, involving militia and paramilitaries, and killing thousands of bystanders. The UN can provide mediators and translators to impartially aid in resolving a conflict, without being directly involved themselves.

⁷⁴ Check Glossary for more information on Appeasement.

Raising Awareness on the Effects and Consequences of War

War is intrinsically devastating, lethal and catastrophic. Although that has been a known fact for millennia, nowadays with the tool of social media and mass international media coverage, all eyes can be on a belligerent conflict. Social media has been called a “global battlefield”⁷⁵ and a “weapon in modern warfare”⁷⁶; both are true. On one hand, social media has allowed third parties to view the actions of war from across the globe and has allowed belligerents to post or show their perspective in a digital battlefield. On the other hand, social media is also a weapon that can be manipulated to show a certain perspective which may or may not be truthful. Thousands of raw, unfiltered brutal images are posted around the world, depicting civil unrest to protests to war. Strong images evoke and incite intense feelings, which may influence individuals to get involved in a belligerent conflict, whether directly or indirectly.

This comes with its own benefits and disadvantages. Injustices are showcased daily, and awareness is brought to them. Social media can make images, statements, videos go viral in a couple of seconds to propel change. However, social media can be heavily manipulated as every user has their own unique perspective.⁷⁷

Seeing war and conflict incites empathy. One major case of this is the Syrian Refugee Crisis. Although the Syrian Civil War has been an ongoing conflict since 2011, the mass displacement of people was brought to the attention of the whole world around 2015. Videos and pictures of mass graves, families struggling to migrate to neighboring countries in inhumane conditions went viral. This pushed countries to open up their borders and accept mass influxes of Syrian refugees.⁷⁸ The

⁷⁵ Gabby Deutch, “Social Media Has Become a Global Battlefield,” *The Atlantic* (Atlantic Media Company, October 3, 2018), <https://www.theatlantic.com/international/archive/2018/10/social-media-battlefield-internet/571960/>.

⁷⁶ 2019 Books Wharton Business Daily Global Focus Jan 17, “Why Social Media Is the New Weapon in Modern Warfare,” *Knowledge@Wharton*, January 17, 2019, <https://knowledge.wharton.upenn.edu/article/singer-weaponization-social-media/>.

⁷⁷ “The Highest Aspiration: A Call to Action for Human Rights,” *The United Nations*, 2020, https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Aspiration_A_Call_To_Action_For_Human_Right_English.pdf.

⁷⁸ Teresa Salvadoretti, “The Role of Social Media in the Syrian Crisis,” *Asfar*, February 15, 2019, <https://www.asfar.org.uk/the-role-of-social-media-in-the-syrian-crisis/>.

pressure social media put on European governments to give humanitarian aid influenced their decisions to help.

Nonetheless, tech companies and social media companies are actively trying to censor most of today's explicit content⁷⁹ for a variety of reasons, including to avoid liabilities of being complicit in crimes against humanity, and to remove desensitizing content from their platforms. War nowadays can literally "go viral".⁸⁰ As was seen with the Arab Spring, social media can turn a few posts into a revolutionary political uprising and movement, where one can be part of a militia with only a phone and internet access.

Evaluating the toll of war on a country is incredibly complex; it is a branch of International Studies on its own.⁸¹ Death, infrastructural devastation, emotional scarring, physical rehabilitation, structural changes, political tensions, economic crises are only a few of the potential consequences war can bring to a nation.⁸² Armed conflict, no matter if it is won or lost, brings tragedy to a nation.

Educating the general population on this notion is key. History is supposed to teach people of all ages what should be replicated and what should be avoided in the future. Although it is up to every country to legislate whether their history of belligerent armed conflict should be included in schooling curriculum, this recommendation is a powerful step to ensure that wars are not repeated.

Strengthening Collaboration between the UNHRC and the ICC & ICJ⁸³

Ideally, the ICJ and the ICC could collaborate with the UNHRC to eliminate some of the current bureaucratic red tape that prevents most cases recognized by the UNHRC to be passed onto the

⁷⁹ Bernhard Warner, "Tech Companies Are Deleting Evidence of War Crimes," The Atlantic (Atlantic Media Company, May 9, 2019), <https://www.theatlantic.com/ideas/archive/2019/05/facebook-algorithms-are-making-it-harder/588931/>.

⁸⁰ Gabby Deutch, "Social Media Has Become a Global Battlefield," The Atlantic (Atlantic Media Company, October 3, 2018), <https://www.theatlantic.com/international/archive/2018/10/social-media-battlefield-internet/571960/>.

⁸¹ Alyssa K. Prorok and Paul K. Huth, "The Conduct and Consequences of War," Oxford Research Encyclopedia of International Studies, March 1, 2010, <https://oxfordre.com/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-72>.

⁸² Adam Day, Vanda Felbab-Brown, and Fanar Haddad, "Hybrid Conflict, Hybrid Peace: How Militias and Paramilitary Groups Shape Post-Conflict Transitions," United Nations University Centre for Policy Research, April 14, 2020, <https://cpr.unu.edu/hybrid-conflict.html>.

⁸³ "ICC Prosecutor and UN High Commissioner for Human Rights Pledge to Further Strengthen Collaboration," International Criminal Court, October 17, 2014, <https://www.icc-cpi.int/Pages/item.aspx?name=pr1051>.

courts for prosecution. While it is up to these two organizations to discuss how to strengthen their collaboration, this should be done in a way where no organization loses their power or influence, but rather complements it. The UNHRC has more influence around the world to call out and denounce human rights violations, whereas the ICC has more power to punish perpetrators of human rights violations. In a way, the UNHRC is more concerned with the victims of human rights violations, while the ICC is more concerned with the perpetrators. By collaborating, they may amplify their power and influence.

Reallocating Military Spending

Table 3 shows the top ten countries with the largest military spending in the world, in US dollars. These are large sums of money which can be directed towards more sustainable missions. Providing quality healthcare, education, infrastructure and sustainability are far nobler missions than stocking a surplus of chemical, nuclear and atomic bombs and firepower ready for conflict. Although it is undeniable that a country needs to have a strong protective force, there is a need for countries to reevaluate the level of funds they direct towards protection.

Furthermore, although land disputes are present today, most armed conflicts stem from socioeconomic and political unrest that lead to the overthrow of a government or a call to catalyze change. If countries who are low risk to get into potential belligerent conflicts were to allocate their military budgets into ensuring societal wellbeing, then the chances of internal conflicts and civil wars may be greatly reduced.

Table 3. Top Ten Countries with the Largest Total Annual Military Spending in 2019⁸⁴

Country	Total Annual Military Spending (in US dollars)	Total Annual Military Spending (in billion US dollars)
United States	732,000,000,000	732
China	261,000,000,000	261
India	71,100,000,000	71.1
Russia	65,100,000,000	65.1
Saudi Arabia	61,900,000,000	61.9
France	50,100,000,000	50.1
Germany	49,300,000,000	49.3
United Kingdom	48,700,000,000	48.7
Japan	47,600,000,000	47.6
South Korea	43,900,000,000	43.9

Legislation to Control Paramilitary and Militia involvement in armed conflict

When dealing with internal conflicts, forces like paramilitaries and militias have long played pivotal roles in aiding governments to suppress rebel forces and control territory. States may “turn to pro government paramilitaries or militia to outsource the ‘dirty work’ of war while maintaining plausible deniability for human rights violations” that could go either way: soldiers could be committing them or being victim to them.⁸⁵

Due to the “dirty work” being left to paramilitary and militia soldiers as counter- insurgents especially in internal conflicts, research shows that their role can intensify and extend the length of conflicts. As these soldiers are hired to work on the more underground and violent sides of conflict, they are more exposed to be prosecuted for human rights violations than the governments or parties

⁸⁴ Published by Erin Duffin and May 11, “Ranking: Military Spending by Country 2019,” Statista, May 11, 2020, <https://www.statista.com/statistics/262742/countries-with-the-highest-military-spending/>.

⁸⁵ Ibid.

that paid them to do so, hiding larger sources of corruption. A solution would be to control their involvement in armed conflict using legislation. If armed forces want to use paramilitaries, these should be listed under a belligerent agent as a whole. This will ensure paramilitary soldiers are not the only ones legally responsible for orders to commit human rights violations. This will also help grant them POW status and prevent them from being victim to human rights violations.

