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Call for Papers for Politikon
Editorial Note

Dear Reader,

We are not bragging when we say that Politikon Volume 26 is truly exceptional. Apart from standard full articles, it includes in total three new sections: Academic Polemic, Research Notes, and Book Reviews. In the first one, Zep Kalb, from the University of Tehran, takes on a recent article by Mehran Mazinani, published in Politikon Volume 24, discussing the question how to measure freedom in non-Western cultural settings. We are very happy to include Kalb’s response to Mazinani in the present volume, since it exemplifies what academic articles should always provoke: a fruitful discussion about scientific terms and arguments.

After nine more full papers contained in the standard articles section, with topics ranging from the role of Afghanistan in the Uighur separatist movement to the historical connections of sexism on the Matatu, we also present Alexandre Rodríguez Barriocanal’s short research note discussing the topic of the Common Security and Defence Policy.


We are confident that every reader will find in this Politikon volume something that will catch their attention and make them do what above all in the academia matters: to think.

And now, for a good measure of top quality academic entertainment, onto the next page!

Your Editors
Valuing Freedom and History in the Middle East:  
A Review of Mazinani’s ‘Full Freedom’ Model  

Academic Polemic

Zep Kalb

Zep Kalb, from Antwerp, Belgium, is currently an MA student at the University of Tehran. He completed his BA at the SOAS, University of London in 2013 with a First-Class Honours in Economics and Persian. His MA thesis will be on the production of political discourse in religious academia in Iran. He is interested in revolutionary politics, class, religion and discursive formations in the Middle East. He also works as columnist for the Financial Tribune, an English-language newspaper distributed in Iran.

Abstract

This paper qualitatively compares Mazinani’s model for the measurement of freedom, the called Full Freedom model, with the Human Development Index (HDI) and the Freedom of the World Index (FWI) and examines the advantages and disadvantages of using this model for the measurement of freedom in the Middle East and North Africa (MENA). The particularity of historical trajectories in the MENA will be held against the HDI and FWI. Then, shortcomings in Mazinani’s model for the measurement of freedom will be assessed in relation to this model’s dependency on its two competitors.

Keywords: Full Freedom, Freedom House, Human Development Index, Middle East and North Africa, political development, socio-economic development.
Introduction

In a recent edition of Politikon, Mehran Mazinani (2014) puts forward an inclusive and comprehensive model that aims to transcend and reduce the tension between two key indices of development. The Human Development Index (HDI), compiled by the UN, focuses on basic socio-economic indicators while the Freedom in the World Index (FWI), which is compiled by Freedom House, a non-governmental think tank, is exclusive to the field of politics and political freedom. Their divergent valuation of what constitutes ‘freedom’ puts them in opposition to one another in several regions in the world, most notably in the Middle East and North Africa (MENA) region.

This article will attempt to evaluate Mazinani’s model of ‘Full Freedom’ against the background of modern historical trajectories of political and economic development in MENA countries. Mazinani’s attempt to develop an inclusive index, combing the HDI and the FWI, encompasses a more complete definition of what freedom means. Additionally, Mazinani’s model can be particularly fruitful in quantitatively expressing situations in which the HDI and FWI clash, notably in the MENA region. On the other hand, rightly because of this model's dependency on combining two models, it also tends to transmit their deficiencies.

Mazinani’s Inclusive Model of Measuring Freedom

The Full Freedom model conglomerates the HDI and FWI as a way of representing more fully the concept of freedom, which Mazinani correctly believes, encompasses the totality of human wants and activity. The HDI and FWI are one of the most employed indices of socio-economic and political freedom respectively. The HDI attempts to successfully capture a skeleton conception of what modern socio-economic development means. HDI is calculated on three basic socio-economic indicators: life expectancy, income and education. The simplicity of the HDI has contributed to its success in evaluating development and creating a universal standard of human progress. Importantly, the HDI combines income and non-income indicators in describing socio-economic development. Consequently, along with the economy, the HDI endows the state with a crucial role in advancing societies.

Freedom House’s FWI is calculated by giving numerical values to 25 topics related to their conception of freedom. These questions relate to political rights, the election process, political participation and state functioning, or to civil liberties, such as freedom of expression, associational rights, rule of law and individual rights. The FWI derives from Western conceptions of political progress, assuming that liberal values stand at the basis of what political freedom means. The Western nature of these values does not preclude their universal significance however. In fact, the spread of liberal values globally, closely connected to histories of imperialism and capitalism, has put such values at the center or periphery of many local demands for political change.

Mazinani chose these two models because of their role in representing both socio-economic and political indicators of freedom. In turn, he combines the two by averaging their respective influences into a combined index, which he calls the Full Freedom Index (FFI). FFI is inclusive:
the model assumes that freedom relates to a wide set of indicators found in economics, society and politics. His formula takes the forms of:

\[
\text{Full Freedom} = \sqrt{\frac{L \cdot E \cdot I}{PR \cdot CL}}
\]

Where \(L\), \(E\) and \(I\) represent the UN’s calculation of Life expectancy, Education and Income respectively, and \(PR\) and \(CL\) represent Political Rights and Civil Liberties as calculated by Freedom House.

Mazinani defines freedom “as whether or not a definite set of choices are actually available to a people, who have enough effective power to exercise them, regardless of whether they may or may not wish so” (2014: 87). The FFI is thus based on a conceptualization of freedom. Incorporating human wants and choices and this is reflected by combining socio-economic and political standards of development.

Mazinani focuses his attention immediately on the Middle East and North Africa (MENA) region. This region is particularly interesting for the FFI because it is where direct confrontation between the HDI and FWI tends to occur. While the HDI praises the advances in socio-economic development in the MENA and gives most of its countries a high or medium HDI rating, the FWI finds authoritarianism, corruption and limited civil liberties as the most important impediments towards political progress. In the most recent (2014) edition, the FWI argues that MENA “registered the worst civil liberties scores of any region [globally]”.

Inherent in this contradiction is the failure of both indices to translate complex historical trajectories of MENA countries in synchronized standards of political and socio-economic development. Most importantly, corporatist-military regimes have played a key role in the post-WWII history of MENA states. Such regimes were based on particular social contracts which tended to promote socio-economic advancement but hold back liberal standards of political progress.

**The Advantages of FFI over HDI and FWI**

While the HDI and FWI tend to sketch divergent histories of development, the FFI attempts to represent a more valid numerical representation of a reality inherently linked to history. Taken together the HDI and FWI sketch a conflicting image of what freedom means: on the one hand, liberties arising from socio-economic development are evaluated positively; on the other hand, much of the MENA is dubbed politically ‘unfree’ by the FWI. It is in this environment where the FFI can be of most practical use.

In trying to assess the usefulness of the FFI in representing freedom more accurately than its competitors, we may firstly note the balancing out of extreme political moments. One recent such extreme political moment was the Arab Spring. The Arab Spring was a particular moment of political change in the Arab MENA, starting in 2011. As the name implies, the Arab Spring was seen by many analysts as the eventual ‘waking up’ of the Arab people in response to what were often decades of military rule. This idea of ‘waking-up’ is reflected numerically in the FWI ratings. Before the Arab Spring, most MENA countries ‘slept’ at the bottom end of the FWI. However, successful political change and democratization in a handful of MENA states suddenly
catapulted these countries to the very top of regional rankings. In the FWI’s 2011 report, Libya was rated as one of the world’s most ‘unfree’ countries and Tunisia was ranked on par with Iran and Afghanistan. However, in 2014, Freedom House ranked Tunisia and Libya second and fourth respectively in the MENA (see Appendix). These rapid quantitative movements of formal political freedom obscure human perceptions and feelings of freedom, which consists of a broader socio-economic context, in particular employment and income. In the case of Tunisia, while it received a score of 0.167 in 2011, this increased to 0.333 three years later. These rapid swings obscure reality. Notably, the HDI gives Tunisia a value of 0.716 in 2011, rising only to 0.721 in 2013, the most recent available HDI data set. These are much slower HDI growth rates than achieved between 1980-85 and 1990-2000. FWI thus encounters a problem of harmonizing static representations of a state (quantitative valuations of political freedom in one year) with total perceptions of freedom. A full account of freedom would tend to stress growth trends over the long-run, rather than sudden ‘awakenings’. On the other hand, in the HDI interpretation of freedom, years of authoritarianism were more effective in promoting socio-economic development than the Tunisian revolution was. In fact, the HDI completely discounts the Arab Spring as a moment of change, and sees it instead as a moment of stagnation: a moment in which the state is temporarily unavailable for expanding public education amid widespread civil disobedience and paralysis of state institutions. The FFI is thus more fruitful on this regard by combining socio-economic and political indicators (compare graph 3 with graphs 1 and 2).

Present Realities and Historical Trajectories in the MENA

Let us now have a deeper look into why contradictions between the HDI and FWI arise. As stated, our argument is that these contradictions are a result of the particular historical developments MENA states have experienced.

Contradictions between the HDI and FWI are reflected in what can be classified as three different main currents in modern historical development: Gulf Countries, Corporatist-Military Regimes and Underdeveloped States.¹ The cluster of countries belonging to each category can be listed as follows:

<table>
<thead>
<tr>
<th>Gulf Countries</th>
<th>Corporatist-Military</th>
<th>Underdeveloped</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bahrain</td>
<td>Algeria</td>
<td>Libya</td>
</tr>
<tr>
<td>Kuwait</td>
<td>Egypt</td>
<td>Morocco</td>
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<tr>
<td>Oman</td>
<td>Iran</td>
<td>Syria</td>
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<td>Qatar</td>
<td>Iraq</td>
<td>Tunisia</td>
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<tr>
<td>Saudi Arabia</td>
<td>Jordan</td>
<td>Turkey</td>
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<td>UAE</td>
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<tr>
<td>Afghanistan</td>
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<td>Sudan</td>
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<td>Yemen</td>
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</tbody>
</table>

Source: Author.

