THE ATTACHÉ JOURNAL OF INTERNATIONAL AFFAIRS

VOLUME XX: GLOBAL GOVERNANCE

Credits

Korede Akinkunmi
Editor-in-Chief

Rachel Zack
Associate Editor

Tessa Di Vizio
Associate Editor

Hannah Bruce
Associate Editor

Victoria Vale
Associate Editor

Qaasim Karim
Design Editor

Meriam Berka
Illustrator

UNIVERSITY OF
TORONTO

**INTERNATIONAL
RELATIONS
PROGRAM**

assu

INTERNATIONAL RELATIONS
SOCIETY

**MUNK
SCHOOL
OF
GLOBAL
AFFAIRS**

Editor's Note

This issue of the Attaché explores the multiple facets of global governance through a diverse set of essays. While the authors and editors of this work are all undergraduates, the composition of this publication was put together with the utmost care and professionalism. What we have put together for you this year are scholarly pieces from multiple disciplines that aim to address and reframe global issues. In this issue, you will find a layered analysis of Algerian Independence, an evaluation of the legalities of sex work, and an exploration of religion as citizenship among other things. What we have accomplished this year is to put out just a small fraction of outstanding undergraduate work. The sample size of essays provided in this issue are reflective of the efforts and engagement of students at the University of Toronto in research and the global context. I am proud and honoured to publish this piece with the International Relations Society at the University of Toronto and look forward to future publication opportunities with, and for, my peers.

-Korede Akinkunmi
Editor-in-Chief
The Attaché Journal of International Affairs

Foreword

The dramatic events of recent years have created an environment of global distrust and reduced international cooperation. The sense that national economies will grow together as part of an ever-globalizing and interconnected world has markedly declined in the face of renewed protectionism and trade wars. A loss of faith in traditional alliances and international institutions has undermined stability and hindered coordination. Ongoing war in multiple regions of the world, some the product of international intervention and others rooted in deep sectarian conflict, continue to pose a challenge to world peace, and in some cases, have forced massive migration and population displacement. Political turmoil has also brought people out into the streets in droves to protest their governments, in response social crises that cast a harsh light on how divided our societies are. And some of our global challenges, such as climate change, appear to be at a tipping point. In such urgent and concerning times, it is even more important to engage in informed discourse and critical analysis to better understand, and hopefully better shape, our international relations.

- Professor Cindy Ewing, Department of History and the International Relations Program at Trinity College, University of Toronto

Table of Contents

Religion as a Gatekeeper for Citizenship

By Regina Barona

The plight of the Rohingyan refugees from Myanmar has captured international attention due to its continual violation of human rights within the country. Following this crisis, CNN reports that as many as 600 000 refugees have arrived in the country of Bangladesh (merely one of many countries the Rohingyans are fleeing from) since the end of August 2018.[1] The refugees' escape from their home country was not a sudden phenomenon, but rather the accruing result of years of political discrimination from the Myanmar government, wherein the government failed to recognize the Rohingyans and their ethnic and religious identity and denied them of Myanmar citizenship, rendering them a stateless people. Similarly, the Turkish-Kurds in the country of Turkey have endured years of statelessness due to the implementation of discriminatory laws. The Turkish-Kurds, however, have recently found recognition through Erdogan's power and rhetoric. A comparison between the two minority groups and their relationships with the state will reveal how governing policies can control the formation of national identity through the exclusion or inclusion of certain minority groups.

---

1   Katie Hunt, "Rohingya Crisis: How We Got Here," CNN, 13 November 2017, accessed 25 October 2018, https://www.cnn.com/2017/11/12/asia/rohingya-crisis.timeline/index.html.

In both cases, religion was used to draw lines defining what constituted citizenship and belonging.

THE USE OF RELIGION AS AN EXCLUSIONARY AND INCLUSIONARY LINE

Myanmar's (formally known as Burma) early years of formation were characterized by a history of fighting for power between colonial Britain and Japan, during a time where the two largest ethnic populations in Burmese Myanmar were the Muslim population and the Buddhist population.[2] The Rakhine (Rohingyan) Muslim population generally sided with the British powers during their 124 years of rule while the Rakhine Buddhist population supported the Japanese powers during World War II.[3] In an attempt to establish an independent nation-state through a military coup to overthrow British colonial powers in 1962, the Rakhine Muslims lost the favour of British colonialists. Thus, Myanmar was established as a state reflecting a Buddhist identity.[4] This heightened the privilege of Buddhist identity in Myanmar and ensured political promotion of a Buddhist-Myanmar nation, rendering the minority Muslim population outsiders.

Conversely, in the case of Turkey, national identity was

---

2   Ibid.
3   Ibid.
4   Hunt, "Rohingya Crisis: How We Got Here."

historically tied religious understanding of how one is included or excluded in society. The Ottoman Empire sought to establish a universal Islam by instituting the loyalties of individuals to the Muslim religion and the caliphate as a legitimate and social order.[5] As a response to the Ottoman caliphate's rule and the establishment of the modern Turkish Republic in 1923, Kemalism emerged as a prominent ideology. Mustafa Kemal Ataturk, who became Turkey's founder and first president, advocated first and foremost for the strengthening of a new central authority, nation building, and the secularization of the state and society.[6] Kemalism saw religion as the root cause for economic and social division and sought to diminish the role of religion in the social sphere by calling Islam "divisive, anti-national and anti-modern."[7] This era of Turkish history saw a shift away from religion and Islam in the political sphere, as Kemalists saw the religion as a challenging philosophy of state.[8] In Recep Tayyip Erdogan's contemporary presidency from 2014 to today, his presidency can

5   M. Hakan Yavuz, "Modes of Secularism," *Secularism and Muslim Democracy in Turkey* (Cambridge: Cambridge University Press, 2009), 149.

6   Suna Kili, "Kemalism in Contemporary Turkey," *International Political Science Review / Revue Internationale De Science Politique* 1, no. 3 (1980): 381-404.

7   Yavuz, "Modes of Secularism," 149.

8   Kili, "Kemalism in Contemporary Turkey," 394.

be constituted not as control of religion or religious expression, but rather the control of a population through the use of religion. Despite being often censured for his use of Islam to guide his policies (i.e. his attempt to criminalize adultery), Erdogan states that politics is merely an instrument to achieve happiness for the people and avoid the politicization of religion. Erdogan has instigated Islam's movement back into Turkey's political sphere and has used this shift as a justification for his policies.[9] The happiness of a majority of his people has been rooted in Islamic values and it can be argued that its implementation into politics is a contrast against the Kemalism era.[10] Under Erdogan's regime, some have argued that the Muslim-majority Kurdish population have begun to identify themselves with his political rhetoric,[11] an ideology unfounded in previous presidencies due to a histor-ical discrimination of Turkish-Kurds in the country. Compared to the use of religion in Myanmar to discriminate against a com-munity, Turkey has used religion to expand its boundaries and further include a previously separated community. But why are these delineations significant and important in the politics of

9   Metin Heper and Sule Tokta, "Islam, Modernity, and Democracy in Modern Turkey: The Case of Recep Tayyip Er-dogan," *The Muslim World* 93, 2004: 171.
10   Ibid.
11   Ibid.

each country?

THE SIGNIFICANCE OF EXCLUSION AND INCLUSION IN NATION-STATE POLITICS IN MYANMAR AND TURKEY

The shift from a religion-less Kemal government in Turkey to a resurgence of Muslim public and political identity points to a contemporary adaptation of the Ottoman Empire's attempt to establish a universal Islam. This attempt at universalism, or attempt to assimilate and absorb dissenting and different groups as a means to develop a whole nation-state, is reflected when Erdogan stance toward Kurds who seek to be emancipated from Turkey by creating their own nation-state, previously stating that,

> We don't say 'there are no Kurds,' we say 'there is no Kurdish problem. No one should be searching for a state for [Turkey's] Kurds. The state of the Republic of Turkey is the state of all of us. Kurds' state is the state of the Republic of Turkey. [12]

Erdogan uses his affinity with the religion of Islam to include a previously rejected population: the Turkish-Kurds, who are

---

12   "Kurds in Turkey Need No Other State, Says Erdogan – Turkey News," *Hurriyet Daily News*, accessed 25 October 2018, http://www.hurryiyetdailynews.com/kurds-in-turkey-need-no-other-state-says-erdogan-132748.

majority Muslim. One could argue that Erdogan is trying to solidify Turkey as a Muslim nation by including the Kurdish population. Contrary to the era of Kemal-secularism, Erdogan is playing to the recent resurgence of "conscious" Muslims who were concerned about public issues that drew heavily on Islamic moral idioms.[13] Though these "conscious" Muslims did not want to implement shari'a in the state, the fact that they identified with them is significant evidence that Erdogan may be basing his policies in the same Islamic vernacular while refraining from advocating for politicization of Islam. Under Erdogan's rule, identifying with Muslim ethics is a nation-building and unifying strategy; it was a way to secure and maintain his power with a growing population.

In the case of Myanmar, religion was used to draw a line to exclude those associated with the colonial era in a primarily Buddhist nation with a historical aversion to its British history. The Rohingya are left out of country-wide censuses indicating their lack of citizenship in the country. Their villages are often burnt down, government is slow to respond to crises, and they are often physically and sexually abused by the Myanmar military.[14] This has led to the current Rohingya refugee crisis, with

13   Yavuz, 145.
14   Hunt, "Rohingya Crisis: How We Got Here."

thousands fleeing from a home which refuses to recognize their citizenship.

CONCLUSION

Ultimately, both Myanmar and Turkey share similar uses of religion to build the identity of their current nation-state. These two cases reveal how religion-based governing policies can control the formation of national identity through the exclusion or inclusion of certain minority groups. The effects of drawing such a line between different religious groups is apparent through the example of these countries. If nations base their citizenship and granting of rights on religion – as reflected by the "othering" of Islam in Myanmar and the "only-ing" of Islam in Turkey – then how do these cases differ from instances of colonialism where laws governing private thoughts and beliefs were a means of controlling people? How is the Buddhist Myanmar government's discrimination of the Rohingya different from the ones they suffered historically under British law? How is Turkey's attempt at universalizing and erasing distinctions with the Turkish-Kurds different from the Ottoman Empire's attempt at universalizing Islam to gain and maintain power? All instances point to the building of a nation state, but certainly at the expense of some ethnic minorities (like that of the Rohingya),

and at the expense of ignoring the experiences of socio-political problems feigning comradery, for a chance to solidify political power (as is the case of Turkey with the Kurds).

Bibliography

Heper, Metin, and Sule Tokta. "Islam, Modernity, and Democracy in Modern Turkey: The Case
of Recep Tayyip Erdogan." The Muslim World 93, (2004): 171.

Hunt, Katie. "Rohingya Crisis: How We Got Here." CNN. 13 November 2017. Accessed 25 October 2018. https://www.cnn.com/2017/11/12/asia/rohingya-crisis.timeline/index.html.

Kili, Suna. "Kemalism in Contemporary Turkey." International Political Science Review / Revue Internationale De Science Politique 1, no. 3 (1980): 381-404.

"Kurds in Turkey Need No Other State, Says Erdogan – Turkey News." Hurriyet Daily News. Accessed 25 October 2018. http://www.hurryiyetdailynews.com/kurds-in-turkey-need-
no-other-state-says-erdogan-132748.

Yavuz, M. Hakan. "Modes of Secularism." Secularism and Muslim Democracy in Turkey
(Cambridge: Cambridge University Press, 2009), 149

Undressing the Laws Around Prostitution

By Breanna Berndsen

In Canada the act of sex work is considered illegal, however in the Netherlands it has now become an officially regulated workplace. Sex workers can be found in window brothels in the Red Light District in Amsterdam. The "Red Light District" comes from the red neon lights that light about 300 windows where sex workers are working.[1] It is located in the oldest part of the city, known as 'De Wallen'. You can find in the heart of Amsterdam Red Light District, a bronze statue of a woman, titled "Belle", which was placed to honour sex workers of the world in 2007.[2] The woman stands and waits for a potential client at an open door. The statue reads in English, "Respect sex workers all over the world."[3] A woman named Marksa Majoor of the Prostitution Information Centre in Amsterdam, is responsible for creating the statue and is an advocate for sex workers. Majoor was a former sex worker herself, and stated that "Prostitutes are normal human beings, like everyone else."[4]

1   "Prostitution Information Center in Amsterdam," Amsterdam.info, accessed June 13, 2019, https://www.amsterdam.info/prostitution/pic-amsterdam/.
2   "Belle statue unveiled in Amsterdam to honour sex workers across the world," NSWP, accessed June 11, 2019, https://www.nswp.org/timeline/event/belle-statue-unveiled-amsterdam-honour-sex-workers-across-the-world.
3   "Belle," NSWP.
4   Keith Richburg, "Oldest Profession Gets New legal Protection: Rules for Dutch Brothels Bring Rights, Respon-

The message that Majoor and the statue state, is that sex work is a profession like any other job, and it should be protected and respected.

The sex workers should be proud of who they are and what they do. The fact that the Netherlands has not only legalized sex work, but even erects statues to honour those who work in this industry is significant to the discussion as it clearly contrasts the attitude surrounding sex work in Canada. The term sex work, and the legal structure which surrounds it will be both defined and discussed throughout this paper.

The term prostitution, according to O'Connell Davidson can be defined as, "the trade of sexual services for payment in cash or kind, and so to form a social interaction that is simultaneously sexual and economic."[5] Trade can be defined as an individual offering their intimacy for the sexual pleasure of client(s). O'Connell Davidson states that the majority of sex workers are female, while a larger majority of the customers are male.[6] Sexual services are defined by O'Connell Davidson

sibilities," *The Washington Post*, July 9, 2001, http://www. hartford-hwp.com/archives/61/310.html.

5   Julia O'Connell Davidson, "Prostitution," *In The Blackwell Encyclopedia of Sociology,* (February 2007), https://doi. org/10.1002/9781405165518.wbeosp111.

6   Julia O'Connell Davidson, "Prostitution," *International Encyclopedia of the Social & Behavioral Sciences*

as, anal sex, bondage and discipline, erotic massage, fantasy, full service hand job, oral sex, role play, and sadism and masochism. Sex workers are paid in cash or other kinds such as favorable services.[7] There is an absence of evidence stating what these services can be defined as, due to its illegal nature. A social interaction according to Lumen is the exchange between two or more individuals.[8] In the case of sex work, a social interaction is formed between the sex worker for economic purposes, and the individual for sexual purposes. Types of sex work may include escorts, brothels, window brothel workers, street walkers, and private prostitution.[9] Now that sex work has been defined, this paper will describe the contrasting perspectives between Canada and the Netherlands regarding these acts and the law itself.

The Law Around the World

First it is important to consider what sex work looks like globally in order to compare sex work laws around the

(2001): 12244-12247, https://doi.org/10.1016/B0-08-043076-7/03984-X.

7   O'Connell Davidson., 12244-12247.

8   "Understanding Social Interaction," Lumen, accessed June 11, 2019, https://courses.lumenlearning.com/boundless-sociology/chapter/understanding-socialinteraction/.

9   "The 6 Types of Prostitutes and Where They Work," Business Insider, last modified November 6, 2013, https://www.businessinsider.com/the-6-types-of-prostitutes-and-where-they-work-2013-11.

world. The World Population Review stated countries where sex work is legal in 2020, which will be drawn upon.[10] For example, in Thailand sex work is illegal, however the laws are ambiguous and unenforced. In Germany, sex work is legal and taxed, which allows brothels to be run. In Australia the laws vary between states and territories, which each have their own laws. In the United States sex work is illegal in every state except for some counties in Nevada, while brothels are permitted where sex work is legal.[11] In Mound House, Nevada, Bunny Ranch is the only legal licensed brothel operating. Based on this data of sex work laws globally, there is no clear picture of the laws regarding sex work as it varies. What leads a country or state to criminalize or not criminalize sex work? Further research must be conducted by looking back in history as to why the laws around sex work vary by country or state.

The Law in Canada

The law in Canada regarding sex work will be discussed to situate the argument in terms of current Canadian perspectives. Bill C-36 which is the *Protection of Communities and Exploited Persons Act* (PCEPA) has sex work itself illegal

10   "Countries Where Prostitution Is Legal 2020," World Population Review, accessed January 8, 2020, http://worldpopulationreview.com/countries/countries-where-prostitution-is-legal/.

11   Ibid.

in Canada. Bill C-36 was introduced by the house of commons and was given Royal Assent on November 6, 2014.[12] Bill C-36 treats sex work as a form of sexual exploitation and the new criminal law seeks to protect "all Canadians by denouncing and prohibiting the purchase of sexual services, the exploitation of others and the institutionalization of prostitution through commercial enterprises, such as strip clubs, massage parlors and escort agencies that offer sexual services for sale."[13] Bill C-36 criminalizes sex work in Canada, in turn making it illegal to engage in, whether purchasing, selling or offering sexual services. Research by Campbell states that Bill C-36 was introduced in response to the Supreme Court of Canada judgment in *Attorney General of Canada v. Bedford* in order to make provisions of the criminal code relating to sex work.[14] The judgment commanded that the government reform the Canadian criminal law to ensure the lives, safety, and security of sex workers. The

12   "House Government Bill," LEGISinfo, accessed May 14, 2019, https://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&billId=6635303&View=0.
13   "Prostitution Criminal Law Reform: Bill C-36, the Protection of Communities and Exploited Persons Act," Department of Justice, last modified September 14, 2018, https://www.justice.gc.ca/eng/rp-pr/other-autre/c36fs_fi/.
14   Angela Campbell, "Sex Work's Governance: Stuff and Nuisance," *Feminist Legal Studies* 23, no. 1 (2015): 27-45.

Parliament of Canada states that Bill C-36 creates two new sex work-related criminal offences that firstly, "prohibit an individual from purchasing sexual services at any time and in any place" and secondly, "forbid advertising the sale of others' sexual services."[15] These two new criminal offenses were part of the reform of the Canadian criminal law in order to protect sex workers. According to Sterling and van der Meulen Bill C-36 aimed at criminalizing sex work clients and those who obtain or purchase sexual services.[16] The criminal code states that:

Obtaining sexual services for consideration,

Section 286.1 (1)

 "everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person is guilty."[17]

Material benefit from sexual services,

Section 286.2 (1)

"everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly

---

15   "House Government Bill," 2019.

16   Andrea Sterling, and Emily van der Meulen, ""We are Not Criminals": Sex Work Clients in Canada and the Constitution of Risk Knowledge," *Canadian Journal of Law and Society* 33, no. 3 (2018): 291-308.

17   *Protection of Communities and Exploited Persons Act*, c. 25 S.C. (2014).

from the commission of an offence under subsection

286.1 (I), is guilty."

Advertising sexual services,

Section 286.4

"everyone who knowingly advertises an offer to provide

sexual services for   consideration is guilty."[18]

Based on the three criminal codes outlined above, the law in

Canada makes sex work itself illegal. This contrast between

laws will be further unpacked and discussed in order to under-

stand the differing perspectives between Canada and the Neth-

erlands.

The Law in the Netherlands

The Government of the Netherlands states that sex

work is legal as long as it involves sex between consenting

adults.[19] In the Netherlands, legal sex work can be separat-

ed into licensed and non-licensed businesses. The law in the

Netherlands specifically focusing on licensed legal sex work

in window brothels. Licensed legal sex work in municipali-

ties with a license system applies to places such as window

─────────────

18   Ibid.
19   "Prostitution," Government of the Netherlands, ac-
cessed May 10, 2019, https://www.government.nl/topics/pros-
titution.

brothels, sex clubs, and escort agencies.[20] It can be noted that "window brothels are the most visible and hence the most noticeable businesses. Customers are recruited from behind a window, meaning that the prostitute is visible from the public road during the phase of customer recruitment."[21]

In the Netherlands, licensed sex work is monitored on a recurring basis at set moments, unless prompted by a local resident because of annoyance, or the granting of building permits. The departments involved in the supervision and enforcement of sex work policy are the departments of Public Order and safety. It can also be noted the organizations involved in supervision and enforcement are over 90% of the police. This means that a large majority of the police are involved in monitoring, regulating, and supervising sex work. The police conduct administrative inspections for which they must have a mandate from the municipality. Others involved are the Public Prosecution Service, the Municipal Health Service, the Inspection Service of the Ministry of Social Affairs and Employment,

---

20   "Prostitution in the Netherlands," Government of the Netherlands, last modified April 14, 2015, https://www.government.nl/documents/reports/2015/06/01/prostitution-in-the-netherlands-in-2014.
21   "Prostitution in the Netherlands," 2015.

and the Tax and Customs Administration.[22] The inspections will usually be announced in advance, but sometimes they will be spontaneous. This is important to note because the inspections are part of how sex work is legalized and regulated in the Netherlands, unlike in Canada where it is illegal.

In the Netherlands a government document states a study that was conducted that interviewed 360 sex workers will be drawn upon below to understand the social position of sex workers.[23] Of the sex workers working in window brothels, 100% indicated that they worked independently. In general, the respondents who worked independently in a window brothel, 79% were satisfied with their labor relationship.[24] Agreements about payment, hours, and services are discussed between the sex worker and employer. These agreements contribute to the feelings of satisfaction because it creates a bond or a sense of safety. The sex worker has a choice of their customers, services to be performed, clothing worn during work, and working hours. The sex worker pays fees to the employer and this is determined in more than 80% of the cases by the owner of the

───────────

22   Ibid.
23   Ibid.
24   Ibid.

brothel.[25] The rent of the window and the base prices that customers pay are largely determined by the employer. Window sex workers generally keep the whole of their income, however there are expenses to be paid, such as window rent to the brothel employer.[26]

While the main focus of this paper is on legal licensed sex work, it is also important to address non-licensed legal sex work. Non-licensed legal sex work is a business that can operate legally without possessing a license. Businesses that do not require a license of legal sex work include erotic massage parlors, sex clubs, webcam prostitution, and swinger clubs.[27]

According to Cahier "through Article 151a of the Local Governance Act (Gemeentewet), municipalities are able to adopt a regulation which prescribes criteria for the commercial arrangement of the opportunity to perform sexual acts with or for a third person against payment, and can thereby pursue a local licensing policy with respect to sex businesses."[28] Through article 151a, the Netherlands allows for sex work in brothels that is legalized and regulated. The lifting of the ban on brothels was on October 1, 2000, which means that "the operation of

25   Ibid.
26   Ibid.
27   Ibid.
28   Ibid.

a prostitution business is legal, unless prohibited by municipal rules through a General Municipal By-Law."[29] The main objective of the Dutch Parliament lifting the ban of brothels was to prevent and reduce the harm caused by sex work.[30] Parliament believes that legalizing sex work would cause more harm than good because social harm results from exploiting the human body for sexual activity. This is why Parliament decided that sex work itself should be illegal, in order to protect human dignity and equality. It is important to look back at history in the 1970s onward at the feminist movement and key activists for pro-sex work, as well as the political parties involved in the debate of two bills, with the second bill lifting the ban of legalizing brothels in the 2000s.

The Feminist Movement and Activists

Bans on brothels were lifted worldwide following the second wave feminist movement of the 1970s, which reframed "prostitution" into its more modern interpretation, "sex work." An article by Outshoorn stated that the shift began in the late 1970s, with Dutch feminists moving from framing and viewing prostitution as a form of sexual violence to a pro-sex work

---

29   Ibid.
30   Ibid.

position in the early 1980s.[31] The feminist movement began to take over in the 1980s with feminists taking positions to decriminalize sex work and to frame it as legitimate work. Margo St. James, Gail Pheterson, and Griselidis Real were key activists in the feminist movement advocating for pro-sex work and for a removal of the ban on brothels, by creating the "First World Whores' Congress," which led to the creation of the *World Charter of Prostitutes Rights*.[32]

Margo St. James

An activist from the United States known as Margo St. James who founded the group called COYOTE (Call Off Your Tired Ethics) in 1973 in San Francisco, California is vital to the feminist movement in the Netherlands. St. James was one of the key activists that was pivotal in advocating for women's rights and she was not afraid to travel the world to support pro-sex work. The group COYOTE was the first sex workers' rights group in the United States and the founder was a former sex worker herself, had actually been arrested in the 1960s before

31   Joyce Outshoorn, "Policy Change in Prostitution in the Netherlands: from Legalization to Strict Control," *Sexuality Research and Social Policy* 9, no. 3 (2012): 233-243.

32   "$ex Workers Make History: 1985 &1986- The World Whores' Congress," Sex Workers and Allies Unite, accessed May 31, 2019, https://www.walnet.org/csis/groups/icrse/brussels2005/SWRights-History.pdf.

attending law school and later successfully overturning her own conviction.[33] As a former sex worker, St. James believed that sex workers deserved the same rights as others in the United States.[34] The group COYOTE was formed to work for the repeal of sex work laws, and it called for the decriminalization of sex work and the provision of legal and medical services for sex workers.[35] COYOTE had provided services such as counselling, support groups, and referrals to legal services to thousands of sex workers, mostly women.

The group COYOTE works for the rights of all sex workers, including strippers, phone operators, sex workers, and porn actresses. The general goal of COYOTE according to Sanders et al. was to decriminalize all voluntary adult sex work, educate the public, and to work towards ending the stigmas by normalizing prostitution as work.[36] With these goals in mind, COYOTE embarked on a campaign to raise awareness

---

33   "COYOTE Founded in California," NSWP, accessed June 10, 2019, https://www.nswp.org/timeline/event/coyote-founded-california.
34   Teela Sanders, Maggie O'Neill, and Jane Pitcher, *Prostitution: Sex Work, Policy and Politics* (2009).
35   "Call Off Your Old Tired Ethics," CSIS, last modified January 25, 2000, https://www.walnet.org/csis/groups/coyote.html.
36   Sanders et al., 2009.

in the United States. St. James then went to the Netherlands because it was difficult getting the feminists to support sex workers rights in the United States.[37]

The First World Whores' Congress

Focusing now on the First World Whores' Congress, which was a sex workers rights movement that transpired in Amsterdam in 1985, the feminist movement began to further intensify. It started from a partnership between Margo St. James and Gail Pheterson which resulted in an international conference attended by sex workers and their allies from all over the world. Once Pheterson returned to the Netherlands, she started connecting with other women such as Griselidis and started to organize. Through discussion and organization, a group called the Red Thread (Rode Draad) was created and was influential in the movement of the feminist lobby. It was a small group of feminist activists who wanted to decriminalize prostitution and it recognized prostitution as work and given rights.[38] The group was in favour of recognizing prostitution as work. Pheterson stated that next to the Red Thread in the Netherlands they were also going to begin a Pink Thread. It was a movement for all women and emphasized that sex workers

37   "$ex Workers Make History," 2019.
38   Outshoorn., 233-43.

rights were critical for the rights of all women. The Red Thread and the Pink Thread worked together for pro-sex work for sex workers. As they were organizing the first congress, Pheterson recalled

"the moment that this idea came about—correct me if I'm wrong, Margo—was on rue   St. Denis. We were all having lunch near la Palette, which was a café […] We were there,   and the French working women said, "Revolution internationale! Revolution internationale!" And that we should all be there, because we thought we were going to   do a Dutch conference first. But they were so eager that we said, "okay let's do it." So we went back to Holland, and the Red Thread and Pink Thread started to organize."[39]

At the end of the First World Whores' Congress in Amsterdam there was a vote to form the International Committee for Prostitutes' Rights, also known as the ICPR, which then produced the *World Charter for Prostitutes' Rights*. The three activists who created the Red Thread, Pink Thread, and led the first conference is another key element that contributes to the lifting on brothels as many individuals had come together in support of these changes. As more individuals and groups of individuals

---

39   "$ex Workers Make History," 2019.

began supporting the movement the attitude surrounding sex work completely shifted.