Bloc Positions

Asia

Three Asian countries (North Korea, Vietnam and South Korea) have the top three largest paramilitary forces on Earth. For two of these three (North Korea and Vietnam), their paramilitary forces outnumber their actual military and reserve forces. In this continent, pro-government and state sponsored militia and paramilitary forces are common, as they are mostly viewed as reserves in the case of war.

Africa ⁸⁶

Paramilitary and militia forces are not strangers to African armed conflicts. This is because historians and political analysts have observed that “intra state conflicts in Africa tend to be messier” than other conflicts in the world.⁸⁷ This is because they are rarely between two parties but tend to involve a mix of guerrillas, private military companies, warlords, militias, and commercial enterprises, among others.⁸⁸ Due to the diversity of combatants and parties involved, African internal and intercontinental conflicts are often more complex and layered. Paramilitaries and militia are quite common in Africa and are very active in belligerent conflicts. With several paramilitary and militia groups in one country, conflicts are sometimes extended as a result of different ideologies and standards of combatants.

Europe

Although militias and the use of paramilitaries (unless they are part of the country’s armed forces or royal families’ guards) have been scarce and almost nonexistent in the 21st century, there was recently an insurgence of militias in central Europe. The Czech Republic, Slovenia, and Slovakia had an uprising in xenophobic anti-migrant militias that terrorized the streets in order to push the

⁸⁶ Image from: Bjørn Møller, “THE ROLE OF MILITIAS AND OTHER PARAMILITARIES IN AFRICAN (UN)CIVIL WARS,” Danish Institute for International Studies, 2006, <https://www.econstor.eu/bitstream/10419/84526/1/DIIS2006-23.pdf>.

⁸⁷ Bjørn Møller, “THE ROLE OF MILITIAS AND OTHER PARAMILITARIES IN AFRICAN (UN)CIVIL WARS,” Danish Institute for International Studies, 2006, <https://www.econstor.eu/bitstream/10419/84526/1/DIIS2006-23.pdf>.

⁸⁸ Ibid.

government to have stricter immigration policies. These were funded by far-right nationalist movements. Political militias in Central Europe were denounced by the Prime Minister of Slovenia and labeled as groups that spread hate. Other than political militias formed out of xenophobia, Europe is not notorious for an abundance of unofficial armed forces.

North America

In the United States, militias and paramilitary groups are legal organizations under constitutional and statute law. Paramilitary organizations are a pivotal instrument in American covert operations. The Special Activities Center is a division of the Central Intelligence Agency (CIA) responsible for covert operations carried out by paramilitary forces. Paramilitary forces are tasked with carrying out clandestine and covert operations by the United States because the US can claim plausible deniability if any human rights violations are taking place or if the operation becomes compromised. This, due to legislative and political loopholes, is technically legal. On the other hand, the Special Weapons and Tactics team is a specialized paramilitary which deals with situations where the police cannot manage on their own, but the military is not needed.



Militia organizations in the US are more common and even more obscure. These groups claim they are protected by the US Constitution's Second Amendment which reads, "'A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.'"⁸⁹ This is followed by the 276 militia groups in the US. Although these groups do not have military authority, this amendment's interpretation has allowed them to at least be legal. It is common for militias in the US to be extremist political organizations: either far-left or far-right, but most frequently, far-right.

The Caribbean and Central and South America

Paramilitary forces in Central and South America have been historically used for a similar purpose that of the United States' paramilitaries: covert operations and suppression of opposition. In a post-Cold War world, these regions have been steering away from paramilitary forces, as these are synonyms to parapolice forces created during authoritarian regimes to incite terror and force compliance. Examples include Argentina's Triple A (Argentine Anticommunist Alliance) and Chile's DINA (National Intelligence Directorate).

In Central and Latin America's 20th and 21st century war history, militias have been constant protagonists and antagonists. In Revolutionary history, Cuba's M-16-7 militia, led by Fidel Castro, allowed the Castro dynasty to maintain power in Cuba for over 70 years. In Colombia, the FARC was the biggest rebel group for nearly four decades, serving as a source of opposition and terror for the Colombian government. Historically, militias have a lot of influence and belligerent power in these regions. Primarily, they aim to fight different sources of oppression.

There are also the militia forces of drug cartels. Most notably, in Colombia and Mexico, mercenaries are hired in order to have an armed force to protect their *plazas* or territories. These have triggered a lot of violence that have turned the streets into battlefields.

⁸⁹ "Second Amendment," Legal Information Institute (Legal Information Institute), accessed August 16, 2020, https://www.law.cornell.edu/wex/second_amendment.

Glossary

Appeasement: political diplomatic practice and policy to give concessions with the goal of avoiding belligerent or further conflict.

Law of War, or International Humanitarian Law (IHL): “a set of rules that seek to limit the effects of armed conflict. It protects people who are not or are no longer participating in hostilities and restricts the means and methods of warfare.”⁹⁰

Military: composed of the official armed forces of a country. A military is funded, sponsored, controlled, and held accountable by a national government. The purpose of a military is to defend a country against external threats; only under extreme circumstances and/or situations of emergency the military are given actionable authority within a nations’ borders.

Non-State Actor: either organizations or individuals that “are not affiliated with, directed by, or funded through the government”.⁹¹ These include multinational corporations (MCNs), non governmental organizations (NGOs), international media conglomerates, religious groups, violent groups (within them militia and sometimes paramilitaries) and any large group of people or individuals with worldly influence. Despite these being independent from any government and governmental body, they hold significant influence within international affairs.

Paramilitary: a militarized police force or armed force that is not part of a country’s official armed forces or military.⁹² While they may have organizational structures, tactics, functions, missions and training similar to a country’s military, they are not officially part of a country’s armed forces. Often a paramilitary has authority within and outside a country’s borders.⁹³ They often serve as enhanced

⁹⁰ “War & Law,” International Committee of the Red Cross, January 31, 2020, <https://www.icrc.org/en/war-and-law>.

⁹¹ “Non-State Actors,” ESCR, accessed June 3, 2020, <https://www.eschr-net.org/resources/non-state-actors>.

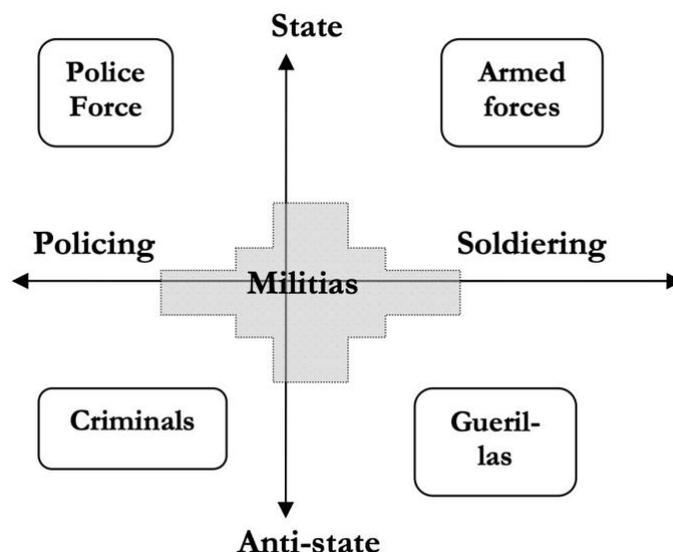
⁹² “Paramilitary,” Merriam-Webster (Merriam-Webster), accessed June 1, 2020, <https://www.merriam-webster.com/dictionary/paramilitary>.

⁹³ Tobias Böhmelt and Govinda Clayton, “Auxiliary Force Structure: Paramilitary Forces and Progovernment Militias - Tobias Böhmelt, Govinda Clayton, 2018,” SAGE Journals, March 28, 2017, <https://journals.sagepub.com/doi/full/10.1177/0010414017699204>.

police forces that defend the country from both external and internal threats. A militia can be public or private.⁹⁴

Private Militia: funded from a private source, making their soldiers often mercenaries. Regardless, these still operate independent from a government.⁹⁵

Public Militia: composed by volunteer citizens, so they are self funded and self organized. This makes them completely independent and are held accountable by civilian law, not law of war. Often they act within a country's borders.