The classification of each group depends on the particular social contract on which these states have been built. Gulf Countries have been ruled by what Kevan Harris calls “an oligarchy of mercantile chiefdoms.” The social contract was formed between the elite of these small (city) states and migrant labor from South Asia and East Africa. Capital penetration from the West has a long history and more recently huge oil revenues have caused a boom in real estate and financial sector growth, with surplus capital being exported to New York, London and other MENA states, mostly in the forms of volatile, short-term investment and real estate, rather than long-term direct investment (El-Erian et al, 1996). The corporatist-military state in contrast arose from class struggle between the old aristocracy and the new military rulers, which had come to power amid widespread discontent with elitist liberalism in these countries (Harris, 2014). That social contract was based on rapid depeasantization (Araghi, 1995); and the substitution of much of the private sector by the state (Achcar, 2013: 69; Batatu, 1984). In return for rapid urbanization, the state promised expansion of state employment and public schooling. Between 1960 and 1985, corporatist states managed to increase incomes significantly. According to the World Bank, during this period the “MENA region outperformed all other regions except East Asia in income growth and the equality of income distribution (Shafik and Mundial, 1995: 2).” Since the 1980s these states have gradually liberalized their economies (generally called infišab or ‘openness’). Liberalization has increased corporatism: networks related to the political elite were able to capture economic institutions, causing increased inequality. At the same time, the formal state sector was gradually perked in. This, in combination with the lack of employment opportunities in the private sector, made many young work-force entrants unable to find a job. Consequently, an increasingly well-educated, young, urban poor was reproduced. This MENA-

¹ These classifications are fairly common, although exact country indexing may differ. See for example (Achcar, 2013; Harris, 2014).
wide phenomenon of poor jobless youngsters was in Algeria mockingly called *hittistes* or wall-leaners (from Arabic *bitt*; wall) (Kepel, 2002). Lastly, underdeveloped states are marked by extended periods of civil strife and war. These states have occupied an historical position as buffer zone between imperialist powers that deemed the creation of stable state institutions unnecessary or dangerous and opted for the diffusion of national power among competing ethno-religious groups. They lack economic centralizing tendencies, notably oil, and have experienced low and unstable HDI growth.

Several additional points are worth making regarding this classification. Firstly, two countries are not listed: Israel and Lebanon. These are both exceptional cases with regards to their economic role in the region and political structure. Both countries are close US allies but while Israel is a developed democracy with a highly-educated labor force and economic development, Lebanon is a weak US vassal state, politically handicapped by sectarian strife and with a history of overt imperialism from the east (Syria) and south (Israel) but held up economically by a large influx of financial capital from the West and the Gulf (Harris, 2014). Secondly, it’s worth mention that major differences between the political positions of corporatist states do exist, as well as highly divergent attitudes to international politics. Their corporate-military identity has not precluded diversity. The three most populated MENA countries belong to this category.

![Comparative Rankings of MENA Countries](image)


Each of these categories indicates a shared relation to FWI and HDI rankings (see graph). Among MENA states, Gulf countries tend to score low on the FWI but are among the highest (with Israel) in the HDI. Apart from two special cases, Tunisia (since the Arab Spring) and Turkey (since the 1990s), corporatist states score low on the FWI. Simultaneously, they score relatively high on the HDI. What is more, between 1975 and 2010, these countries enjoyed, together with the Gulf Countries, the fastest growth rates in average years of schooling in the world (Harris, 2014). The World Bank reported that in the period 1985-2000 these two groups of countries developed much faster in the fields of literacy rates, schooling years and life expectancy.
compared to other middle-income countries in the global south (Iqbal, 2006). Lastly, underdeveloped MENA countries are the only category on which both the FWI and HDI agree: scoring low on political and socio-economic development.

**Problems in the HDI and FWI**

It is by now clear that the FFI is a fusion of the UN and Freedom House indices. This fusion contains the danger of transmitting deficiencies which are inherent in each of its two sub-models. Although the FFI can in some instances, like those mentioned above, provide a more appropriate and balanced picture of what freedom means, it also tends to underestimate certain political and economic constellations which are badly accounted for by the HDI and FWI.²

One issue is that political progress and socio-economic development are calculated as composites of several variables. The increase of one variable coupled with a simultaneous decrease in the other will produce similar numerical results, although far from equally representing reality. Let us take the HDI as an example. While corporatist MENA states reported higher income growth than their counterparts in the Global South up until 1985, thereafter income growth tended to falter as the state sector could not keep up with rising employment demands (Abed and Davoodi, 2003). Iqbal confirms that MENA states after 1985 experienced “a considerably slower rate of output growth and a decline in levels of public spending” (Iqbal, 2006: xix). This occurred while education and literacy were all expanding at rapid rates. The MENA region thus caught up with countries at comparable income levels with regards to non-income indicators, however, income growth consistently underperformed (see graph down). Because the HDI combines non-income and income indicators, assuming that generally these variables rise or fall together, the HDI fails to reflect these particular trajectories. In fact, according to Mazinani’s definition of freedom, this trend should have negatively impacted full freedom significantly: on the one hand the range of choices has increased substantially with rapid urbanization and expanded public schooling but on the other, the capability of exercising these choices shrank as income growth stagnated. However, due to the formula on which the FFI is built, it reproduces the failure of the HDI to account for this phenomenon. Due to the assumption that its basic socio-economic development indicators would not move in opposite directions, the HDI is unable to account for the specificity of historical trajectories in corporatist-military MENA states. The failure to reflect present reality through historical comparison is thus reflected in the FFI.

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² For lack of space, this essay does not extensively discuss all the quantitative issues in the FWI or HDI. Refer to (Munck and Verkuilen, 2002) or (Vreeland, 2008). In this regard, Nathan Brown goes so far as to say that: “Serious scholars of political regime should avoid Freedom House (2011, p.180).”
A second issue which the FFI faces is that it is limited by the definitions of freedom provided by the HDI and FWI. In particular, the FWI index takes a liberal approach to measuring political freedom: taking separation of powers, accountability and formal political participation, through elections, parties or unions, as standards of good governance. At the same time, a liberal interpretation of individual rights constitutes a keystone of what political freedom means. There are two problems with the use of a liberal approach to calculate freedom in the MENA that will be discussed here. First of all, a liberal approach undervalues the distribution of political power through non-formal and anti-liberal channels. One example is the Islamic Republic of Iran, where soon after the 1979 revolution, various radical political institutions were created with numerous purposes. One of these institutions is the Basij (a name implying militant solidarity in Persian), a populist paramilitary institution created to propagate revolutionary Islamist action throughout society and defend the Islamic Republic in case of foreign threats. The Basij has recruited particularly successfully among urban and rural lower classes. In cities, volunteers came from what were previously mafia-type lumpenproletariat networks (called laats in Persian) and the Basij successfully reintegrated these networks into revolutionary political settings (Majd, 2008).
As a result, these subaltern networks, which were formally repressed from any political representation, were now for the first time granted access to direct political participation. Even though political participation was not formalized constitutionally, such revolutionary institutions were still very influential. Their influence only grew when privatization, launched in the 1990s in Iran, allowed them to garner economic resources. The same could be said for Islamist networks in other MENA countries, such as Egypt or Jordan, particularly the radical, subaltern side of these networks. Here, the popularization of Islamic banking was publicly harnessed by the Muslim Brotherhood, which was increasingly allowed to enter the formal political arena, but whose influence was informally much greater and worked through extensive transnational paramilitary and charitable networks (Kepel, 2002). Freedom in the liberal conception is thus inherently bound to class representation in formal politics. However, in the case of the MENA, where many regimes have tried to cope with the integration of radical Islamism, freedom could be thought of as extending in non-formal, anti-liberal ways to mostly subaltern groups too.

Lastly, a much-explored issue is that this liberal conception of freedom might clash with local interpretations of freedom (see for example (Bollen and Paxton 2000); (Giannone 2010). As a result, FWI might impose itself as an ethnocentric, Western definition of freedom. Islamism, whatever its local form, has over the past 40 years been a particularly influential movement in the MENA. In general, Islamist movements have tried to implement forms of sharia rule, thus clashing with the values Freedom House attaches to individual rights, freedom of expression, elections and political participation. Examples are numerous but include the restriction of the office of head of state to male figures; limiting female participation in electoral politics and creating Islamic constitutional structures. This is not to say that Islamism is inherently anti-liberal. Instead, it has tended to take up oppositional, anti-imperialist, Third-Worldist positions in domestic politics. Therefore, Islamism(s) has also positively contributed to political freedom and often its ideal of freedom is quite similar to Western ideals. Examples include the AKP in Turkey, which has democratized strictly secular Kemalist institutions and laws as well as clamping down on the decision-making power of the military apparatus. The Muslim Brotherhood in Egypt under Mohammad Morsi (2012-13) can also be argued to have pursued democratic aims.

**Conclusion**

Mazinani’s Full Freedom model poses interesting new questions in the quest to create an inclusive and comprehensive model of how freedom can be measured and compared on a global scale. This essay has restricted itself to a discussion of this model in the MENA region. The MENA is a particularly fruitful playing ground for the FFI as two of the most employed models of progress, the Freedom of the World Index and the Human Development Index, clash overtly in their valuations of what constitutes political/socio-economic advancement. In this situation the FFI can mediate between the two models through combination and fusion. However, apart from the range of quantitative issues inherent to the HDI and particularly the FWI, there are deeper issues with both models that are transmitted into FFI data, both relating to the basic assumptions on which these models are built. The HDI assumes a positive correlation between its three indicators. However, the particularity of historical trajectories in MENA states, notably states with a recent corporatist-military past, has created opposite result: income indicators falling
or growing slowly, while non-income indicators have grown very quickly. Indeed, the Arab spring can be thought of as a result of this contradiction. The FFI fails to reflect these divergent paths of development which have caused a true collapse in freedom. Secondly, the FWI is based on a liberal ideology, which, whatever the exact methodology of Freedom House, is unable to account for anti-liberal, informal movements in political power and freedom. Further research should try to broaden the scope of Mazinani’s model of Full Freedom to either go beyond these two models or be able to account more fully for these phenomena.
References


The Role of Afghanistan in the Uighur Separatist Movement: Why the People’s Republic of China should take over NATO after 2014

Kristina Ainuvec

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Abstract

As with the U.S. withdrawal from Afghanistan in the end of 2014, there is no obvious replacement for the place of peace guarantor in the country and in the region. The most apparent successor is the People’s Republic of China for a number of reasons. First, Afghan extremists are considered to be connected with the rebels from China’s province Xinjiang. Not only they undermine internal stability in China, but they also engage in illegal drug trade and are a very important point in heroine trade route across Central Asia up to Central Europe. Although the Chinese law enforcers are addressing this issue, there is no clear success in the near future. That being said, in order to deter the flourishing illegal drug trade, the revenues from which are used to finance the uprisings, China needs to step up as a replacement of the U.S.-led forces in Afghanistan after 2014.