World Charter For Prostitutes' Rights

In 1985 as a result of the First World Whores' Congress, the International Committee for Prostitutes' Rights was born and the participants developed the first international sex worker's rights, known as the *World Charter For Prostitutes' Rights*. The ICPR demanded that sex workers be guaranteed human rights, including freedom of speech, travel, immigration, work, marriage, motherhood, health, and housing.[40] The *World Charter For Prostitutes' Rights* uses a human rights framework. According to the *World Charter For Prostitutes' Rights*, the law "decriminalized all aspects of adult prostitution resulting from individual decision."[41] It also "decriminalizes prostitution and regulates third parties according to standard business codes."[42] The human rights section states that it "guarantees prostitutes all human rights and civil liberties, including the freedom of speech, travel, immigration, work, marriage and motherhood,

_____

40   "Fifteen Years after the World Charter for Prostitutes' Rights," Carnegie Council, last modified August 6, 2000, https://www.carnegiecouncil.org/publications/archive/dialogue/2_03/articles/629.

41   "Call Off Your Old Tired Ethics," 2000.

42   "Call Off Your Old Tired Ethics," 2000.

and the right to unemployment insurance health insurance, and housing."[43] The taxes section specifies that "prostitutes should pay regular taxes on the same basis as other independent contractors and employees and should receive the same benefits.[44] With the *Charter* in place, individuals can engage in sex work with freedom from criminal prosecution and their work will not impact their possession of human rights and civil liberties.

To summarize, the strong feminist movement occurring in the 1970s, led by St. James first in the USA and later in the Netherlands with the help of activists Pheterson and Griselidis, lead to the creation of the International Committee for Prostitutes' Rights, which also created the *World Charter For Prostitutes' Rights*. The feminist movement along with activists played a key role in understanding why the Netherlands lifted the ban on brothels and not in Canada, is because of the strong attitudes and advocating for prostitution as sex work, which could not be ignored by the government. Now that the stigma surrounding sex work had been shifted, the second key factor in legalizing sex work, which is the change in political parties during the debate of two bills that attempted to legalize brothels, can now be discussed more thoroughly.

43   "Call Off Your Old Tired Ethics," 2000.
44   "Call Off Your Old Tired Ethics," 2000.

Politics

Bill 18202

First, I will address the first bill that was brought up for debate attempting to lift the ban on brothels. Although the bill did not go through, it is important to understand the political party that was in majority, who appealed the ban. The first major attempt was in 1985 with Bill 18202: Repeal of the Brothel Ban.[45] The ban was up for debate was because there was growing awareness of the sex industry and the understanding of sex work as a source of income in the 1980s from the feminist movement, which led the Dutch policy-makers to reconsider the act on brothels. The Christian Democrats tended to be the largest party in the cabinet, alongside the social democrats or liberals, who were always at a disagreement on social and economic issues. In terms of sex work, the Christian Democrats were in a strong position to veto any reform on religious or moral issues, as they advocated for "a moral view of prostitution with a discourse of fallen women and sinful men, and a belief that the state should guard and police morals."[46] In con-

45   Marjorie Griffin Cohen and Jane Pulkingham, *Public Policy for Women: The State, Income Security, and Labour Market Issues* (Toronto, Canada: University of Toronto Press Incorporated, 2009).

46   Joyce Outshoorn, "Pragmatism in the Polder: Changing

trast, the party on the left and the Liberals declared themselves in favour of lifting the ban on brothels in order to regulate sex work. The left side had the goal of improving the position of sex workers, while the Liberals emphasized normalization of sex work. The political parties distinguished between voluntary and forced sex work and framed prostitution as sex work. Voluntary sex work is regarded as work and regulated to improve the position of the sex worker, and forced sex work is when women are pressured or coerced into doing the work.[47]

The attempt to remove the ban was made in 1985, when the Liberal Minister of Justice in the Liberal and Christian Democrats cabinet, Lubbers I, introduced a bill that described the distinction between voluntary and forced sex work and defining prostitution as sex work. The Christian Democrats who were the largest party at the time in parliament, strongly opposed the distinction between forced and voluntary sex work, as they viewed all sex work to be forced. Even though the Christian Democrats voted against the bill, it was passed by the Second Chamber in 1987.[48] However, there was disagree-

Prostitution Policy in The Netherlands," *Journal of Contemporary European Studies*, 12, no. 2 (2004): 165-176.
47   Outshoorn., 165-76.
48   Ibid.

ment over the provision surrounding human trafficking, and it was decided to wait until the trafficking bill was introduced in the First Chamber. Overall, Bill 18202, which was the first major attempt to legalize brothels in 1985, was unsuccessful because of the political party who held majority in the cabinet, the Christian Democrats.

Bill 25437

Now, the second bill will be discussed in order to see what changes were made in political parties that led to the lifting of the ban on brothels. This bill was a renewed attempt to lift the ban on brothels. Bill: 25437 was introduced to parliament and its primary concern was to regulate the exploitation of sex workers.[49] This bill was introduced because the sex industry was continuing to grow with the feminist movement driving it as well. With similar goals in mind as Bill 18202, there is one major change that happened in 1994. The election resulted in the exclusion of the Christian Democrats from the cabinet for the first time since 1917. The Christian Democrats had been the largest party in cabinet for 77 years and with the new political party change, the government was more receptive to a change of this nature. In 1997, the new cabinet of Liber-

---

49   Cohen and Pulkingham, 2009.

als, Social Democrats, and Social Liberals, was known as the Purple Cabinet.[50] The Purple Cabinet drafted a new bill to lift the ban on brothels. The cabinet promised a 'realistic approach without moralism', to eliminate forced sex work. The bill aimed to control and regulate sex work, fight forced sex work, and to 'protect' the position of sex workers. With these aims in mind the lifting of the ban would mean that municipalities could license the sex trade and prostitution would be treated as sex work. The parliament debated the bill in 1999, with the debates being centered around the idea of prostitution as sex work and the distinction between forced and voluntary sex work, like in Bill: 18202. The secular parties supported the work aspect of prostitution, while the religious parties tried to reinsert the right of municipalities to retain the ban on brothels, but this was not in accordance with other parties as it was seen as unconstitutional. The bill was passed with the vote splitting between religious and secular divide in the Chamber, and in the same year the First Chamber also voted in favour of the bill this time. The bill passed through both the Second and First Chambers of the Netherlands Parliament in 1999 and officially came into effect on October 1st, 2000.[51] Therefore, once the Christian Demo-

50   Outshoorn., 165-76.
51   Ibid.

crats were ousted from cabinet in 1994, it led to a major policy change for lifting the ban on brothels in the 2000s, which is a key factor that is again, different from what happened in Canada.

Multiple Streams Theory

Furthermore, John Kingdon's (1984) multiple streams theory will be discussed in relation to politics. This theory can further explain why the Netherlands has lifted the ban on brothels and why Canada did not. In order for Kingdon's model to successfully work, three separate "streams" must come together at the same time during a window of opportunity for a policy to change.[52] The three streams are the problem stream, policy stream, and the politics stream. The problems stream is the attention moves to a policy problem.[53] Politicians are more likely to agree to policy change if they perceive it as a very serious problem and it is too risky to ignore. A key to this, is it must be socially constructed as a very serious problem. Additionally, the policy stream is addressing the problem with

---

52   Paul Cairney and Michael D. Jones, "Kingdon's Multiple Streams Approach: What Is the Empirical Impact of this Universal Theory?" *Policy Studies Journal* 44, no. 1 (2016): 37-58.
53   Cairney and Jones., 37-58.

a solution.[54] A solution can be a proposal or bill that is drafted to address the troubling problem. Last, is the politics stream, which is where policymakers have the motive and opportunity to turn a solution into a policy.[55] Politically, people will vote for a specific party if the political party fits the policy change and the problem at hand. Consequently, Kingdon's multiple streams theory argues that individuals are most likely to see policy change because of the aligning of the problem, policy, and politics stream. Kingdon's theory can be applied to the debates of the two bills in the Netherlands, unlike in Canada where the streams did not align.

The problem in the Netherlands was around the safety and protection of the sex workers. Sex workers felt that they were unsafe and felt they needed more protection. This was voiced through the feminist movement, with the help of activist Margo St. James, and Gail Pheterson which led to the First World Whores' Congress and the Prostitutes rights. There was a poll taken in 1997 that "showed 74% of the Dutch population regarded prostitution as work and 73% in favour of lifting the ban on brothels."[56] Sex workers are socially constructing the

---

54   Ibid.
55   Ibid.
56   Outshoorn., 233-43.

problem of their safety publicly in the Netherlands through these events, which policy makers could not ignore. Furthermore, the policy stream is the two bills that were drafted and proposed to parliament in 1985 and 1997 to address the problem of the safety of sex workers, and to lift the ban on brothels. Finally, the politics stream is the political party shift which led the Christian Democrats out of cabinet and the Purple Cabinet which consisted of Liberals, Social Democrats, and Social Liberals came in to force who were in favour of the policy change of lifting the ban on brothels. Overall, there was a concern of sex workers safety being voiced in need of framing prostitution as sex work, two bills being drafted, and a change in political parties. Altogether, it was a stream the policy makers could not dismiss, which in turn led to the lifting of the ban on brothels. The multiple streams theory did not apply to Canada and the Canadian law because of the way sex work was being socially constructed in Canada.

Sex work was being constructed differently in Canada through Bill C-36. In summary, Bill C-36 is the written legislation which bans sex work in Canada. Overall, the objective of Bill C-36 is to reduce the demand for sex work, with a view to discourage entry into sex work, deter participation and to abol-

ish sex work to the greatest extent possible.[57] The government of Canada views sex work as a form of sexual exploitation, while in the Netherlands it is viewed as work. The government of Canada made statements as to why sex work is illegal in Canada. The statements provided are explicitly government reasons because in Canada sex work is viewed as immoral and deviant. First, the majority of those who sell their sexual service are women and are disproportionately represented. Second, by entering into sex work it is influenced by socio-economic factors such as poverty, youth, lack of education, child sexual abuse and drug addiction. Third, sex work is extremely dangerous that poses a risk of violence and psychological harm to those involved. Furthermore, sex work reinforces gender inequalities in society by viewing women's bodies as commodities to be bought and sold. Additionally, sex work harms everyone in society by portraying the message that sexual acts can be bought, which degrades the human dignity of all women. Ultimately, sex work negatively impacts communities where it takes place such as related crime like human trafficking and

---

57   "Technical Paper: Bill C-36, Protection of Communities and Exploited Persons Act," Department of Justice, last modified March 8, 2017, https://www.justice.gc.ca/eng/rp-pr/other-autre/protect/p1.html.

harassment of residents, noise, unsanitary acts leaving behind used condoms or needles.[58] The government of Canada uses Bill C-36 to denounce and prohibit the demand for sex work as it is the best way to avoid harm to sex workers and this is why it remains illegal in Canada as it is socially constructed differently than in the Netherlands.

Conclusion

The paper focused on licensed legal independent sex workers in window brothels in the Netherlands and aimed to answer the question of why the Netherlands legalized brothels in the 2000s. Why the law is different in Canada and the Netherlands can be explained by how sex work is socially constructed. In Canada sex work is viewed as immoral and dangerous, while in the Netherlands it is seen as a form of work. Additionally, the history of activism, with the feminist movement in the 1970s, led by St. James starting in the USA and later in the Netherlands with the help of activists Pheterson and Griseldis, lead to the creation of the International Committee for Prostitutes' Rights, which also created the *World Charter for Prostitutes' Rights*. Furthermore, the shift in political parties in the Netherlands led to a receptive government that was open to the

---

58   Ibid.

movement of prostitution as work. The lifting of the ban on brothels can be explained by Kingdon's multiple streams theory as a problem, policy and political stream in turn came together which led the government to lift the ban on brothels. To conclude, the history of the feminist movement and activists who advocated for prostitution as sex work, along with the shift in political parties was a catalyst in opening up a window of opportunity for major policy change and lifting the ban on brothels in the 2000s in the Netherlands unlike in Canada where sex work is socially constructed as dangerous, in turn making sex work illegal to engage in. By taking a look at sex work laws globally, it can be noted that there is variation of whether or not sex work is legal or illegal, but if we want to understand why, we must look back at history.

Bibliography

Amsterdam.info. "Prostitution Information Center in Amsterdam." Accessed June 13, 2019.   https://www.amsterdam.info/prostitution/pic-amsterdam/.

Business Insider. "The 6 Types of Prostitutes and Where They Work." Last modified November   6, 2013. https://www.businessinsider.com/the-6-types-of-prostitutes-and-where-they-work-2013-11.

Cairney, Paul, and Michael D. Jones. "Kingdon's Multiple Streams Approach: What Is the   Empirical Impact of this Universal Theory?" *Policy Studies Journal* 44, no. 1 (2016): 37-   58.

Campbell, Angela. "Sex Work's Governance: Stuff and Nuisance." *Feminist Legal Studies* 23, no.   1 (2015): 27-45.

Carnegie Council. "Fifteen Years after the World Charter for Prostitutes' Rights." Last modified   August 6, 2000. https://www.carnegiecouncil.org/publications/archive/dialogue/2_03/articles/629.

Cohen, Marjorie Griffin, and Jane Pulkingham. *Public Policy for Women: The State, Income   Security, and Labour Market Issues.* Toronto, Canada: University of Toronto Press   Incorporated, 2009.

CSIS. "Call Off Your Old Tired Ethics." Last modified January 25, 2000.   https://www.walnet.org/csis/groups/coyote.html.

Department of Justice. "Prostitution Criminal Law Reform: Bill C-36, the Protection of Communities and Exploited Persons Act." Last modified September 14, 2018.   https://www.justice.gc.ca/eng/rp-pr/other-autre/c36fs_fi/.

Department of Justice. "Technical Paper: Bill C-36, Protection of Communities and Exploited   Persons Act." Last modified March 8, 2017. https://www.justice.gc.ca/eng/rp-pr/other-autre/protect/p1.html.

Government of the Netherlands. "Prostitution." Accessed May 10, 2019.   https://www.government.nl/topics/prostitution.

Government of the Netherlands. "Prostitution in the Netherlands in 2014." Last modified April   14, 2015. https://www.govern-ment.nl/documents/reports/2015/06/01/prostitution-in-   the nether-lands-in-2014.

LEGISinfo. "House Government Bill." Accessed May 14, 2019. https://www.parl.ca/LegisInfo/BillDetails.aspx?Language=E&bil-lId=6635303&View=0.

Lumen. "Understanding Social Interaction." Accessed June 11, 2019. https://courses.lumenlearning.com/boundless-sociology/chapter/un-derstanding-social-   interaction/.

NSWP. "Belle statue unveiled in Amsterdam to honour sex workers across the world." Accessed   June 11, 2019. https://www.nswp.org/timeline/event/belle-statue-unveiled-amsterdam-honour-sex-workers-across-the-world.

NSWP. "COYOTE Founded in California." Accessed June 10, 2019. https://www.nswp.org/timeline/event/coyote-founded-california. O'Connell Davidson, Julia. "Prostitution." *International Encyclope-dia of the Social & Behavioral   Sciences* (2001): 12244-12247. https://doi.org/10.1016/B0-08-043076-7/03984-X.

O'Connell Davidson, Julia. "Prostitution." *In The Black-well Encyclopedia of Sociology*. (February   2007). https://doi.org/10.1002/9781405165518.wbeosp111.

Outshoorn, Joyce. "Pragmatism in the Polder: Changing Prostitution Policy in The Netherlands." *Journal of Contemporary European Studies* 12, no. 2 (2004): 165-176.
Outshoorn, Joyce. "Policy Change in Prostitution in the Netherlands: from Legalization to Strict   Control." *Sexuality Research and*

Social Policy 9, no. 3 (2012): 233-243.

Post, Che, Jan G. Brouwer, and Michel Vols. "Regulation of Prostitution in the Netherlands: Liberal Dream or Growing Repression?" *European Journal on Criminal Policy and Research* 25, no. 2 (2019): 99-118.

Protection of Communities and Exploited Persons Act, c. 25 S.C. (2014).

Richburg, Keith. "Oldest Profession Gets New legal Protection: Rules for Dutch Brothels Bring Rights, Responsibilities." *The Washington Post,* July 9, 2001. http://www.hartford-hwp.com/archives/61/310.html.

Sanders, Teela, Maggie O'Neill, and Jane Pitcher. *Prostitution: Sex Work, Policy and Politics.* (2009).

Sex Workers and Allies Unite. "$ex Workers Make History: 1985 &1986- The World Whores' Congress." Accessed May 31, 2019. https://www.walnet.org/csis/groups/icrse/brussels2005/SWRights-History.pdf.

Sterling, Andrea, and Emily van der Meulen. ""We are Not Criminals": Sex Work Clients in Canada and the Constitution of Risk Knowledge." *Canadian Journal of Law and Society* 33, no. 3 (2018): 291-308.

The Conversation. "Canada's Laws Designed to Deter Prostitution, Not Keep Sex Workers Safe." Last modified December 9, 2018. https://theconversation.com/canadas-laws-designed-to-deter-prostitution-not-keep-sex-workers-safe-107314.

World Population Review. "Countries Where Prostitution Is Legal 2020." Accessed January 8, 2020. http://worldpopulationreview.com/countries/countries-where-prostitution-is-legal/.

On Reforming the U.N. Security Council to Address Structure and Veto Powers

By Aneesh Chatterjee

1. Introductions

The establishment of the United Nations (UN) in 1945 earmarks a postwar era of transnational protective responsibility. By reconstructing the Wilsonian constitutional foundations of its predecessor, the League of Nations, and spearheaded by objectives of collective security and assistance, prevention of conflict and the suppression of threats to international peace and security, the UN stands today as the world's first successful multilateral organization of its kind to have maintained its legitimacy on the global stage.[1] This being said, there have been significant hindrances in the implementation of UN initiatives as a subsequence of the compositional nature of its primary decisive organ, the United Nations Security Council (UNSC).

In particular, the UNSC has had a mixed, if not overtly unappealing record of incompetent responses and bureaucratic blockages in the context of humanitarian intervention, militarized peacekeeping and multilateral state-building in war-torn nations following an intervention in a civil conflict,

1 S. Hassler, *Reforming the UN Security Council Membership: The Illusion of Representativeness* (London: Routledge, Taylor & Francis Group, 2013), 7; M. D. Evans, *International Law* (Oxford: Oxford University Press, 2018), 602.

or the withdrawal of third-party occupation. This paper will focus on the UNSC's performance in these areas and collate the proposed literature on constitutional reformation to construct a theoretical restructuring of the UNSC such that these problems are better-addressed, drawing from empirical results of past strategies, failures and their respective causes. The few noteworthy successes of UNSC-mandated resolutions will also be incorporated to ensure that the new theoretical model does not do away with what is already favorable about the structure of the organization.

In acknowledgement of empirical data of failed states and the track record of mediation and decision-making, effective reform would involve restructuring the membership composition and the nature, distribution and limitations of the veto power in the UNSC.

To begin, there will be a thorough exploration of *why* the UNSC requires such reform, providing case studies, in the context of intervention mandates and state-building efforts post- conflict. Internalized bureaucracy within the Security Council as a primary cause of inefficiency will also be presented. Following this, a model will be proposed that effectively draws from relevant literature in the field to present a

reformed structure for the UNSC that could potentially miti-
gate the aforementioned issues and bring about better results.
Finally, the implementation procedure for this new model will
be devised using relevant treaties and multilateral agreements,
already present within international law.

2. An Anatomy of the Security Council: Why Reformation?

The UNSC is trusted as the only organ of the UN to
wield legislative legitimacy, and the deployment of the true
use of military force for international intervention.[2] Despite
its pivotal importance on the global stage, there is substan-
tial criticism and propositions for reformation. The reasons
behind this extend from internal, structural problems with
how the UNSC operates, to the long-term consequences of
improper state-building, premature exit strategies and blocked
resolutions wrought upon weak and failing states. To begin
this dissection, the structure of the UNSC and the extent of its
abilities should first be defined.

a. Infrastructure and abilities: critical problems.

This section will first explain how the UNSC is struc-

2   R. Thakur, *The United Nations, Peace and Security:
From Collective Security to the Responsibility to Protect* (Cam-
bridge: Cambridge University Press, 2006), 2.

tured, followed by a dive into the pivotal powers they possess, and their crippling flaws. These include the right to administer force on other nations and the veto power, two areas that play a critical role in UN participation in humanitarian intervention, military action on other states, and state-building.

The body is composed of fifteen total members, five of whom enjoy permanent status, and the remaining ten being cycled with bi-annual elections. The five permanent members (or the P5), deemed so as they were the primary victors of World War II, are Russia, France, China, the US and the UK. They preserve their irrefutable status and allotted powers (including the veto power, to be discussed shortly) under Articles 23(1) and 27(3) of the United Nations Charter. The second non-permanent tier of the UNSC include ten seats, to be filled through internal elections every two years in accordance with Article 23(2).[3] Article 24(1) specifies that all member nations of the UN must entrust the Security Council with the primary responsibility of international security for the sake of prompt and efficient action, and Article 25, among others in Chapter VII, also impress on the fact that the UN must abide by the

---

3   Thakur, *The United Nations, Peace and Security*, 30; Hassler, *Reforming the UN Security Council Membership*, 30.

will of the Security Council.[4] In concept, these provisions appear to have been implemented to avoid dogmatic discourse and bureaucratic roadblocks in the deliverance of crucial, time-sensitive decisions. However, as this paper will demonstrate, this setup has grown to be a problematic crux within the decisive organ.

The right to use legitimate use of force is also exclusively guaranteed to the UNSC under international law: UN Charter Article 2(4) outlaws other sovereign states from using force against other states with the exemption of self-defense, reserving that power to this UN organ alone, while Article 2(7) allows justifiable interference into the sovereign jurisdiction of states.[5] While this legislation specifies that nations refrain from inter-state conflict, civil wars have been far more prone to occur since 1945 than wars between states. Nonetheless, under the mandate of Article 2(6), the UN calls for *all* nations, even those not present as members of the UNSC or UN General Assembly (UNGA), to cease non-defensive military action against other states. This is accepted as customary international law *erga omnes* (applicable to all without

---

4   Roberts and Zaum, "Selective Security," 12.
5   Lowe et al., *The United Nations Security Council and War*, 86; Capaldo, *The Global Community*, 153.

exemption),and has been successfully invoked in cases such as "Nicaragua v United States of America", arbitrated by the International Court of Justice (ICJ) in 1986.[6] However, muddier cases have brought into question the legitimacy of Article 2(4), suggesting that it may not be as rigid and enforceable as the Charter projects. The 1999 NATO intervention in Kosovo, the UK's invasion of Albanian territorial waters in the 1949 Corfu Channel case, and separate rescue operations of nationals conducted by the US in Grenada, and Israel in a hijacked flight in Uganda in 1983 and 1976 respectively, all presented as non-defensive military action taken against another sovereign state that did not rely on Article 2(4) to justify the actions of the aggressor state, nor was the clause consistently effective in condemning the aggressor state for violating international law. Each case presented a defense that, incorporating their idiosyncratic sets of circumstances, was not suitable for the direct and rigid nomenclature of Article 2(4).[7]

The prohibition on the use of force is a cornerstone of the UN's mandate to uphold international peace and security, as it neutralizes belligerence between states and instead opts to

---

6   Evans, *International* Law, 603.
7   Evans, *International Law*, 605; Thakur, *The United Nations, Peace and Security*, 218.

police them and control the use of military aggression. As history and cases suggest, however, the legislation of the UN is unable to enforce the rigid restrictions of customary laws such as Article 2(4) and others mentioned. To the very least, the legislation leaves enough room for interpretation that non-authorized uses of force against other states have been justified, thereby proving it to be vague in its parameters.

The P5's controversial veto powers have been a steadfast point of assent for critics of the UNSC. Under Article 27, any member of the P5 can block a resolution by invoking their veto, thereby stalling or ending any given initiative, even if there is a majority vote for implementation. This was done to ensure that military action would only be carried out with the support and participation of the five major powers, so as to keep them within the UN and strengthen its institutional legitimacy.[8] This ironically reflects the unanimity provision of the preceding League of Nations, Article 5, which claimed no resolution would be put into action unless it had the uncontested support of all member nations. Unlike the UN, this system applied to *all* members of the League.

To prevent crippling blockages by essentially allowing

---

8   Hosli and Dörfler, "Why is Change So Slow?," 44.

all nations a veto power, the reformation post-WWII called for a pinnacle decisive body that could enforce decisions on the majority of member states at its own discretion. To that end, the UNSC reserved veto rights in the new United Nations as an executive branch. As a result, between 1946 and 2007, 213 out of 1,794 UNSC resolutions have been vetoed, 55% of which have been from the USSR/Russia.[9] Between January of 2007 and February 2019, 87% of the 23 veto invocations have been from Russia, 45% of which have been backed by China; the minority of vetoes have come from the US.[10] Indeed, the Cold War is a primary example of how the veto power directly obstructed effective decision- making during the tenuous decades of the nuclear arms race, a majority of the time in disagreement with the USSR, as aforementioned data shows.[11]

Moreover, the veto has also proven to be a tool of influence for states not present in the UNSC, as vested interests in allied states often play a role behind the casting of a veto. India, for instance, has frequently insisted in minimal UNSC participation in their conflicts with Pakistan, a decision that

9   Roberts and Zaum, "Selective Security," 12-13; Hassler, *Reforming the Un Security Council Membership*, 31.
10   "Security Council: Veto List," *Dag Hammarskjöld Library*, (n.d.), https://research.un.org/en/docs/sc/quick.
11   Evans, *International Law*, 602.

has impacted the rate of veto uses in resolutions related to the same conflict. This is achievable due to the reality that the UNSC is an informally assented point of international cooperation fueled by state interests and allowances, and not an entity capable of enforcing its own will to interfere in state affairs.[12] Even states with lesser military capacities, GDP and population than those within the permanent and non-permanent seats of the UNSC are capable of influencing the proceedings of the Council, including its choice to vote on proposed motions. Using the explanatory framework of neo-liberal institutionalism, the UNSC's legitimacy on the global stage and their efficacy in passing resolutions depends on extensive cooperation with other actors, such as independent institutions, other UN bodies such as the Secretariat, and other states with no legitimate stake over the implementation of resolutions. States have the ability to bring to the attention of the Council any topic they deem worthy of their discourse. According to Article 35 of the Charter under Provisional Rules of Procedure, it may be mandatory for the P5 to vote on any motion brought forth by a member state, so long as the motion is seconded by a UNSC representative. Moreover, any member state outside the UNSC

---

12   Roberts and Zaum, "Selective Security," 27.

may be invited to participate in and influence the discussion of a motion which directly affects them, without having the right to vote, according to Article 37.[13]

These legislative provisions ensure that, so long as certain criteria are met, the UNSC may be forced to entertain motions by any and all parties outside the P5 and non-permanent seats, given that they retain UN membership. India's influence over the UNSC, regarding its participation in Indo-Pak conflicts, is an example of how member states can often stymie resolutions, further reducing the power of the Council. This is also evident in reports from the UN peacekeeping mission in Bosnia and Herzegovina, UNPROFOR. Although it was deemed that 34,000 troops were necessary to defend Srebrenica, Gorazde, Bihac, Tulza, Sarajevo and Zepa, all designated as safe zones, member states withheld the efficacy of this resolution by simply refusing to provide the necessary provisions, resulting in only 7000 troops arriving at the zones.[14]

As cases demonstrate, the UNSC veto, while having been introduced to remove bureaucratic deadlock, seems to have simply localized the same problem to the Security Coun-

13   "Provisional Rules of Procedure Security Council," *United Nations*, (n.d.), https://www.un.org/securitycouncil/content/rop/chapter-6.