State Actor: a national government and/or bodies, agencies or forces that represent a national government. Either way, state actors officially work on behalf of a government or a governmental body.

The International Committee of the Red Cross (ICRC)– Humanitarian institute based in Geneva founded by Henry Dunaunt in 1863. Advocates of the Geneva Conventions and international humanitarian law.

⁹⁴ Ibid.

⁹⁵ Bjørn Møller, "THE ROLE OF MILITIAS AND OTHER PARAMILITARIES IN AFRICAN (UN)CIVIL WARS," Danish Institute for International Studies, 2006, <https://www.econstor.eu/bitstream/10419/84526/1/DIIS2006-23.pdf>.

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TOPIC B: MODERN SLAVERY IN A GLOBALIZED WORLD

Statement of the Problem

Slavery is a system in which the laws of private property and property are extended to human beings. This allows slaves in this system to be owned, sold and bought by other human beings. The modern definition of slavery includes “any time a person has been recruited, transported or compelled to work by force, fraud or coercion”.⁹⁶ Victims of slavery do not “have the means to leave of their own will”.⁹⁷ The system tends to occur more frequently prevalent in labor-intensive and low-skilled industries.⁹⁸

Over the past two centuries, slavery was indeed abolished. All of the General Assembly ratified the Universal Declaration of Human Rights, and Article 4 clearly reads, “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”⁹⁹ Yet, in over half of the countries of the world, slavery has not been criminalized, which has opened the doors for the mass systematic oppression and exploitation of men, women and children all around the globe. Today, in 94 countries, slavery is still not criminalized (Image 1).¹⁰⁰ Today, human trafficking and the consequential modern slavery is a 150-billion-dollar enterprise.¹⁰¹

⁹⁶ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ “Universal Declaration of Human Rights,” United Nations (United Nations), accessed August 14, 2020, <https://www.un.org/en/universal-declaration-human-rights/>.

¹⁰⁰ Katarina Schwarz Rights Lab Associate Director and Assistant Professor, Jean Allain Professor of International Law, and Andrea Nicholson Rights Lab Research Fellow in Survivor Voices, “Slavery Is Not a Crime in Almost Half the Countries of the World – New Research,” The Conversation, July 7, 2020, <https://theconversation.com/slavery-is-not-a-crime-in-almost-half-the-countries-of-the-world-new-research-115596>.

¹⁰¹ Kate Hodal, “One in 200 People Is a Slave. Why?,” The Guardian (Guardian News and Media), February 25, 2019, <https://www.theguardian.com/news/2019/feb/25/modern-slavery-trafficking-persons-one-in-200>.



Image 1. Map Countries Where Slavery is Criminalized or Not

Estimates find that around 40 to 40.3 million people are currently enslaved worldwide.¹⁰² Image 2 (below) shows the continental distribution of contemporary enslavement worldwide.

Experts estimate that, between the 15th and 19th century, around 13 million people were captured and enslaved.¹⁰³ This means that today, when slavery is more widely condemned and “abolished”, there are three times more enslaved humans than when it was actually legal. There are seven major areas of modern slavery: sex trafficking, child sex trafficking, forced labor, forced child labor, bonded labor and debt bondage, domestic servitude, and child soldiers.

Sex Trafficking

This is defined as “when an adult engages in a commercial sex act, such as prostitution, as the result of force, threats of force, fraud, coercion or any combination of such means, that person is a victim of trafficking”.¹⁰⁴ Overall, sex trafficking involves forcing people to perform nonconsensual,

¹⁰² “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹⁰³ Kate Hodal, “One in 200 People Is a Slave. Why?,” *The Guardian* (Guardian News and Media, February 25, 2019), <https://www.theguardian.com/news/2019/feb/25/modern-slavery-trafficking-persons-one-in-200>.

¹⁰⁴ “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

commercial sex acts.¹⁰⁵ Under these circumstances, the “perpetrators involved in recruiting, harboring, inciting, transporting, providing, obtaining, patronizing, soliciting, or maintaining a person for that purpose are guilty of sex trafficking of an adult”.¹⁰⁶ Furthermore, sex trafficking includes instances where one is forced to continue in prostitution due to an unlawful “debt”.¹⁰⁷ It is important to note that even if an adult initially consents to prostitution, this becomes human trafficking if the adult is psychologically or physically forced to continue.

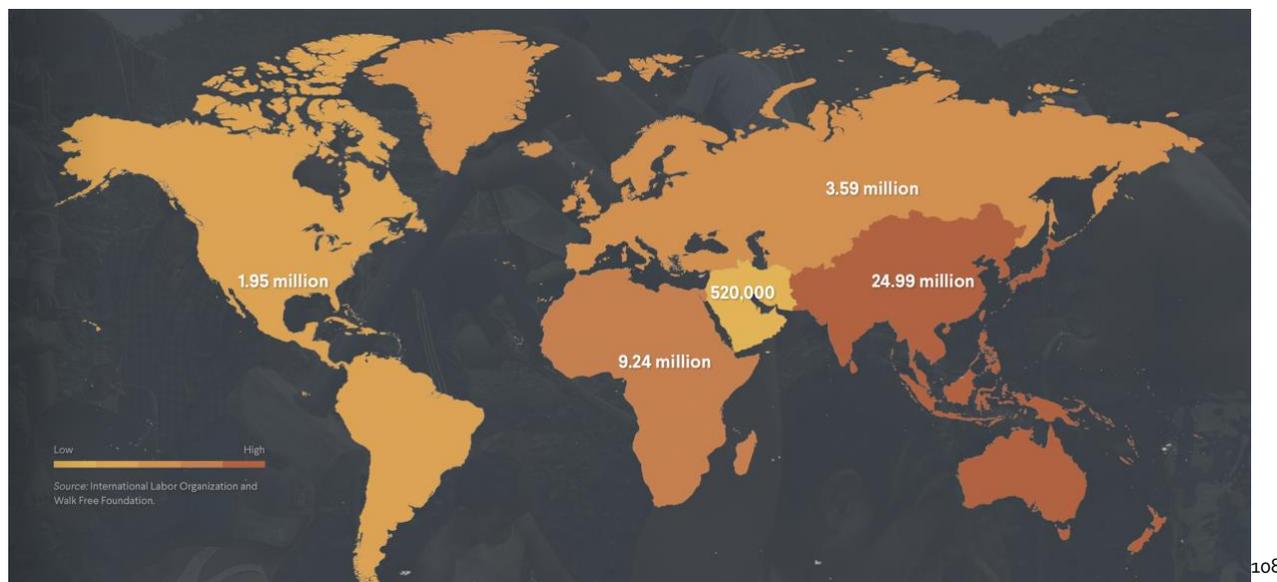


Image 2. Worldwide map of Continental Modern Slavery Distribution per 2019

Forced marriages are included under sex trafficking. A forced marriage is a “union to which one or both parties did not consent and that cannot be left freely”.¹⁰⁹ These arrangements usually involve

¹⁰⁵ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Image from: “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹⁰⁹ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

“forced labor, sexual exploitation, or domestic servitude”. Around 88% of the victims are women and girls,¹¹⁰ and about 15.4 million people in the world are trapped in a forced marriage.¹¹¹

Child Sex Trafficking

Similarly, “when a child (under 18 years of age is recruited, enticed, harbored, transported, provided, obtained, patronized, solicited, or maintained to perform a commercial sex act, proving force, fraud, or coercion is not necessary for the offense to be prosecuted as human trafficking”.¹¹² This rule comes with no cultural or socioeconomic-related exceptions.¹¹³ Sex trafficking can result in short and long-term physical and psychological trauma, as well as diseases such as HIV/AIDS, drug addiction, malnutrition and even death. Children are also victims of forced marriages, particularly girls. Girls are often forced into marriages through cultural practices or monetary exchanges.¹¹⁴

Forced Labor

Forced labor or labor trafficking “encompasses the range of activities—recruiting, harboring, transporting, providing, or obtaining—involved when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work”.¹¹⁵ It is irrelevant if a person initially consents to do work once that person is exploited and coerced into doing further work: then the employer-employee relationship evolves into human trafficking. Migrants are especially at risk of being forced into labor, but individuals also may be enslaved through labor in their own nations. Around 24.9 million people are now enslaved in some type of forced labor.¹¹⁶

¹¹⁰ Ibid.