Keywords: Afghanistan, China, drug trade, separatism, Xinjiang.
Introduction

Even though at least a couple of years ago, the People’s Republic of China did not take any active part in Afghanistan’s internal life, currently its presence in the country has increased significantly. Firstly, as a rapidly developing state, China is in great need of industrial natural resources that Afghanistan has to offer – copper, iron mine, oil and natural gas. The most valuable resource that interests the People’s Republic of China in Afghanistan is copper. The state has one of the biggest copper reserves in the world and approximately four years ago, the Chinese company ‘China Metallurgical Group Cooperation’ invested nearly $3.5 bln into a project to exploit the Mes Aynak copper mine (O’Donnell, 2014). This was the largest foreign direct investment in the history of Afghanistan. Also, it is important to mention that these ambitious projects would not have been possible without China’s soft policy strategy. In order to establish itself in Afghanistan, PRC has developed a whole plan of winning the hearts and minds of the Afghan people.

The most powerful argument in favor of China’s presence is its generous package. Unlike the Western countries, PRC brings in the money without any strings attached as it combines them with generous royalties and without any economic or political conditions. Moreover, the Chinese contracting companies working in Afghanistan, instead of hiring Chinese workers, prefer employing local labor force. This, in turn, is supposed to contribute to Afghanistan’s employment rate and to strengthen China’s position in Afghanistan.

In addition, China has also been involved in an irrigation initiative in Parwan province, the rebuilding of hospitals in Kabul and Kandahar, including the construction of Jumhuriyat Hospital in Kabul (Behbud, 2012).

Finally, People’s Republic of China has security interests in Afghanistan. Its position in Afghanistan would allow China to emerge as an important actor in Central Asia. Through its influential position in the Shanghai Cooperation Organization, China would be able to protect its economic interests both in Afghanistan as well as elsewhere in the region. There are several reasons for China’s active involvement, one of them being drug flow into China from Afghanistan that brings along the spread of radicalism into China’s most rebellious province – Xinjiang. The so-called Wakhan corridor is a gateway for heroin from Afghanistan to mainland China through rebellious Xinjiang province (Figure 1). The separatist movement in Xinjiang has ethnic roots, since the main actors in this movement are Uighur Muslims. They demand secession from the People’s Republic of China and the creation of an independent Uyghuristan or Eastern Turkistan (Van Wie Davis, 2008) on the basis of a relatively large part of China. The internal conflict is aggravated by the Muslim funding and training from abroad (Van Wie Davis, 2008). Moreover, it is suspected that neighboring Afghanistan and Pakistan play a key role in destabilizing China’s internal security (Perlez, 2012) by supporting local separatists.
There are three major heroin routes in Asia: the Golden Crescent, the Golden Triangle, and the Northern Route. The starting point of both the Golden Crescent and the Northern Route is Afghanistan which along with Pakistan and Iran is the largest opiate and heroin producer in the world (Figure 2). Certainly, there have been certain attempts to fight and stop the opiate and heroin cultivation. This, however, turned out to be more difficult than anticipated, because growing opiates had become the main source of income among local Afghan farmers (Nguyen, 2012). “The Taliban have been funding their military capabilities through access to this thriving opium economy... and ... they have met with little opposition” (Nguyen, 2012). It is evident that the Taliban would not have been able to make profits out of heroin exports if the government was not corrupt and also “tapped into this revenue stream” (Nguyen, 2012). These factors have played their crucial role in NATO’s relative failure in limiting heroin production in Afghanistan. This is why the state needs a new peace guarantor that would contain the heroin exports going from Afghanistan to Central Asia, China, Russia and Europe. The People’s Republic of China would be the best candidate for this post because it has its own personal economic and security interests – as not only the Silk Road between these two countries has a very long history, but also because of China’s ambitious future. In case China’s project is successful, this could become a revival of this grand project. More so, this would mean more opportunities for Xinjiang province as historically it played a very important part in the Silk Road (Nylander, 2014). Unfortunately, the revival of the Silk Road would not only be beneficial for the consolidation of the state. Along with revitalization of the Silk Road, the “unwanted elements may take advantage of the new trade route... such as rebel fighters” (Nylander, 2014). This is one of the reasons why People’s Republic has set its mind on improving Afghanistan’s internal affairs.
It is worth mentioning that People’s Republic of China is a highly pragmatic state that stresses the importance of respecting the inner state of affairs in every state. At least this was the ground for not participating in Afghanistan’s internal life. However, this disregard might also be connected with the state’s history as Beijing renounced all the ties after the Soviet invasion as it regarded “the presence of Soviet troops as… a move by Moscow for its encirclement” (Sharma, 2003). Thus, Beijing refused cooperation with Afghanistan until a regime change.

The following article contains several reports and analyses by various scholars. For instance, the China Confronts Afghan Drugs: Law Enforcement Views of “The Golden Crescent written by Dr. Murray Scot Tanner evaluates PRC’s strategy in combating the flow of drugs from Afghanistan to China and further. He finds that even though the government acknowledges the severity of the given issue, it fails to recognize its responsibility in creating “China a more attractive drug shipping route” (Tanner, 2011). More so, Tanner admits that overall counternarcotics intelligence is more than weak in China. Tanner pinpoints several reasons for that, the major, of them being police corruption, ethnic tensions and linguistic differences between the law enforcement and drug traffickers. Furthermore, despite very strong claims to the contrary, Tanner concludes that the link between drug trafficking and the support of terrorism is quite weak and lacks sufficient evidence.

Another analysis used in this article was written by Steven A. Zyck called The Role of China in Afghanistan’s Economic Development & Reconstruction. This study reflects China’s actual input into Afghanistan. The author finds that despite reassurances, China’s economic aid into the country has been quite insignificant in comparison to other developing countries helped out by PRC. Nevertheless, Zyck states that Beijing invested into education of Afghani people, into the irrigation and hospitals. The author gives a detailed report on China’s usage of country’s natural
resources – particularly on Afghanistan’s copper and oil in Northern Afghanistan. The author concludes that by supporting Afghanistan, PRC pursues its security and economic interests.

**The Role of Afghanistan in the Uighur Separatist Movement**

It is obvious that after the exit of US-led troops, Pakistan and Afghanistan not only will maintain their status of being international shelters for Islamist separatists but the inflow of rebels from China will also intensify. Moreover, the threat of the extremists moving from Afghanistan and Pakistan to China and further could also grow rapidly.

The fact that a number of Uighur terrorists coming from Xinjiang have been captured and imprisoned in Afghanistan clearly indicates that “China faces a real threat of terrorist acts against its interests at home and abroad” (Clarke, 2010). This is not only a serious hazard for China’s internal security, but also a challenge for its international ambitions. If PRC is not able to secure itself internally, it is hardly capable to maintain an international image of a strong and powerful country. However, it should also be mentioned that China itself has played its share in creating the everlasting tension with Uighur separatists. In 2001, after the US intervention, PRC was faced with the encirclement and in order to avoid the “dividing and Westernizing” (Clarke, 2010), it has marginalized the Xinjiang province even harsher than before. In addition, in order to prevent the aforementioned “dividing and Westernizing”, Beijing refused to “allow US forces to use Chinese territory for overflights in the war in Afghanistan” (Clarke, 2010). It is possible that by doing so, China has lost the possibility of having a guarantor of security which would keep the Uighur rebels restrained. Yet, PRC has chosen to neglect this opportunity and to pressure its Central Asian partners to do likewise. This way, the US would not be able to seize neither Central Asian nor Uighur natural resources (Clarke, 2010). The aftermath of this decision became evident already few years later after numerous terrorist attacks across the country conducted by separatists. They received their terrorist training in Afghanistan and Pakistan (Perlez, 2012). The East Turkistan Islamic Movement (ETIM) is considered to be the most active and the most extremist separatist groups that is “dedicated to establishing a fundamentalist Islamic state stretching from Western China through Central Asia” (Joscelyn, 2008). The leader of this movement is believed to have direct connections with the Al-Qaeda and Osama bin Laden himself. “China claimed that Osama bin Laden and the Taliban in Afghanistan had provided the ‘Eastern Turkestan’ terrorist organizations with equipment and financial resources and trained their personnel, and that one particular organization, the “Eastern Turkestan Islamic Movement” (ETIM) was a major component of the terrorist network headed by Osama bin Laden” (Human Rights Watch Organization, 2005). Thus, the ETIM is not merely a challenge for China’s security but also a part of an international terrorist organization that poses a threat to the whole region. Therefore, “China hoped that efforts to fight against East Turkestan terrorist forces should become a part of the international efforts and should also win support and understanding” (Human Rights Watch Organization, 2005). Although Western involvement is necessary, this would also mean that China would have an opportunity to place a burden on foreign actors and to remain a free rider.