14   Roberts and Zaum, "*Selective Security*," 27.

cil as opposed to the collective of all member nations. The fact that the veto can also be influenced by states not present in the Council, and that resolutions passed without veto can still be hindered by the member state's will to participate, makes the UNSC an ineffective mechanism at best, and an untrustworthy adjudicator of international security.

This section has proved the UNSC to have an internal structure that suffocates its own initiatives. By law, the UNGA and all other organs of the UN are required to adhere to the decisions of the UNSC. The UNSC itself is crippled by its own veto legislation. The veto power effectively blocks resolutions at the will of any single member of the P5, thereby proving that the efficacy of the UN is invariably stifled by the political will of a small few nations. Because of the structure of the UN, this means that UNGA resolutions are also subject to the will of the P5. The UN's ability to control and adjudicate the non-defensive use of force between states has been questioned by cases that, while violating the overtly simple and absolute legal nomenclature of the Charter, were not always directly indictable as breaches of international law (with exceptions). The following section will elaborate on some recent cases that highlight these particular issues as well as instances of success.

b. Cases to observe.

The following cases demonstrate the implications of the aforementioned flaws.

i. Syria

The Syrian example proposes an example of the true efficacy and reach of UNSC- mandated mediation and punitive measures over belligerent states. Following the beginning of the Syrian civil war in 2011, the UNSC has been extensively involved in addressing the sever humanitarian crisis as well as attempting to remove the dictator, Bashar al Assad, from power (a key component of the Geneva Communiqué, a coalition formed to address the Syrian civil war). To that end, intervention efforts have included mediation plans by the UN led by former Secretary General Kofi Annan with a thorough 6-point peace plan in 2012.[15] This was followed by mediators Lakhdar Brahimi and Staffan De Mistura, calling for ceasefires, drawing from the anti-Assad tenets of the Geneva Communiqué, and establishing the International Syria Support Group in 2015. Multiple ceasefires and successful negotiations with Assad were reached with these methods, amounting to tempo-

15   N.I. Erameh, "Humanitarian Intervention, Syria and the Politics of Human Rights Protection," *The International Journal of Human Rights* 21, no.5 (2017): 524.

rary withdrawal of Syrian forces and compliance from rebels. However, these agreements were inevitably violated, leading to renewed violence from both sides.[16] This emphasizes on the UNSC's inability to enforce their own legislation if not backed by the political will of its member states. The failure to maintain successful mediation efforts are joined by significant UNSC deadlock due to Russia (and subsequently, China) invoking their veto to block resolutions that condemn the Assad regime for violations of international law and human rights.[17]

ii. Afghanistan

The UNSC's record with Afghanistan exemplifies how influential the will of states are over the mandate of the UN. In 1979, the Soviet invasion of Afghanistan violated the core UN principle of sovereignty and non-intervention, conducted by a member of the P5. Similar to cases that bypassed Article 2(4) as discussed previously, the USSR provided a defense for their actions that delegitimized the principles of the UN. Decades later, the US invasion of Afghanistan post-9/11 threatened the

---

16   M. Lundgren, "Meditation in Syria: Initiatives, Strategies, and Obstacles, 2011-2016," *Contemporary Security Policy* 37, no. 2 (2016): 276-279.

17   Erameh, "Humanitarian Intervention," 526.

legitimacy of the UNSC as a superpower state seeking to by-pass the UN and proceed with invasion despite a lack of international support. Between 1999-2000, the UNSC imposed sanctions on the Taliban regime by way of an arms embargo, freezing of assets and a rescinding of diplomatic representation.

However, due to Afghanistan having virtually no economic infrastructure, and being supplied by humanitarian aid by the UN in the face of drought and famine, these sanctions had minimal impact. As per the post-conflict state-building effort, the Bonn Agreement endorsed by UNSC Resolution 1386 sought to create a politically and ethnically diverse transitionary government. However, the Afghan negotiators were selected by the US, and therefore turned the Agreement into a dominance by the US and its closest allies – further solidifying mistrust for the West. The US also carried a mandate to stifle UN operations in Afghanistan that may interfere with their own interests, thereby limiting UNSC-administered use of force. However, counter- terrorism efforts necessary as they were, the US eventually conceded to the UN-led International Security Assistance Force (ISAF), which slowly gained control over the entirety of Afghanistan. Despite this, due to bu-

reaucratic deadlock and delays by the US, this control meant little, as the Taliban and allied warlords had already established their own territories.[18] The choice to exclude the Taliban from peace talks also alienated one of Afghanistan's major players from the political stage, forcing them to return to military violence as their only means of establishing influence. This flaw was publicly acknowledged by the mediator of the conflict at the time, Lakhdar Brahimi, as one of the crippling mistakes of the Afghanistan intervention effort.[19]

iii.   Kosovo

The Kosovo mission is a prime example of UN-SC-mandated state-building. In order to facilitate a stable transition of government in Kosovo after the ceasing of violence in 1999, the UNSC passed Resolution 1244. This document essentially dissolved the sovereign right to jurisdiction over Kosovo for Former Yugoslavia under UN Charter Chapter IIV, handing it instead to the United Nations Mission in Kosovo (UNMIK) to set up an interim administration, and create con-

18   Lowe et al., *The United Nations Security Council and War*, 455-462.
19   R. Ponzio and C. Freeman, "Conclusion: Rethinking Statebuilding in Afghanistan," *International Peacekeeping* 14, no. 1 (2007): 181.

ditions for long-term, sustainable political and economic autonomy.[20] Due to it being a UNSC- led mission, the UNMIK inevitably proceeded to establish the interests of international actors rather than uphold Kosovar priorities and address local concerns. This criticism was dealt both by the international community and Kosovo's local representatives, who went so far as to call the mandate of the UNMIK non-democratic in nature. The mission also held virtually no accountability to Kosovo itself, reporting instead to the UNSC, and as such, wholly represented international interests.[21] The mission proceeded to impose a liberal standard for earned sovereignty on Kosovo, proposing that the standards of political inclination within Kosovo had to first adhere to Western liberal doctrines before being granted the status of a sovereign nation.[22]

This usurpation of the original mandate is an example of how agenda-driven influence in the UNSC can corrupt a state-building effort.

Three cases have been presented that highlight the

20 K. Mulaj, "The Problematic Legitimacy of International-Led Statebuilding," *Contemporary Politics* 17, no. 3 (2011): 245.
21 Mulaj, "The Problematic Legitimacy of International-Led Statebuilding," 247-248.
22 Ibid, 250.

UNSC's powers and idealistic mandates, as well as the subsequent reality behind their choices in recorded events. To address these issues, relevant literature has proposed a variety of reformation concepts for the UNSC, which will now be explored.

2. Proposed reformations for the UNSC

The UNSC has not been entirely exempt from reformation through history. The 1960s saw a vast number of states demanding membership due to decolonization efforts, thereby forcing the membership of the UN to expand dramatically.[23] While the 1945 San Francisco Conference (the genesis of the UN Charter) involved 46 nations and 4 sponsors, the UN includes 193 states today in 2019.[24] The UN facilitates reformation negotiations through UNGA Decision 62/557, known as intergovernmental negotiations.[25] At the adoption of

---

23   Capaldo, *The Global Community*, 156.
24   V. Lättilä and A. Ylönen, "United Nations Security Council Reform Revisisted: A Proposal," *Diplomacy & Statecraft* 30, no. 1 (2017): 164; "1945: The San Francisco Conference," *United Nations*, (n.d.), https://www.un.org/en/sections/history-united-nations-charter/1945-san-francisco- conference/index.html.
25   Lättilä and A. Ylönen, "United Nations Security Council Reform Revisisted," 168.

this in 2008, reformation talks for the UNSC was categorized under five subsections: membership, the veto, regional representation, the prospects of enlarging the Council, and the UNSC-UNGA relationship.[26] It has been theorized that the following reformation points would be beneficial to the UNSC insofar as the fields of veto power, intervention and enforcement of resolutions are concerned.

a. Structural reform.

In terms of the composition and structure of the UNSC, much criticism arises for the fact that the P5 continue to hold permanent status, and wield the non-refutable power of the veto and the UNSC endorsement. To that end, reformation proposals by the G4 coalition, comprised of India, Germany, Japan and Brazil, put forward the Razali Proposal in 1997, calling for an expansion of the number of permanent seats in the UNSC. The two models to this proposal included one where the Council was expanded to 6 additional permanent seats, and one where the new seats were renewable. This also includes a push for 2 African seats, and an exten-

---

26   K. Schaefer, "Reforming the United Nations Security Council: Feasibility or Utopia?" *International Negotiation* 22, no. 1 (2017): 80; Capaldo, *The Global Community*, 161.

sion of the term for non-permanent seats has been put forward as a compromise between reformation advocates and the P5, most of whom (excluding France) opposed the expansion of the permanent Council.[27] Similarly, the Uniting for Consensus group (UfC), comprised of Canada, Italy, Egypt, Mexico, Spain, South Korea, Turkey, Argentina, Malta and Pakistan, also advocated for an increase of renewable non-permanent seats in the UNSC.[28] A proposition by the High Level Panel on Threats, Challenges and Change suggested either a model where there are 6 additional permanent seats with no veto power and 3 added 2-year non-renewable seats, or a model with 8 added 4-year renewable seats and 1 new non-renewable seat lasting 2 years.[29] Panama proposes a membership resolution where sub-categories of membership in the UNSC are abolished completely, giving way instead to 24 seats of equal influence, stature and power, renewable every 3 years for indefinite re-elections.[30]

---

27   Capaldo, *The Global Community*, 161.
28   Ibid, 158.
29   C. Toca and B. Pocola, "The Debate on the United Nations Security Council Reform: Learning International Politics Actively," *International Relations and European Studies*, no. 5 (2013): 88.
30   Schaefer, "Reforming the United Nations Security Council," 82.

b. Addressing the veto issue.

The UNSC's record of administering intervention resolutions for the purpose of upholding humanitarian protection, invoked under the doctrine of R2P, has also been hindered by the use of the veto. A 2001 report by the International Commission for Intervention and State Sovereignty suggested reform in the way of barring members of the P5 from using their veto to block UNSC resolutions that sought to address and condemn human rights violations. In 2004, the aforementioned High Level Panel on Threats, Challenges and Change called for a blocking of veto use against resolutions regarding genocide and human rights violations, a notion later backed by a report by the Secretary General in 2005, and again in 2009.[31] The G4, previously mentioned as an advocate for UNSC seat expansion, also argued for the granting of veto rights to new members beyond the original P5. Due to strict backlash from the P5, Japan and Germany of the G4 have eased their insistence on this, although India and Brazil made their participation in the Council conditional on their receiving the same veto rights as the P5.[32] 2005 reformation proposals also included an

31   Capaldo, *The Global Community*, 163-164.
32   Schaefer, "Reforming the United Nations Security

idea for changing the veto system to weigh on a double or triple veto in order to block resolutions, instead of the single veto it currently takes. In this model, a resolution may be passed if a majority of UNSC members endorse it, and the minority of members casting a veto would not halt its progress.[33]

c. The hybrid model.

These proposals address both the structure of the UNSC and the nature of its veto power. They seek to diversify and extend the body of governance that is the UNSC, so as to more evenly distribute the power it wields, and at the same time, limit the impact of the veto power so as to dissolve argumentative deadlock and stalled decisions in UN missions. This paper will recommend a consolidated reform model that incorporates traits from several proposals outlined above.

It seems most effective to revise and implement the 1997 Razali Proposal brought forth by the G4. Here, the P5 is extended by a factor of 6 new permanent seats, while allowing non- permanent seats to be renewable.[34] Along with this,

Council," 76.

33   Capaldo, *The Global Community*, 160.
34   R. Thakur, "United Nations Security Council Reform," *African Security Review* 13, no. 3 (2004): 68.

it would be prudent to incorporate the majority vote model, where the endorsement of a majority of states can overshadow the veto of a minority group. Thirdly, the concept of banning veto invocations on resolutions that aim to address genocide, war crimes, human rights violations and mass atrocities should also be incorporated into the structural mandate of the reformed UNSC.

These measures may effectively address the problems outlined in earlier sections, regarding the enforcement of legislation, the legitimate use of force for the sake of international peace and stability devoid of national agendas, and the procedures of state building without hijacking the mandate of the mission in a bid for neo-colonialism.

3. Legislative implementation

The model, while theoretically plausible, would have to adhere to established standards of international law, both customary and binding, in order to be implemented. Given the specific issues, Articles 24 and 27 of the UN Charter must be targeted for reform, in order to address structural problems and the subsequent implications. UNSC reform may be invoked through Article 108, which allows a 2/3 majority of all UN

members (including all 5 permanent members) to ratify a proposal for reformation of the Charter. UN conferences can also be convened by a 2/3 majority of the UNGA, with the addition of 15 UNSC members, under Article 109. While Article 109 has never been put in practice, Article 108 has been behind 3 different reformation initiatives for the UN Charter (specifically regarding membership and structure of the UNSC, by increasing it from 11 to 15 seats) throughout the history of the organization.[35]

Beyond this, the UNGA decision 62/557 allows for conferences to be held where reformations are proposed, discussed and updated. The Chair of intergovernmental negotiations reserves the authority to call reformation meetings, during which individual representatives as well as coalitions (G4, UfC, L.69 Group, P5, etc.) can voice their concerns and proposals for change within the UN.[36] Decision 62/557 has reportedly been invoked in 2015 to establish a formal process for negotiations regarding UNSC reform in the context of expanding permanent membership, signaling that the UN at

35   Hosli and Dörfler, "Why is Change So Slow?" 39.
36   M. Hansen, "Update on Security Council Reform," *Global Policy*, accessed 5 April 2019, https://www.globalpolicy.org/security-council/security-council-reform/50153-update-on- security-council-reform.html?itermid=916, 4-14.

large is aware of the drawbacks of the P5 and the terminating cycle of non-permanent members. This was done "without a vote" according to a press release by the UN, and was prompted by a letter from the General Assembly asking to convene the seventieth session of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters. The decision had allegedly been pending on the agenda for 23 years and had been hailed as a landmark breakthrough in intergovernmental negotiations, policy-making and global governance.[37] In the seventy-third session of UNGA plenary meetings in 2018, the General Assembly used this platform to propose an abolishment of the veto power and concrete expansions of the UNSC. While UNGA participation was extensive, input from the P5 regarding the matter showed that the consensus on this proposal was not unanimous. China supported increasing membership to diversity representation, as did the USA. Russia challenged the proposition to revoke veto powers, claiming that its existence had helped the UN stay out of

---

37   "General Assembly Adopts, Without Vote, 'Landmark' Decision on Advancing Efforts to Reform, Increase Membership of Security Council – Meetings Coverage and Press Releases," *United Nations*, 2015, https://www.un.org/press/en/2015/ga11679.doc.htm.

questionable affairs in the past.[38] As veto powers are still held by the P5, and permanent membership has not been expanded, it may be assumed that these propositions are, at the very best, ongoing. It does not appear feasible to revoke veto powers given that the will of states is the primary force driving the functions of the UNSC. Unless a P5 member willingly forfeits the veto using the administrative proposition framework established in the UN, thereby relieving themselves from the powers of the Security Council, veto revocation is not currently possible, even though it may be favorable. However, increased representation in the permanent seats has seen agreement from multiple states and may be a more realistic goal.

4. Conclusions

This paper has elaborated on the flaws in the UNSC in regard to membership and veto powers. Membership problems extend from the permanent status of the P5 to the length of non- permanent seat periods, and their renewability. Veto issues impress on the influence of political agendas from in-

38 ”Member States Call for Removing Veto Power, Expanding Security Council to Include New Permanent Seats, as General Assembly Debates Reform Plans for 15-Member Organ – Meetings Coverage and Press Releases,” *United Nations*, (n.d.), https://www.un.org/press/en/2018/ga12091.doc.htm.

dividual states that can impede the progress of UNSC resolutions, often in cases of humanitarian intervention. Multiple case studies have been used to display how these issues have manifested in specific scenarios of UNSC intervention, mediation and state-building.

The paper then proceeds to outline relevant literature on what reformations have been proposed for the UNSC in regard to these issues. Multiple coalitions and individual states have proposed an extensive array of changes for UNSC membership, as well as limitations on the exercise of the veto so that resolutions regarding humanitarian crises may be implemented even without the unified consent of the UNSC. Finally, the relevant legislation present in the UN has been pointed out as legally binding methods by which reform is addressed.

The structure and behavior of the UNSC is dependent on the will of states. Should the reforms be implemented, the UN risks losing the compliance and participation of powerful states, thereby hurting their legitimacy. However, smaller steps like increasing permanent seats to a sufficient degree may pave the way toward a slower, but more effective reformation process.

Bibliography

Capaldo, G. Z. *The Global Community: Yearbook of International Law and Jurisprudence 2015*. Oxford: Oxford University Press, 2016.

 "Security Council: Veto List." *Dag Hammarskjöld Library.* (n.d.). https://research.un.org/en/docs/sc/quick.

Erameh, N. I. "Humanitarian Intervention, Syria and the Politics of Human Rights Protection." *The International Journal of Human Rights* 21, no. 5 (2017): 517-530. doi:10.1080/13642987.2017.1307829.

Evans, M. D. *International Law* (5th ed.). Oxford: Oxford University Press, 2018.

"General Assembly Adopts, Without Vote, 'Landmark' Decision on Advancing Efforts to Reform, Increase Membership of Security Council - Meetings Coverage and Press Releases." *United Nations*. 2015. https://www.un.org/press/en/2015/ga11679.doc.htm.

Hansen, M. "Update on Security Council Reform." *Global Policy*. Accessed 5 April 2019. https://www.globalpolicy.org/security-council/security-council-reform/50153-update-on-security-council-reform.html?itermid=916.

Hassler, S. *Reforming the UN Security Council Membership: The Illusion of Representativeness*. London: Routledge, Taylor & Francis Group, 2013.

Hosli, M. O. and T. Dörfler. "Why is Change So Slow? Assessing Prospects for United Nations Security Council Reform." *Journal of Economic Policy*

Reform 22, no. 1 (2017): 35-50. doi:10.1080/17487 870.2017.1305903.

Lättilä, V. and A. Ylönen. "United Nations Security Council Reform Revisited: A Proposal." *Diplomacy & Statecraft* 30, no. 1 (2017): 164-186. doi:10.1080/09592296.2019.1 557423.

Lowe, V. et al. *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*. Oxford: Oxford University Press, 2008.

Lundgren, M. "Mediation in Syria: Initiatives, Strategies, and Obstacles, 2011– 2016." *Contemporary Security Policy* 37, no. 2 (2016): 273-288.

"Member States Call for Removing Veto Power, Expanding Security Council to Include New Permanent Seats, as General Assembly Debates Reform Plans for 15-Member Organ - Meetings Coverage and Press Releases." *United Nations*. (n.d.). https://www.un.org/press/en/2018/ga12091.doc.htm.

Mulaj, K. "The Problematic Legitimacy of International-Led Statebuilding: Challenges of Uniting International and Local Interests in Post-Conflict Kosovo. *Contemporary Politics* 17, no. 3 (2011): 241-256. doi:10.1080/135697 75.2011.597141.

Ponzio, R. and C. Freeman. "Conclusion: Rethinking Statebuilding in Afghanistan." *International Peacekeeping* 14, no. 1 (2007): 173-184.

"Provisional Rules of Procedure Security Council." *United*

Nations. (n.d.). https://
www.un.org/securitycoun-
cil/content/rop/chapter-6.

Roberts, A. and D. Zaum. "Selective Security: War and the
United Nations Security Council since 1945." *The
International Institute for Strategic Studies*. London:
Routledge, Taylor & Francis Group, 2009.

Schaefer, K. "Reforming the United Nations Securi-
ty Council: Feasibility or Utopia?" *Interna-
tional Negotiation* 22, no. 1 (2017): 62-91.
doi:10.1163/15718069-12341348.

Thakur, R. "United Nations Security Council Reform." *African
Security Review* 13, no. 3 (2004): 66-74.

Thakur, R. *The United Nations, Peace and Security: From Collec-
tive Security to the Responsibility to Protect*. Cambridge:
Cambridge University Press, 2006.

Toca, C. and B. Pocola. "The Debate on the United Nations
Security Council Reform: Learning International Pol-
itics Actively." *International Relations and European
Studies,* no. 5 (2013): 83-97.

"1945: The San Francisco Conference." *United Nations*.
(n.d.). https://www.un.org/en/sections/histo-
ry-united-nations-charter/1945-san-francisco- con-
ference/index.html.

Hong Kong's Crisis of Confidence, 1982-1989

By Abby Chu

Throughout its modern history, the direction of Hong Kong's future has been determined by external actors, in particular, Britain and the People's Republic of China, as evidenced by the period leading up to the 1997 transfer of Hong Kong's sovereignty from Britain to China. Considering the handover had the greatest impact on the people of Hong Kong, they had shockingly little say in the determination of their own future under Chinese sovereignty. Not being allowed to have an official voice in negotiations that culminated in the 1984 Sino-British Joint Declaration and only having a superficial voice in the drafting process of the Basic Law, Hong Kong's post-handover constitution, triggered a political crisis in confidence in Hong Kong over its future while they were simultaneously recovering from an prior economic crisis of confidence. People were not confident in China's ability to stay true to its word in granting a "high degree of autonomy" under the "one country, two systems" framework. Yet, there was not much Britain or Hong Kong could do as China dominated the entire process, sparking mass emigration prior to the handover. Indeed, China was caught between its desires to modernize its economy, which Hong Kong could greatly contribute to, and maintain political control, starting with the Basic Law. Developments

in the 1982-1989 period made clear that China prioritized the latter, and Hong Kong became a prime example of China's lack of interest in global governance at a time when the world was becoming increasingly interconnected, perceiving it as a domestic issue.

Over ninety percent of the territory that made up the crown colony was leased to Britain from China for a ninety-nine-year lease, due to end in 1997, while the rest of its territory had been ceded in perpetuity.[1] However, not only did China want the return of the leased territory, it wanted back the entire territory. From the Chinese perspective, the treaties that led to it ceding Hong Kong were unfair and, thus, invalid. To China, Hong Kong had always belonged to it and was part of China. It was also apparent to Britain that in the aftermath of World War II and the subsequent loss of its imperial power and superpower statuses, it would not be able to hold on to Hong Kong forever, nor was it worth it to try to do so. Instead, it had to focus on its own postwar economic recovery.[2] Thus, Hong Kong's future

---

1   Steve Yui-Sang Tsang, Democracy Shelved: Great Britain, China, and Attempts at Constitutional Reform in Hong Kong, 1945-1952 (Hong Kong: Oxford University Press, 1988), 211.

2   Irene Chan Man Tuen, "The Sino-British Joint Declaration of 1984 on the Future of Hong Kong,"
Cambridge Review of International Affairs 5, no. 1 (1991): 43.

was certain to become a topic of discussion in the near future after World War II.

The term, "three-legged stool," refers to the triangular relationship of Britain, China, and Hong Kong. Ideally, any agreement regarding Hong Kong and its future would be satisfactory to all three parties, and all three parties would have equal legs. For Hong Kong in particular, any agreement reached about it would have a lasting impact in every single way on its people.[3] Yet, this was not a primary consideration from Britain and China's perspectives. For China, it was predominantly about asserting its longstanding sovereignty over Hong Kong, regardless of any past treaties. In its eyes, Britain was merely a foreign power occupying its land.[4] Therefore, Hong Kong was caught in the middle of Sino-British relations. In reality, Britain's and China's stool legs were far longer than Hong Kong's.

1979 marked the first official visit of a Hong Kong Governor to mainland China by Governor Murray MacLe-

3   James T.H. Tang and Frank Chan, "Balancing the Beijing-London-Hong Kong "Three-Legged Stool" – 1971-1986," in *the Hong Kong Reader: Passage to Chinese Sovereignty,* ed. Ming K. Chan & G.A. Postiglione, (Armonk: M.E. Sharpe, 1996), 41-43.
4   Ibid, 41.

hose, where the uncertainties over Hong Kong's future were brought up. During that visit, Chinese leader Deng Xiaoping reassured MacLehose, telling him that, "your investors should put their hearts at ease."[5] Notably, Deng did not deny China's intention to reclaim Hong Kong in 1997 but noted that China would respect Hong Kong's special status, informally suggesting the idea of the "one country, two systems" framework that would eventually come into fruition. Despite that reassurance, Hong Kong's investors continued to fear the possibility of Hong Kong being returned to Communist China in 1997 and its implications, pressing then-British Prime Minister Margaret Thatcher to demand an extension of Britain's ninety-nine-year lease.[6]

By 1982, the topic of Hong Kong's future rose to the surface as the 1997 termination of the lease loomed closer. During a visit to Beijing in September that year, Thatcher brought up the topic of extending the lease. What resulted from that visit was a communiqué by Britain and China stating that negotiations would occur regarding Hong Kong's future, emphasizing their desire to maintain Hong Kong's stability.[7]

5   Ibid, 47.
6   Ibid, 47-50.
7   William H. Overholt, "Hong Kong and the Crisis of Sovereignty," Asian Survey 24, no. 4 (1984): 471-484.

Maintaining Hong Kong's prosperity and stability was a consensus that Britain, China, and Hong Kong all seemed to agree upon, suggesting that all three had equal legs in the three-legged stool. From Hong Kong's perspective, maintaining its prosperity and stability was akin to maintaining the status quo under British rule. During its time as a British crown colony, Hong Kong has flourished into a major global trading power. Therefore, maintaining its socioeconomic prosperity seemed to be the natural priority for China, as it was in the midst of opening up to the rest of the world in the aftermath of its Cultural Revolution.[8]

However, as negotiations progressed, it became clear that Britain and China's own interests prevailed, and that Hong Kong's future would be determined within the considerations of Sino-British relations. This was especially clear when Hong Kong was not allowed to participate in these negotiations as an independent party, shut out over having a say its own future. China would only recognize the participation of the Governor of Hong Kong as part of the British delegation, shocking many in Hong Kong.[9] In the past decade, Hong Kong had become

8   Ibid, 478.
9   Ian Scott, *Political Change and the Crisis of Legitimacy in Hong Kong* (Hong Kong: Oxford University Press, 1989), 1.

increasingly independent domestically, thus assuming that it would be an influential voice in determining its own future.[10] Therefore, Hong Kong's inability to participate and the relative loss of its autonomy were the beginnings of a crisis of confidence for its people, as uncertainties over the direction of its future grew.