¹¹¹ “Highlights: Global Slavery Index,” Highlights | Global Slavery Index, accessed August 17, 2020, <https://www.globallslaveryindex.org/2018/findings/highlights/>.

¹¹² “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

¹¹³ Ibid.

¹¹⁴ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹¹⁵ “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

¹¹⁶ “Highlights: Global Slavery Index,” Highlights | Global Slavery Index, accessed August 17, 2020, <https://www.globallslaveryindex.org/2018/findings/highlights/>.

Forced Child Labor

Children can also be found in “slavery and slavery-like situations”, even when countries allow children to work under specific labor regulations. One example of this would be forced begging, where the child may be in the custody of a non-family member and they forcibly partake in this activity to financially provide for that person.¹¹⁷

Bonded Labor and Debt Bondage

Bonded labor is when people exchange their own labor to compensate for an unpaid debt.¹¹⁸

Although bonded labor or debt bondage may resemble a standard labor contract, the laborer can rarely repay the debt through the labor.¹¹⁹ This type of labor is done under severe coercion.

Sometimes the initial debt is exploited even if the debt was assumed unwittingly or wittingly, and the debt is the single most important term of employment. Usually, these workers work with little to no pay under inhumane conditions until the debt is repaid with interests. However, it is common for the debt to be extremely difficult, if not impossible to be repaid. The cycle of bonded labor usually begins when a landlord is requested for a loan to cover expenses incurred by weddings, funerals, or illnesses.¹²⁰ Then, whoever provides the loan then strongarms “laborers or threatens to take away the family’s shelter to extract more work than the value of the original loan”. As a result, this family’s debt is passed down over many generations. Common hubs of debt bondage are places where manual labor occurs, rice mills, embroidery factories, and farms.¹²¹

Bonded labor is the most common form of modern slavery across South Asia and India. In South Asia, millions of trafficking victims are reportedly in debt bondage from their ancestors’ debt.¹²²

Although India is the seventh largest economy, it comprises a third of the world’s poor; more than 224 million people live on less than \$1.90 USD per day. Slavery is common because, even if India

¹¹⁷ “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

¹¹⁸ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

abolished its systems of bonded labor and caste, social stratification is predominant.¹²³ This system especially harms Dalits, who are at the bottom of the Hindu caste system, as well as religious minorities.¹²⁴

Domestic Servitude

Domestic servitude is a type of human trafficking that takes place in a private residence, where domestic workers may face low or no pay, in addition to abuse, with no option of leaving.¹²⁵ These workers do not receive basic benefits or enough to fulfill basic human needs. Their ability to move freely is restricted, and by working in a private residence, they become more isolated and vulnerable. A major issue is that labor officials can only inspect private homes if the owner/s consent to it, and they have no authority over that. As a result, domestic workers - who are largely female - tend to face abuse, harassment, and sexual violence.

Child Soldiers

Although child soldiers are under the category of child laborers, this subcategory is important to highlight. Child soldiering is a type of “human trafficking when it involves the unlawful recruitment or use of children—through force, fraud, or coercion—by armed forces as combatants or other forms of labor”.¹²⁶ The perpetrators can be government armed forces, militaries, paramilitaries, and militias. Children are forcibly recruited or abducted to serve various roles in a conflict, including combatants, guards, cooks, and spies. Male and female child soldiers often face sexual abuse, with similar physical and psychological impacts as child sex trafficking.¹²⁷

¹²³ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

¹²⁷ Ibid.

History of the Problem

Slavery in the Ancient World

Although it is hard to pinpoint exactly when slavery began, there are some historical records that help to establish the time period when it was first practiced. Slavery was not part of the hunter-gatherer societies, as there is no record that shows the practice of it, and it does not match their sociological profile.¹²⁸ The first record and evidence of slavery is in the Code of Hammurabi from Mesopotamia, one of the first established functioning societies.¹²⁹

Slavery was also a widely accepted practice in Ancient Greece around 550 BC. During that period of time, more than 80,000 people were enslaved. This means that around one third of the population of ancient Athens was enslaved. They were exploited for agricultural, domestic and mining purposes. Slavery was not an institution in ancient Greece based on race; slaves were often inhabitants of territories annexed by the Greeks or people sold for debts or as payment. West of Greece, ancient Rome also preferred exploiting people through slavery (120 AD) as Roman military campaigns used to capture slaves by the thousands to build their empire and military.

The Trans-Atlantic Slave Trade (1455-1775)

African and European populations “had been trading goods and people across the Mediterranean for centuries” as “enslaved people were seen not as people at all but as commodities to be bought, sold and exploited”.¹³⁰ The trans-Atlantic slave trade introduced a commercialized system of slavery in the 15th century that was racialized and inherited.¹³¹ African people and the people of African descent, free and enslaved were present in North and Central America as early as in the 1500s, but the sale of the “20 and odd’ African people set the course for for what would become slavery in the

¹²⁸ “The History of Slavery,” Restavek Freedom, January 29, 2019, <https://restavekfreedom.org/2018/09/11/the-history-of-slavery/>.

¹²⁹ Ibid.

¹³⁰ Mary Elliott and Jazmine Hughes, “A Brief History of Slavery That You Didn’t Learn in School,” The New York Times (The New York Times, August 19, 2019), <https://www.nytimes.com/interactive/2019/08/19/magazine/history-slavery-smithsonian.html>.

¹³¹ Ibid.

United States” and in the Americas.¹³² The 20 and odd were 20 men from Africa brought to Jamestown, VA .

During the 15th century, “the Roman Catholic Church divided the world in half, granting Portugal a monopoly on trade in West Africa and Spain the right to colonize the New World in its quest for land and gold”.¹³³ In Portugal, “Pope Nicholas V buoyed Portuguese efforts and issued the Romanus Pontifex of 1455, which affirmed Portugal’s exclusive rights to territories it claimed along the West African coast”, and made them believe they had the right to enslave the people living there.¹³⁴ For Spain, Queen Isabella trusted that Christopher Columbus’s exploration would increase Spanish wealth and prominence.



Spain refused to enslave the Native Americans because the monarchy claimed they were Spanish subjects. However, they established an *asiento*, which was a contract that authorized “the direct

¹³² Ibid.

¹³³ Ibid.

¹³⁴ Ibid.

shipment of captive Africans for trade as human commodities in the Spanish colonies in the Americas".¹³⁵ Soon, the Netherlands, France, Denmark, and England all joined Spain and Portugal in this European-endorsed system of slavery based on race.¹³⁶

This resulted in the largest forced migration in the world and history: 12.5 million of African/ of African descent men, women and children were displaced, exploited and forced into the trans-Atlantic slave trade. The foundation of the Americas was on the sale of humans and the product of their labor.

The Abolition of Slavery in Colonies (1700-1910)¹³⁷

In Europe the earliest abolition came by Holy Roman Emperor Joseph II as he abolished serfdom in Austrian Habsburg territories. Britain then followed with the founding of The Society for the Abolition of the Slave Trade in 1787. This was met with the Parliament's executive decision to make it illegal for British ships to transport slaves and for British colonies to import them. The 1834 Abolition Act abolished slavery all throughout the British Empire and its colonies throughout the world; this resulted in the emancipation of all slaves and included a \$100 million of USD (in today's value) worth of compensation for slave owners and their losses. In 1845, the British Navy assigned 36 ships to its Anti Slavery Squadron, in charge of dismantling slavery systems (by 1867 it liberated 160,000 slaves). During the French Revolution, in 1789, the national assembly adopted the Declaration of the Rights of Man, which claimed that men are free and equal. In 1848, France abolished slavery in all French colonies.

In 1803, Denmark–Norway became the first in Europe to ban the African slave trade and forbid trading slaves, ending the importation of slaves into their territory. Sweden, in 1813, followed suit. While the king of the Netherlands terminated Dutch involvement in the African Slave trade in 1814, the government only took official action in 1863, to abolish slavery in all Dutch territories and colonies. Similarly in Spain, the slave trade was abolished in 1820, yet Spain kept people enslaved in Cuba until 1888. In Russia, Alexander II in 1861 emancipated around 50 million serfs. In 1906, the

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ All information in this section from "Slavery in History " Free the Slaves," Free the Slaves, accessed September 7, 2020, <https://www.freetheslaves.net/about-slavery/slavery-in-history/>.