In any case, China’s appeals have not been strong enough as the terrorist attacks are still being carried on. For instance, already this March, there was a terrorist attack on civilians in the city of Kunming. As a result, more than 30 people were killed and more than 130 injured (CBC News,
The police has rather quickly solved the case and announced that Uighur separatists are to be blamed (CBC News, 2014). It is important to mention though that none of the Xinjiang terrorist organizations has taken responsibility for this. On the other hand, the eyewitnesses unanimously claim “that it was a terrorist attack carried out by Xinjiang separatist forces” (CBC News, 2014). In any case, the government should take this event very seriously as “it is the first time the Uighurs have been blamed for carrying out such a large-scale attack so far from their homeland” (CBC News, 2014). Even though the city of Kunming is more than 900 miles from Xinjiang (Figure 3), the terrorists travelled there in order to make their strife for independence heard and once again to challenge the regime. The terrorist act in a city that is located far from Xinjiang indicates that there had been even more serious preparation and organization than before which in turn could mean the involvement of much more experienced counterparts from outside PRC.

**Figure 3**

![Map of Asia showing Xinjiang and Afghanistan](http://www.wpmap.org/)

Yet, terrorism is not the only type of connection between Xinjiang and Afghanistan that worries China. The main concern is the strong and steady heroin flow from Afghanistan and also the revenues that come from drug export.

Already in 2001, the government officials established a link between “terrorism” and the “evil forces” of “ethnic separatism” and “religious extremism”. Thus, “the Golden Crescent and the Three Evil Forces are tightly bound up together, and they are threatening the stability of [our] country’s western border region” (Tanner, 2011). It is necessary to mention that these three factors have been among main incentives to create the Shanghai Cooperation Organization. China was smart enough to use the same causes to involve Russia and Central Asian states as they are supposed to fight the same challenges.
Although it is impossible to overestimate the importance of regional cooperation, PRC also takes serious steps to wipe out the organized criminal element. Indeed, although China is still quite reluctant to admit that the threat of terrorism from Uighur separatists is acute, it does acknowledge the serious nature of heroin exports. One of the main reasons for making the war on Afghan heroin a top priority are the revenues that separatist groups receive from selling the drugs. Another powerful argument is how the money is spent. The analysts agree that “Xinjiang independence groups in particular rely upon drug trafficking for an important portion of its funds” (Tanner, 2011). Also, “these links between drug trafficking and terrorist groups in Central Asia constitute a powerful threat to China” (Tanner, 2011). This is the main reason why PRC should become involved in Afghanistan.

Naturally, the problem of drug export revenues has begun receiving the attention it deserves. All of this indicates that Xinjiang indeed plays a very important role in the Golden Crescent’s heroin route. The importance of the latter is backed by the fact that although the heroin smugglers have a number of other options of transporting drugs into China, they still prefer the aforementioned province. Regardless of all challenges such as weather conditions in the area that make the Kunjerab pass and Karakuram valley accessible (Figure 4) only half of the year and the “larger and more powerful law enforcement and domestic intelligence system” on China’s border, the drug traffickers still prefer the Xinjiang province to alternate routes (Tanner, 2011). This means that heroin export is just apart of complex relations between Afghanistan and Uighur separatists. The cohesion between drug export and terrorism between the aforementioned states is also demonstrated by the globalization of drug smuggling. “The scale of drugs infiltrated into China from the Golden Crescent, and methods used, have clearly gone up a level. At the same time there has been no decline in small-scale infiltration such as airline routes … there has been an increase in the use of concealment within shipping containers, transport via open maritime shipping, and large volume smuggling, and the danger to our country has already increased” (Tanner, 2011). It is difficult to overemphasize the globalization of heroin exports to China. First, as it has already been mentioned, the drugs are clearing the borders by penetrating the country by all means of transportation. Second, there are assumptions that Central Asians and Africans participate in “smuggling drugs into and back out of China” (Tanner, 2011). Thus, a heroin export not only provides stable and quite substantial financial support but also is a weapon that undermines the social stability of China and the nearby countries over the long term (Tanner, 2011). The immigrants from Central Asia and Africa are circulating through the region and undermine social and economic stability.

However, although it is highly likely that drugs coming from Afghanistan to China have an impact on the local Uighur separatists, there is little direct evidence to that. The analysts admit that all of the information about the drug smugglers to “accumulate funds in order to support their anti-government, split-the-country activities” (Tanner, 2011) is vague and is often quite wanting in general. This, on the other hand, does not diminish the significance of international cooperation; after the NATO withdrawal from Afghanistan, the criminal element would become a threat to the whole region.
NATO Withdrawal: US concerns and why China is the Right Choice for Replacement

The prospect of leaving Afghanistan without anyone to replace the US is an extremely critical issue on a regional and international scale. First, it would unleash all kinds of organized crime elements including the separatists that would support any unrest in the region both financially and by sharing experience. This, in turn, would bring an enormous instability in Central Asia. Also, the US exit from Afghanistan would give a free rein to the illicit drug exports. After the withdrawal of the US troops, the heroin trafficking would skyrocket (Hussain, 2011). Similarly, this would have a tremendous impact on the whole region and probably beyond. Afghanistan is still a major opiate producing state that dominates the global opiate market supplying Russia, China and Europe with heroin. Another important aspect is the presence of heroin labs scattered all over the state (Figure 4). After the withdrawal of the US forces there could be clashes over the labs. This is also potentially hazardous since the prospect of dominating could attract interested parties not only from Afghanistan but also from neighboring countries. If the US presence contained those conflicts, one way or another, after 2014, there would be no such policeman that would watch over and guarantee stability. Finally, the US exit would also threaten the economical stability of Afghanistan. Indeed, the latter directly depends on the „international military and donor spending“ (Hussain, 2011). It is undeniable that the country would suffer from economic breakdown which would inevitably lead to the collapse of the already fragile security situation.

Figure 4

All of the aforementioned events would devaluate all of the US efforts and its massive financial support. This would have a negative effect on the US foreign policy by questioning whether it is capable of holding responsibility for its foreign missions. Also, this would cast a shadow on the aptitude of the US military of being able to bring peace and stability to any region not only Afghanistan.

The listed above arguments indicate that although the United States is ready to exit Afghanistan, it does not mean that the state is stable and does not require continuous international attention. However, it is yet unclear who should take over the US-led forces after 2014. The most obvious candidate is PRC due to its personal interests in stable and prosperous Afghanistan. But there are major concerns whether China should be trusted. First, both countries hardly see each other as allies and partners in other parts of the world and the trust issue between two superpowers is irrefutable. One of the major concerns is China’s alliance with Russia and the risk of Afghanistan becoming a satellite state of a communist and anti-US power. It should be mentioned that there is a certain number of “remnants of the Cold War communist encroachment on Afghanistan” in President Karzai’s cabinet (Konsky, 2013). Moreover, this would signify the loss of a zero-sum game to the opponent as the US influence will diminish inevitably, whereas China would definitely become more important not only in Afghanistan but also in Central Asia in general.

Although these arguments are quite convincing, they are not entirely irrefragable. First, the presence of communist-minded officials in the current President’s office should make the cooperation between China and Afghanistan smoother than that between the USA and Afghanistan (Konsky, 2013). Second, although the relations between China and Russia are stable, the two countries are also competing for influence in Central Asia and China’s presence would be a great counterbalance to Russia in the region (Konsky, 2013). And Central-Asia has too much potential to be shared with any partner.

Moreover, engaging China into Afghanistan could bring several gains that would benefit all the parties involved. First, this could stop China’s inclination for free-riding and benefitting from the “efforts of the others, while exploiting the goodwill of… global powers” (Payne, 2013). The involvement into Afghanistan should force China to take actual responsibility for its military actions in Central Asia. Second, it would be wise to exploit the good relations between China and its neighbors. For instance, the state could appeal to Pakistan to stop turning a “blind eye to terrorist organizations” within the state (Konsky, 2013). In addition, China would also be able to use its authority among its Central Asian partners as well as India to cooperate on this urgent issue. This could easily be done within the framework of BRICS and the Shanghai Cooperation Organization. Together with Russia and India, PRC is a member of the first one and a founder of the latter. Being interested in the stability of Afghanistan mainland, China is sure to work hard to see that the regional partners are also involved.

In addition, it is impossible to overestimate the economic losses in case China would remain non-involved. “China is realizing that its investments in Afghanistan will be at risk, its Central Asian trade threatened, and its relations with Pakistan strained” (Payne, 2013). Therefore, it is in its best interests to participate in stabilizing Afghanistan; otherwise, it will lose more than it will gain. Moreover, it is a matter of common knowledge that the state is “too attractive to ignore” (Konsky, 2013). The enormous natural resources are worth the involvement as “valuations of
Afghan mineral reserves estimate a figure of $1 trillion. Add oil and natural gas to the collection of resources and the figure becomes much higher” (Konsky, 2013). China is in need of oil and Afghanistan, rich with natural resources, is an opportunity that would not be missed.

Finally, it is vital not to overlook the importance of stable Afghanistan for China in terms of its own rebellious province that is claimed to have strong ties with the state. Before 2014, the US-led forces were responsible for containing criminal activities coming from Afghanistan; after the withdrawal, China would be left alone face to face with “security risk along its western border” (Payne, 2013). In order to keep the region relatively safe from drug smuggling and avoid security challenges, PRC will be forced to be pro-active and prevent the unwanted damage. Even though rebuilding Afghanistan and guaranteeing peace and stability, not only in the state itself but also in the region, would bring enormous benefits, it also a great challenge which would require a careful and thorough strategy. This, however, would be the key to more secure Central Asia.

More so, Chinese presence in Afghanistan should not threaten U.S. also because officially Washington has fulfilled its duties in the country and therefore “it does not have a firm grasp on what it should do with Afghanistan” (Farley, 2014). That said, as the country “is not much use... to pressure Pakistan or Iran” (Farley, 2014), for Washington, it might be more trouble than it is worth. On the other hand, for PRC, the relationship with Afghanistan might become beneficial in every aspect.