Britain's main goal was to emerge from negotiations with its dignity intact, having "no cards to play" as it had lost its predominance in the region and did not view defending its claim in Hong Kong as feasible. The original purpose of colonizing Hong Kong was to use it as a base to expand British trade with the mainland, and by that point, it was not particular useful in that regard. Additionally, since Hong Kong operated as a free port, Britain did not gain any worthwhile commercial benefits. Despite that, the volume of British-Hong Kong trade was still greater than Sino-Chinese trade. From an economic perspective, trade relations with China were not substantial enough for Britain to give up Hong Kong, but this was not the primary concern.

Political concerns were of greater importance to Britain, and what it wanted was "a dignified tactical withdrawal with

_____

10   Ibid, 324.

maximum assurances to mollify an increasingly panic-stricken Hong Kong community."[11] To it, withdrawal was inevitable, as revealed by a 1949 secret study by its Commonwealth Relations Office, which concluded that Chinese "recovery not only of leased territories but also of ceded areas of the colony… must be accepted."[12] Evidently, they expected their responsibilities in Hong Kong to end, as demonstrated by the 1981 British Nationality Act, which aimed to prevent an influx of people from emigrating from Hong Kong to Britain in anticipation of the 1997 handover by downgrading the status of the people of Hong Kong.

The real question for Britain was the terms of the handover. Publicly, Thatcher emphasized Britain's "moral responsibility" to the Hong Kong population to ensure its continued prosperity and stability. Yet, Britain was the one that instigated the negotiations with China "to remove the uncertainty which the 1997 deadline generated."[13] While Britain went into negotiations wishing to maintain an administrative role in Hong Kong post-1997, by early 1984, it had conceded that was not to likely to happen and sacrificed that demand for guarantees of

---

11   Ibid, 43.
12   Ibid.
13   Ibid, 44.

the existing rights and conditions of the Hong Kong people by China.[14]

Despite both parties entering into negotiations with the seemingly same goal of ensuring Hong Kong's socioeconomic status quo, it was inevitable that Sino-British relations would complicate matters, which is where the length of each party's stool leg would come into play. Negotiations were only able to occur from 1982 to 1984 because of the recent normalization of relations between Britain and China as the People's Republic of China. Yet, that did not mean that relations were fully stable. After Thatcher's 1982 visit to Beijing, she visited Hong Kong and declared that "treaties are made to be kept," which China interpreted as Britain asserting the validity of the "unequal treaties," causing a diplomatic storm and exacerbating the crisis of confidence in Hong Kong.[15]

Whereas Britain's stool leg was longer than Hong Kong's, China's was the longest of them all. For China, the entire foundation of negotiations was based on the understanding that China held unquestioned sovereignty over Hong Kong as one of their "basic principles of peaceful co-existence."[16]

---

14 Ibid.
15 Overholt, 472.
16 Tuen, 41.

Despite that position, it was still willing to maintain the status quo to ensure Hong Kong's continued stability and prosperity, which it considered necessary to China's modernization and opening up to the rest of the world, and because it had made substantial investments in Hong Kong. Therefore, Beijing knew it needed to allow the capitalist economic system to continue, necessitating the "one country, two systems" principle and allowing Hong Kong a "high degree of autonomy."[17] Resolving this issue under the "one country, two systems" principle would not only bring economic benefits to China, but would serve as an example of a successful reunification that could be applied to reunify Taiwan with China, another issue that China viewed as strictly domestic. In a sense, the retrocession of Hong Kong back to China would kill birds with one stone – economic modernization and political reunification.[18]

Not only did negotiations without Hong Kong's involvement cause uncertainties about its future – particularly its political future – it also coincided with the destabilization of the economy in terms of the stock market, the exchange rate, and the real estate market in 1983. Coupled together, the economic and political crises of confidence within Hong Kong led

17   Overholt, 476.
18   Tuen, 41.

a wave of emigration to other Western nations. While investors recovered most of their confidence in Hong Kong's economy, locals remained fearful of the political implications of the handover. Many Chinese in Hong Kong had fled the mainland previously when the communist regime took over, and for them, the wounds were still fresh. Confidence in the handover continued fluctuating as several rounds of negotiations progressed. By 1984, confidence increased in Hong Kong amidst reports of progress being made during negotiations, largely due to British concessions to China.[19]

The announcement of the Sino-British Joint Declaration resulted in a muted confidence in China by the Hong Kong population, largely based on China's stated goal of modernization that aligned with maintaining the status quo. Furthermore, they felt betrayed by the British government, which had made clear that it saw no other viable alternative, for imposing an agreement on them without their consent, particularly as it did not even leave them with a means of exit due to the government's refusal to grant them a right of abode in Britain.[20] In doing so, Britain completely disregarded those that disagreed

---

19   Ibid, 472-473.
20   William McGurn, *Basic Law, Basic Questions: the Debate Continues*, (Hong Kong: Review Pub, 1988), Foreword.

with the Joint Declaration and the confirmed handover.[21]

Whatever guarded confidence the people of Hong Kong had was based on the guarantees made to them in the Joint Declaration, namely: there should be progress towards a more representative government that is accountable to the people of Hong Kong; its future government will be autonomous and run by the people of Hong Kong, and; the existing rights and freedoms would be upheld and guaranteed for fifty years. While the people of Hong Kong had serious doubts about Beijing upholding these conditions as the Declaration intended, it was all they had to rely on.[22]

Unfortunately, it soon became apparent during the drafting process of the Basic Law, which was to act as Hong Kong's constitution post-handover, that these conditions would not be upheld after the handover. Quite alarmingly for people's confidence levels, the guarantees accorded to them in the Joint Declaration was subject to Beijing's conservative interpretation. While China allowed Hong Kong to be involved in the drafting process, it was not allocated any real say. Beijing dominated the process both directly and indirectly, viewing it as a domestic process as the final draft was to be promulgated

21   Scott, 324-330.
22   Ibid.

by the National People's Congress and to converge with Chinese law.[23]

The Basic Law Drafting Committee and the Consultative Committee that formed in 1985 to draft the Basic Law were dominated by mainlanders and comprised of members approved by the Chinese government. The members from Hong Kong were considered to be loyal to Beijing and would not get in the way of the drafting process according to Beijing's wishes. Moreover, while the members of the Consultative Committee were comprised solely of people from Hong Kong, they were only given the ability to suggest changes to the drafts and did not have the ability to make revisions. Therefore, China only allowed Hong Kong a superficial influence that only existed on paper, which contributed to continued fears held by the people of Hong Kong.[24]

China has a history of prioritizing political considerations over economic ones, and Hong Kong was no exception.[25]

23   Tang, 52-56.

24   Ming K. Chan, "Democracy Derailed: Realpolitik in the Making of the Hong Kong Basic Law, 1985-1990" in *The Hong Kong Reader: Passage to Chinese Sovereignty,* ed. Ming K. Chan & G.A. Postiglione, (Armonk: M.E. Sharpe, 1996), 12-13.

25   Ming K. Chan, "Global Implications of Hong Kong's Retrocessions to Chinese Sovereignty," in *Hong Kong's Re-*

Beijing's interpretation regarding Hong Kong's autonomy soon became apparent to be "subject to the level of the central leadership's authorization," which was not considered by Hong Kong as reflective of the autonomy promised in the Joint Declaration.[26] China's version of autonomy under the "one country, two systems" served to allow Hong Kong's capitalist economy to continue functioning, benefiting China's economy and global links to the rest of the world, while preventing any move politically outside of China's orbit, particularly democratization.[27]

While the Basic Law was not promulgated until 1990 in China, and would not take effect until the 1997 handover, China repeatedly insisted that any change post-1984 and post-signing of the Joint Declaration had to "converge" with the then-unfinished Basic Law.[28] In doing so, Beijing used the drafting process to employ pressure on attempts by the British and colonial governments at limited forms of democratization during the transition period leading up to 1997, such as through conservative interpretations of the rights and the degree of

union with China, ed. G.A. Postiglione & J. Tang, (Armonk: M.E. Sharpe, 1997), 28-34.

26   Bill Chou, "New Bottle, Old Wine: China's Governance of Hong Kong in View of Its Policies in the Restive Borderlands," Journal of Current Chinese Affairs 44, no. 4 (2015): 183.

27   Chan, *Global Implications*, 28-34.

28   Chan, Democracy Derailed, 14-17.

autonomy people would enjoy in the revisions made to the Basic Law draft. It was clear that China feared the "internationalization" of Hong Kong through political reform and made clear that it would not tolerate any attempts to put Hong Kong on a path towards anything resembling a "genuinely autonomy 'city-state'" that does not align with Beijing's political orbit. This is also why it explicitly stated that Beijing would have control over Hong Kong's foreign affairs and defense. Evidently, China viewed the transition period and the declining influence and confidence in Britain by the people of Hong Kong as leaving a power vacuum that it had to fill.[29]

The drafting process revealed that China's insistent need to maintain control outweighed its desire to preserve the status quo in Hong Kong to maintain its stability and prosperity to the benefit of the Chinese economy. It used the Basic Law as a means of political control even before a draft was ready for the first public consultation in 1988. Preserving the status quo had been a goal that Hong Kong and China previously had in common. However, this drafting process saw China try to preserve Hong Kong's economic prosperity with the "two sys-

---

29   Denis Chang, "How China Sees it," in *Basic Law, Basic Questions: The Debate Continues*, ed. William McGurn (Hong Kong: Review Pub, 1988), 129-133.

tems" aspect while simultaneously asserting their control over Hong Kong's political control through its version of autonomy, destabilizing Hong Kong and ruining people's confidence, economic and otherwise, along with it.

China exerted these pressures despite the Joint Declaration stating that Britain alone would be responsible for administration of Hong Kong until the handover occurred.[30] Unsurprisingly this, coupled with the lack of real input Hong Kong had in the drafting of the Basic Law, furthered the unease of the Hong Kong people over their future post-handover. Just like the Joint Declaration, Hong Kong was never given a real voice as the Basic Law did not require the ratification of its people. The entire drafting process, especially the personnel involved in the two committees, made it undoubtedly clear that China was using it to slow down any reforms in Hong Kong, and that there was already cause for a crisis of confidence in China pre-1997.[31] There was a growing feeling of isolation by Hong Kong people that neither the Chinese nor the British governments (and the Hong Kong government by extension) cared about what they wanted, especially as Britain seemed unable or did not care to stop Chinese interference during the transition peri-

30   Ibid.
31   Tang, 58-60.

od. If China was already trying to influence Hong Kong affairs in the transition period, there was no telling how restrictive it would be when they gained full sovereignty.

Fears over Hong Kong's future under China were exacerbated by the 1989 Tiananmen Square protests. Up until that point, Beijing had generally used indirect and diplomatic tactics of making its displeasure known over any reforms taking place within Hong Kong. The brutality of the Chinese government's response to the protests made undeniably clear the lengths China would go to assert its control and its opposition to political reform. Thus, a crisis of confidence within Hong Kong fully surfaced as the people lost all trust in the Chinese government, the Joint Declaration, and the Basic Law. A survey revealed that after the crackdown of the protests, only fifty-percent of respondents were confident in Hong Kong's future, compared to seventy-five percent in January earlier that year.[32] Clearly, the Chinese government had no intention of allowing genuine political reform in Hong Kong, but economic stability and modernization was not enough for people to believe in the legitimacy of the Chinese sovereignty.

Support for democratization reached a high point in

32   Joseph Y.S. Cheng, "The Tiananmen Incident and the Pro-Democracy Movement in Hong Kong," China Perspectives 78, no. 2 (2009): 92-93.

the immediate aftermath of the Tiananmen protests as people demanded for their voices to be heard through demonstrations. While people were outraged at the Chinese government as they could identify with the aims of the Tiananmen protests, there was also a great sense of despair over their own future.[33] This incident united the pro-democracy movement and public opinion within Hong Kong, as well as the British government for the first time since the Joint Declaration.[34] In order to fulfill its "moral responsibility," Britain supported an accelerated democratization process in Hong Kong and took a firmer stance on this post-Tiananmen instead of merely appeasing China as it had done so in the past. An additional motivation was also to minimize their own responsibilities within Hong Kong by transferring it over to the locals.[35]

The peak in support for democratization did not last long within Hong Kong. China's actions frightened people enough that it provoked a wave of mass emigration and "brain drain" from Hong Kong's government and private sectors. A post-crackdown poll revealed that a third of Hong Kong's 1.55 million households intended to emigrate.[36] The crisis of con-

33   Ibid, 92.
34   Ibid, 96.
35   Ibid.
36   Ibid, 93.

fidence so great that it caused people to flee, reinforcing the fear that existing rights and freedoms would not be honored after the retrocession. This crisis also generated local hostility towards Britain. One of the actions Britain took post-Tiananmen to mitigate the migration crisis was to grant full British nationality to a certain fifty thousand Hong Kong residents and their families, hoping that by giving these people a possible exit, then people would remain in Hong Kong at least until the retrocession. Not only did this fail to "pacify local anxiety about the future," the people of Hong Kong grew more hostile towards Britain for failing to safeguard their liberties.[37]

For many who remained in Hong Kong, this incident essentially prompted them into submission in hopes that by refraining from political confrontation, they would not face repercussions by the Chinese government after the retrocession. This political apathy also arose from the sense that no one would defend the Hong Kong people's interests, and that ultimately, Beijing and London prioritized their own interests. This was seen through the second round of public consultation for the Basic Law drafts, which had been extended for three

---

37   Nicholas Thomas, Democracy Denied: Identity, Civil Society and Illiberal Democracy in Hong Kong, (Aldershot: Ashgate Pub, 1999), 212-223.

months in the aftermath of the Tiananmen protests.[38] Whereas there was a vast number of submissions during the first round of public consultation, there was a marked decrease during the second round. Not only was there an exit in the form of migration, but also an exit from politics to protect themselves and also the Hong Kong economy from destabilization.[39]

While the Tiananmen square protests saw China experience international backlash, it also used the incident to consolidate their control within Hong Kong via the Basic Law drafts. Many of the revisions that had previously been made to the Basic Law draft after public consultations were regarded as too liberal and subsequently cut.[40] This occurred despite the Hong Kong and British governments repeatedly speaking of the negative effects of the Chinese government's response to the Tiananmen protests on confidence levels in Hong Kong.[41] By rewriting much of the Basic Law, China ensured that such an incident would not occur again and that all crucial powers would be vested in China whether directly or indirectly, such as by mandating that the incoming Hong Kong (as a Special Administrative Region of the People's Republic of China) gov-

38   Chan, *Democracy Derailed*, 8-9.
39   Cheng, 94.
40   Thomas, 211-212.
41   Chan, *Democracy Derailed*, 22-26.

ernment pass anti-subversion laws.[42] It also sought to prevent any "internationalization" of Hong Kong that may occur in the wake of the crisis.[43] While it consolidated its power within Hong Kong's future constitution, it also consolidated the crisis of confidence and deepened the fear and isolation people felt about the Chinese government.

Throughout the transition era leading up to the 1997 retrocession, the direction of Hong Kong's future was always considered within the context of Sino-British relations and its respective interests. Despite the handover having a lasting impact in everyday life for the people of Hong Kong, they were not given an equal, direct voice in negotiations that led to the 1984 Sino-British Joint Declaration, which only comprised of Britain and China. While Britain insisted that the Joint Declaration was the best possible arrangement for Hong Kong given the circumstances, people feared that China was insincere in its promise to grant a "high degree of autonomy" to them. Furthermore, the people of Hong Kong felt betrayed by Britain for shying away from its "moral responsibility" of providing the right of abode by downgrading their status to prevent an influx of emigration to Britain, and for continually taking a weak stance against China's increasing intrusions in Hong Kong's

42   Thomas, 211-212.
43   Chan, *Global Implications*, 24.

affairs despite Britain having the sole responsibility of admin-istration until the handover. The negotiations sparked a crisis of confidence within Hong Kong over its future, which also had a notable impact on its economy.

The crisis spiraled out of control after the 1989 Tiananmen protests and the revision of the Basic Law draft, when any tentative confidence people had in the Chinese government to keep their promises were crushed. The impact of Tiananmen in Hong Kong was paradoxical, acting both as a catalyst for supporting democratization, but also resulting in political apathy of the people. It led to mass emigration and a "brain drain" as people lost confidence in the legitimacy of the Chinese government's words.

As China consolidated its control in the leadup to 1997, the people of Hong Kong felt increasingly isolated. While they felt that they should have been involved in negotiations over Hong Kong's future, neither Hong Kong nor Britain possessed long-enough stool legs to curb China's desire for political control. Furthermore, no outside party or actor stepped in, furthering the sense of political cynicism and complete loss of confidence. To China, it was bad enough that it had to deal with Britain in facilitating the return of Hong Kong, which it consid-

ered an inherent part of China that had been previously stolen from them. Had there been any third-party attempts to arbitrate the issue, China would have considered it a breach of Chinese sovereignty and denied any outside influence as Hong Kong's future was an internal issue. While China was willing to integrate itself in the global economy and utilize Hong Kong to do so, at the end of the day political control mattered more. In fact, China stated 20 years after the handover in 2007 that Hong Kong "had considerable autonomy only because the central government [of China] had chosen to authorize that autonomy."[44] Ultimately, Hong Kong had no real say in its own future, as it was determined by external actors, leaving a mood of disappointment and despair amongst its people over its future.

---

44   Keith Bradsher, "World Briefing Asia: China Reminds Hong Kong Who's Boss," *New York Times,* 7 June 2007, Late Edition (East Coast), http://myaccess.library.utoronto.ca/login?url=https://search-proquest-com. myaccess.library.utoronto.ca/docview/433617035?accountid=14771.

Bibliography

Bradsher, Keith. "World Briefing Asia: China Reminds Hong Kong Who's Boss." *New York Times.* 7 June 2007. Late Edition (East Coast). Accessed 11 January 2020. http://myaccess.library. utoronto.ca/login?url=https://search-proquest.com.myaccess. library.utoronto.ca/docview/433617035?accountid=14771.

Chan, Ming K. "Democracy Derailed: Realpolitik in the Making of the Hong Kong Basic Law, 1985-1990." In *The Hong Kong Reader: Passage to Chinese Sovereignty.* Edited by Ming K. Chan & G.A. Postiglione. Armonk: M.E. Sharpe, 1996.

Chan, Ming K. "Global Implications of Hong Kong's Retrocessions to Chinese Sovereignty." In *Hong Kong's Reunion with China.* Edited by G.A. Postiglione & J. Tang. Armonk: M.E. Sharpe, 1997.

Cheng, Joseph Y.S. "The Tiananmen Incident and the Pro-Democracy Movement in Hong Kong." *China Perspectives* 78, no. 2 (2009): 91-100. http://www.jstor.org.myaccess.library.utoronto.ca/stable/24054225.

Chou, Bill. "New Bottle, Old Wine: China's Governance of Hong Kong in View of Its Policies in the Restive Borderlands." *Journal of Current Chinese Affairs* 44, no. 4 (2015): 177–209.

McGurn, William. *Basic Law, Basic Questions: The Debate Continues*. Hong Kong: Review Pub, 1988.

Overholt, William H. "Hong Kong and the Crisis of Sovereignty." *Asian Survey* 24, no. 4 (1984): 471-484. doi:10.2307/2644339.

Scott, Ian. *Political Change and the Crisis of Legitimacy in Hong Kong*. Hong Kong: Oxford University Press, 1989.

Tang, James T.H. and Frank Chan. "Balancing the Beijing-London-Hong Kong "Three-Legged Stool" – 1971-1986." In *The Hong Kong Reader: Passage to Chinese Sovereignty.* Edited

by Ming K. Chan & G.A. Postiglione. Armonk: M.E. Sharpe, 1996.

Thomas, Nicholas. *Democracy Denied: Identity, Civil Society and Illiberal Democracy in Hong Kong*. Aldershot: Ashgate Pub, 1999.

Tsang, Steve Yui-Sang. *Democracy Shelved: Great Britain, China, and Attempts at Constitutional Reform in Hong Kong, 1945-1952*. Hong Kong: Oxford University Press, 1988.

Tuen, Irene Chan Man. "The Sino-British Joint Declaration of 1984 on the Future of Hong Kong." *Cambridge Review of International Affairs* 5, no. 1 (1991): 40-47.

doi:10.1080/09557579108400057.

The Venezuela Crisis, in regards to China

By Leiwen He

In January 2019, the world was divided over the ever-escalating Venezuela Crisis, where two political candidates both claimed to be the legitimate president of the Latin American country. This paper is interested in the external and internal factors which facilitate China's decision to support the Venezuelan president Nicolas Maduro, in order to counterbalance the United States' assistance of Juan Guaidó. Firstly, China fears that the normative implication of bandwagon with the United States under the slogan of multilateral democratic interventionism would encourage and escalate its growing domestic regional separatism movements. Secondly, due to the uniqueness of Chinese authoritarian developmentalism, China has been promoting the norm of non-interference in domestic affairs to consolidate the justice of its political model, which is contrary to the U.S. position in Venezuela. Thirdly, the infant Chinese nationalism is yet to be consolidated regarding its historical toleration of different culture under the empire, which contributes to the Chinese Communist Party's (CCP) decision to reinforce the norm of non-interference policy.

Furthermore, despite the normative and cultural concern, China's strategic relationship with Hugo Chaves and his predecessor Maduro could be traced back to the country's larg-

est demand of oil and the historical records of China lending oil-backed loans to Venezuelan since 2007. To retrieve greater advantages of the bilateral debts, China bargained on President Maduro, who was isolated by the west, and expected great return from this political investment. In contrast, the support for Guaidó would deliver China the inevitable outcome of having to deal with American intervention in Sino-Venezuelan debt relations, which is likely to hinder China's expected return. Thus, China's bid on Maduro is to remedy its distressed loans to Venezuela, which is caused by the country's miscalculation of Venezuela's economic failure and the complexity of interstate relations in the Americas. On a greater strategic level, China may consider the support for Maduro in Latin America—the traditional sphere of influence of the U.S., as a potential tactic to counterbalance U.S. hegemonic status in the Asia Pacific.

China favours Maduro over Guaidó because the endorsement of the latter would encourage domestic civil separatism. In support of Guaidó, the United States and its allies supplied Guaidó with "groceries, nutrition biscuits, vitamin supplements, hygiene products and medical aids"[1], and con-

---

1   Li Xia, "China reiterates its principled stance on Venezuela issue", published through Xin Hua News, on 1st March 2019. http://www.xinhuanet.com/english/2019-03/01/c_137860978.htm.

demns Nicolas Maduro as an illegitimate and incompetent "tyrant". In February 25th of 2019, the Chinese foreign ministry issued a rebuke of foreign opponents of Maduro, articulating the American support for Guaidó as "intervention by external forces in the internal affairs of Venezuela"[2]. Furthermore, Lu Kang, the spokesman of foreign ministry condemns "using the so-called humanitarian aid to serve political ends and stir up instability and even turmoil in Venezuela"[3]. Firstly, China has always preferred to resolve territorial disputes through a bilateral approach over multilateral. Because of rumbling domestic separatism, China could easily become the next target of transnational humanitarianism or multilateral democratic justice.[4] More specifically, the Chinese government would prefer the norm of non-interference of domestic affairs over transnational humanitarian intervention. China is a country of fifty-six ethnic minorities. The domestic issues emerged from this complexity had attracted international attention on the ethnic separatism under the Chinese Communist government. As for Hong Kong's umbrella movement and Taiwanese demonstrations, the

---

2   Ibid.

3   Zhiqun Zhu, "Foreign Policy of the People's Republic of China", in Foreign Policy in Comparative Perspective: Domestic and International Influences on State Behaviour. (Washington: Sage CQ Press, 2013): 6.

4   Ibid.

CCP also exhibited assertiveness in support of the One China policy. These incidents are often regarded as the miniatures of the Chinese suppression of ethnic, cultural and regional separatism by western mainstream medias. The support for Guaidó would likely give the stance that China endorses the norm of transnational humanitarianism over the principle of non-interference of domestic affairs. This would encourage domestic dissidents and separatists to invite American or western intervention into Chinese domestic territorial disputes, and thus destabilizing the national unity.

On the other hand, the Chinese support for Maduro consolidates the international norms of sovereign integrity and non-interference policy congruent with their prior national interests. In the PRC's state constitution, it is stipulated that "China adheres to an independent foreign policy as well as to the five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs"—the Five Principles of Peaceful Co-Existence[5]. On February 11th, during President Xi's visit to Mexican Chinese immigrants in Mexico, he endorsed and reiterated this principle: "there are some foreigners who had eaten

_____

5   Ibid, 5.

their fill and had nothing better to do, pointing their fingers at our affairs"[6]. Since Deng Xiaoping's economic reformation, China has abandoned ideological doctrinarism and approached pragmatism, which is demonstrated through the promotion of "socialism with Chinese characteristics".[7] Although the country is a late-comer to the current international order, the leadership insisted to "cross the rivers by feeling the stone". Though China lacks a coherent and unified interpretation of its cultural and philosophical branding, it rejects to blindly follow western prescriptions for development and insists on exploring its own path that serves its best interests and unique conditions. Full sovereign rights without foreign interference are considered a vehicle to such political ends and increasing international recognition would bolster the international legitimacy of the CCP. The decision to counterbalance U.S. intervention in Venezuela thus functions to promote this purpose.

Another reason which contributes to the support for non-interference might be the need to consolidate Chinese nationalism. China's transition from a dynastic empire to a

---

6   Mamta Badkar, "Here's Why People Are Calling Chinese President Xi Jinping A Mao-Style Authoritarian", in Business Insider. Published on 29th November 2013. Accessed date: 20th March 2019. https://www.businessinsider.com/xi-jinping-reminiscent-of-deng-not-mao-2013-11.

7   Zhu, "Foreign Policy of the People's Republic of China", 7.

nation-state was only gradually completed as the CCP consolidated its power from 1949. Prior to the construction of itself as a nation-state, the old ideological system China employed to organise this ethnic and cultural diversity was Tianxia-ism.[8] Because of imperial China's preponderance in its tributary relationship with all-known world at the time, Chinese exceptionalism assumed itself the orthodox cultural authority and hegemon. The term Tian-Xia literally translates to "all under heaven", drawing an empire of a culturally and ethnically diverse people under the grand unification of the Chinese civilisation and imperial rules. While it is a unified empire, this social construction nevertheless allowed diversity of ethnicity, culture and identity. Edward Luttwak investigates the ethnic and cultural origins of several major Chinese dynasties, finding that multiple of them were the decedents of peripheral hunting tribes with a different language and cultures, including the imperial families like Qing, Yuan and Tang.[9] China had been an agrarian society until the collapse of the Qing dynasty, which meant that the emperors had no interest whatsoever in introducing the high culture of nationalism on a massive scale. The

8   Edward Luttwak, "Strategic Competence: The Historical Record", in The Rise on China vs. The Logic of Strategy. (Boston: Belknap Press of Harvard University, 2012).
9   Ibid.

legacy of this social construction is that all ethnic and regional groups in China had practised their own culture and language for so long, to the point which they could become potential nation-states. Prior to the introduction of free and mandatory education programs and the unification of the Chinese spoken-language, China was a country of complex cultural and regional diversity. This, in turn, renders the regional and ethnic separatists the potentials to realise their independent motives. Therefore, to continue the infant social construction of nationalism, the making of Chinese foreign policy must be congruent with the national interests of maintaining its unity.