Congo Reform Association - after years of anti-slavery activism - finally stopped the brutal enslavement of the Congo Free State carried out by Belgium.

Hiccups to Abolition

Notorious state sponsored slave activity in the 20th century continued long after the abolition age. From 1939 to 1945, the German Nazi government used slave labor in the farming and industry sectors. Furthermore, estimates show that up to nine million people were subjected to forced slave labor in concentration camps.¹³⁸ During the Cold War, there was an evaluation of the word slavery. The Soviet bloc argued that “slavery can only exist in capitalistic societies while the Western bloc argued that all people living under communism are slaves”. While this international conflict and debate ensued, a new wave of slavery was developed in the modern world. In 1954, China passed a State Regulation on Reform through Labor, which allowed prisoners to be used for labor in the laogai prison camps. This was modeled after the United States’ Thirteenth Amendment, which will be discussed in a later section.

International Organizations’ Role in the Abolition of Modern Slavery

In 1910, the first International Convention for the Suppression of the White Slave Trade was signed in Paris, which called for the punishment of anyone who recruits a woman or a girl into prostitution, even if she consents. The International Labor Organization (ILO) was founded almost a decade later in Geneva to establish global labor standards concerning issues like child labor, union rights, and pay.¹³⁹ In 1926, the League of Nations approved the Slavery Convention, which defined slavery as “status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”.¹⁴⁰ Then, in 1948, the Universal Declaration of Human Rights was created to heavily condemn and ban slavery. The UN General Assembly later adopted the International Convention on the Suppression and Punishment of the Crime of Apartheid, which “outlaws a number of inhuman

¹³⁸ “Slavery in History ” Free the Slaves,” Free the Slaves, accessed September 7, 2020, <https://www.freetheslaves.net/about-slavery/slavery-in-history/>.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

acts, including forced labor, committed for the purposes of establishing and maintaining domination by one racial group over another.¹⁴¹

The UN Working Group on Contemporary Forms of Slavery was established in 1975 to gather information and find ways to end slavery around the world. From 1989 to 1999, significant advances were made in order to condemn child labor, from the UN Convention on the Rights of the Child to the US Government's Model Business Principles, which promotes the access of basic healthcare and education for children.¹⁴² It also denounces child labor and exploitation. In 1999, the first global analysis on modern slavery was conducted in relation to its effect on the global economy, which estimated that at the time 27 million people lived in slavery.

The United States and Slavery

The Declaration of Independence

The Declaration of Independence (1776) which helped establish the United States begins, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Paradoxically, the same colonists who declared freedom from the British continued to enslave people, demonstrating that the Declaration of Independence was not intended to apply to every person, regardless of color. Nonetheless, the United States preached that freedom, equality, and liberty were above all in their values.

¹⁴¹ Ibid.

¹⁴² Ibid.

The Emancipation Proclamation and the Thirteenth Amendment

Halfway through the 19th century, America became divided over the institution of slavery, which led to a Civil War.¹⁴³ The Union's victory freed most of the slaves, but the slavery's legacy and racism continues to impact the United States to this day.¹⁴⁴

The Thirteenth Amendment of 1865 abolished slavery, reading, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."¹⁴⁵ The 13th amendment served as a constitutional basis for the abolition of slavery, unless it is used as a punishment for crime. The Emancipation Proclamation and the 13th amendment served as the legal dismantling of the system of slavery in the United States. Nonetheless, this was not the end of slavery in the United States, as 400,000 people are currently enslaved either through state prison labor (as per the loophole of the Thirteenth Amendment) or other forms of modern slavery.

¹⁴³ History.com Editors, "Slavery in America," History.com (A&E Television Networks, November 12, 2009), <https://www.history.com/topics/black-history/slavery>.

¹⁴⁴ Ibid.

¹⁴⁵ "13th Amendment to the U.S. Constitution: Abolition of Slavery," National Archives and Records Administration (National Archives and Records Administration), accessed August 31, 2020, <https://www.archives.gov/historical-docs/13th-amendment>.

Past Actions

Palermo Protocols– Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000)

The “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” was adopted and opened for signature, ratification and accession by the General Assembly on November 15, 2000.¹⁴⁶ In 20 articles, the United Nations Human Rights Commission outlines ways to abolish modern slavery. As Article 2 outlines, “the purposes of this protocol are to:

- a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- c) To promote cooperation among States Parties in order to meet those objects.”¹⁴⁷

Articles 1 to 5 establish the General Provisions: cooperation with the Transnational Organized Crime Convention, adoption of the purpose of the protocol, establishment and adoption of key definitions, scope of application of the protocol, and the criminalization of human trafficking. Articles 6 to 8 outline the protection of trafficking victims and their repatriation. Articles 9 to 13 address additional measures of protection: overall prevention, information exchange and training, border measures, and security & control and legitimacy & validity of documents. Finally, Articles 14 to 20 outline the final provisions, which include: denunciation, amendment, settlement of disputes and signature of the protocol.

It is called the Palermo Protocols, as it was open for signature in Palermo, Italy during December of 2000. 117 countries are signatories and 178 are party to these Protocols.¹⁴⁸ However, like every

¹⁴⁶ “Protocol to Prevent, Suppress and Punish Trafficking in Persons,” OHCHR, accessed September 6, 2020, <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>.

¹⁴⁷ Ibid.

¹⁴⁸ “UN, United Nations, UN Treaties, Treaties,” United Nations (United Nations), accessed September 6, 2020, <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY>.

protocol and resolution passed, there is a list of every reservation and declaration made to be exempt from certain articles. Furthermore, these protocols only serve as a recommendation.

Trafficking Victims Protection Act (United States, 2000)

The Trafficking Victims Protection Act (TVPA) was first enacted in 2000. It serves as the United States' framework for the federal government's response to human trafficking.¹⁴⁹ The law has been updated numerous times, most recently in January of 2019. The TVPA is founded on three main strategies: prevention, prosecution, and protection.¹⁵⁰

Essentially, this Act has established certain minimum global standards for prohibiting human trafficking. As a result, yearly countries are put into Tier 1, Tier 2, and Tier 3 depending on whether they meet the TVPA minimum standards. Tier 1 countries include Chile, Georgia, France, Israel, and South Korea, to name a few. Tier 2 countries include governments which attempt to but are not meeting the standards,¹⁵¹ including El Salvador, Liberia, Moldova, and Turkey. Tier 3 countries are not putting forth significant efforts to meet the standards, including the countries of Afghanistan, Algeria, Nicaragua, Papua New Guinea, Russia, and Venezuela.¹⁵²

¹⁴⁹ "Policy & Legislation," Polaris, January 14, 2020, <https://polarisproject.org/policy-and-legislation/>.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

Possible Solutions

Modern Abolition through Criminalization and Prosecution of Modern Slavery

Research has found that “less than 5% of the 175 that have undertaken legally binding obligations to criminalize human trafficking have fully aligned their national law with the international definition of trafficking” or modern slavery. This has led to a narrow interpretation of trafficking which does not fully criminalize slavery. Some examples of this are:

- Some states only criminalize child trafficking but not adult human trafficking.
- Some states only criminalize child and women trafficking but not human trafficking as a whole.
- 121 states have not recognized that coercive methods need not be used for child trafficking to have taken place.
- 31 “states do not criminalize all relevant acts associated with trafficking, and 86 do not capture the full range of coercive means”¹⁵³.
- Often states focus only on suppressing human trafficking for the purposes of sexual exploitation, and ignore human trafficking for the purposes of forced labor and slavery.

Although the fifth article of the Palermo Protocols aims to criminalize human trafficking and the modern slavery that is birthed through the practice, the protocol does not force any state to adhere to any definitions or practices to prevent nor punish slavery. First, states should adopt and recognize definitions of imperative terms such as human trafficking and definitions of all the types of modern slavery. These definitions should serve as a foundation to recognize and then punish perpetrators who practice the enslavement of men, women, and children. They need to be broad enough to serve

¹⁵³ Katarina Schwarz Rights Lab Associate Director and Assistant Professor, Jean Allain Professor of International Law, and Andrea Nicholson Rights Lab Research Fellow in Survivor Voices, “Slavery Is Not a Crime in Almost Half the Countries of the World – New Research,” The Conversation, July 7, 2020, <https://theconversation.com/slavery-is-not-a-crime-in-almost-half-the-countries-of-the-world-new-research-115596>.

as umbrellas that encompass human trafficking and modern slavery in all of their forms, as slavery does not always look the same.