**China’s Strategy to Stabilize Afghanistan: Economic and Law Enforcement**

Indeed, already now the relations between Afghanistan and mainland China are more than just good-neighborly. First, although China’s interests are not merely financial, the state is indeed committed to investing into Afghanistan’s economy (Konsky, 2013). Naturally, this would in turn increase the stability of the state. Thus, the relative prosperity in Afghanistan is supposed to bring comparative peace in China itself, especially in the aforementioned Uighur region. In order to secure itself from the unwanted confrontations in the Wakhan corridor, China is willing to spend large amounts of money. This way, in 2011, China promised to pay 75 million USD in five years (Zyck, 2012). Moreover, in addition to economic aid, Afghanistan enjoys China’s involvement in rebuilding hospitals in Kabul and Kandahar and irrigation initiatives in Parwan province (Zyck, 2012). The Chinese also promote their education by introducing Confucius Institutes at Kabul University and offer considerable scholarships for those Afghans who wish to study in China (Zyck, 2012). It is obvious that in this way, PRC is determined to kill two birds with one stone – in addition to stabilizing the region, it also promotes itself on the international level. Using soft power elements China ensures harsh and consistent politics within its own borders.

It is important to mention that although China has not become Afghanistan’s major trading partner (Zyck, 2012), it is greatly interested in the latter’s natural resources such as copper and oil. In 2008, the two countries signed a 30-year lease for $3.4 billion with additional royalties to the Aynak copper deposit (Zyck, 2012). China was so eager to get this deal that it pledged to build additional schools and mosques in strategically important area (Zyck, 2012).

In addition, it is hard to overestimate the importance of oil resources in Northern Afghanistan which would be drilled by the Chinese company China National Petroleum Corporation for 25
years (Zyck, 2012). As in the copper deal, the Chinese have offered generous royalties; tax revenues and oil refinery which would be a great support for Afghanistan’s economy (Zyck, 2012). The aforementioned contracts could also be regarded as an investment not only into its successful development, but also into supporting the stability in the region. It has already been mentioned that Beijing puts in a lot of funds into Afghanistan’s development. For instance, China also participates in the construction of railways in the country. The 76-km route is supposed to link Mazar-i-Sharif to the extensive rail networks in Uzbekistan. This route will allow Afghan exporters to transport minerals and other goods into Europe. Besides, the CMGC is building a railroad to transport copper ore in Afghanistan from Logar to Kabul. Finally, it is important to mention the smoothly operating flights between Urumqi to Kabul. Further, it is vital to mention Afghanistan’s natural oil and gas resources that are also of a great interest to the People’s Republic of China. Afghanistan also signed a 25-year deal with the China National Petroleum Corporation (CNPC) covering drilling and a planned refinery in the northern provinces of Faryab and Sar-e-Pul. The aforementioned deal is supposed to become the first substantial oil production in Afghanistan in the course of which the CNPC will extract 1.950 barrels per day, which will crucially help Afghanistan towards self-sustainability and economic independence. If successful, China’s input into Afghanistan’s economy will be unprecedented and beyond price as it will help the country to get on its feet.

Yet, keeping Afghanistan safe and consolidated is a challenge even for the People’s Republic of China. For this reason, the state involves its international partners in order to secure the region. Thus, this year, together with Russia and India, China has held trilateral discussions in order to outline the blueprints for future strategies to keep Afghanistan “strong, united, stable, peaceful and prosperous” (Krishnan, India, China, Russia hold talks on Afghan issue, 2014). “As a close neighbor of Afghanistan, China is ready to work with countries in the region and the international community to support the peaceful reconstruction and reconciliation process in Afghanistan and jointly maintain peace, stability and development of Afghanistan and the whole region” (The Economic Times, 2014). China and India are ready to overcome their tensions in order to fight the heroin plague coming from Afghanistan.

It is important to mention that both China and Russia are active members of the Shanghai Cooperation Organization and this is not their first meeting regarding Afghanistan. Although Russia does not share a border with Afghanistan, every decision regarding those countries directly affects the state as Russia is one of the main victims of heroin exports. In addition, similarly to China, Russia is also interested in maintaining its status of the world policeman and its active cooperation certainly proves its determination. Also, the withdrawal of US forces by the end of this year is a clear opportunity for both Russia and China to enhance their image of warrantors of regional stability. Yet, it is important that along with merits, this status also brings certain responsibilities and challenges. Also, neither China nor Russia should neglect the NATO experience in Afghanistan, regardless whether it was successful or not.

Yet, besides Russia, Beijing has at least one more partner in the region whose participation in combating radicalism is not less crucial than China’s – Pakistan. After the withdrawal of the US-led forces in 2014, the People’s Republic of China will be the most likely candidate for the replacement. Naturally, although the state is more than capable of undertaking this ambitious but very challenging task, it will require comprehensive support from its partners, including Pakistan.
The involvement of the latter is crucial for China for two reasons. First, the state is known to be haven for Uighur separatists. They are believed to receive their training across the Pakistani border and conduct terrorist acts within Chinese borders. It has to be mentioned that the problem might not be as grave as the Chinese officials are portraying it. The US intelligence states that even though there are some Uighurs present in the country, their amount is not critical (Dalrymple, 2014). Second, cooperation with Pakistan would also signify the emergence of China in the new Great Game (Dalrymple, 2014). Moreover, the People’s Republic of China has chosen Pakistan because the latter also has its interests in participating in Afghanistan’s future. Firstly, although China is the most prominent voice urging Pakistan to tackle its extremist groups, it is not the only one, because both India and Afghanistan also accuse the state “of failing to act against militant camps on its soil” (Dean, 2011). In addition, what happens in Afghanistan will directly affect Pakistan’s security. If Afghanistan “falls prey to extremist forces this will have a direct impact on Pakistan” (Gillani, 2014). Pakistan being a rather fragile state itself cannot afford to passively wait for Afghan extremists to come and destabilize its security. In case Pakistan fails to resist this challenge, the situation has the potential to challenge regional security in general.

However, PRC does not limit itself with generous financial support for Afghanistan. Thus, despite that “law enforcement analysts … assert a significant link between terrorism and drug trafficking, sources… provide very little solid evidence that the two are connected” (Tanner, 2011). The government should consider even the slightest chance that the drug exports from Afghanistan have influence on terrorism in PRC. That said, it is important for the government to ensure that the war on drugs is waged on every front, including legislative. It is worth mentioning that drug abuse is a very sensitive topic for the Chinese government and therefore the information on the rise and the pattern of the Golden Crescent drug trafficking is very scarce or completely closed (Tanner, 2011). The only information regarding this topic is successful seizures of heroin smugglers, the number of people arrested for drug crimes, and successfully resolved cases. (Tanner, 2011). It is obvious that such kind of information could easily be altered or exaggerated and therefore it hardly could be considered as reliable. It is likely that with an attitude like that, PRC will achieve little or no real success; especially if it hopes to draw international cooperation.

Indeed, the Chinese police admits that its successes are still quite unsatisfactory due to various reasons such as language problems, reactivity and passivity of its officers. The officials themselves recognize several major drawacks that delay the victory over heroin exports up to an indefinite period of time. First, the information that the police receives from its foreign colleagues is often “lagging behind”, “very scarce” and “small in volume and weak in quality” (Tanner, 2011). In addition, “within Xinjiang, public security officials indicate that another weak point in their information gathering is a lack of…. understanding of and control over street-level social activities. Specifically, some police believe they do not have an adequate knowledge of the presence and activities of foreign citizens and organizations within their territory” (Tanner, 2011). In short, the most essential factor in war on drugs – the police – is simultaneously the weakest link in China. As long as it remains on the same level, the state will hardly achieve any visible results in tackling the heroin smuggling.
However, it is obvious that such important and unstable matter as keeping the region secure requires more than merely economic infusions and political decisions. Therefore, PRC is ready to replace the United States after the latter withdraws its mission. Considering its personal interests in keeping Afghanistan secure, it is safe to assume that mainland China will do its best to confront the penetration of both drugs and potential terrorists into the country. Its determination has been tested multiple times. The government suspects that the terrorist attacks could not have happened without the assistance from the local branch of Al-Qaida (ITAR-TASS, 2013). It is obvious that this event calls for harsh and ruthless reaction in order to prevent the provocations of any kind including terrorist attacks.

However, it is possible that whenever China enters the anti-terrorist coalition and asserts itself in Afghanistan, it will confirm that the situation in Xinjiang is more serious than the usual tensions between ethnic minority and the government (ITAR-TASS, 2013). By doing so, China will give its Islamist separatists ground to assume that their activities indeed are intimidating. It is impossible to overestimate such opportunity as it will boost their confidence and motivate them into more actions. Thus, it is essential that China’s government should consider this factor before entering Afghanistan. However, it has already been mentioned that the withdrawal of the US forces would definitely unleash different radicals, including those who participate in heroin and anti-government movements. Therefore, regardless of all possible implications, it is in China’s interests to increase its presence in the region.

All in all, a volatile and fragile Afghanistan is a clear threat to the regional and global security. Its affiliation to China’s separatist province Xinjiang is an example of menaces that may come from the state. Afghanistan, being a premier heroin exporter, plays a significant role in drug exports to China and further. In addition, the enormous revenues coming from drug selling are believed to support the separatist movement within the aforementioned Xinjiang province against China. The terrorist organization East Turkistan Islamic Movement is a major component of the terrorist network headed by Osama bin Laden. The terrorist acts carried out in China are evidently funded and supported by the Afghan counterparts.

These activities bring chaos not only to China’s security, but destabilize the whole Central Asia. For this reason, PRC should step up after the NATO withdrawal in 2014. Despite all the tensions between the US and China, both sides have to overcome their distrust and cooperate towards more stable Afghanistan. PRC should take more responsibility in the state in order to improve the situation within its own borders. Ideally, a secure Afghanistan should not cooperate with Uighur separatists. Mainland China could exploit its regional influence in order to engage more international partners. This, however, does not diminish the significance of China’s own efforts to stabilize Afghanistan.