Despite the normative concern, the initial support for the increasingly authoritarian Venezuela government could be attributed to China's demand for the country's largest reserve of petroleum. Every day, the Chinese industries consume 12,798.571 barrels of oil as the largest consumer country of petroleum.[10] China's demands for oil seem to be extremely compatible with the Venezuelan supply—the country that holds the largest oil reserves in the world, sitting on 300 billion barrels of petroleum. Since 2017, the China Development Bank

---

10   CEIC Data, "China Oil Consumption", https://www.ceicdata.com/en/indicator/oil-consumption.

extended the loans for Venezuela to more than 60billion USD.[11] Venezuela had become the largest recipient of Chinese official finance. It was argued that this loan would serve to construct a "win-win" partnership between China and Venezuela under president Hugo Chavez. After Chavez's death Maduro, being the politician of Chavez's inner circle, assumed this presidency and continued the established the "comprehensive strategic relationship" with China.

China bargained on Maduro as the authoritarian leader isolated by the western countries in urgent needs for external support. Since China continued to lend loans to Venezuela even after economic decline during Maduro's presidency, some started to worry if the loans are made too easy to access for poor countries. In fact, the finance model China utilised in international investment is referred as the "Angola Model", an invention designed to combine different economic assets in a debt relationship to make development feasible in countries that lacks the initial financial ability.[12] For instance, the Chi-

11   Matt Ferchen, "China, Venezuela and the illusion of Debt-Trap Diplomacy", Published on August 16th 2018 by Carnegie-Tsinghua Center for Global Policy. https://carnegietsinghua.org/2018/08/16/china-venezuela-and-illusion-of-debt-trap-diplomacy-pub-77089.

12   Brookings Institute, "China's Aid to Africa: Monster or Messaiah?", February 7th 2014, Accessed on January 10th 2019. https://www.brookings.edu/opinions/chinas-aid-to-africa-monster-or-messiah/.

nese government has been encouraging commercial agencies to associate loans and warranties with other assets in Belt and Road Initiative (BRI) projects, such as service contract, infrastructure, promotion in export and import. Therefore, when a country is unable to make payment for loans because of extreme poverty, its oil reserve or other strategic assets could be a substitute of direct repayment. In this case, what China has been interested in was Venezuela's oil reserves. The BRI foundations and CDB differentiate from the multilateral Asian Infrastructure Investment banks (AIIB): the investment projects it participated usually lack uniformity of general rules, meaning most cooperation are negotiated bilaterally instead of in multilateral settings.[13]

On the contrary, because of Guaidó's profound connection with the United States and his will to establish a "transparent" relationship with China, the Sino-Venezuelan debt relationship would be inevitably intervened in by American involvement. The Chinese support for Guaidó would dramatically risk or decrease China's expected return of investment in Venezuela[14]. The rating company Finch argues some projects

13   Ferchen, "China, Venezuela and the illusion of Debt-Trap Diplomacy".

14   "Venezuela's Guaido Wants China to See Maduro Is Bad for

under the BRI lack "commercial imperatives" so "it is highly uncertain whether future projects returns will be sufficient to fully cover repayment to Chinese creditors".[15] If Guaidó assumed preponderance in Venezuela, the bilateral relationship with China would be interfered with by the United States for the country's deep suspicion of the motivation of Chinese international development. Although the first practitioner of the Angola Model was actually Japan in its extensive economic debt engagement with China in the 1970s, the Sino-American relationship is not secured by military alliances like in the Japanese-American relationship. Furthermore, China's state-led capitalist network raised American concern whether Chinese foreign direct investment is an extension of the authoritarian regime. Therefore, because the U.S. does not have significant capability to shape the outcome of Chinese domestic and foreign policy, as well as China' authoritarian developmentalism, the American security elites will always be suspicious of Chinese intention behind its economic engagement abroad.

Business", published on 4th February 2019 on Bloomberg News. https://www.bloomberg.com/news/articles/2019-02-04/venezuela-s-guaido-seeks-meeting-with-china-to-relaunch-ties.

15   Deloitte, "Embracing the BRI Ecosystem in 2018", February 12th 2018. Accessed on March 19th 2019. https://www2.deloitte.com/insights/us/en/economy/asia-pacific/china-belt-and-road-initiative.html#endnote-sup-16

The Chinese miscalculations lie on their failure to speculate the Venezuelan economic collapse as a failed state under Maduro's government, as well as the American intervention. The strategy could be more enhanced by considering the complexity of interstate relations in the American continent. With American involvement in facilitating Guaidó's presidency, Venezuela could be exploiting the competitions of the Sino-American bipolarity for its best interests. China's sunk costs could be utilised by Venezuela to leverage political concessions and prevent China from retrieving great oil reserves from the Latin American country.

In the long term, the decision to counterbalance against Guaidó and his western allies would increase China's political capital to leverage with the U.S. on the greater strategic scale. The South China Sea, East Asia and South-East Asia were once the traditional spheres of the hegemonic influence of imperial China. Under the framework of Tianxia-ism, the Chinese tributary system persisted for centuries until the collective encounter with the industrialised west. After the century of humiliation which resulted in China's decline, the military competition in the Asia-Pacific was ultimately concluded by American victory and the establishment of the U.S. alliances system as to fill the

power vacuum of Asia at time. America's almost ubiquitous military and political presence in the region has always been a security concern of the CCP, and some consider it as a demonstration of persisting Cold War mentality. The American projection of military influence in the Korean Peninsula, the Taiwan Strait, the Chinese territorial disputes with Japan, and the Strait of Malacca, all but pose direct and substantial military and economic deference to the PRC. Major Chinese medias often construe the U.S. presence in the Asia Pacific as "a plot to recruit allies and friends to circle China and blunt China's global aspirations"[16].

Indeed, 80 percent of China's oil imports would have to navigate through the strait of Malacca, which is under American military projection.[17] However, to counterbalance the U.S. influence, rapid and apparent modernization and expansion of the People's Liberation Army could activate the security dilemma between the U.S. and China, which could provoke further economic and militarily confrontation due to mutual-suspicion and misinterpretation.[18] The current Chinese military moderni-

16   Zhu, "Foreign Policy of the People's Republic of China", 7.

17   B.A. Hamzah, "Alleviating China's Malacca Dilemma", Published by the Institute for Security & Development Policy, on 13th March 2017. http://isdp.eu/alleviating-chinas-malacca-dilemma/.

18   Adam P. Liff and John Ikenberry, "Racing Toward Tragedy? China's Rise, Military Competition in the Asia Pacific, and the Security Dilemma", in

sation was done with exquisite care in avoidance of provoking conflicts. The country under Deng Xiaoping had chosen the path of peaceful rise, which prioritises domestic development instead of military competition for world primacy.[19] Therefore, concerning the risks embedded in military competition with the U.S., China's support for the authoritarian leader Maduro would bolster China's leverage in the "American backyard" of Latin America. If Maduro regains complete or partial authority in Venezuela, China's political investment would, therefore, function as to balance American presence in the traditional Chinese backyard of Asia.

In fact, China's investment in Venezuela is a small puzzle to understand China's objective to find alternative solutions for development independent of the American international architectures. Since the mid-1990s, China adopted the "Go Out" strategy that followed the development policy of "Bringing In" industrial technology, foreign enterprises and investment.[20] Initially, this strategy stipulates the offshoring of Chinese investment and enterprises. Subsequently, multilateral organisations centred around China's objectives were estab-

19   Zhu, "Foreign Policy of the People's Republic of China".
20   Ibid.

lished: the BRICs, the AIIB and the CDB. On March 26th 2018, China launched crude oil contracts priced in renminbi (RMB) rather than American dollars, which poses a challenge to U.S. dollar's pegs with middle eastern oil. Some had argued that this reflects China's attempt to remake global norms and international orders by attempts to institutionalising its peg of currency in strategic assets like crude oil, thereby upgrading political influence. The internal factor which impacts Chinese foreign policy was the Chinese people's suspicion to foreign influence and the demand for self-determination.[21] The determination to undo semi-colonial trauma and restore historical greatness was broadly shared among both the collective leadership of the CCP and common Chinese citizens. China wants to restore international respect and recognition of its status. The result produced is China's distrusts of the liberal order led by the United States, and refusal to make further concessions on its own market liberation for deeper economic integration.[22] The doctrines of Marxism and Dependency Theory were particularly marketable in China, which perceive China's deeper integration into the neoliberal order an acquiescence to the American distribution of critical developmental resources.

21   Luttwak, "Historical Residues in Chinese Conduct".
22   Zhu, "Foreign Policy of the People's Republic of China".

To conclude, China's support for Maduro for the Venezuelan presidency reflects both domestic and international factors which shaped this policymaking. Because of China's Five Principles of Peaceful Co-existence and necessity for prioritising development, China prefers non-interference instead of transnational humanitarianism and multilateral democratic justice, thus opposing Guaidó who aligned with the U.S. legion. Because China's miscalculation underestimated the complexity of American influence in Latin America and Venezuelan failure, the accumulated sunk costs left China few options and they continued to bargain and invest in Maduro to redeem the sunk costs and win the full expected return of this strategy. More interestingly, the Chinese leadership may present the Venezuelan crisis as an opportunity to counterbalance the U.S. and destabilize its sphere of influence, in response to the U.S. presence in the Asia-Pacific. Lastly, China's unique relationship with Venezuela reflects the country's attempt to remake world order preferential to its own interests.

Bibliography

Liff, Adam P. and John Ikenberry. "Racing Toward Tragedy? China's Rise, Military Competition in the Asia-Pacific, and the Security Dilemma." In *International Security Journal*, Vol.39, no.2 (fall 2014).

Zhu, Zhiqun. "Foreign Policy of the People's Republic of China", in *Foreign Policy in Comparative Perspective: Domestic and International Influences on State Behaviour*. Washington: Sage CQ Press. 2013

Luttwak, Edward. "Strategic Competence: The Historical Record", "The Strategic Unwisdom of the Ancients", "Historical Residues in Chinese Conduct", in *The Rise on China vs. The Logic of Strategy*. Boston: Belknap Press of Harvard University, 2012.

Badkar, Mamta. "Here's Why People Are Calling Chinese President Xi Jinping A Mao-Style Authoritarian," in Business Insider. Published on 29th November 2013. Accessed date: 20th March 2019. https://www.businessinsider.com/xi-jinping-reminiscent-of-deng-not-mao-2013-11.

Deloitte, "Embracing the BRI Ecosystem in 2018," February 12th 2018. Accessed on March 19th 2019. https://www2.deloitte.com/insights/us/en/economy/asia-pacific/china-belt-and-road-initiative.html#endnote-sup-14.

Brookings Institute. "China's Aid to Africa: Monster or Messiah?", February 7th 2014, Assessed on January 10th 2019. https://www.brookings.edu/opinions/chinas-aid-to-africa-monster-or-messiah/

Li Xia, "China reiterates its principled stance on Venezuela issue" published through *Xin Hua News*, on 1st March 2019. http://www.xinhuanet.com/english/2019-03/01/c_137860978.htm.

"Venezuela's Guaido Wants China to See Maduro Is Bad for Business", published on 4th February 2019 on *Bloomberg News*. https://www.bloomberg.com/news/articles/2019-02-04/venezuela-s-guaido-seeks-meetingwith-china-to-relaunch-ties.

Hamzah, B.A. "Alleviating China's Malacca Dilemma," Published by *Institute for Security & Development Policy*, on 13th March 2017. http://isdp.eu/alleviating-chinas-malacca-dilemma/.

Iranian Nationalism

By Nicholas Lovrics

Chronology – Modern Iranian History

- 1890 – riots ensue in Tehran following tobacco concessions granted by Nasir al-Din Shah of Persia to Great Britain
- 1905-1911 – Iranian Constitutional Revolution, led to the establishment of the Persian Parliament
- 1925 – Reza Khan topples the Qajar Dynasty following a set of military coups starting in 1921
- 1925 - Reza Khan becomes Reza Shah Pahlavi; Pahlavi Dynasty begins with the Shah sitting as Monarch and Prime Minister in Persia
- 1941 – Forced abdication of Reza Shah Pahlavi during the Anglo-Soviet invasion of Iran; replaced by his son, Mohammed Reza Pahlavi
- 1951 – The Shah's modernization program begins with the nationalization of the Iranian oil industry
- 1953 – Overthrow of democratically elected Prime Minister, Mohammed Mossadegh by the American Central Intelligence Agency
- 1979 – Forced exile of the Shah; the Iranian Cultural Revolution; the creation of the Islamic Republic of Iran; American Embassy occupied in Tehran
- 1980-1988 – the Iran-Iraq War
- 1995 – First American sanctions on Iran for its "sponsorship of terror"
- 1999 – Student Protests in Tehran
- 2001 – George Bush delivers Axis of Evil Speech
- 2006 – United Nations Security Council imposes sanctions on Iran for violating the International Atomic Energy Agency's demands for the suspension of Iran's nuclear enrichment program
- 2009 – Green Movement protests following the perceived rigging of Mohammed Ahmadinejad's re-election
- 2015 – Iranian Nuclear Deal signed between Iran and a coalition of the United Kingdom, the United States of America, France, Germany, Russia, and China

Lavish narratives of heroism, ingenuity, and civilization are prevalent both in ancient and modern Persian history. From Cyrus's invasion of Greece, to the Qajar's reign, to the birth of the Islamic Republic of Iran (IRI) in 1979, a proud national history binds all Iranians.[1] Similarly, Iran has seen conceptions of nationalism since ancient times, far before Islam's introduction to the region. Nationalisms pre-dating the Islamic Revolution of 1979 manifested out of disagreements over competing conceptions of "Iranianness".[2] Ancient and medieval Persian nationalisms were primarily results of static political homogeneity, wishes for greater autonomy, and calls for self-determination.[3] Although pre-modern history is valuable in understanding modern Iranian nationalism, the 19th, 20th, and 21st centuries will primarily be analyzed.[4]

The birth of the IRI introduced religious nationalism

1   Majid Sharifi. "*Imagining Iran: The Tragedy of Subaltern Nationalism*" (Lexington Books, 2013), 3
2   Ozum Yeslitas. "Contested Notions of National Identity, Ethnic Movements, and Democratization in Iran," *Studies of Transition States and Societies* 8 (2015), 54
3   Kamran Aghaie and Afshin Marashia, ed. "*Rethinking Iranian Nationalism and Modernity*" (University of Texas Press, 2014), 84
4   Misagh Parsa. "*Democracy in Iran: Why it Failed and How it Can Succeed*" (Harvard University Press, 2016), 14. Scholarship agrees that modernity began it Persia following the Tobacco Concessions of 1890.

as Iran's new codified manifestation of national identity. Since 1979, the divide between religious and more common forms of nationalism – civic or ethnic – has grown substantially. This divide, along with the inherent challenges of maintaining a theocracy – valuing ideology over pragmatic policy – has only exacerbated the economic hardships, political dissent, and social unrest in Iran. The IRI's refusal to follow the Westphalian doctrine, and their desire to erect an Islamic world order, has substantially crippled its placement in the new world order.[5]

This essay argues a linear progression in the development of nationalism in post-revolutionary Iran. Since 1979, the IRI's valuation of ideological nationalism over civic or ethnic nationalism has led to its austere adherence to principles of Islam in political discourse and action. This has in turn limited the IRI's efficacy in addressing Iran's pre-existing economic, social, and political difficulties domestically, and foreign policy issues internationally. Finally, these political limitations have led to the rise of nationalist movements in Iran in response to the deteriorating national situation. In the periods discussed below, the more conservative the administration in Iran, the less pragmatic policies they implemented.

5   Henry Kissinger. "*World Order*" (Penguin Publishers, 2014), 154

Analogous to ancient Iranian nationalism, Iranian nationalism between 1890-1979 was rooted in dissatisfaction relating to international intervention into Iran's affairs, poor economic conditions, and a lack of social freedoms. The Tobacco Concessions of 1890, the Constitutional Revolution of 1906, the overthrow of the Qajar Dynasty in 1925, and reactions to Mohammed Pahlavi's modernization efforts of the 1950s and 1960s are examples of nationalist movements that attempted to protect Iranian identity.[6]

Competing conceptions of Iranian identity before the Islamic Revolution were products of disputes between civic and ethnic nationalism. As a result of Iran's diverse history, many Iranians felt connected to the rest of their population through their ethnically Persian history. Conversely, many Iranians believed that they are linked together through their civic pride. Before the IRI, different regimes indoctrinated either civic or ethnic nationalism in attempts to unify their nation. This was first evident following the Constitutional Revolution, when law makers reformed the education system to

6   Richard W. Cottam, Nationalism in Iran: Updated Through 1978. (University of Pittsburgh Press, 1979), 17. The Tobacco Protests were reactions to the Shah granting merchant concessions to Great Britain, an example of a negative experience of foreign intervention in Iran.

emphasize the importance of Persian history. Schools removed the teaching of the Arabic language, minimized the importance of the teachings of Shia Islam, and propagated the unparalleled importance of Persian history.[7]

As a result of this a-historical view of Persia's Islamic history, the population that valued civic national identity over ethnic – notably Sunni minorities including Arabs, Kurds, and Turkmen – were marginalized.[8] Conversely, during the modernization programs of the Pahlavi regime, civic nationality was favored. This is evident through the Shahs' progressive – anti-Islamic – views on the rights of women, Westernization, and industrialization.[9] The dogma of the Pahlavi regime and the various specifics of the modernization program violated traditions of Islam, which only served to marginalize Iran's conservative Muslim community As a result, the clergy felt alienated. Pre-IRI conceptions of national identity were dictated by disputes over the importance of civic and ethnic nationalism. In both of the cases discussed above, nationalist movements countered the perceived dominance of each form of nationalism.

7   Yeslutas, "Contested Notions of National Identity, Ethnic Movements, and Democratization in Iran," 54
8   Ibid. 60
9   Misagh Parsa, "Ideology and Pragmatism in Iran's Foreign Policy," Middle East Journal 58, no. 4 (2004), 541

Conversely, the genesis of the IRI represented a shift in state sponsored national identity – one that perpetuates the primacy of Islam over Iranianness. The struggle between civic and ethnic nationalism was ended, and ideological nationalism was implemented. This is particularly evident through the clergy's exhaustive representation in not only the Majlis – the parliament of the IRI – but also sub-state political entities, and the education system; the unchallenged hegemony of the Supreme Leader over the President, military and non-government bodies, and society through complete control of the media; and, the perpetuation of Islamic ideals in government documents – notably the constitution, the efforts of police forces, and social structures.[10] Although, in theory, uniting Iranians under Islam – Iran's population is 97% Muslim – potentially made sense, the excessiveness of the IRI's authoritative commitment to the principles of Islam, and the IRI's interpretation of Islam – primarily chosen to benefit the regime – have only served to generate a new divide among Iranians: religious conservatives and democratic reformers.[11] Although numerous non-secular governments exist globally, the extent to which both domestic

10   David Menashri, *Post-Revolutionary Politics in Iran: Religion Society and Power* (Psychology Press, 2001), 11
11   Ibid. 26

and foreign policies have been influenced by religion in Iran's theocracy is unprecedented since Westphalia.

While discussing the domestic and foreign policy decisions implemented by the IRI, this essay will divide the most recent forty years of Iranian history into four distinguishable segments. The first segment spans Iran's immediate post-revolutionary history, from 1979-1989, dubbed the "Khomeini Era". Second, spanning from 1989-1997, this segment will be referred to as the "Reconstruction Period". The final two segments follow the ascension of each of Iran's President's from 1997 to the present day, referred to as the "Reformer Era", and the "Hardliner Era".[12]

Domestically, the challenges in Iran's political environment stem from the structure of the polity – one established solely to perpetuate Islamic ideals and the power of the regime.[13] The primacy of Islam in Iranian politics and society are indoctrinated in the regime's Constitution. S. 57 of the Constitution of the IRI details the political system and bodies of the regime – the executive, the legislative, and the judiciary – but

12   Saied Golkar, "Configuration of Political Elites in Post-Revolutionary Iran" *The Brown Journal of World Affairs* 23, no. 1 (2016), 285

13   Kamran and Afshin, ed, "Rethinking Iranian Nationalism and Modernity," 262

is careful to note that absolute power resides with the Supreme Leader, the Velayat-i amr (the Guardianship of Islamic Jurists), and the Imamat (Religious Leadership).[14] Throughout all Eras, the subservience of the President to the Supreme Leader is prevalent, notably under Ayatollah Ali Khamenei.[15] Further, the configuration of the political sphere in Iran allowed for the consolidation of power between the Clergy and military bodies following the Revolution; clergymen represented over 60% of the IRI's parliament in 1981.[16] The absolute power and vast representation of the religious conservative in Iranian politics following the revolution allowed for fairly unchallenged political decisions to be made in the name of Islam during the Khomeini and Reconstruction Eras.[17]

A primary example of this is Iran's extension of the Iran-Iraq War.[18] Following the defeat of Iraqi forces in Iran, Iranian officials ordered the extension of the war into Iraqi

---

14   Constitution of IRI, S. 57 (15).

15   Menshri, *Post-Revolutionary Politics in Iran: Religion, Society, and Power*, 61.

16   Golkar, "Configuration of Political Elites in Post-Revolutionary Iran," 281

17   Ibid.

18   Menshri, *Post-Revolutionary Politics in Iran: Religion, Society, and Power*, 63.

territory.[19] These actions proved of little realist purpose as the land being invaded was weak in natural resources or strategic geographic positions and attacking Iraq worsened relations with the United States.[20] It is clear that these actions were executed with the intentions of adhering to the IRI's Islamic doctrine and spreading Iranian Islam. While this served to anger Iranians, most Iranians still believed in the principles of the Revolution[21]. Further, particularly during the Reconstruction and Reformer Eras, poor economic decisions were executed in attempts to rapidly boost Iran's economy. Events of the 1990s such as the severe drop in the price of oil, later the Asian Financial Crisis, and the Ruble Crisis led to a worsening of the post-war economic hardships Iran was facing.[22] In order to react to these crises and attend to Iran's war debt Rafsanjani introduced pseudo-liberal economic reform including increasing privatization, the elimination of certain subsidies, and the improving of ties with the West.[23] This realist approach angered conservative elites and members of the clergy, and an altered

19   Romanzi, "Ideology and Pragmatism in Iran's Foreign Policy," 7
20   Ibid.
21   Ibid, 8.
22   Menshri, *Post-Revolutionary Politics in Iran: Religion, Society, and Power*, 108.
23   Ibid, 106.

economic reform plan – created in conjunction with the Supreme Leader – was drafted.[24] The result was a continuation of existing economic hardships and worsening of Iran's economic environment.[25] Iran's foreign policy decisions made in the two decades following the revolution forever changed the landscape of Iran and the Middle East. With regard to foreign policy during the Khomeini and Reconstruction Eras, Iran perpetuated their will to create an Islamic world order. In a speech delivered by Ayatollah Khomeini in 1980, he stated that Iran must "export the revolution to the world". This, coupled with the unification of church and state, violated the Westphalian international order. Iran's primary ally at this time was Syria, a country also devoted to its Islamic principles.[26] The radical nature of the revolution and the newly founded regime limited Iran's possible regional allies, and tensions were created with primarily Sunni nations including the Gulf States, Egypt, and Turkey.[27]

Further, Iran's relations with the United States were essentially dismantled at the beginning of the revolution. A

24   Ibid, 108.
25   During Rafsanjani's presidency, Iran's foreign debt increased from $6B U.S.D. to $36B U.S.D.
26   Kissinger, *World Order*, 144.
27   Ibid.

primary cause of the revolution was the belief among the population that the Shah was simply a puppet of the United States.[28] However, on November 4th, 1979, student pro-IRI protesters stormed and occupied the American Embassy in Tehran.[29] Although the hostages taken were eventually released, this forever altered the landscape of Iran-U.S. relations. The worsening of ties with America also worsened ties with Israel in the Holy Land and eventually resulted in Iran's sponsorship of the Radical Islamic group, Hamas. This motivated American President Ronald Reagan to label Iran as sponsors of terror to the State Department.[30]

Foreign policy challenges in Iran's first two decades stem from its mission to achieve an Islamic world order. Iran's regional isolation came as a result of its commitment to pseudo-radical Islamic principles, while its relations with the U.S. were worsened through the hostage crisis, the Iran-Iraq war, and Iranian support of Hamas. This led to the expansion of sanctions by the U.S. on Iran in 1995.

---

28   Menshri, *Post-Revolutionary Politics in Iran: Religion, Society, and Power*, 2
29   Ibid, 14.
30   Mahmood Monshipouri and Monchehr Dorraj, "Iran's Foreign Policy: A Shifting Strategic Landscape," *Middle East Policy* 14, no.2 (2013), 146

Domestically, economic hardships continued later, during the Reformer Era under President Khatami, for similar reasons. The election of Khatami, a pro-democratic reformer, is indicative of the extent of political, economic, and social conditions in Iran.[31] However, under Supreme Leader Khamenei, and through manipulation of the political system in favor of conservative elites, Khatami was unable to carry out the majority of his reformist agenda. An advocate for pseudo-liberal economic reform, Khatami – like Rafsanjani – was essentially required to release Iran's Second and Third Economic Plans, in each of his terms, respectively.[32] In Iran, Khatami represented hope for change. Khatami's campaign promise of pro-democratic change resulted in the highest election turnout since the revolution, with 93% of eligible voters casting ballots. Despite the absolute power of the religious elite in Iran, anti-Republic movements occurred frequently under Khatami, notably the Student Movements of 1998 and 2003. These movements were calls for the further implementation of pro-democratic ideals and were in response to the forceful shut down of papers and

31   Under Rafsanjani, many subsidies that directly targeted the masses were cut.
32   Menshri, *Post-Revolutionary Politics in Iran: Religion, Society, and Power,* 117. These modeled Rafsanjani's plans which were widely unsuccessfull.

journals.[33] Despite the reformer ideals of the President, the power of the Supreme Leader over government bodies, notably the Basij military group and the Iranian Revolutionary Guard Corps. (IRGC) culminated in the forceful closing of over 110 daily newspapers that advocated for reform between 1998 and 2003.[34] This resulted in further marginalization of non-conservative Iranians, the intelligentsia, and Iranian youth. Despite the lack of permanent legislative change under Khatami as a result of fierce religious opposition, his presidency instilled pro-democratic ideals in Iranians, especially youth through his valuation of pragmatic policy over "dogmatic purity".[35]

Khatami's Presidency saw some détente between Iran and the United States. Both Iran and the United States had been fighting the Taliban in Afghanistan as Iran had joined the Northern Alliance against the group. This cooperation led to Secretary of State Madeleine Albright apologizing to Iranians for American involvement in the coup that dethroned Prime Minister Mossadegh, and the removing of some sanctions by

---

33   Saied Golkar, "Manipulating the Masses: Paralyzing the Masses in Post-Revolutionary Iran," *International Journal of Politics, Culture, and Society* 29, no. 2 (2016), 137
34   Ibid, 141.
35   Menshri, Post-Revolutionary Politics in Iran: Religion, Society, and Power, 87

then President Clinton.[36] This was later reversed, however, following the 9/11 attacks in the United States. In response to the events of September 2001, President Bush marginalized Iran by likening the state to Iraq and North Korea in his infamous 'Axis of Evil Speech'. Bush included Iran in his speech without merit; Iran President Khatami had extended his sincerest condolences to the United States after 9/11 in an interview with CNN in late 2001.[37] This reckless and false inference needlessly energized conservatives in Iran.