As a next step, states should create legislation that bans and punishes perpetrators, accomplices, and agents of modern slavery. Without legislation to hold these perpetrators accountable, the law continues to turn a blind eye on the exploitation of millions of humans. Strict laws should be established to not only punish modern slavery, but to prevent it from occurring in the future.

Additionally, establishing strict legislation is the only way countries can bring justice to trafficking and modern slavery victims, while also protecting vulnerable populations. Even when countries do have in place laws to protect their citizens from human trafficking, the enforcement of those laws is incredibly weak.¹⁵⁴ Prosecutions of perpetrators of human trafficking and slavery are rare; convictions are even rarer. This is often because underground networks of trafficking are excellent at evading authorities, and middlemen and minor agents are usually the ones caught by law enforcement. These minor agents are unlikely to talk and can usually easily be replaced.

Governments could better train law enforcement, emergency room nurses, and family services providers, to ensure that the people most likely to observe slavery occurring will be equipped to notice it and take action.¹⁵⁵ That way, police officers are not the only ones responsible to uncover the underground illicit operations of traffickers. In terms of alternative legal routes, strategic litigation seems to be the best option to prosecute modern slavery. As coined by Amnesty International, strategic litigation works “to support victims of human rights violations and human rights defenders, and to achieve systemic change”; in human rights, “litigation is ‘strategic’ when it is consciously designed to advance the clarification, respect, protection and fulfillment of human rights”.¹⁵⁶ These civil suits brought by human rights litigators, human rights organizations, and private law firms (as

¹⁵⁴ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹⁵⁵ *Ibid.*

¹⁵⁶ “Strategic Litigation Enables Us to Advocate for Human Rights for All.,” Amnesty International, accessed September 6, 2020, <https://www.amnesty.org/en/strategic-litigation/>.

opposed to being brought by the state) seek to punish those who profit from and are perpetrators of slave labor, while providing monetary compensation to survivors.¹⁵⁷

Even if private human rights organizations are working with this approach, governments should still partake in this effort and keep pushing to legislate and criminalize all types of slavery. Experts claim that “steady prosecutions deter would-be traffickers and brokers by making it more costly to buy and sell people and their labor,” which causes their profit margins to decline and their illicit practices to result in steep fines and long-term prison sentences. Annick Febrey of Human Rights First (a US based human rights organization) claims “Failing to reverse the risk-reward for all enablers within the network of human trafficking will leave us struggling to slow this growing illicit industry”.¹⁵⁸

Promote and Enforce Transparency in Supply Chains and Ethical Business Practices

Although governments can do a great deal with aiding in the legislation and prosecution of modern slavery, in a globalized world where multinational corporations (MNCs) are major non state agents, MNCs must work towards the goal of abolishing modern slavery too. Governments also need to keep MNCs in check in order for them not to turn to illicit forms of labor in their supply chains. Forced labor is cheap, so MNCs might be tempted to go to countries with little regulation for it, to generate wider profit margins. Multinational corporations in the textile clothing industry, food, and electronics have a responsibility to ensure that their supply chains do not use forced labor in any form. The larger an MNC, the more complex supply chains and chains of command become, so it is harder to pinpoint the perpetrators of modern slavery.

Thus, transparency is key in preventing modern slavery. Transparency can be enforced through legislation, by creating laws that require businesses to make their supply chains and business practices public. However, businesses must ultimately report this and abide by ethical business practices, prioritizing that over the potential profit of using forced labor. Businesses with complex international supply chains should launch projects with their supply chains to eliminate forced labor and improve working conditions themselves. There are multiple NGOs like the Walk Free

¹⁵⁷ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹⁵⁸ Ibid.

Foundation, KnowTheChain and the International Trade Union Confederation that assist businesses in this endeavor to study their supply chains.¹⁵⁹ Promoting transparency alongside ethical sourcing and labor recruitment are key in ethical business practice. They will help make significant strides towards ending modern slavery in the workplace.

Spread Awareness on the Issue of Modern Slavery and Ways to Identify It to Protect Vulnerable Populations

Both the prevention of modern slavery and the rescuing of current victims can be done through education on the issue. By teaching on the many different forms of modern slavery, awareness will be raised that slavery is not something that only exists in history books. As slavery is a systematic institution, it has to be dismantled systematically. The government, enterprises, and NGOs all have major roles and responsibilities to abolish this system, but regular citizens can aid this process too by educating themselves and reporting any suspicion of this illicit practices going on. Education can help regular citizens identify practices of modern slavery and help vulnerable populations to not fall victim to modern slavery or human trafficking rings. Awareness goes both ways, preventing and protecting.

In practice, education on modern slavery can take many forms. Publicity and social media campaigns of modern slavery can reach billions of people. Textbooks and school resources can be reformed to include disclaimers about slavery being not only a practice of the past. Education is vital in denouncing and dismantling sources of modern slavery.¹⁶⁰

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

Bloc Positions

The Americas

Overall, the Americas have a lower amount of modern slavery compared to other regions, with around 1.95 million people enslaved. The Americas have some of the strongest responses against modern slavery and human trafficking, but more work must be done until 1.95 million drops to 0.¹⁶¹ The Americas' measures involve strict legislature, promotion of human rights and measures of prevention, and protection of vulnerable populations.

However, research has shown that in the United States alone, 400,000 people live in modern slavery.¹⁶² This makes them the country with the most prevalence of modern slavery in the continent, but since it has such a massive population, victims per population places them low in the ranking of most modern slavery.¹⁶³ The country with the greatest abundance of modern slavery is Venezuela, but the country with the most vulnerable population is Haiti.¹⁶⁴ Canada has the least amount of modern slavery, and it has the least vulnerable population as well.¹⁶⁵

The Americas also import many commodities like mobile phones, cocoa, and fish which are more likely to be produced using forced labor.

¹⁶¹“Highlights: Global Slavery Index,” Highlights | Global Slavery Index, accessed September 7, 2020, <https://www.globalslaveryindex.org/2018/findings/highlights/>.

¹⁶² Edward Helmore, “Over 400,000 People Living in 'Modern Slavery' in US, Report Finds,” The Guardian (Guardian News and Media, July 19, 2018), <https://www.theguardian.com/world/2018/jul/19/us-modern-slavery-report-global-slavery-index>.

¹⁶³ “Americas: Global Slavery Index,” Americas | Global Slavery Index, accessed September 7, 2020, <https://www.globalslaveryindex.org/2018/findings/regional-analysis/americas/>.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