That said, People’s Republic of China is already heavily investing into Afghanistan’s economy. The state spends a lot of money on development of copper and oil in the state and provides necessary infrastructure and hospitals. These ventures are supposed to be mutually beneficial as Afghanistan will be more economically stable and China would not only get profits from the country’s natural resources, but also keep Afghanistan away from Xinjiang. In addition to economic support, China also fights with heroin coming from the country. It is important for the government to ensure that the war on drugs is waged on every front including legislative.
Unfortunately, the most essential factor in the war on drugs – the police – is simultaneously the weakest link in China. First, the information that the police receives from its foreign colleagues is often very scarce and small in volume and weak in quality. Second, some police believe they do not have an adequate knowledge of the presence and activities of foreign citizens and organizations within their territory.

However, if China is able to overcome its difficulties and challenges and step up instead of NATO, all of the hard work will pay off. This way, Afghanistan will become more stable and Xinjiang separatists will be left without its financial and experienced support.
References


The Supranational Governmentality of Neoliberalism: 
An Analysis of the Governing Principles of Troika Programs for Greece

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Abstract

With his concept of governmentality, Michel Foucault delivered one of the most innovative approaches to analyze neoliberalism, which is predominant on the international stage since “Thatcherism” (1979-90) and “Reagonomics” (1981-88). Even an own discipline developed around this concept (governmentality studies), bringing fruitful theoretical merits. However, there is a huge gap. Benchmark for most researches in the governmentality studies is always the geographical and jurisdictional confined state. Thus, inter-, trans-, and supranational organizations such as the UN, IMF, EU, World Bank or INGOs are completely neglected. I try to fill that gap and to deliver starting points for further analysis of (neoliberal) governmentality on a supranational level by asking: How do neoliberal socio-economic programs of the IMF and European Commission (EC) for Greece work in a Foucauldian perspective? While conducting a theoretical discussion of the governing principles of Troika programs for Greece and using the concept of governmentality, I find that social security is reconcilable with neoliberalism, but an organization of it on a public basis is not. Public welfare is not excluded in neoliberalism; the neoliberal governmentality even insists on private, personal provision, which is based on individual responsibility of a rational acting subject. The objective is to transform social security to a private good. And the same principles are used by the Troika through their adjustment programs during the Greek crisis.

Key words: Euro crisis, Governance, Governmentality, Greece, International Monetary Fund, Michel Foucault, Neoliberalism, Post-structuralism, Social welfare.
Introduction

Probably more known for his articles about power, discourse or sexuality, Michel Foucault delivered one of the most innovative approaches to analyze neoliberalism, which is predominant on the international stage since “Thatcherism” (1979-90) and “Reagonomics” (1981-88). Although the term and phenomenon neoliberalism is often used in various researches, most of the times an equation of neoliberalism and its effect took place – leaving out the principles of neoliberalism (Gertenbach 2010: 9). In his lectures of 1977-78 (Security, Territory, Population) and of 1978-79 (The Birth of Biopolitics) at the Collège de France, Foucault generates the concept of governmentality, which he uses to inquire liberalism and neoliberalism. Expressed by the names and structure of his lectures (Foucault 2008: 185; (Gane 2008), he initially had other plans. In the aftermath of Foucault, an entire discipline developed around the concept of governmentality – governmentality studies.

The theoretical merit of governmentality studies is without doubt its capability to combine abstract political rationalities with micro-techniques of everyday life. For this reason, they exhibit outstanding tools to analyze political rationalities and behavior patterns in general and for neoliberalism in particular (Lemke 2008: 58-59). However, there is a huge gap. An implicit or explicit benchmark for most researches in governmentality studies is always the geographical and jurisdictional confined state (Lemke 2008: 58-59). Thus, inter-, trans-, and supranational organizations like the UN, IMF, EU, World Bank or INGOs are completely neglected by governmentality studies. I try to fill that gap and to deliver starting points for further analysis of (neoliberal) governmentality on a trans-, inter-, or supranational level. In doing so, I apply the concept of governmentality on a supranational level, constituted through the IMF and EU. Thereby, I focus on the current crisis in Greece and on the adjustment programs – imposed by the IMF and the European Commission (EC) or EU – in order to examine the neoliberal governmentality. My approach tries to shift the levels of the state and the individual. Hence, the Troika, consisting of the International Monetary Fund (IMF), the EC and the European Central Bank (ECB), is the “state”, which stimulates the actions of the “individual” (Greece as economy with its citizens), respectively, to lead the Greeks implicitly to certain behavior patterns.

My general question is how neoliberalism works in a Foucauldian perspective. To understand the mechanics of neoliberalism better and to understand how it works in current and concrete terms, I apply Foucault’s concept of governmentality and neoliberalism on the economic and debt crisis in Greece. Therefore, my concrete question will be as follows: How do neoliberal socio-economic programs of the IMF and EC for Greece work in a Foucauldian perspective? While conducting a theoretical discussion of the governing principles of the Troika programs for Greece and using the concept of governmentality, the subsequent question will be if this application works at all, or if it is not fruitful to apply Foucault’s thoughts on the current case in Greece. Before the analysis of the adjustment programs for Greece (3.), I will examine the theoretical basics of Foucault’s concept of governmentality (2.). Afterwards, I will complete this work with a conclusion (4.), in which I confirm the utility of governmentality to depict the patterns of supranational neoliberalism in the example of the Troika’s adjustment programs in Greece.
Governmentality and neoliberalism

The concept of governmentality

Foucault uses the concept of governmentality explicitly to analyze the classical liberalism and neoliberalism. Thereby, he focuses on their ways of problematization and practical governance. The frequently used translation of governmentality to “mentality of the government” is wrong in two respects: First, it is not the realization of a certain mindset or ideology and, second, Governmentality comes from “gouvernemental”, which means “concerning the government”, and not from “gouverner” (“to govern”) (Gertenbach 2010: 11). In his first attempts, Foucault (2007: 87-114) describes the concept of governmentality in a narrow way, which contains as main target the population, as most important mode of thinking the political economy and as substantial technical instrument the security disposition. Later, in “The Birth of Biopolitics” (Foucault 2008: 185-186), he defines its nature in a broader way, as a manner of controlling the behavior of people.

Nonetheless, the conception of governmentality serves as a frame joint between power and subject (the self) (Gertenbach 2010: 21), while having in mind the procedure and technique of those interactions. It deals with the question of how bodies, things, emotions and thoughts are permeated by power mechanisms, from which they arise at the same time (Pieper/Gutierrez Rodríguez 2003: 10). Contradictory to the classical definition of government as a central institution, Foucault (2004: 159) sees government simultaneously as a wide instance of individualization and totalization (Gertenbach 2010: 23). In his concept, power is not an abstract field of action; it is connected to the institutional apparatus of the state. And here, the state is not just an administrative apparatus, but rather a geographical, historical and political configured and self-transforming composition of institutions, practices and discourses (Pieper/Gutierrez Rodríguez 2003: 10), which could operate in an individualizing and a totalizing way.

Although, Barnett (2005) argues that Marxists and governmental studies see neoliberalism only as an ideology which follows a top-down model. For him, neoliberal processes could, by all means, also come from the bottom (Barnett 2005: 10). His critics are partially right when it came to first “neoliberalization” processes in the Western world, but in the global South (e.g. structural adjustment programs (SAPs) of IMF and the World Bank) or now in the Greek case, neoliberalism is obviously more a top-down project from “above”. And contradictory to Barnett’s (2005) perception, in a Foucauldian understanding the governmentality of neoliberalism or governmentality in general is not a typical hegemonic top-down concept. It includes the people who act in a certain way on their own, not directly influenced by the government. Moreover, Barnett (2005: 11) criticizes studies about neoliberalism in general. By saying that the “radical academic discourse of “neoliberalism” frames the relationship between collective action and individualism simplistically as an opposition between the good and the bad”, he is definitely oversimplifying. Especially Foucault does not judge neoliberalism, but rather explores the mechanisms and the mode of its governmentality.
Classical liberalism, Ordo-liberalism and the Chicago School

In order to clarify the foundations of the neoliberal governmentality, I will briefly sketch the commonalities and the differences between the two major forms of neoliberalism – Ordo-liberalism and the Chicago School – and its relations to classical liberalism. Foucault develops his governmentality concept along the historical appearances of all three schools of thought.

The Ordo-liberalism of the Freiburg School developed around Walter Eucken, Franz Böhm and Wilhelm Röpke in the 1930s and could also be related to the Austrian School around Friedrich August von Hayek and Ludwig von Mises (Couldry 2010: 24). Ordo-liberalism is kind of a third way between the two extremes of total state-directed economy and uncontrolled anarchy of the market (Foucault 2008: 101-128). Features of Ordo-liberalism are a linkage of economy and justice, an order by the state (economic system) as well as free creation on the level of process-related economic outcomes (economic process) (Gertenbach 2010: 58). In all, it is a social liberalism which focuses on societal rather than on economic policies.

In contrast to Ordo-liberalism, the Chicago School neoliberalism could rather be named as reanimation of the classical liberalism. The “three elements – Keynesian policy, social pacts of war, and the growth of the federal administration through economic and social programs – together formed the adversary and target of neo-liberal thought” of the Chicago School (Foucault 2008: 217). It fueled an extension of economic behavior to the social, the state and the individual from an economic, action-theoretical perspective. Here, the economic principle spans its lattice over the society. The neoliberal governmentality of the Chicago School acts like “a sort of economic tribunal that claims to assess government action in strictly economic and market terms” (Foucault 2008: 247). This kind of neoliberalism is still predominant. Most prominent scholars of the Chicago School of Economics, which came into being between the 1950s and the 1970s, are Milton Friedman, George Stigler, Ronald Coase and Gary Becker, who are all Nobel laureates in economics (Palley 2005: 20, 29).