The Hardliner Era saw the inauguration of President Ahmadinejad, a religious conservative favored by clerics. It could be argued that Ahmadinejad's victory in 2005 was in response to poor relations with the United States. Additionally, scholarship on the issue of his electoral victory alludes to the dealings of the IRGC and the Basij military consolidating power in regional and municipal elections to achieve his victory.[38] His victory was a reaction by the conservative elites to the pro-democratic sympathies growing throughout Iran. The state

36   Kissinger, *World Order*, 154
37   'Iranian President Condemns September 11th Attacks", *CNN.com*, November 12, 2001.
38   Golkar, *Configuration of Poltical Elites in Post-Revolutionary Iran,* 285. Following his election victory, Ahmadinejad filled his cabinet consisted mostly of IRGC and Basij officials

of Iran's economy further deteriorated under Ahmadinejad, despite his promises of populist reform. Ahmadinejad believed that Khatami's views on Iranian economics were inherently wrong – the Iranian Republic could not conform to a Western economic system.[39] The President introduced a number of strategies to mend the ailing economy including subsidy reform, redistribution of wealth, and the "economic empowerment" of the IRGC and the Basij Military.[40] Despite somewhat contradictory opinions on the efficacy of these reforms on the masses, most scholarship is consistent in noting the negative effects of Ahmadinejad's economic reform. By the end of his presidency, the value of the Rial had fallen 80%, unemployment reached 18%, while inflation was at 42%.[41] The effects of sanctions by the U.S. and the U.N Security Council compromised government sales of petroleum, Iran's largest exported product.

The worsening economic situation in Iran is considered what ultimately lead to the election of President Rouhani in 2013.[42] By 2013, Iranians had suffered nearly 35 years of eco-

39   Nader Habibi, "How Ahmadinejad Changed Iran's Economy," *The Journal of Developing Areas* 49, no. 1 (2015), 307
40   Ibid, 6.
41   Mondshipourri and Dorraj, "Iran's Foreign Policy: A Shifting Strategic Landscape," 137
42   Ibid,139.

nomic despair under a regime erected on promises of economic prosperity. Ahmadinejad's foreign policy is similar to the conservative stance observable during the Khomeini Era – a strict adherence to preserving Islam internationally. Ahmadinejad's foreign policy revolved around reactions from the international community to Iran's nuclear program and support of terrorist organizations. International distrust over Iran's nuclear energy program had caused the introduction of sanctions from the U.S., E.U., and U.N.[43] Iran's nuclear program, and the subsequent imposition of sanctions led to the worsening of Iran's position in the world order. It is clear that the acceleration of nuclear enrichment occurred primarily under conservative leadership, notably Ahmadinejad.[44] Iran's nuclear ambition has further divided Iranians. Conservative within Iran view the enrichment of weapons-grade uranium as a necessary deterrent to invasion, while moderates view the program as a barrier to détente with the U.S.[45]Socially, Ahmadinejad's hardliner policies led to dissatisfaction among moderate Iranians during his presidency, notably his reliance on the IRGC and Basij,

43   Matthew Moran, "The Iranian Nuclear Dilemma: Light at the End of the Tunnel?," Defense and Security Analysis 28, no. 3 (2012), 204.
44   Ibid.
45   Joint Comprehensive Action Plan.

his poor economic policies, and the worsening of ties with the U.S.[46]

This dissatisfaction ultimately culminated in the Green Movement, protests disputing his reelection success in 2009.[47] Scholarship views the Green Movement as the culmination of nationalist movements in Iran – thirty years of manipulation by the religious elite in Iran became apparent. Mass pro-reform protests in Tehran represent the last gasp of the IRI, and the end of this essay's timeline of the history of Iranian nationalism – the deception of the IRI, and its valuation of Islam over Irani-anness became clear. As his second term recently commenced, it is too early to judge President Rouhani's effects on Iranian nationalism. Similar to Khatami, Rouhani faces structural bar-riers to reform, notably the power of the Supreme Leader over elected officials and the bureaucracy. However, the people of Iran, along with officials, now believe that economic prosperity and social peace cannot be obtained without the improvement of ties with the U.S, and a resolution to the nuclear issue. [48]

46   Golkar, "Configuration of Political Elites in Post-Revo-lutionary Iran," 285
47   Golkar, "Manipualting the Masses: Paralyzing the Masses in Post-Revolutionary Iran," 138. Domestic and inter-national observers believe that there was tampering in favour of Ahmadinejad in Iran's 2009 presidential election.
48   Shireen Hunter, "Can Hassan Rouhani Succeed where

However, most scholarship concludes that Iran cannot thrive under the theocracy – as no theocracy has. Extensive reform is required to save the country, as pragmatic decisions must be made immediately domestically and internationally. American President Donald Trump cannot make the same error as President Bush did, reverse years of diplomacy and eliminate the nuclear deal – it represents progress and the possibility of cooperation.

By observing the previous forty years in Iranian history, the factors contributing to the development of Iranian nationalism and its interaction with internationalism are clear. During the Khomeini Era, despite poor economic performance, the majority of Iranians still held dear the principles of the revolution. Khomeini's will to export the revolution led to the isolation of Iran regionally and globally. During the Reconstruction Era, Iranians displayed the genesis of their dissatisfaction through the election of Khatami – the first signs of a will to return to state-sponsored civic or ethnic nationalism, modernization, and liberalization, all of which are incompatible with the current theocracy. During the Reformer Era, Khatami's inability to ade-

Mohammed Khatami Failed? Internal and International Political Reform in Iran," Contemporary Review of the Middle East 3, no.1 (2014), 256

quately reform Iran's economy - due to the configuration of political elites and the power of the clergy – resulted in a faltering of pro-democratic sympathies in Iran. Further, internationally, President Bush's Axis of Evil Speech and approach to the IRI marginalized reformists in Iran, turning the nation back toward conservativism. Under Ahmadinejad, during the Hardliner Era, Iran crumbled domestically. A faltering economy and the abuse of political powers led to social unrest. This, in turn, applied pressure to the government to hold its power internationally – through its nuclear program.

As can be seen above, in the four Eras observed in Iran's history, the interaction between nationalism and internationalism is clear. The IRI's valuation of religious ideology over civic or ethnic nationalism forced the government to adhere strictly to Islam principles in politics. Except for the Khomeini Era, the extent to which Iran's President followed conservative Islamic principles of politics, the poorer Iran's economic environment became causing great social unrest. Further, the same is true for the state of Iran's foreign relations – the more conservative the government, the poorer the state of relations and view of Iran in the world order.

Bibliography

Aghaie, Kamran and Marashia, Afshin, ed. *R
ethinking Iranian Nationalism and Modernity*. University of
Texas Press, 2014

Bush, George W. "*Axis of Evil*" Speech, Washington D.C, January 29, 2002. American Rhetoric.

China, the United Kingdom, the United States, Russia, France,
Germany and the Islamic Republic of Iran. "*Joint Comprehensive Plan of Action*" Vienna, July 14, 2015

Cottam, Richard W. *Nationalism in Iran: Updated Through
1978*. University of Pittsburgh Press, 1979

Golkar, Saeid. "Configuration of Political Elites in Post-Revolutionary Iran" *The Brown Journal of World Affairs* 23, no.1
(2016): 281-292

Golkar, Saeid. "Manipulated Society: Paralyzing the Masses in
Post-Revolutionary Iran" *International Journal of Politics, Culture, and Society* 29, no. 2 (2016): 135-155

Habibi, Nader. "How Ahmadenijad Changed Iran's Economy"
The Journal of Developing Areas 49, no. 1 (2015): 305-312
Hunter, Shireen. "Can Hassan Rouhani Succeed Where Muhammed Khatami Failed? Internal and International Politics of
Reform in Iran" *Contemporary Review of the Middle East* 3, no.
1 (2014):253-268

Kissinger, Henry. *World Order*. Penguin Publishers, 2014.

Khomeini, Ruhollah. "Iran's Revolution: the First Year" Speech,
Tehran, March, 1980. MERIP

Menashri, David. *Post-Revolutionary Politics in Iran: Religion*

Society and Power. Psychology Press, 2001.

Monshipouri, Mahmood and Dorraj, Manochehr. "Iran's Foreign Policy: A Shifting Strategic Landscape. *Middle East Policy* 24, no. 4 (2013): 133-147

Moran, Matthew. "The Iranian Nuclear Dilemma: Light at the End of the Tunnel?" *Defense and Security Analysis* 28, no. 3 (2012): 202-212

Parsa, Misaghh. *Democracy in Iran: Why it Failed and How it Might Succeed.* Harvard University Press, 2016

Parsa, Misagh. *Social Origins of the Iranian Revolution*. Rutgers University Press, 1989.

Ramazani, R.K. "Ideology and Pragmatism in Iran's Foreign Policy." *Middle East Journal* 58, no. 4 (2004): 549-559

Sharifi, Majid. *Imagining Iran: the Tragedy of Subaltern Nationalism.* Lexington Books, 2013

"The Constitution of the Islamic Republic of Iran" Amendment 2 Yesiltas, Ozum. "Contested Notions of National Identity, Ethnic Movements, and Democratization in Iran." *Studies of Transition*

States and Societies 8 (2015): 53-68

Algerian Independence in the Context of a Globalized Cold War

By Hanna McKinley

The clash between Algeria's desire for independence and France's determination to retain its post-WWII colonial empire resulted in almost a decade (1954-1962) of bloody conflict between French armed forces and the Front de Libération Nationale (FLN), Algeria's principal socialist organization. The Maghrebi nationalist surge presented a complex quagmire for the French colonialists, who, following the devastations of WWII, viewed their Algerian possession as critical to claiming continued great power status. Ironically by 1959, France would find that its unwavering hold on Algeria contributed to growing diplomatic isolation and an increasingly peripheral role in international relations, eventually leading to a ceasefire on March 18th, 1962. Algeria was subsequently granted independence. This paper will explore the extent to which the struggle for Algerian independence was affected by its larger global context, arguing that key players such as France, the FLN, the United States, the USSR, and China each employed a strategic approach that accounted for the broader implications of a globalized Cold War. First, the Algerian nationalists, taking into account the unlikelihood of conventional victory, were able to execute a successful wartime strategy by exploiting cold war tensions and internationalizing the war for indepen-

dence. Second, it will look at the principal western interest, in particular America's, that West Europe remain a strong bulwark against potential Soviet aggression. NATO's dominant security role limited direct allied involvement, forcing the U.S. to pursue a "double game" and allowing France to act far beyond its unilateral capabilities. Third, the emerging importance of the Afro-Asian world, as the UN's largest voting bloc and a potential counterbalance on American power, provided a strong incentive for states to secure Algerian support.

While the Algerian nationalists were at a seemingly insurmountable military disadvantage to the French armed forces, they were able to execute a successful wartime strategy by exploiting tensions between the U.S. and USSR, securing support from non-aligned states and utilizing the realities of international relations during the Cold War. Algeria's lack of resources combined with a politically empowered French settler population indicated a necessary reliance on its securing external support.[1]1 Hocine Ait Ahmed, head of the Paramilitary Unit for the Movement Pour la Triomphe des Libertes Democratiques (MTLD), acknowledged this asymmetry, argu-

1   Matthew Connelly, "Rethinking the Cold War and Decolonization: The Grand Strategy of the Algerian War for Independence" *International Journal of Middle East Studies* 33, no. 2 (2001): 223.

ing that "[i]f one considers dispassionately contemporary military history…one would search in vain even among the fights of colonized peoples against the European powers as great a disproportion in the forces facing each other."[2] Consequently, he devised the internationalization strategy, later adopted by the FLN and Provisional Government of the Algerian Republic (GPRA). On November 1st, 1954, the FLN released its first proclamation, stating its external and internal objectives, chief among them the "Internationalization of the Algerian problem,"[3] which required "Exertion at home and abroad through political and direct action, with a view to making the Algerian problem a reality for the entire world."[4] The FLN established an External Delegation, led by Ait Ahmed, Mohammed Khider, and Ahmed Ben Bella.[5] Its primary purpose was to campaign abroad, refuting French claims that the war represented a domestic affair.[6] In 1954 after failing to secure the support of the vast majority of Arab League states, Khider was able to

2   Ibid, 222.

3   "Proclamation of Algerian National Liberation Front (FLN), November 1, 1954" Middle East and Islamic Studies Collection, https://middleeast.library.cornell.edu/content/proclamation-algerian-national-liberation-front-fln- november-1-1954.

4   Ibid.

5   Connelly, "Rethinking the Cold War and Decolonization," 223.

6   Ibid.

convince Saudi Arabia to petition the UN Security Council on its behalf.[7] The appeal was largely ineffective within the UN; however, according to French officials, it had given the Algerian question an importance in American public opinion which signified an incredible breakthrough.[8] At the Bandung Conference in 1955, the Algerians were able to secure a resolution recognizing that everyone has the right to independence,[9] and by 1960 fifteen different countries had publicly recognized the FLN as a result of the External Delegation's campaigns.[10]

In 1956 the FLN's internal leadership met secretly in the Soummam Valley to discuss an alteration of their strategy. The External Delegation was a centrepiece of discussion; moving forward, they wanted leadership based internally. It was upsetting, particularly to Abane Ramdane, an Algerian political activist, that the External Delegation was enacting FLN directives from outside of Algeria.[11] The internal leadership nonetheless decided to maintain the original strategy proposed by Ait Ahmed and requested an expansion of the FLN's external

7   Ibid, 224.
8   Ibid.
9   Ibid.
10   James C. Bradford, *International Encyclopedia of Military History* (New York: Routledge, 2017).
11   Charles R. Shrader, T*he First Helicopter War: Logistics and Mobility in Algeria*, *1954-1962, (*Westport: Praeger, 1999), 137.

efforts to garner support. They proposed indefinite missions at the UN and in central Asian capitals in addition to delegations visiting the capitals of Europe, Africa, and Latin America.[12] While the Soumamm Conference asserted the precedence of the internal over the external in its guiding principles, the internationalization effort endured as a cornerstone of the FLN's strategy.[13]

In 1958 when the first Algerian Provisional Government (GPRA) was established, FLN member Belkacem Krim was able to secure Soviet recognition, and along with the other External Delegates, appeal for Chinese volunteers, using their North African allies to exaggerate the danger posed by communist intervention.[14]14 While in reality the threats posed by Chinese 'incursion' were slim to none, the Eisenhower Administration took the position of exerting pressure on their French counterparts. America's fear of potential communist expansion compelled France to negotiate with the GPRA, thus resulting in a final culmination of the FLN's efforts. Should the Algerian nationalists have chosen to fight their French oppressors in isolation, the outcome of the war would have likely been

12   Mathilde Von Bülow, *West Germany, Cold War Europe and the Algerian War,* (Cambridge: Cambridge University Press, 2016), 36.
13   Ibid.
14   Connelly, "Rethinking the Cold War and Decolonization," 236.

different. Ait Ahmed proposed taking advantage of the bipolar world order as well as hostilities within the Western alliance to create a divergence between the U.S. and France, harnessing the support of its Arab-Islamic neighbours for both material and political support, a strategy which ultimately resulted in victory.

The United States strategic approach, or perhaps lack thereof, towards the Algerian War of Independence, was characterized by its inability to reconcile conflicting policy positions surrounding long-term national interest and mandatory French ally-ship in the cold war context. As a result, it was unable to provide direct assistance to the Algerian nationalists and was limited to indirect methods of persuasion. NSC-162/2 prescribed the maintenance of a strong Western Europe using the NATO military alliance as an effective means of combating Soviet expansion, meaning that recognition of France's imperial role in North Africa was imperative.[15] Simultaneously, the U.S. had demonstrated an enduring commitment to the principles of self-determination and anti-colonialism (such as in the Atlantic Charter), and any divergence risked serious injury to

15   The Executive Secretary, "NSC 162/2: A Report to the National Security Council," Federation of American Scientists, October 30, 1953, https://fas.org/irp/offdocs/nsc-hst/nsc-162-2.pdf.

its reputation among the Arab and newly independent states. Indeed, U.S. Navy Admiral Arthur Radford articulated that the foremost issue facing American foreign policy was "the possibility of either losing our whole position in the Middle East by offending the Arabs, or else risking the rupture of our NATO position by offending the French."[16] Radford advocated supporting the Arab nationalists though Secretary of State John Foster Dulles preferred an approach where they would urge France to give the Algerians greater autonomy. The latter approach would ensure that France remained a committed member of NATO and, thus, prevailed over President Eisenhower.[17]

This tension between the American anti-colonial stance and its required support of France placed many constraints on the U.S. scope of action, limiting it to indirect means of 'intervention' on behalf of the Algerian nationalist cause. Direct opposition to French leadership might fracture the Atlantic Alliance, and furthermore, French approval was needed for the rearmament of Germany and its induction into NATO.[18] Ironically, it appeared that France's alignment with NATO was the

16   James Waite, *The End of the First Indochina War: A Global History,* (New York: Routledge, 2012), 218.

17   Matthew Connelly, *Algeria's Fight for Independence and the Origins of the Post-cold War Era*, (Oxford: Oxford University Press, 2002), 76.

18   Ibid.

only reason it was able to sustain such a prolonged operation in Algeria. France diverted its NATO forces to provide manpower in Algeria which weakened Western European security measures taken against the USSR. Moreover, France was using military supplies sent by the Americans for West European defence in its war against Algeria.[19]In 1957, Kennedy remarked to the Senate that "the war in Algeria, engaging more than 400,000 French soldiers, has stripped the continental forces of NATO to the bone."[20]

America's implicit support of oppressive French military efforts to maintain its colony in North Africa eventually became detrimental to its reputation among the Arab states and Non-aligned bloc, who displayed disgust at its seeming indifference towards the Algerian war.[21] Despite the growing unpopularity of French policy towards Algeria, the Eisenhower administration was not prepared to advocate a complete severance of western influence in the region. A position paper written by the Office of Western European Affairs in 1958 stated

19   Ronald J. Nurse, "Critic of Colonialism: JFK and Algerian Independence", *The Historian* 39, no. 2 (1977): 313.

20   "Remarks of Senator John F. Kennedy in the Senate, Washington, D.C., July 2, 1957." *John F. Kennedy Presidential Library and Museum,* https://www.jfklibrary.org/archives/other-resources/john-f-kennedy-speeches/ united-states-senate-imperialism-19570702.

21   James Waite, *The End of the First Indochina War: A Global History*, (New York: Routledge, 2012), 218.

that continuing French hostilities in North Africa might lead to the complete elimination of western influence, thus creating a power vacuum to be filled by "Nasser's and pro-Soviet influence."[22] In 1958, the UN General Assembly voted to recognize the Algerian Provisional Government (GPRA), calling for negotiations between parties. While the vote was lost, U.S. abstention demonstrated a significant shift in attitude.[23] Eisenhower and Dulles remained hesitant to place the U.S. in direct opposition to France, although they refused to overlook opinions in the Third————————— World,[24] and by 1959, refused to associate with French Algerian policy altogether.

By the end of Eisenhower's administration and the beginning of Kennedy's, it became increasingly costly to support the French stance considering they were diverting NATO forces and using American financial aid to fund a colonial war, thus jeopardizing the overall integrity and security of NATO and Western Europe. France's increasingly brutal practices and America's implicit endorsement of them projected a negative image of the U.S. among the Third World states that it wished

---

22   "Position Paper Prepared in the Office of Western European Affairs." *Office of the Historian* , U.S. Department of State, history.state.gov/historicaldocuments/frus1958-60v13/d279.

23   Connelly, "Rethinking the Cold War and Decolonization," 233.

24   Ibid, 234.

to win over. In 1960, the implied threat of Soviet and Chinese intervention prompted both London and the U.S. State Department to warn France that peaceful measures were its only option moving forward.[25] President De Gaulle agreed to negotiate with the GPRA through a referendum in Algeria, while the Kennedy administration ramped up efforts to indirectly affect the negotiations. In May of 1961 when Premier Habib Bourguiba of Tunisia visited Washington, Kennedy told Bourguiba that he hoped Algeria might negotiate more flexibly with France. In another meeting that year, an American envoy worked to convince two Algerian nationalist leaders, Abdelhafid Boussouf and Mhamed Yazid, to consider formal negotiations with France.[26] While American tolerance regarding its ally diminished towards the end of the war, they were nonetheless unwilling to act directly in the interests of the anti-colonial struggle for fear that the opposition of their NATO ally would undermine the overall security of West Europe and consequently, America's upper hand on the Soviet Bloc.

Lastly, the emergence of a politically cohesive Af-

------

25   Ibid, 236.
26   Miloud Barkaoui, "Kennedy and the Cold War Imbroglio: The Case of Algeria's Independence", Arab Studies Quarterly 21, no. 2 (1999): 34.

ro-Asian voting bloc in 1955 and its potential use as a coun-
terweight on American hegemony provided a strong incentive
for both Chinese and Soviet participation in the Algerian War.
Furthermore, the combination of mounting Arab nationalism
following Nasser's success in Suez and the recent Sino-Soviet
split prompted Maoist China to seek validation and influence
among these states; including in the Maghreb.[27]China was a
staunch supporter of Algeria from the very beginning, con-
ducting several meetings with Algerian representatives and
publicly condemning French policy.[28] In his closing statement
at the Bandung conference on April 24, 1955, Chou En-lai said,
"I would like to declare once again that the Chinese people
extend their full sympathy and support to the struggle of peo-
ples in Algeria, Morocco, and Tunisia for self-determination
and independence…"[29] Gaining the support of these states was
paramount to its interest in loosening USSR and American
economic ties to the region. Additionally, Arab support for
Maoist China's policies would be helpful following its ideo-

27   Joseph Khalili, "Sino-Arab Relations," *Asian Survey* 8, no. 8
(1968): 679.

28   Ibid, 684.

29   "Speech by Premier Zhou Enlai at the Closing Session of the
Asian-African Conference." *Wilson Center Digital Archive*, digitalarchive.
wilsoncenter.org/document/121624.pdf?v=492f9245582f66ebf84d338e-
03baba2a.

logical divergence with the Soviet communists,[30]who it per-
ceived as being too lax with regards to the western powers. On
September 22, 1958, China became the first communist state
to recognize the GPRA.[31] They subsequently signed a treaty of
friendship solidifying the Sino-Algerian relationship,[32] and in
1960 agreed to send volunteers to Algeria. China's participa-
tion in the Algerian War, albeit minor, reflected the emerging
national interests of its communist leadership. Algeria, which
remained unaligned, provided a staging ground to undermine
what China regarded as imperialist U.S. efforts. The threat of
Chinese direct intervention, albeit slim, served as an integral
factor contributing to legitimate discussions on independence
between France and the GPRA.

In contrast, the USSR viewed France as potentially sup-
portive of its desire to limit the political, military, and econom-
ic rehabilitation of West Germany, and was thus relatively late
in becoming more active and sympathetic towards the Algerian
cause. [33] In 1959 Andrei Gromyko, a Soviet Foreign Minister

---

30   Khalili, "Sino-Arab Relations," 679.
31   Ibid, 685.
32   Ibid.
33   Yahia H. Zoubir, "The United States, the Soviet Union and
Decolonization of the Maghreb, 1945-62" *Middle Eastern Studies* 31, no. 1
(1995): 63.

informed his French colleague, Marine Couve de Murville, that Moscow would no longer practice restraint in Algeria should Paris proceed in supporting West Germany.[34] The turning point came on May 1st, 1960 when Soviet Air Defence Forces shot down an American U2 spy plane. De Gaulle and Eisenhower were quick to condemn Soviet action, causing Khrushchev to retaliate by extending recognition to Algeria's Provisional Government at the 15th session of the UN in October, where he would meet with Belkacem Krim for the first time. This meeting was no less than a manifestation of the FLN's grand effort to internationalize their struggle. Moreover, it signified how the USSR's approach to the Algerian War was structured around its intolerance for the west. The Soviets embraced Belkacem Krim and the GPRA in retaliation to what it believed was unwarranted Western criticism, using its presence in North Africa as a strategy to undermine Western influence. Khrushchev's success in providing Egypt with material support during the Suez Crisis combined with his persistent interest in gaining traction among the Arab states perpetuated the threat of further communist penetration for its Western adversaries.[35] The combination of Soviet and Chinese efforts was enough to cause

34   Connelly, "Rethinking the Cold War and Decolonization," 233.
35   Ibid, 225.

a divergence between France and their American ally, and eventually prompted a ceasefire and negotiations surrounding independence.

Conclusively, the Algerian war took place within an international context that had profound effects on the different strategic approaches taken by each key player, who, to a large extent, accounted for their much broader roles in the globalized Cold War. It would be difficult to analyze the FLN's approach to war without taking into consideration the gravity of its external efforts. Hocine Ait Ahmed's plan to internationalize the war was later adopted by the FLN and GPRA who were successful in elevating their independence struggle to the international playing field. This is despite continuous French efforts to keep the war within its domestic sphere of influence. While the Algerians also engaged in brutal asymmetrical warfare by skillfully applying guerrilla tactics against the French armed forces at home, it is clear, given the determination of the French military to avoid another Indochina debacle, that it would have been high risk to count on military considerations alone. By exploiting Cold War tensions and drawing the USSR and China into potentially adopting larger roles in the Algerian War, the FLN was able to create a divergence between France

and its most important ally, the United States. China, cognizant of the Anti-imperialist (and therefore Anti-American) role it could play in the increasingly important Afro-Asian world, saw Algeria as a unique staging ground for the execution of its diverging communist ideology following the Sino-Soviet split. Likewise, the Soviets were already vying for a more central position among the Arab states (chiefly in Egypt) and were in a unique position to use their support of Algeria as a counterweight on American power. Consequently, the Americans pressured France into negotiations, despite having previously remained opposed to any method of action which might contradict their alliance. In essence, it is hard to envision an alternate scenario that might have led to Algerian independence in the absence of Ait Ahmed's internationalization strategy. The Cold War provides a useful lens through which one may analyze the various important aspects of the Algerian War, and perhaps, many of the other colonial struggles that occurred during and after the 1960s.