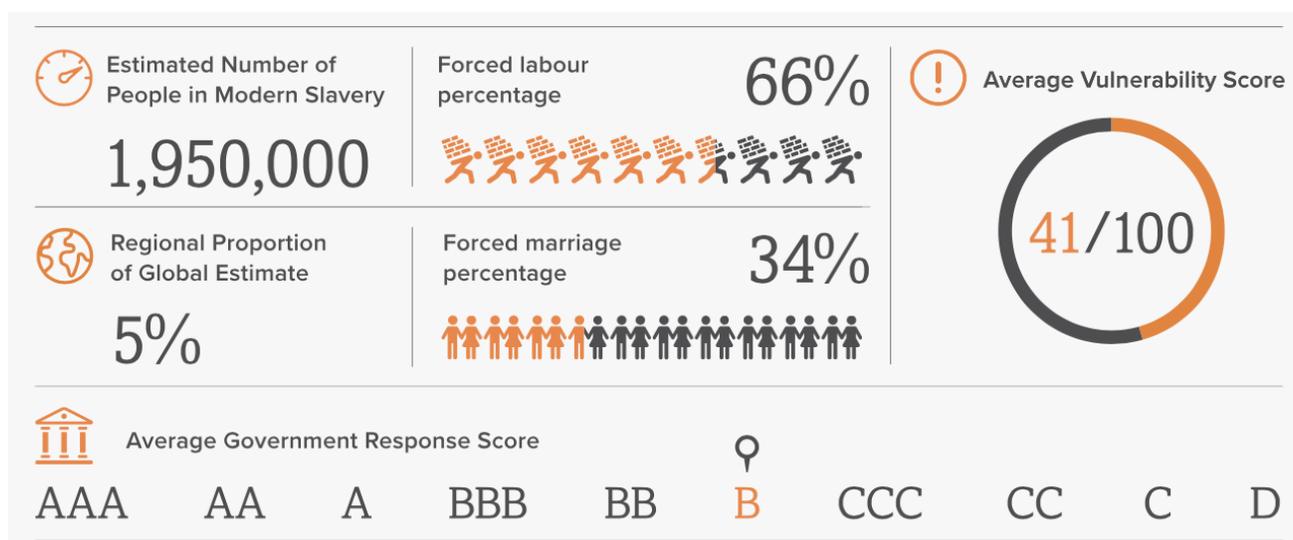


Image 3. Statistics on the Prevalence of Modern Slavery in the Americas¹⁶⁶

Europe and Central Asia

Europe and Central Asia as a region have a combined population of approximately 3.59 million people living in modern slavery.¹⁶⁷ This region encompasses 51 countries and around 12% of the world’s population. Most of the victims are of debt bondage, sexual exploitation and forced labor. Their forced marriage rates are the lowest in the world in terms of regions. Turkmenistan, Belarus, and Macedonia have the highest prevalence of modern slavery but Russia, Turkey and Ukraine account for the highest number of victims (almost 40%) in the region.¹⁶⁸ This bloc should focus on passing legislation to prevent debt bondage and forced labor, alongside seeking to prosecute its perpetrators. Even if the government response is higher and its vulnerability score is lower than that of the Americas, there is more modern slavery being practiced in the region.

¹⁶⁶ Ibid.

¹⁶⁷ “Europe and Central Asia: Global Slavery Index,” Europe and Central Asia | Global Slavery Index, accessed September 7, 2020, <https://www.globallslaveryindex.org/2018/findings/regional-analysis/europe-and-central-asia/>.

¹⁶⁸ Ibid.

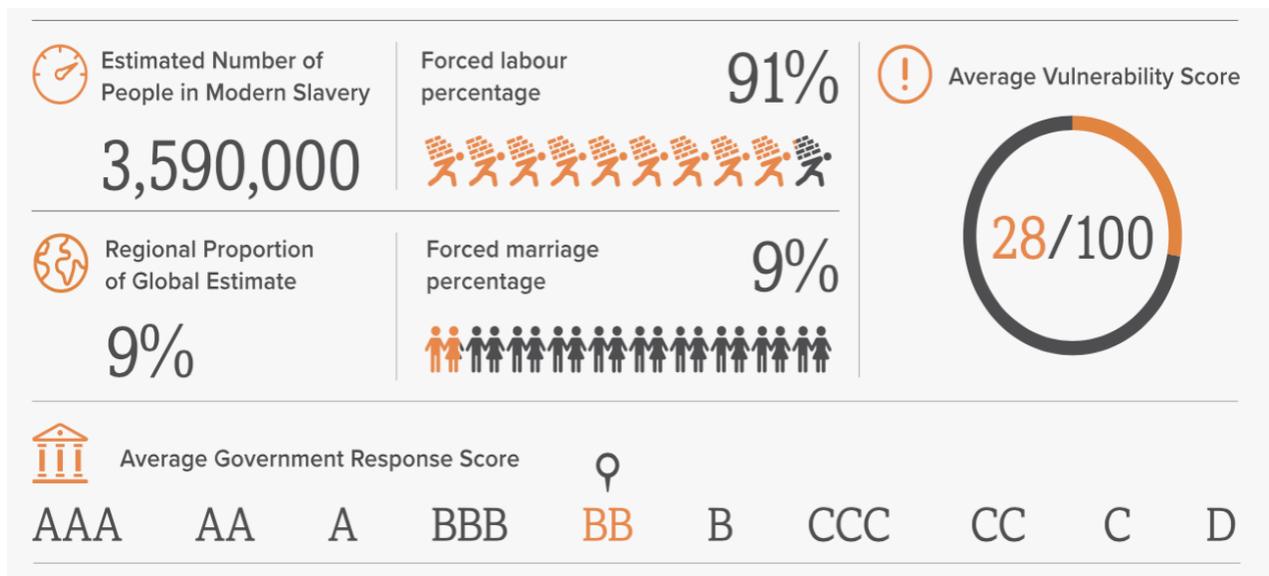


Image 4. Statistics on the Prevalence of Modern Slavery in Europe and Central Asia¹⁶⁹

Africa

Africa as a region accounts for the region with the second highest amount of people living under modern slavery: 9.24 million people. This region encompasses 51 countries and 16% of the world's overall population.¹⁷⁰ Africa has the highest rate of prevalence, where there are 7.6 people living in modern slavery for every 1000 people in the region.¹⁷¹ Over half of the victims are of forced labor and debt bondage, then forced marriage and sexual exploitation (over 400,000) people.¹⁷² Eritrea, Burundi, and the Central African Republic have the highest prevalence of modern slavery, while Nigeria and the Democratic Republic of the Congo have the highest amount of victims of modern slavery.¹⁷³ It is important to note that countries like Libya, South Sudan, and most of Nigeria are experiencing belligerent armed conflict, which makes it impossible to properly survey those countries. This may lead to a severe underestimation of the figures and the gravity of the problem.

¹⁶⁹ Ibid.

¹⁷⁰ "Africa: Global Slavery Index," Africa | Global Slavery Index, accessed September 7, 2020, <https://www.globalslaveryindex.org/2018/findings/regional-analysis/africa/>.

¹⁷¹ Ibid.

¹⁷² Ibid.

¹⁷³ Ibid.

The region as a whole should work on strengthening government response and protecting their vulnerable populations.

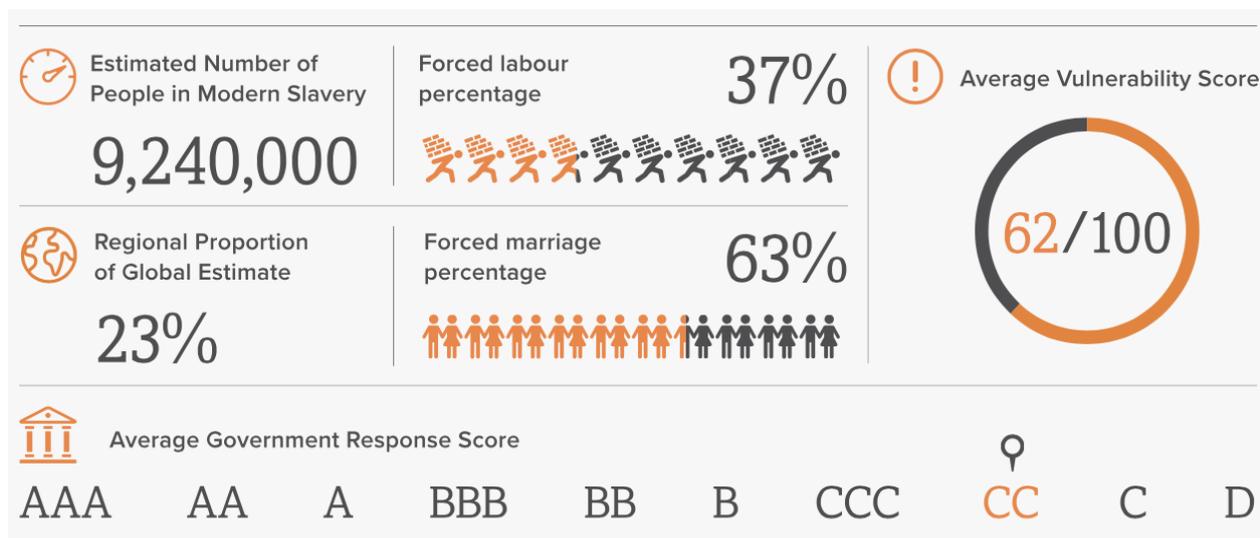


Image 5. Statistics on the Prevalence of Modern Slavery in Africa

Arab States

The Arab States region accounts for 520,000 people living under modern slavery.¹⁷⁴ This region includes 11 countries: Bahrain, Iraq, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syria, UAE and Yemen. The prevalence of modern slavery in this region is 3.3 victims per 1000 people.¹⁷⁵ Most of them are victims of forced labor and debt bondage alongside sexual exploitation. Overall in this region, females are more affected than men. Syria, Iraq and Yemen have bot, the highest prevalence and the highest number of victims of modern slavery.¹⁷⁶ Nonetheless, these figures have gaps and some countries in the region are experiencing internal and external conflict; participation of these countries in data collection was limited. Most recently, Qatar was exposed and shamed for partaking in modern slavery knowingly while building stadiums in preparation for the 2022 World Cup.