The most prominent representative of the connection of the Chicago School and Ordo-liberalism and for neoliberalism is August von Hayek. He was the only protagonist who was active in all big schools of neoliberalism (Austrian School, London School of Economics, Chicago School, Freiburger School) (Gertenbach 2010: 67). Von Hayek was characterized by anti-socialism. He argued that a political differentiation in left and right was futile because it would be an inner-socialistic conflict line (Gertenbach 2010: 69). Wiser would be a differentiation in liberal and anti-liberal. The difference between von Hayek (and von Mises and Ordo-liberalism) and the Laissez-faire of classical liberalism is the belief that the market is not always able to self-regulate. Ordo-liberal scholars and von Hayek overlap in their advocacy of adequate regulatory frameworks to stabilize the market order. Their difference lies in the scope of regulation. But Ordo-liberals are focusing on the criteria of “social justice”, what is contradictory to von Hayek’s (2003) opinion that too many and vast rules are an “arrogation of knowledge”. According to von Hayek, it is not possible to have answers for all eventualities a priori. However, the essential accordance between von Hayek and the Ordo-liberalism of the Freiburg School is a significant attribute of neoliberalism as a whole, which is also the most outstanding difference to classical liberalism – the linkage between the state and the market. The great difference between the Freiburg and the Chicago School is about the degree of political
intervention. After von Hayek, neoliberalism is a way between planned economy and total free markets but, nonetheless, neoliberalism does not have automatically a moderate and mediating character (Gertenbach 2010: 75).

A crucial element for the classical liberalism after David Smith (1776) and David Ricardo (1817) is political critique and the separation between economics and the state (Ger
tenbach 2010: 31, 50). Although there is heterogeneity in the discourse around the term neoliberalism, there is, nevertheless, a consistency detectable which clearly separates the governmentality of neoliberalism from the liberal one. The same dichotomous separation of the realms of the market and the state exists, according to Foucault (2008: 91-95), in Socialism and Keynesianism. That is why he neglects to analyze these forms of government with his concept of governmentality; only neoliberalism with its modified relation of integrating the market and the state brought a new governmentality. Neoliberalism is no „Laissez-faire”, it is rather a “cultivation of the market”, a “culture of entrepreneurship” (Gertenbach 2010: 15).

The individualizing governmentality of neoliberalism

In contrast to the reactive governmentality of classical liberalism, which has as main principle the defense of intervention in the spheres of the free market economy, the neoliberal governmentality is active and fuels the existence of frame conditions within the market and doubts that the free market could develop its own rules and laws (Gertenbach 2010: 81). Neoliberalism and liberalism could not just be reduced to its effects. Therefore, neoliberalism is not simple the withdrawal of the state because it is not possible to separate state and economy. The imagination that there is a pure economy which could be restrained or civilized by politics or the state is unrealistic, since both spheres are strongly intertwined. Contrary to Hannah Arendt, Foucault sees the modern society as one which is more, not less, politicized compared to previous societies (Dolan 2005) because the governmentality of neoliberalism affects the whole society with its implicit manner. Neoliberal economic policies are not restricted to economic issues anymore. Everything is theoretically “economizable” (economized would have the wrong meaning) or could be explained in economic terms. The “noneconomic” is, so to say, just the “not-yet-economic” (Gertenbach 2010: 82-83). This described vigilance is the decisive criteria of a neoliberal governmentality which, based on a permanent active policy, is ex-territorializing the economy and “economizing” the social (Gertenbach 2010: 83). In short, the basic principle of the neoliberal governmentality is not “power of economy”, but “economy of power” (Lemke 2008: 73).

The reason why neoliberalism with its market competition needs an active government is that “competition is not the result of a natural interplay of appetites, instincts, behavior, and so on” (Foucault 2008: 172). The failure of defining the free market with a natural given pure competition is what Foucault (2008: 120) calls “naive naturalism” of the classic liberalism. Thus, the market does not have a pure competition as a natural inner logic or any natural inner logic at all. Consequently, the competition is a non-natural nature of the market. The meaning of this composition could not be exaggerated. Foucault (2008: 121) describes it as follows:

There will not be the market game, which must be left free, and then the domain in which the state begins to intervene, since the market, or rather pure competition, which is the essence of
the market, can only appear if it is produced, and if it is produced by an active governmentality. There will thus be a sort of complete superimposition of market mechanisms, indexed to competition, and governmental policy. Government must accompany the market economy from start to finish.

Another aspect of neoliberalism is that the theory of homo oeconomicus has changed. The homo oeconomicus is no longer just a partner of exchange, like in liberalism, but an entrepreneur of himself. In “all neo-liberal analyses is the replacement every time of homo oeconomicus as partner of exchange with a homo oeconomicus as entrepreneur of himself, being for himself his own capital, being for himself his own producer, being for himself the source of [his] earnings” (Foucault 2008: 226). Now, manpower is described out of a subjectivistic perspective which sees the worker as a productive subject and not as a static factor due to the mechanization of working processes in the time of liberalism (Gertenbach 2010: 105).

Also an example for the expansion of the economy on a discursive level is the term “human capital”, which arose out of the circle of neoliberal theorists from the Chicago School (Theodore M. Schultz, Gary S. Becker, Jacob Minzer) (Gertenbach 2010: 113-114). The term human capital means that the individual has to “form” and “prepare” him-/her-self to increase the chances to get a job, to be attractive for firms on the job market. You have to invest in your own, individual human capital. This radically individualizing tendency of the “human capital” concept indicates clearly the political and especially the governmental meaning of neoliberalism. It shows the manner how politics appeal individual subjects and try to make them governable.

It does not work through a production of obedient and docile-disciplined citizens, but rather through an invocation of the subject as a rational and calculatory acting entrepreneur, who is the producer and administrator of his/her own human capital (Gertenbach 2010: 117). Moreover, the neoliberal concept of human capital puts poverty and its causes on an individual level. Everyone is for his own “human” capital responsible. Individuals with a human capital of good quality get a job; people with bad human capital do not. Work could be paid with high or low wages. It is a result of the quality of the human capital. Thus, poverty is a consequence of low (or no) income, which is an effect of bad human capital. And for this every person is responsible on his/her own. In this sense, work is an abstract factor, a transfer of value (human capital), and not accountable for poverty (Gertenbach 2010: 137). It is up to “the entrepreneur of its own”.

In addition, there are two ways in neo-liberalism for integrating social security: To organize it on a market basis or to organize it in a form that it does not disturb the market. Not the social security as such is irreconcilable with the concept of neoliberalism, but an organization of it on a public basis. Public welfare is not outside of neoliberalism; the neoliberal governmentality even insists on private, personal provision, which is based on individual responsibility of a rational acting subject. The objective is to transform social security to a private good as it is done in the Greek case. Consequently, there is a strong appeal on self-responsibility and rationality of the individual within an above personal responsibility and freedom operating neoliberal governmentality (Gertenbach 2010: 137). It is important to say that poverty is not seen as bad condition in neoliberalism, thus, to eradicate poverty is not an aim (Gertenbach 2010: 138) – it belongs to the play of the market. Relative poverty works as a “negative tax”, which should stimulate people of lower classes to invest in their human capital (Foucault 2008: 129-158). Of
course, neoliberals also notice the problem of absolute poverty, which they indeed pity but for which they do not have a solution (Foucault 2008: 129-158; Hayek 2003: 292). An increase of the general level of prosperity does not mean that particular groups could not suffer under an aggravation of their position at times (Hayek 2003: 292). That is a crucial defect of the governmentality of neoliberalism: It notices serious problems, but refers merely to the privatization of personal social security. That does not solve those problems at all.

Considering this notion of poverty, it leads us to the understanding of inequality in neoliberalism. According to von Hayek (1981), inequality is necessary to attract people to invest more, to be productive. Inequality is a form of a political good, which needs to be conducted; the existence of inequality is an opportunity and an imperative of the liberal art of governing (Ewald 1993: 89). Particularly the differences of payments serve as a promoter for high performance (Gertenbach 2010: 141). Here, one could see probably the clearest common ground between liberalism and neoliberalism: inequality would lead to the increase of the general level of prosperity. However, neoliberal governmentality demands from individuals to perform and to invest privately in their human capital, fostered by inequality, not just in economic terms, likewise in all other (social) terms, which ends in a meritocracy.

Characteristic of social policies in a neoliberal constellation – either in the USA, France or Germany, whose political-historical development served as examples for Foucault – is the placement of the principle of competition into the realm of welfare state policies; redistribution policies are regarded as restrictions for investment opportunities and not as required compensation for unequal consumption levels and income resources (Pühl 2008: 108). Therefore, social security is subject to progressively individualizing tendencies. The social rights of citizens become to participation rights, which could only be reached by an individual contribution of the citizen. Reactive and compensatory orientations of social policies are changed to preventive measures, with the tendency to create employability (Pühl 2008: 113). One has to “deserve” social security. And to put it in an exaggerated nutshell, not everybody is worth to receive social security within the governmentality of neoliberalism. Social security is a precarious, revocable social good, which is questioned through the progress of neoliberal social changes (Pühl 2008: 121). The activating state rather endorses the prevention of the occurrence of social risks and the individual investment in ones employability than supporting individuals in tough situations.

Similar to the social security is the concept of insurance. It is conceived as a private shape and contributes to the individualizing dimension of the neoliberal governmentality (Gertenbach 2010: 143-144). Insurance is needed to protect oneself against the risk and uncertainty, fear and speculations neoliberalism is implicating (Foucault 2008: 66-70). Hence, risk or fear is part of neoliberalism and assists to widen the economic principle of market competition to all private (social) areas.