Bibliography

Barkaoui, Miloud. "Kennedy and the Cold War Imbroglio: The Case of Algeria's Independence." *Arab Studies Quarterly* 21, no. 2 (Spring 1999): 31-45.

Bradford, James C. *International Encyclopedia of Military History*. New York: Routledge, 2017.

Bülow, Mathilde Von. *West Germany, Cold War Europe and the Algerian War*. Cambridge, United Kingdom: Cambridge University Press, 2016.

Connelly, Matthew. "Rethinking the Cold War and Decolonization: The Grand Strategy of the Algerian War for Independence." *International Journal of Middle East Studies*33, no. 2 (May 2001): 221-45.

Horne, Alistair. *A Savage War of Peace: Algeria 1954-1962*. London: MacMillan, 1977.

Khalili, Joseph E. "Sino-Arab Relations." *Asian Survey8*, no. 8 (August 1968): 678-90. doi:10.1525/as.1968.8.8.01p0399j.

Nurse, Ronald J. "Critic of Colonialism: JFK and Algerian Independence." *The Historian*39, no. 2 (February 1977): 307-26.

"Position Paper Prepared in the Office of Western European Affairs." https://history.state.gov/ historicaldocuments/frus1958-60v13/ d279.

"Proclamation of Algerian National Liberation Front (FLN), November 1, 1954." Middle East and Islamic Studies Collection. Accessed November 28, 2018. https:// middleeast.library. cornell.edu/content/proclamation-algerian-national-liberation-front-fln-november-1-1954.

"Remarks of Senator John F. Kennedy in the Senate, Washington, D.C., July 2, 1957." John F. Kennedy Presidential Library and Museum. Accessed November 28, 2018. https:// www.jfklibrary.org/archives/other-resources/john-f-kennedy-speeches/ united-states-senate-imperialism-19570702.

Shrader, Charles R. *The First Helicopter War: Logistics and Mobility in Algeria, 1954-1962*. Westport: Praeger Publishers, 1999.

The Executive Secretary. "A Report to the National Security Council." Federation of American Scientists. https://fas.org/irp/off-docs/nsc-hst/nsc-162-2.pdf.

Thomas, Martin. "Defending a Lost Cause? France and the United States Vision of Imperial Rule in French North Africa." *Diplomatic History* 26, no. 2 (Spring 2002): 215-47.

Waite, James. *The End of the First Indochina War: A Global History*. New York: Routledge, 2012.

Zoubir, Yahia H. "The United States, the Soviet Union and Decolonization of the Maghreb, 1945–62." *Middle Eastern Studies* 31, no. 1 (January 1995): 58-84. doi:10.1080/00263209508701041.

Pre-Emptive Self-Defence: A Means of Security in an Age of Unusual Terrorist Threats

By Ann Rehnstrom

The use of pre-emptive self-defence against internation-al terrorists or the states harbouring them is a controversial con-cept that, in the post-9/11 world, is threatening to become an ambiguous customary law among states. Despite the fact that many jurists consider pre-emptive self-defence unlawful on the grounds of Article 51 in the Charter of the United Nations, the emergence of non-state actors capable of using force compara-ble to that of states due to access to weapons of mass destruc-tion suggests that the United Nations (UN) should re-evaluate pre-emptive self-defence.[1] International terrorists' ability to project devastating force across the globe is not likely to di-minish in the future and is a legitimate threat to international peace and security, which UN is responsible for protecting.[2] This essay is divided into three parts to examine how the UN should approach the idea of lawful pre-emptive self-defence to fortify international peace and security. The first part examines the evolution of pre-emptive self-defence into an emerging

1   Sean D. Murphy, "The Doctrine of Preemptive Self-Defense," *Villanova University Charles Widger School of Law Repository* 60, no. 3 (2015): 699, http://digitalcommons. law.villanova.edu/vlr/vol50/iss3/9.
2   United Nations, *Charter of the United Nations*, 1 UNTS XVI (October 24, 1945): 3, https://treaties.un.org/doc/ publication/ctc/uncharter.pdf.

customary law, the interpretational problems regarding the Charter, and the difference in using pre-emptive self-defence against states and non-state actors. The second part illustrates why and when pre-emptive self-defence should be lawful. Finally, the third part proposes a UN Security Council (SC) resolution as a solution to the controversial idea of legalizing pre-emptive self-defence. Ultimately, pre-emptive self-defence should be re-examined by the UN Security Council as a lawful form of self-defence for two reasons: if approached carefully, it can serve to strengthen international peace and security; and, if pre-emptive self-defence is not addressed by the UN, it can become an ambiguous customary law that would threaten peace and security.

Part I: The Evolution of Pre-emptive Self-Defence and the Distinction between States and Non-State Actors

The right to reactive self-defence has been recognized and accepted by states as a legitimate law and was outlined in the UN Charter under Article 51 to guarantee the "inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations."[3] Additional-

3   United Nations, art. 51, *Charter of the United Nations*, 10.

ly, even anticipatory self-defence, which was described by the *Caroline* doctrine to be an armed attack of utmost necessity against an imminent threat with no other means of self-defence, is accepted among states as a customary law.[4] Pre-emptive self-defence, on the other hand, is the use of force against a non-imminent threat for the purpose of preventing a future attack with an unspecified date.[5] This form of self-defence has historically been seen as unlawful, given that strict interpretation of Article 51 by entities such as the International Court of Justice (ICJ) has claimed that self-defence can only be exercised if a state has suffered from an "action by regular armed forces across an international border . . . by or on behalf of a State."[6] However, 9/11 revealed that non-state actors were now capable of projecting devastating force comparable to that of a state. This precipitated a shift in international opinion on pre-emptive self-defence, setting it on a course to becoming

4   Patrick Kelly, "Preemptive Self-Defense, Customary International Law, and the Congolese Wars," *E-International Relations*, September 3, 2016, https://www.e-ir.info/2016/09/03/preemptive-self-defense-customary-international-law-and-the-congolese-wars/.
5   Ibid.
6   Michael W. Reisman, and Andrea Armstrong, "The Past and Future of the Claim of Preemptive Self-Defense," *The American Journal of International Law* 100, no. 3 (July 2006): 533, https://www.jstor.org/stable/4091369.

customary international law. The United States announced their National Security Strategy in September of 2002, claiming America would "act against . . . emerging threats before they are fully formed."[7] Although this doctrine and its immediate application in Iraq was criticized by prominent states such as China and France, its message of pre-emption came to be internalized and supported by those very states.[8] The French government, in a policy statement for 2003, said pre-emptive action against potential threats beyond their borders was not out of the question.[9] Russia, China, Australia and Taiwan also agreed to the idea of pre-emptive strikes.[10]

The two most pressing issues facing jurists responsible for codifying this emerging norm will be how to distinguish between the international actors who will be affected by the code and how to eliminate potential ambiguity. The normalization of pre-emptive defence is dangerous because without a codification of applicable and exceptional rules, the ambiguity

7   Christine Gray, "The US National Security Strategy and the New 'Bush Doctrine' on Preemptive Self-defense," *Chinese Journal of International Law* 1, no. 2 (January 2002): 1, https://doi.org/10.1093/oxfordjournals.cjilaw.a000440.
8   Reisman, and Armstrong, "The Past and Future of the Claim of Preemptive Self-Defense," 544.
9   Ibid.
10   Ibid., 545.

of pre-emptive self-defence can lead to de facto exceptional-
ism, destabilizing the international community.[11] This means
that powerful states can abuse the use of pre-emptive defence
against less powerful states. Additionally, distinctions have
to be made between using pre-emptive strikes against inter-
national terrorists and the states harbouring them and using
pre-emptive self-defence against states with weapons of mass
destruction. The two are not interchangeable, and the rules for
pre-emption should not apply to both. Although many countries
have possessed weapons of mass destruction for many years,
they have gone largely unused due to mutual understandings of
deterrence and reciprocity.[12] States, especially United Nations
member states, should therefore be treated as reasonable actors,
unlike that of non-state actors expressing terrorist behaviour.
This distinction between the two leads to another: using
pre-emptive self-defence against a state possessing, but not us-
ing, their weapons of mass destruction would most likely lead
to international instability and a breach of peace and security

11   Michael Byers, "Preemptive Self-defense: Hegemo-
ny, Equality and Strategies of Legal Change," *The Journal
of Political Philosophy* 11, no 2 (2003): 184, https://doi.
org/10.1111/1467-9760.00173/.
12   Murphy, "The Doctrine of Preemptive Self-Defense,"
699.

while using pre-emptive self-defence against terrorists or states harbouring and/or supporting them, fortifies peace and security because it removes an almost guaranteed threat to stability. This distinction is thus important to make before deciding when the use of pre-emptive self-defence should be considered lawful against non-state actors.

Part II: Pre-emptive Self-Defence: Why and When it is Justifiable

When the UN Charter was drafted in 1945, states were the only actors included in international relations; there was no actor more powerful in shaping international relations than the state. Since then, the increased availability and access to dangerous weapons and technology has allowed for terrorists to become powerful international actors. The Security Council recognizes the danger of the prevalence of international terrorism and the multitude of forms it can take. Terrorism and its materialization in the form of terrorist states or as state-sponsored terrorism, for instance, has been claimed by the Security Council to be one of the "most serious threats to peace and security."[13] Thus, the emergence of powerful non-state actors

13   Jaemin Lee, "Terrorism Prevention and the Right of Preemptive Self-Defense," *JEAIL* 1, no. 2 (Autumn 2008):

that threaten peace and security is a justified reason as to why certain concepts, such as pre-emptive self-defence, which has previously been considered unlawful under Article 51 need to be re-examined by the UN in order to maintain the quintessential goal of the UN: to preserve peace and promote stability.

The increased number of state representatives, especially from powerful states such as the US, who have expressed support for the use of pre-emptive strikes suggest that a doctrine of pre-emption is becoming normalized. If the UN Security Council does not codify this change of opinion in international law, the new norm of pre-emption is likely to become ambiguous and easily abused by the more powerful states to justify attacks on less powerful states, threatening international stability. While not every state has expressed support for pre-emptive self-defence – countries such as Germany and Mexico both expressed skepticism towards a doctrine of pre-emption shortly after 9/11 – there seems to be a correlation between support for pre-emption and recent experience with acts of terrorism.[14] In the last few years, there has been an increase in acts of terrorism across the globe. India's regions

307, org.myaccess.library.utoronto.ca/HOL/Page?handle=hein. journals/jeasil1&id=291&colle   ction=journals&index=.

14   Byers, "Preemptive Self-defense: Hegemony, Equality and Strategies of Legal Change," 182.

of Kashmir and Jammu have experienced an increase of 176% in the amount of terrorist acts between 2014 and 2018 from groups such as the Pakistan-based Jaish-e-Mohammad.[15] In Europe, the number of reported jihadist terrorist attacks increased from four in 2014 to 33 in 2017.[16,17] In accordance with the idea that the more experience a state has with terrorism, the more likely that state is to support pre-emptive strikes, this surge of terrorism across the globe suggests that pre-emption will continue to be normalized. Ultimately, this leads to a potentially dangerous norm that could result in unilateral attacks by one state on another if not addressed by the UN first in order to discuss the parameters of a pre-emptive self-defence doctrine.

　　　　Jurists who do not support pre-emptive self-defence

15   Mukesh Rawat, "Pulwama Terror Attack: In Last 5 Years, J&K Saw 93% Rise in Death of Security Personnel in Terror Attacks," *India Today*, February 14, 2019, https://www.indiatoday.in/india/story/pulwama-terror-attack-jammu-kashmir-terrorism-data-last-5-years-soldiers-killed-1456427-2019-02-14.
16   Ella Wills, "Revealed: Europe Faced 205 Terror Attacks Last Year... and More than Half were Reported in the UK," *Evening Standard*, June 20, 2018, https://www.standard.co.uk/news/world/revealed-europe-faced-205-terror-attacks-last-year-and-more-than-half-were-reported-in-the-uk-a3867996.html.
17   Europol, *European Union Terrorism Situation and Trend Report (TE-SAT) 2016*, Hague, European Police Office, July 20, 2016, https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-te-sat-2016. 22-28, 47.

argue that if a preventive strike is truly necessary, then states should adhere to the doctrine of anticipatory self-defence. Anticipatory self-defence is much less controversial, given that the attack is not only imminent but guaranteed. However, terrorists are less visible than states, meaning that actions such as the proliferation of weapons of mass destruction are much harder to detect and communicate. Also, potential terrorist attacks are so grave that waiting for imminent attack could mean that any preventative action will be adopted too late. John Reid, the UK's State Secretary of Defence from 2005-2006 said in 2006 that, "another specific area of international law we perhaps need to think more about is whether the concept of imminence—i.e. the circumstances when a state can act in self-defence without waiting for an attack—is sufficiently well-developed to take account of the new threats faced."[18] Additionally, although some jurists argue that pre-emptive self-defence could never be legal because Article 51 only condones the use of force after an armed attack, the Charter should be interpreted based on how it can best preserve principles of peace and security, because that is its fundamental goal.[19]

18   Megi Medzmariashvili, "Pre-Emptive Self-Defence against States Harbouring Terrorists," (Master's thesis, Riga Graduate School of Law, 2011), 56.
19   Lee, "Terrorism Prevention and the Right of Preemp-

Limiting an interpretation to specific wording without considering the international reality the law exists within can render the law useless or inefficient in upholding the overarching goals. If the Charter framework has been accused of not properly reflecting international law, then the UN needs to consider addressing new issues such as the use of pre-emptive self-defence, especially because of the threat this concept poses to international peace and security if it goes unaddressed. Anthony Clark Arend, a professor in foreign affairs, has even argued that because the Charter is ambiguous about pre-emptive self-defence and that because there exists a customary law allowing for anticipatory self-defence that pre-dates the Charter, then under the logic of the *Lotus* case which claims states may act as they please if no institution explicitly forbids the conduct in question, the combination of these two factors allows for a sovereign state to do as they wish because there is no expressed rule prohibiting pre-emptive defence.[20] If states were to use this argument to justify pre-emptive strikes, then the UN has a responsibility to develop a rule regarding pre-emptive

---

tive Self-Defense," 297.

20   Anthony C. Arend, "International Law and Preemptive Use of Military Force," *The Washington Quarterly* 26, no. 2 (2003): 93, https://doi.org/10.1162/01636600360569711.

self-defence before it is abused by powerful states.

Finally, it is important to address when pre-emptive self-defence should be justified. It has already been established that the component of imminence is not necessary to strike pre-emptively. However, pre-emptive strikes need to adhere to the idea of proportionality, needs to be reported to the UNSC, and other efforts to combat the terrorists in question must have been exhausted. Proportionality is a common element of judging the lawfulness of an act of self-defence. It guarantees that an act of self-defence by the victim state does not deliver an unfair and unnecessary amount of devastation in retaliation towards the attacker. Proportionality is important when discussing pre-emptive self-defence because a pre-emptive strike should strictly and effectively target only the subjects that would deliver the suspected attack in question. Additionally, in a manner similar to reactive self-defence, a suspected terrorist attack needs to be reported to the SC and evidence for the need of a pre-emptive strike needs to be provided so that the SC can deliberate on whether such an act is necessary, or if means of cooperation with the state harbouring the terrorists can solve the issue successfully. A unilateral pre-emptive strike would thus not be a lawful strike. The need for approval from the SC

would remove the potential abuse of a doctrine of pre-emption by a powerful state on a less powerful state. Finally, other means for combating terrorism would thus have to have been attempted and been deemed ineffective in combating terrorism for the SC to approve a pre-emptive strike. Other means have been outlined in SC resolution 1373 (2001) and can include efforts such as freezing financial resources used by terrorists, denying safe haven for terrorists, and increasing border controls to prevent the movement of terrorists.[21] If the states harbouring these terrorists either refuse to cooperate in the combating of terrorism or are unable to do so, it can be judged that those states failed to comply with Article 43, which states that all member states need to contribute to the maintenance of international peace and security, and the option of a pre-emptive strike can be considered.[22] Ultimately, pre-emptive strikes should only be justified if the strike adheres to proportionality, if the strike is reported to the UNSC, and if all other methods to remove the threat in question have been exhausted.

21   UN Security Council, Resolution 1373 (2001), Threats to International Peace and Security Caused by Terrorist Acts, S/RES/1373, (September 28, 2001), https://documents-dds ny.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743. pdf?OpenElement.
22   United Nations, art. 43, *Charter of the United Nations*, 9.

Part III: A Security Council Resolution as a Potential Solution

A potential solution to the question of pre-emptive self-defence might be a Security Council resolution that focuses on the use of pre-emptive self-defence against non-state actors. The Security Council can, and should, invoke its power under Chapter VII of the Charter to "make recommendations or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."[23] A SC resolution would allow for the necessary collective cooperation that a fair doctrine of pre-emptive self-defence needs to remove the ambiguity and subjectivity that a unilateral act of pre-emptive self-defence encourages. Additionally, the benefit of the SC acting under Chapter VII of the Charter to produce a resolution is that it will be considered binding on all member states of the UN.[24] Because the resolution is not something that has to be signed and ratified by the member states, the SC can write a precise and unambiguous document specifying why and when pre-emptive self-defence is lawful. Additionally, the resolution should specify that an act

23   United Nations, art. 41 and 42, *Charter of the United Nations*, 9.
24   "Are UN Resolutions Binding?" United Nations, http://ask.un.org/faq/15010.

of pre-emptive self-defence by a state needs to be expressed to the SC, much like every act of self-defence, and after careful deliberation, the strike needs to be approved by the SC before the state in question can carry out the act. The benefit of pre-emptive self-defence being a response to a non-imminent attack is that the SC has the time necessary to deliberate the matter to come to a fair conclusion about whether the proposed pre-emptive strike is proportional and whether other actions can be taken to cooperate with the state harbouring the terrorists in question. Finally, if the deliberation by the SC concludes to condone the pre-emptive strike, then they would legally be sanctioning the use of armed force against a threat to peace, which it is authorized to do under the Charter.[25] Theoretically, whatever carefully deliberated decision the SC comes to, it would serve to maintain peace and security while reducing the threat of terrorism. Ultimately, any forceful act of pre-emption should be strictly used as a last resort, and the UN should continue expanding on other forms of counter-terrorism such as on diplomacy, police work, and working on identifying the

25   Abdul G. Hamid, and Khin Maung Sein, "Combating Terrorism and the Use of Force against a State: A Relook at the Contemporary World Order," *JEAIL* 8, no. 1 (Spring 2015): 124, http://dx.doi.org/10.14330/jeail.2015.8.1.05.

root causes of terrorism in order to prevent it from taking root in any state.

Conclusion

Pre-emptive self-defence against non-state actors expressing terrorist behaviour is a concept that needs to be re-examined by the UN and made lawful in a way that strengthens peace and security. This paper assessed a possible future of pre-emptive self-defence by examining how, in the post-9/11 world, it has become increasingly supported by states which suggests it is on its way to becoming an ambiguous customary law. Additionally, this paper considered why and when pre-emptive self-defence should be justified and addressed arguments against legalizing it and concluded that the UN Security Council can, and should, create a resolution that would frame, with specificity, when pre-emption is appropriate. The resolution, which would be legally binding on UN member states, would specify the importance of a proportional pre-emptive strike and the requirement for having exhausted all other means of combating terrorism effectively enough to reduce the threat of an attack. Ultimately, the use of pre-emptive self-defence should be used only as a last resort, because

the UN should continue to improve counter-terrorism measures such as diplomacy, police work, and identifying and combating root causes for terrorism. However, for the sake of international peace and security, pre-emptive self-defence, in an age of weapons of mass destruction and powerful non-state actors, needs to be considered as a lawful option to protecting states and the people within them.

Bibliography

Arend, Anthony C. "International Law and Preemptive Use of Military Force." *The Washington Quarterly* 26, no. 2 (2003): 89-103. https://doi.org/10.1162/01636600360569711.

"Are UN Resolutions Binding?" United Nations. http://ask.un.org/faq/15010.

Byers, Michael. "Preemptive Self-defense: Hegemony, Equality and Strategies of Legal Change." *The Journal of Political Philosophy* 11, no 2 (2003): 171-190. https://doi.org/10.1111/1467-9760.00173.

Europol. *European Union Terrorism Situation and Trend Report (TE-SAT) 2016*. Hague: European Police Office. July 20, 2016. https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-te-sat-2016.

Gray, Christine. "The US National Security Strategy and the New 'Bush Doctrine' on Preemptive Self-defense." *Chinese Journal of International Law* 1, no. 2 (January 2002): 437-448. https://doi.org/10.1093/oxfordjournals.cjilaw.a000440.

Hamid, Abdul G., and Khin Maung Sein. "Combating Terrorism and the Use of Force against a   State: A Relook at the Contemporary World Order." *JEAIL* 8, no. 1 (Spring 2015): 107-   131. http://dx.doi.org/10.14330/jeail.2015.8.1.05.

Kelly, Patrick. "Preemptive Self-Defense, Customary International Law, and the Congolese   Wars." *E-International Relations*. September 3, 2016. https://www.e-   ir.info/2016/09/03/preemptive-self-defense-customary-international-law-and-the-congolese-wars/.

Lee, Jaemin. "Terrorism Prevention and the Right of Preemptive Self-Defense." *JEAIL* 1, no. 2   (Autumn 2008): 291-310. https://heinonline-   org.myaccess.library.utoronto.ca/HOL/Page?handle=hein.journals/jeasil1&id=291&colle ction=journals&index=.

Medzmariashvili, Megi. "Pre-Emptive Self-Defence against States Harbouring Terrorists." Master's thesis, Riga Graduate School of Law, 2011. https://www.rgsl.edu.lv/uploads/research-   papers-list/19/4-medzmariashvili-final.pdf.

Murphy, Sean D. "The Doctrine of Preemptive Self-Defense." *Villanova University Charles   Widger School of Law Repository* 60, no. 3 (2005): 699-748   http://digitalcommons.law.villanova.edu/vlr/vol50/iss3/9.

Rawat, Mukesh. "Pulwama Terror Attack: In Last 5 Years, J&K Saw 93% Rise in Death of Security Personnel in Terror Attacks." *India Today*. February 14, 2019.   https://www.indiatoday.in/india/story/pulwama-terror-attack-jammu-kashmir-terrorism-   data-last-5-years-soldiers-killed-1456427-2019-02-14.

Reisman, Michael W., and Andrea Armstrong. "The Past and Future of the Claim of Preemptive   Self-Defense." *The American Journal of International Law* 100, no. 3 (July 2006): 525-   550. https://www.jstor.org/stable/4091369.

UN Security Council, Resolution 1373 (2001), Threats to International Peace and Security Caused by Terrorist Acts, S/RES/1373, (September 28, 2001). https://documents-dds-   ny.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement.

United Nations, *Charter of the United Nations*, 1 UNTS XVI (October 24, 1945).   https://treaties.un.org/doc/publication/ctc/uncharter.pdf.

Wills, Ella. "Revealed: Europe Faced 205 Terror Attacks Last Year... and More than Half were   reported in the UK." *Evening Standard*. June 20, 2018.   https://www.standard.co.uk/news/world/revealed-europe-faced-205-terror-attacks-last-   year-and-

more-than-half-were-reported-in-the-uk-a3867996.html.

Policy Memo: World Bank Reform

By Joseph Rossi

In our present-day society, climate change is arguably the most significant global affairs issue because of its ability to cause several environmental problems. These include flooding, changes in precipitation patterns and heat waves. Subsequently, such alterations to the environmental landscape have the potential to negatively influence progress in socio-economic development, human rights, energy and food production, and thus, tangible action is required to halt environmental degradation. However, current and past United Nations (UN) policies designed to address climate change are largely ineffective because they lack an enforcement mechanism to bind states to remain part of, and uphold, their pledged agreement. Thus, it is clear a new system must be established whereby states are forced, or at the very least incentivized, to consider the environmental impact of their decisions.

With this in mind, the goals of this policy memo are threefold. First, it will describe how World Bank (here forth referred to as the Bank) practices can negatively impact the environment. Second, the policy memo will propose the Bank be reformed to incorporate strategic planning through multiyear country program evaluations to better account for environmental concerns. Finally, the memo will explain how the most

appropriate manner to implement this reform is by a nongovernmental organization (NGO) employing a transnational advocacy network. This will encourage countries borrowing from the Bank to address environmental concerns when pursuing their development projects.

It is important to understanding the way in which the Bank can have an adverse impact on the environment. Notably, the Bank has a governance structure that insulates it from NGO influence.[1] When a vote is taken, no single Bank member can defeat approval for a loan proposal, regardless of any harmful political or environmental impact which may arise from such a loan, and this ensures professional Bank staff have autonomy to achieve its main goal: lending for economic development.[2] Second, delegation problems arise in the Principal-Agent (P-A) framework. This is a relationship where the principal appoints an agent to make decisions or enact tangible action on its behalf.[3] In the case of a state-international organization (IO) relationship, states often require said IOs, in this case the

1   Fox & Brown 1998.
2   Fox & Brown 1998.
   3   "Principal-Agent Problem - Overview, Examples And Solutions", Corporate Finance Institute, 2019, https://corporatefinanceinstitute.com/resources/knowledge/other/principal-agent-problem/.

Bank, to focus on conflicting activities that are challenging to implement.[4] Specifically, the Bank acts primarily as a financial institution and development agency while also considering environmental issues and this leads to mixed results.[5]

To continue, there are often challenges with properly defining IO behaviour within the P-A relationship model. The case of international financial institutions (IFIs) and loan recipients illustrates one of the many challenges IFIs face, to ensure countries implement loan conditionality.[6] Unlike standard lending, it is politically challenging for an IFI like the Bank to penalize a recipient country for not upholding its side of the conditionality agreement.[7] For example, the Bank has failed to cut-off lending to Russia and Indonesia despite evidence they failed to uphold specific conditions of their loan.[8] Finally, the P-A model is not properly equipped to recognize implementation issues in recipient countries.[9] In the case of the Bank, project implementation can be influenced by a host of issues including weak local institutions, ambitious expecta-

---

4   Gutner 2005.
5   Gutner 2005.
6   Gutner 2005.
7   Gutner 2005.
8   Gutner 2005.
9   Gutner 2005.

tions, and problems with supervision and management.[10] This can negatively influence the implementation of Bank mandates and thus, the issue is not lack of information but rather the need to organize information in a way that can be properly used by decision-makers.[11]

With an understanding of how the Bank's practices negatively influence the environment it is time to propose one way to reform the rules and design of the Bank to better consider environmental concerns. The policy memo will advocate for the incorporation of strategic planning in the Bank's decision process via multiyear country program evaluations. Strategic planning is the "process an organization undertakes to align its future actions with its goals in light of its environment."[12] Strategic planning is an effective way to enact discretion at large organizations because it forces decision makers to assess the outcome of their choices.[13] When combined with evaluation, this allows one to rectify decisions that lead to poor results and improve on decisions that lead to positive outcomes.[14]

Operational and evaluation staff at multilateral develop-

---

10   Gutner 2005.
11   Fox & Brown 1998.
12   Butaine 2016, 182.
13   Butaine 2016.
14   Butaine 2016.

ment banks have reported country program evaluations, which examine past Bank performance in a specific country and then report on its conformity with Bank development goals, should have a significant impact on lending decisions for several reasons.[15] This is important because such staff understand the structural organization of institutions like the Bank and are thus in an optimal position to make recommendations on projects that are likely to succeed. First, recommendations in country program evaluations are likely to be more influential because of donor involvement in assessing past performance.[16] Additionally, country program evaluations are incorporated in the process of creating country strategies.[17] Further, information about lending normally comes from a variety of reports but country program evaluations carefully organize this information to allow logical decisions.[18] The three advantages described above will be explored in the subsequent paragraphs of this policy memo.