¹⁷⁴ "Arab States: Global Slavery Index," Arab States | Global Slavery Index, accessed September 7, 2020, <https://www.globalslaveryindex.org/2018/findings/regional-analysis/arab-states/>.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

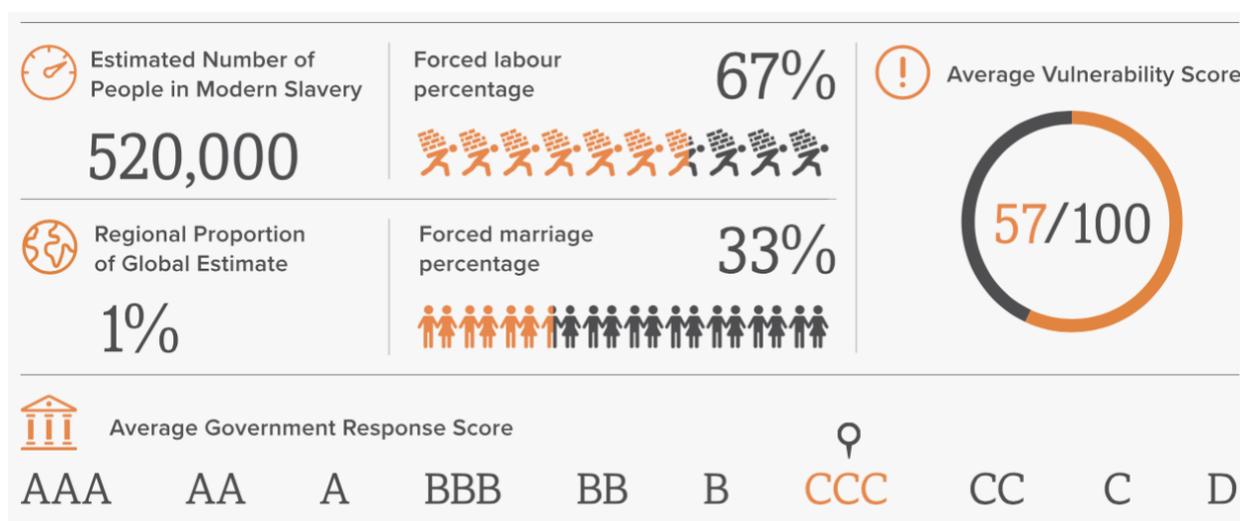


Image 6. Statistics on the Prevalence of Modern Slavery in the Arab States

Asia and the Pacific

The region of Asia and the Pacific accounts for the region with the largest amount of people living in modern slavery with around 25 million people enslaved.¹⁷⁷ Nonetheless, it has the second highest prevalence of modern slavery (after Africa) with 6.1 people enslaved per 1000 people.¹⁷⁸ This is because there are high levels of forced labor and forced marriage in the region. Forced labor exploitation affects more males, while forced marriage affects females more. Asia accounts for 73% of the world’s victims of sexual exploitation and 68% of forced work by state authorities. North Korea, Afghanistan and Pakistan are the countries with the greatest prevalence of modern slavery.¹⁷⁹ Meanwhile, India, China, and Pakistan account for the greatest number of victims of modern slavery.

¹⁷⁷ “Asia and the Pacific: Global Slavery Index,” Asia and the Pacific | Global Slavery Index, accessed September 7, 2020, <https://www.globalslaveryindex.org/2018/findings/regional-analysis/asia-and-the-pacific/>.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

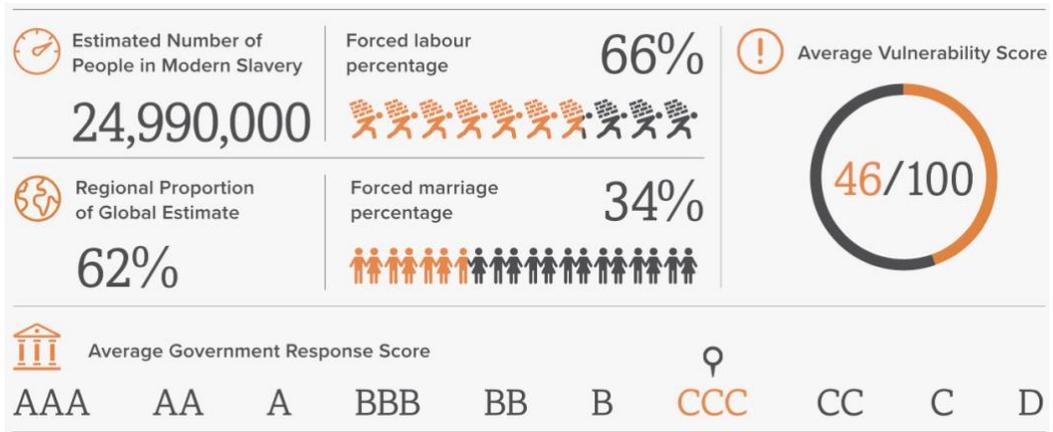


Image 7. Statistics on the Prevalence of Modern Slavery in Asia and the Pacific¹⁸⁰

¹⁸⁰ Ibid.

Glossary

Abolition: the practice or movement to terminate an institution, often used to describe the abolition of slavery specifically.

Bonded Labor: “when a person offers labor in exchange for a loan or to pay off debt inherited from a relative”.¹⁸¹

Child Sex trafficking: “when a child (under 18 years of age is recruited, enticed, harbored, transported, provided, obtained, patronized, solicited, or maintained to perform a commercial sex act, proving force, fraud, or coercion is not necessary for the offense to be prosecuted as human trafficking”.¹⁸²

Child Soldiering: type of “human trafficking when it involves the unlawful recruitment or use of children—through force, fraud, or coercion—by armed forces as combatants or other forms of labor”.¹⁸³

Domestic Servitude: “human trafficking found in distinct circumstances—work in a private residence—that create unique vulnerabilities for victims. It is a crime in which a domestic worker is not free to leave his or her employment and is abused and underpaid, if paid at all”.¹⁸⁴

Forced Labor: “encompasses the range of activities—recruiting, harboring, transporting, providing, or obtaining—involved when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work”.¹⁸⁵ It is irrelevant if a person initially consents to do work once that person is exploited and coerced into doing further work: then the “employer is a trafficker and the employee a trafficking victim”.

¹⁸¹ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹⁸² “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

Forced Marriage: a “union to which one or both parties did not consent and that cannot be left freely”.¹⁸⁶ These arrangements usually involve “forced labor, sexual exploitation, or domestic servitude”.

Modern Slavery: exists “any time a person has been recruited, transported or compelled to work by force, fraud or coercion”.¹⁸⁷ Victims of slavery do not “have the means to leave of their own will”.¹⁸⁸

Sex Trafficking: “when an adult engages in a commercial sex act, such as prostitution, as the result of force, threats of force, fraud, coercion or any combination of such means, that person is a victim of trafficking”.¹⁸⁹ Overall, sex trafficking is “when women, men or children are forced to perform nonconsensual commercial sex acts”.¹⁹⁰

Slavery: System in which the laws of private property are extended to human beings.

Universal Declaration of Human Rights Article 4: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”¹⁹¹

¹⁸⁶ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ “What Is Modern Slavery? - United States Department of State,” U.S. Department of State (U.S. Department of State, May 2, 2019), <https://www.state.gov/what-is-modern-slavery/>.

¹⁹⁰ “Modern Slavery: Its Root Causes and the Human Toll,” Council on Foreign Relations (Council on Foreign Relations), accessed August 16, 2020, <https://www.cfr.org/interactives/modern-slavery/>

¹⁹¹ “Universal Declaration of Human Rights,” United Nations (United Nations), accessed August 14, 2020, <https://www.un.org/en/universal-declaration-human-rights/>.

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