Country program evaluations are likely to influence lending decisions because they are directed towards donor

15   "Country Evaluations". Ieg.Worldbankgroup.Org, 2019. https://ieg.worldbankgroup.org/country-evaluation.
16   Butaine 2016.
17   Butaine 2016.
18   Butaine 2016.

states, which, at the Bank, have most of the board.[19] This allows donor states to be accountable and increase the supply of environment-improving lending, as they have desired in the past.[20] Further, Bank meetings are held between state representatives to the committee and vice-presidential-level staff to examine the findings from country program evaluations.[21] This is important because studies have confirmed, "appealing to authoritative decision-makers is the key to influence" and thus, because country program evaluations incorporate state shareholders, they are likely to influence decisions about financial allocation.[22]

To continue, country program evaluations are likely to influence allocation decisions because they were previously part of a process that created new country assistance strategies, which subsequently guide lending decisions.[23] Member states and operational staff analyze the findings from country program evaluations, a process not done at multilateral development banks when implementing project evaluations.[24] The teams

---

19   Butaine 2016.
20   Butaine 2016.
21   Butaine 2016.
22   Butaine 2016, 189.
23   Butaine 2016.
24   Butaine 2016.

responsible for creating country assistance strategies provide a draft to evaluation departments and receive feedback.[25] Once these recommendations are incorporated into the strategy, they possess a strong likelihood of influencing lending decisions because new projects must explain how they support the country assistance strategy.[26]

Furthermore, country program evaluations prove advantageous because they can effectively synthesize large sums of data to find relevant information that is used to make prudent lending decisions.[27] One issue faced by multilateral development banks is not lack of information but rather the need to organize information in a manner useful to decision-makers.[28] Country program evaluations help to achieve this goal because they "aggregate performance information" which allows donor states at the Bank to "better hold the Fund staff and management to account for process and outcome performance."[29]

While country program evaluations are a useful and advantageous mechanism to incorporate environmental sustainability into the Bank's lending practices, it would be remiss

25   Butaine 2016.
26   Butaine 2016.
27   Butaine 2016.
28   Butaine 2016.
29   Butaine 2016, 191.

if the policy memo did not recognize the weaknesses of this system. Notably, while country program evaluations are considered in country strategy planning, the systems in place to monitor implementation are weak in most cases.[30] As well, the ability of Bank operational staff to abide by recommendations from country program evaluations, especially those advocating for greater attention to environmental activities is significantly hampered by little demand for environmental investments from borrowing countries.[31] These two issues can be effectively addressed where an NGO employs a transnational advocacy network.

It is first important to define the term network, which are "forms of organization characterized by voluntary, reciprocal, and horizontal patterns of communication and exchange."[32] Specifically, they are called advocacy networks because they advocate the promotion of a cause, principled idea or norm.[33] Historically, advocacy networks have played an important role in debates over areas of human rights, the environment and women.[34] When certain actors propose strategies to solve

30   Butaine 2016.
31   Butaine 2016.
32   Keck & Sikkink 2014, 8.
33   Keck & Sikkink 2014.
34   Keck & Sikkink 2014.

challenging issues an action network is formed.[35] Research has proven international and domestic NGOs play a critical role in advocacy networks. They initiate action and pressure powerful actors resolve the issue at hand.[36]

Transnational advocacy networks have different mechanisms to achieve their results but two will prove most effective in this case: information politics combined with material and moral leverage. Information politics is the process where advocacy networks gather both facts and testimonies and frame the issue in terms of right and wrong to motivate states to act.[37] Normally, information politics requires reframing information in a manner that is relevant and easily understood by states.[38] For instance, in the case of environmental issues, data is scarce but also difficult to interpret and thus, has been reframed to highlight how the environmental issues impact human populations.[39] With this information borrowing countries will more carefully consider how their development projects will adversely influence their domestic population.

After the NGO ensures the issue is properly understood

35   Keck & Sikkink 2014.
36   Keck & Sikkink 2014.
37   Keck & Sikkink 2014.
38   Keck & Sikkink 2014.
39   Keck & Sikkink 2014.

via information politics, powerful members of the advocacy network can link cooperation to money or goods of value.[40] In the case of multilateral development banks like the Bank, loans can be dependent on environmental protection.[41] This would require borrowing countries to consider the environmental impact of their development campaigns and subsequently force them to alter their behaviour. Otherwise, they would not receive future funding from the Bank. Similarly, moral leverage is also an effective strategy to ensure compliance, where the international community scrutinizes the behaviour of target actors or countries borrowing from the Bank.[42] Advocacy networks assume governments desire the "good opinion of others" and thus, hope countries that are violating international standards will rectify their behaviour.[43] Both material and moral leverage seek to incentivize borrowing countries to alter their destructive behaviour and encourage these states to demand loans for development projects that will account for environmental sustainability. Finally, advocacy networks are likely to resolve environmental issues created by Bank practices because the problem can be traced to a specific set of actors: borrow-

40   Keck & Sikkink 2014.
41   Keck & Sikkink 2014.
42   Keck & Sikkink 2014.
43   Keck & Sikkink 2014, 23.

ing countries who prioritize development over environmental sustainability.[44] Additionally, historical evidence proves advocacy networks are likely to achieve the greatest results when addressing an issue pertaining to the bodily harm of individuals and this includes cases where environmental degradation has displaced a local population.[45]

Therefore, it is evident country program evaluations and their enforcement via transnational advocacy networks is an effective strategy to address and administer compliance with environmental regulation with regards to Bank lending practices. This statement can be reinforced by considering another approach, project evaluations. While similar in title to country program evaluations, project evaluations are distinctly different. Project evaluations are beneficial because they allow multilateral development banks to determine whether rapid approval of projects is prioritized over effectiveness.[46] This is done by evaluating whether decision-making aligns with member country desire for holistic projects, such as those that account for environmental concerns.[47] Moreover, project evaluations

---

44   Keck & Sikkink 2014.
45   Keck & Sikkink 2014.
46   Butaine 2016.
47   Butaine 2016.

can analyze the connection between past decisions and desired outcomes.[48] This would prove useful in making future project decisions and ensure multilateral development banks only pursue projects that are less-environmentally risky.

However, project evaluations are not airtight, and their implementation may result in specific issues. For instance, project evaluations can fail because they may not add new information or may reach the wrong conclusions about cause-and-effect relationships.[49] In a related manner, project evaluators may have less information than actual decisions-makers, which can result in poor recommendations.[50] Equally important to concern about the quality or reliability of information, project evaluations may be biased to conform to the political desires of the principals that order the evaluations.[51] Project evaluations are weak because they focus on specific operations compared to country program evaluations that monitor entire sectors and project types in borrowing-country portfolios to make recommendations about future lending.[52] One final weakness of project evaluations is, unlike country program evaluations,

48   Butaine 2016
49   Butaine 2016.
50   Butaine 2016.
51   Butaine 2016.
52   Butaine 2016.

they are not incorporated in the process of creating strategies for country lending.[53] This information proves country program evaluations are more useful in ensuring future Bank lending addresses environmental concerns.

In summary, the policy memo first examined how World Bank practices could detrimentally influence the environment. Based on these findings the memo then proposed reform of the Bank by incorporating strategic planning through multiyear country program evaluations. The memo examined the risks associated with this approach but explained potential issues could be resolved by an NGO employing a transnational advocacy network to ensure donor country compliance with these country program evaluations. In theory, the strategy for Bank reform outlined in this policy memo can be understood to be an effective and unproblematic mechanism to account for and mitigate concerns of environmental degradation. However, reform of any institution is bound to encounter opposition. In this case, such opposition is likely to result from developing countries currently in the process of endeavouring to transition to an industrialized nation. These countries will prioritize economic progress and subsequently, inexpensive sources of

53   Butaine 2016.

energy production that often cause environmental deterioration. This is best exhibited in the 1990s when China and India opposed hydrocarbon limits because this would force them to resort to a more expensive energy source and thereby impede their transition to a developed nation. Regardless, the policy advocated for in this memo is still likely to reap tangible and effective results with the majority of developing countries who significantly rely on the financial benefits they gain from the Bank, and will thereby take the necessary action to ensure their development projects account for environmental concerns.

Bibliography

Butaine, Mark T. Giving Aid Effectively: The Politics Of Environmental Performance And Selectivity And Multilateral Development Banks. 1st ed. Reprint, New York: Oxford University Press, 2016.

"Country Evaluations | Independent Evaluation Group". Ieg.Worldbankgroup.Org, 2019. https://ieg.worldbankgroup.org/country-evaluation.

Fox, Jonathan, and L. David Brown. The Struggle For Accountability: The World Bank, Ngos, And Grassroots Movement. 1st ed. Reprint, Cambridge, Mass.: MIT Press, 1998.

Gutner, Tamar. "World Bank Environmental Reform: Revisiting Lessons From Agency Theory". International Organization 59, no. 03 (2005). doi:10.1017/s0020818305050265.

Sikkink, Kathryn, and Margaret E Keck. Activists Beyond Borders: Advocacy Networks In International Politics. 1st ed. Reprint, Itcha, New York: Cornell University Press, 2014.

"Principal-Agent Problem - Overview, Examples And Solutions". Corporate Finance Institute. Accessed 3 January 2020. https://corporatefinanceinstitute.com/resources/knowledge/other/principal-agent-problem/.

The Invocation of Sovereignty During the Apartheid Regime in South Africa

By Joseph Rossi

"National sovereignty is an obligation as well as an entitle-ment. A government that will not perform the role of a govern-ment forfeits the rights of a government."

- Richard Perle

This rationale was in full force during the Cold War era as South Africa instituted their apartheid regime, establishing laws to discriminate against black South Africans. Sustained pressure from the international community urged South Africa to end this human rights violation. However, South Africa re-sisted norm changes during the Cold War by effectively invok-ing sovereignty norms through the United Nations, positioning apartheid as a cultural phenomenon and oppressing domestic uprisings.

South Africa referenced historic precedents, includ-ing actions by the United Nations and its key member states, to support their claim that sovereignty superseded emerging norms of racial equality. In order to best understand how South Africa invoked sovereignty in the United Nations during the Cold War period, it is first helpful to examine the role that emerging norms of racial equality played in the foundation of organizations and agreements that were precursors to the Unit-ed Nations. Beginning at the Paris Peace Conference, delegates

from the international community established a precedent that countries should have sovereign authority over their internal affairs, and thereby be free from external interference and intervention. This is evidenced in Article 10 of the Paris Peace Conference, which expressed that "the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League."[1]

Additional action taken at the Conference includes "[s]trenuous efforts by Japan to negotiate a simple racial equality clause for inclusion in the Covenant of the League of Nations."[2] This makes it evident Japan desired to ensure there was respect and just treatment for all people, regardless of their race and nationality.[3] However, the British argued this clause could not be included because it would "encroach upon the sovereignty of states who were members of the League."[4] This example of privileging sovereignty over the emerging norm

---

1   Luke Glanville, "The Myth of "Traditional" Sovereignty," *International Studies Quarterly* 57, no. 1 (2013): 85, https://doi:10.1111/isqu.12004.
2   Paul Gordon Lauren, "First Principles of Racial Equality: History and the Politics and Diplomacy of Human Rights Provisions in the United Nations Charter," *Human Rights Quarterly* 5, no. 1 (1983): 2, https://doi:10.2307/761870.
3   Ibid.
4   Glanville, 85.

of racial equality helps contextualize how South Africa was eventually able to justify apartheid by invoking sovereignty in the United Nations. The Japanese effort furthermore failed due to a lack of action by American President Woodrow Wilson, ultimately leading to hostility and prejudices. Japan's inability to pass their racial equality resolution is of great significance as in the aftermath of its failure, the British Foreign Office warned in a confidential memo that the racial issue would continue to be highly contentious and without solution, stating "[t]he white and the coloured races cannot and will not amalgamate. One or the other must be the ruling caste."[5] This statement foreshadows the significant racial inequality present during the apartheid movement in South Africa.

At a meeting to create the United Nations at Dumbarton Oaks in 1944, there was a discussion regarding the principles of state sovereignty and human rights. The United States suggested a clause that would have made states' right to freedom from external intervention conditional on its protection of human rights, which stated countries must "respect human rights and fundamental freedoms of all its people and to govern in accordance with the principles of humanity and justice."[6] In

5   Lauren, 2.
6   Glanville, 86.

addition, this clause stipulated as long as countries abided by the above precedents, the United Nations should not impede on the internal affairs of any its member countries. However, both the British and the Soviet Union rejected this clause, setting another precedent of sovereignty over human rights.[7]

As a result of these historic precedents, sovereignty was heavily prioritized in the United Nations Charter, allowing South Africa to specifically reference the Charter to clearly and successfully invoke sovereignty within their country. First, Article 2(4) advocated for the right of non-intervention, which prohibited "the threat or use of force against territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."[8] In addition, Article 2(7) expressed similar sentiments stating, "[n]othing contained in the Present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state."[9] Representatives of South Africa continually referenced these articles, especially 2(7), whenever United Nation member states questioned and

_____

7   Ibid.

8   United Nations, *Charter of the United Nations*, 1945, "1 UNTS XVI "Chapter I," http://www.un.org/en/sections/un-charter/chapter-i/index.html (2018).

9   Ibid.

called for an end to apartheid.[10] Thus, through direct reference to the United Nations Charter, South Africa justified apartheid through its right to sovereignty, and asserted they were not subject to interference from the international community.

The United Nations General Assembly created a 1965 declaration that stated no country had the right to intervene in the internal affairs of any other country, thereby condemning any form of interference which sought to alter the political, economic or cultural policies of a country. This resolution, which came about in the middle of the apartheid regime, reflects the consensus within the United Nations of the supremacy of sovereignty, which helps explain South Africa's success in resisting emerging norms of racial equality by invoking sovereignty through this organization. This resolution's power and influence was exemplified in the 1970s when the United Nations condemned both India and Vietnam for their interventions that "had a positive humanitarian impact in Bangladesh and Cambodia respectively."[11] Opposition to humanitarian intervention became so strong that intervening states refrained

---

10 Richard Schifter, "Human Rights at the United Nations: The South Africa Precedent," *American University International Law Review* 8, no. 2 (1993): 363, http://digitalcommons.wcl.american.edu/cgi/viewcontent. cgi?article=1855&context=auilr.

11 Glanville, 86.

from appeals to humanitarian intervention and instead relied on claims of self-defence. Bangladesh, who received sovereignty as a result of India's intervention, condemned Vietnam's intervention in Cambodia, referencing "the cardinal principle that States shall refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of any State."[12] This is a powerful message in support of South Africa as even a state such as Bangladesh, which benefited from intervention, advocated that countries should have the ability to govern themselves as they see fit and remain free from external interference under all circumstances. It is evident United Nations policy that prioritized sovereignty and non-interference was a powerful tool for South Africa to justify and sustain its apartheid regime.

Furthermore, South Africa did not only reference United Nations Charter clauses but enlisted key United Nations Security Council members to veto proposals against apartheid. During the 1960s, the Anti-Apartheid Movement in London tried to make Britain pursue economic sanctions beginning in 1962 with the UN Resolution that pushed for economic sanctions against South Africa. Additionally, in 1968, General

12   Ibid.

Assembly Resolution 2396 lobbied against South Africa by claiming, "South Africa's trading partners and the activities of foreign financial and business interests collaborated with the South African Government and encouraged its racial policies."[13] These calls for sanctions were opposed by Western nations who significantly profited from their economic ties to South Africa: the United States, Britain and France all used their positions in the United Nations Security Council in order to prevent mandatory action against South Africa. As a result, these vetoes effectively enabled South Africa to maintain their right to apartheid as a sovereign state. In a similar manner, corporations also prioritized and desired to sustain their economic relationship with South Africa. While activist groups asserted that corporations had a responsibility to consider the moral impact of their actions, the numerous international norms against intervention supported multinational corporations and their desire to conduct business by complying with South African apartheid policies.[14] Once again international precedents condemning intervention prevented direct action to be

13   Michelle Westermann-Behaylo, "Institutionalizing Peace through Commerce: Engagement or Divestment in South African and Sudan," *Journal of Business Ethics* 89, no. 4 (2009): 421, https://doi:10.1007/s10551-010-0398-0.
14   Ibid.

taken against the internal affairs of South Africa, fuelling their right to invoke sovereignty and govern their country to reap the greatest benefits for themselves.

Secondly, South Africa argued that apartheid was not a system of racial discrimination but rather an arrangement that granted black South Africans their own sovereign states. Apartheid was formally organized around what was known as the "Bantustan" policy, which was rooted in the idea of separate development between Africans and whites, which originated among Afrikaners via South African Prime Minister Verwoerd in the 1950s. Beginning in 1968, forced resettlement of over 900,000 people of different "government designated tribal groups" had been fulfilled in order to "return" these people to "their homeland," removing them from "white areas of South Africa."[15] In 1971, the government announced it intended to grant "self-determination" or "sovereign independence" to these "tribal homelands."[16] The South African government thus attempted to position apartheid as a system that would grant independence to black states, whereby black South Africans could supposedly "govern" themselves as a sovereign entity.

15   Henry Richardson, "Self-Determination, International Law and the South African Bantustan Policy," *the Columbia Journal of Transnational Law* 17, no. 2 (1978) 186.
16   Ibid., 187.

Audie Klotz expands on this rationale, noting that South Africa denounced that apartheid was an issue of racial inequality; specifically, South Africa argued they were not excluding Africans from political participation because "they were enfranchised in these supposedly sovereign states" in which only Africans could settle.[17]

South Africa ensured they described apartheid in a manner that appeared to give substantial rights to Africans, always using the language of self-determination. Through apartheid, self-determination has been expressed as the desire of groups to have their own separate cultures in their communities. This rationale enabled South Africa to claim that apartheid played a pivotal role in achieving what Africans desired: their own separate state where they were free to govern themselves.[18] With this in mind, South Africa tried to resist norm changes that advocated for racial equality by claiming to implement norms, empowering Africans through the Bantustan policy. In essence, South Africa framed apartheid as cultural essentialism, a process where people of a certain culture are categorized and grouped together based on common qualities, in this case their

---

17   Audie Klotz, *Norms in International Relations* (Ithaca: Cornell University Press, 1999), 4.

18   Richardson, 191.

race.[19] Pierre Van Den Berghe supports this sentiment as he claimed, the macro-segregation of Africans into territorial units based on race, supported cultural essentialism as seen in the Bantustan policy, which was "an attempt at equitable partition between separate but equal nations within a happy commonwealth."[20] One can infer South Africa chose to frame apartheid in this way to address criticism from the international community, whereby South Africa argued their action was an internal cultural policy which they had complete jurisdiction over.

While South Africa thus claimed that apartheid equated to sovereignty for black South Africans, there is evidence that this rationale was not the case. The argument of the South African government is not about the desire of black South Africans to be separated into their own tribal nations where they are seemingly free to govern themselves. Rather, it is based on the aspiration of white South Africans to have the black South Africans live in a "civilization" of their own, as they are not yet ready to interact with the rest of society. Further, white South Africans are considered a single group; no matter their eth-

19   Saul Dubow, "Afrikaner Nationalism, Apartheid and the Conceptualization of 'Race'," *The Journal of African History* 33, no. 02 (1992): 209, https://doi:10.1017/s0021853700032217.

20   Pierre L. Van Den Berghe, "Racial Segregation in South Africa: Degrees and Kinds," *Cahiers D'études Africaines* 6, no. 23 (1966): 409, https://doi:10.3406/cea.1966.3075.

nic origins and therefore, the Bantustan policy is the "logical territorial extension of apartheid as both a general policy and a way of life for whites as a single preferred tribe over blacks as an inferior collection of tribes."[21] Thus, it is evidently clear that the Bantustan policy was merely an attempt to calm internal and external opposition to apartheid and allow South African Prime Minister BJ Vorster to sustain the safety and living standards of South African whites by "maintaining the basic structure of apartheid" where black Africans were the source of labour for mines, farms and industries.[22]

The above acts made black South Africans conscious of their inferior position, and they responded with domestic uprisings demanding racial equality. The South African government subsequently used their position as a sovereign entity to powerfully crush these uprisings. This can first be exemplified in the March 1960 Sharpeville Massacre, here the government responded to protests which demanded an end of pass laws that were meant to restrict the movement of black South Africans by forcing them to carry official government documentation at all times.[23] During the Sharpeville Massacre, the police opened

21   Richardson, 191-192.
22   Van Den Berghe, 416.
23   Keith Shear, "At War with the Pass Laws? Reform and the Polic-

fire on blacks protesting this and other apartheid laws, displaying the aggressive nature of the South African government and their desire to halt anti-apartheid movements at any cost. The police fired over one thousand rounds at the protesters even after they began to flee, proving the South African government was not merely attempting to quell the protesters but rather send a message that further uprisings and resistance would not be tolerated. South Africa as a sovereign state took the action it deemed necessary in order to resist domestic uprisings advocating for racial equality. These sentiments are supported by Peter Walshe who argued the Sharpeville Massacre transpired in this manner as a result of "the general mechanics of the authoritarian state, the social psychology of oppression and violence and the impulse and forces motivating political behaviour."[24] After the Sharpeville Massacre, the South African government banned numerous anti-apartheid groups including the African National Congress and the Pan Africanist Congress.[25] One can interpret the South African government did so because they were concerned these groups would mobilize to threaten their

ing of White Supremacy in 1940s South Africa," *The Historical Journal* 56, no. 01 (2013): 207, https://doi:10.1017/s0018246x12000581.

24   Peter Walshe, "The Sharpeville Massacre: Levels of Causation," *The Journal of African History* 44, no. 3 (2003): 541, https://doi:10.1017/s0021853703418665.

25   Ibid.

domestic sovereignty as the authoritative regime of the country. Thus, the government took ferocious action through what they understood as their right as a sovereign state free from external intervention – Westphalian sovereignty – to eliminate organizations that opposed their agenda.

The Soweto Massacre, which took place in June 1976, further exemplifies the repressive actions the South African government took as a sovereign state in order to maintain sovereignty and thus stability within their country. South African troops and police shot unarmed school children and adults protesting Afrikaans being an official language in the school system, as blacks preferred to be taught in English. The Massacre left more than one hundred dead and at least a thousand injured, and it was believed this could lead to other uprisings throughout South Africa. Worse, the South African government claimed no political motivation lead to the rioting but was instead caused by "drunkenness and hooliganism."[26] Therefore, the South African government attempted to justify their authoritarian action by positioning it as a necessary response to the "destructive" action taken by the black portion

26   Labour's Dependent Weekly Tribune, "After Soweto Massacre," 1976 and Hermann Giliomee, "The Rise and Possible Demise of Afrikaans as Public Language," *Nationalism and Ethnic Politics* 10, no. 1 (2004): 43, https://doi:10.1080/13537110490450764.

of the population. In this case, it can be argued South Africa was fulfilling their responsibility and invoking their right as a sovereign nation to maintain peace and security within its borders. This situation, like the Bantustan policy, exemplifies South Africa positioning apartheid and responses to it in such a manner that attempts to justify their actions to the international community and thereby their right to invoke Westphalian sovereignty within their country. Leading up to the Soweto Massacre, the South African government claimed their apartheid policies were becoming more lenient; however, this event clearly demonstrated they desired to continue the implementation of their Bantustan policy and to worsen the conditions for the African population.[27] This would prove advantageous to the South African government as by weakening the anti-apartheid movement this would likely result in fewer domestic uprisings, in turn allowing South Africa to invoke sovereignty norms to effectively resist demands for racial equality.

South Africa resisted emerging norms of racial equality throughout the Cold War period, invoking sovereignty to justify apartheid by United Nations precedents, arguing apartheid was culturally motivated and suppressing domestic uprisings

---

27   Ibid., 43.

that fought for an end to apartheid. Since the conclusion of the apartheid regime in South Africa, many countries continue to employ the concepts of domestic and Westphalian sovereignty to tyrannize and target their citizens in various oppressive forms as evidenced in North Korea and Saudi Arabia. Thus, only through increased action on the part of the international community and legitimate domestic governments having their citizens' best interests in mind, will their tyrannical reigns finally come to an end.

Bibliography

Dubow, Saul. "Afrikaner Nationalism, Apartheid and the Conceptualization of 'Race'." *The Journal of African History* 33, no. 02 (1992): 209. https://doi:10.1017/s0021853700032217.

Glanville, Luke. "The Myth of "Traditional" Sovereignty." *International Studies Quarterly* 57, no. 1 (2013): 79-90. https://doi:10.1111/isqu.12004.

Giliomee, Hermann. "The Rise and Possible Demise of Afrikaans as Public Language." *Nationalism and Ethnic Politics* 10, no. 1 (2004): 25-58. https://doi:10.1080/13537110490450764.

Klotz, Audie. *Norms in International Relations*. Ithaca: Cornell University Press, 1999.

Lauren, Paul Gordon. "First Principles of Racial Equality: History and the Politics and Diplomacy of Human Rights Provisions in the United Nations Charter." *Human Rights Quarterly* 5, no. 1 (1983): 1. https://doi:10.2307/761870.

Labour's Dependent Weekly Tribune. "After Soweto Massacre."
1976.

Richardson, Henry. "Self-Determination, International Law and the
South African Bantustan Policy." *The Columbia Journal of Trans-
national Law* 17, no. 2 (1978).

Schifter, Richard. "Human Rights at the United Nations: The South
Africa Precedent." *American University International Law Review* 8,
no. 2 (1993): 361-365.

Shear, Keith. "At War With the Pass Laws? Reform and the Polic-
ing of White Supremacy in 1940s South Africa." *The Histor-
ical Journal* 56, no. 01 (2013): 205-229. https://doi:10.1017//
s0018246x12000581.

United Nations, *Charter of the United Nations*, 1945 "UNTS XVI,"
"Chapter I". *Un.Org*, 2018. http://www.un.org/en/sections/
un-charter/chapter-i/index.html.

Van Den Berghe, Pierre L. "Racial Segregation in South Africa: De-
grees and Kinds." *Cahiers D'études Africaines* 6, no. 23 (1966):
408-418. https://doi:10.3406/cea.1966.3075.

Westermann-Behaylo, Michelle. "Institutionalizing Peace through
Commerce: Engagement or Divestment in South African and
Sudan." *Journal of Business Ethics* 89, no. 4 (2009): 417-434.
https://doi:10.1007/s10551-010-0398-0.

Walshe, Peter. "The Sharpeville Massacre: Levels of Causation."
The Journal of African History 44, no. 3 (2003): 540-542. https://
doi:10.1017/s0021853703418665.