The idiosyncrasy of neoliberal strategies is that they shift the responsibility for societal risks like disease, unemployment or poverty and for living (or surviving) in the society into the area of competences of collective and individual subjects (individuals, families, associations, etc.) and that they make it to problems of the self-care (Lemke 2008: 55). Moreover, the choice as an option for action implies the free will; and the responsibility of consequences of the free will are
attributed to the individual. Thus, societal and public problem areas are an issue of individual security (Lemke 2008: 55). Katharina Pühl (2008: 104) describes the neoliberal governmentality as a more or less subtle and assertive implemented technology of government which preaches a redefinition of social security within a tense relationship between economics, social and economic policies and security technologies. Furthermore, it leads to an individualized and competitive organized understanding of social relationships, including the removing of social solidarity (Pühl 2008: 104). There is not only one principle of competitiveness and security; and there is no closed programmatic neoliberal strategy. It is more about a deconstruction of a project of neo-liberalism in different social and policy areas (Pühl 2008: 107). Many actors are involved in its expert-controlled elaboration of a political-socio-economic project, in favor of a comprehension of manifold, parallel proceeding processes of neoliberalism.

Governing principles of Troika programs for Greece

Neoliberal countermeasures and conditionality

The involvement of the IMF and the EC in Greece, since May 2, 2010, means the first implementation of IMF-adjustment programs in Europe since 1975 (in the cases of the UK and Italy) (van Aarle/Kappler 2011; Dasgupta 1998: 71). The directives of the programs are negotiated between Greece and the IMF and EC – the ECB possesses only an observing role. Altogether these institutions constitute the so-called Troika.

Various reports and other review documents conducted by the EC or IMF concerning the implementation of Troika programs for Greece confirm the evidence of a neoliberal mindset (Eble et al. 2013; Moghadam/Bredenkamp 2013; European Commission 2014, 2010; see also all other Occasional Papers of the EC or IMF Country Reports on Greece since 2010). The Troika generally demands more liberalization and privatization and criticizes an underutilization of state-owned assets and “an overburden of regulation” (Eble et al. 2013: 6). Therefore, the Troika, respectively the Greek government, imposes severe austerity measures on the Greek society (Chryssochoou et al 2013: 41). In doing so, the focal point is on restrictive fiscal policy, which consequently affects the public sector in particular. For the public sector, the programs involve a freeze pay for all public servants and state pensioners as well as huge reductions in their salaries and pensions; cessations of bonus payments; a prevention of early retirement; and an increase of the number of years for earning a full pension (Psimitis 2011: 193). For example, the “Omnibus law (…), approved by the Greek Parliament on 6 August 2014 includes the provisions to merge all supplementary pension funds under the public sector into [the private] ETEA [Unified Auxiliary Insurance Fund]” (European Commission 2014: 2). Additionally, a loosening of the employment protection and a tax increase concerns the private sector, while a decrease of government spending and extensive privatization affect the education and health system (Psimitis 2011: 193-194). Those adjustments have to be implemented in order to receive further rescue packages, whereas only the Greek government is officially responsible for their outcomes. This conditionality, which is agreed by contract, is expressed through following passages of the Memorandum of Understanding on Specific Economic Policy Conditionality (MUSEPC) between Greece and the EC, the ECB and the IMF, which is attached in the appendix of IMF Country Report No. 13/153 (Moghadam/Bredenkamp 2013: 121):
The disbursements of financial assistance to Greece, by the European Financial Stability Facility (EFSF), are subject to quarterly reviews of conditionality for the duration of the arrangement. The release of the tranches is based on observance of quantitative performance criteria and a positive evaluation of progress made with respect to policy criteria. The Government will fully cooperate with the Commission, the ECB and the IMF staff teams to strengthen the monitoring of programme implementation, and will provide the staff teams with access to all relevant data and other information in the Greek administration. The ownership of the programme and all executive responsibilities in the programme implementation remain with the Greek Government. (emphasis added)

Hence, the austerity measures of the Troika clearly implement neoliberal features, which are similar to former SAPs of the “Washington Consensus” (IMF and the World Bank). Typical policies of their neoliberal conditionality contain structural adjustments through reductions of government spending; removing of subsidies to domestic industries; removing tariffs, quotas and other restrictions on the import and export of goods; general deregulation of the economy; market liberalization; privatization; and devaluation of the exchange rate to encourage exports and reduce imports (Heywood 2011: 371; Williamson 1993).

The supranational governmentality of neoliberalism

The following discussion emphasizes that neoliberalism is applied in Greece through the mechanisms explained by Foucault. The IMF and EC reports give an impression of the principle of the Troika-led adjustment programs. It does not differ from the already described mechanisms and techniques of the governmentality of neoliberalism. In fact, Greece has no choice. It has to do what the Troika wants them to do. And if it does not work, it is not the failure of the Troika, but of Greece. As a result, one could clearly identify the notion of neoliberal governmentality which shifts social risks and threats to the individual level (Greece). Exemplary for this thinking are both emphasized parts of the MUSEPC. Instead of investing in Greece and trying to reanimate the economy, it seems more like they try to punish Greece by imposing severe austerity measures, which only concentrate on macro financial consolidation and reducing government expenditure. There are no investments and efforts to generate growth and to deliver improvements for the ordinary citizens or the poor. They have to care for themselves. Primary objective is to implement austerity measures and to safeguard banks.

In 2013, 26% of the active population was unemployed and the record of youth unemployment rate was even over 60% (Chryssochoou 2013: 42). Between 2009 and 2012, more than 3,000 people committed suicide, which implies an increase of the suicide rate about 37% (Chryssochoou 2013: 42). The consequences of the austerity programs definitely led to general grievances within the Greek society (Chryssochoou 2013: 42) since the Troika “focuses on fiscal consolidation and on improving the capacity of Greece to repay its debtors, and not on building the country’s capacity for long-term development” (Vlachou 2012: 179).

On the one hand, neoliberal governmentality is on the explicit socio-economic level because of the pressure of the Troika. On the other hand, there is a neoliberal governmentality in an implicit way, for Greece as an individual country, articulated by the Troika in form of an alleged own choice and responsibility Greece has. The principle of neoliberalism is to emphasize the
promotion of individual freedom of choice and of life opportunities, whereat, nevertheless, neoliberalism is rather a predetermination of people’s actions through a governmentality of the state (or superior institutions like the IMF or EU). Based on these guidelines, Greece is comparable with a welfare-recipient. It has its own choice (but when it does not stick to certain terms and conditions, it will not receive any help anymore).

Also very important is to realize how the neoliberal governmentality, expressed by IMF and EC (EU) on a supranational level, allocates problems and risks to the individual level (Greece), even if the main causes for the crisis have not been on this level. Despite the internal problems of Greece, such as violations of the EU convergence criteria (not as sole country), corruption, exaggerated military expenditures, the non-taxation of ship-owners and so on, the real crisis in Greece and Europe were caused by other factors. Crucial problems for Greece and the euro-zone were, and still are, failures in the structure of the Economic and Monetary Union (EMU), the US subprime crisis 2006, the world financial (then economic) crisis 2008, as a corollary too fast cash drains compared to too fast prior cash inflows etc. But to explain these internal and external reasons in depth would not be feasible in this analysis and would be misleading regarding the purpose of this paper.

Neoliberal social policy is, after Foucault (2008), always directed to the privatization of social risks. According to the norm of radical economic individualism, it seems unjustifiable to demand a collective social security for individuals from the society. The notion of the universality of the entrepreneurship sees the individual as smallest producing unit and follows the guideline that the objective of social policy is not equality (Foucault 2008: 129-158). In fact, social relationships should pursue the economic patterns of supply and demand, costs and benefits and of a competitive market (Pühl 2008: 109). After this principle, the “small” individual Greece has to suffer under, and to be liable for, the risks of the “big” banks and investors.

In the neoliberal context of the re-regulation of welfare state arrangements, enhanced by the Troika in the wake of the euro-crisis, modes of problematization are shifted from the field of social policies to labor market policies and its organization of streamlined labor markets, which would have to resist the competitive pressure of a globalized economy. This implies pressure on labor costs, thus, on wage differentials; to that effect, working arrangements will be made more flexible, expressed through increasing part-time employment, precarious working arrangements or more temporary work (Pühl 2008: 111). Despite the comparatively still high social standards in Europe, there are clearly reorganization processes of the welfare state in evidence. The break of collective representation forms (labor contracts or trade unions) and of social spending fuels the individualization processes and the social vulnerability, particular of people who live in precarious conditions and get their social security just from wage labor (Pühl 2008: 111). Pühl (2008: 112) notes that one might even call the shift from a caring to an activating neoliberal (welfare) state a paradigm change. These processes together with current mass (youth) unemployment and job-related down-skilling are great threats for established societies, especially in Greece and in entire Southern Europe.

Furthermore, the incremental development of the European Single Market (1992) took place through negative integration. This means a continually further going liberalization and reduction of standards towards the lowest common denominator in economic and labor market policies,
launched by the White Paper (Completing the Internal Market, 1985) with its over 300 suggestions for reductions of trade barriers and the Single European Act (1987) (Hix/Høyland 2011: 192-216) and expanded by the Troika in the course of the euro-crisis. Such deregulations or negative integration could be introduced by the EC and the European Court of Justice (ECJ) without the approval of EU member states. Regulations on the social level are lagging behind since they need a high degree of coordination. Most countries are keenly concentrated on offering suitable economic conditions to attract corporations and to strengthen their national economies. Hence, social risks are individualized in the typical neoliberal manner.

The ordinary criticisms on neoliberalism (from the left or the anti-globalization movement) that it leads to a reduction of the state and politics as well as it fuels a dominance of the economy is wrong. The Greek case shows in a compelling way that, in fact, the politico-economic programs and policies on the ground are “typical” neoliberal (liberalization, deregulation, etc.) but they just come into being through political decisions from IMF and EU due to the euro-crisis. Thus, the programs do not come into being because of the ruling power of the economy. They are implemented because of strategic political decisions. That the euro-crisis and the necessity to solve those problems only occurred by reason of failures of the uncontrolled financial sector is a different point. The neoliberal market is produced by neoliberal governmentality, respectively by policies of the Troika. Accordingly, the European Commission (2010: 10) states:

An overarching objective is to durably restore Greece’s credibility for private investors. The poor track record of Greece in terms of delivering on commitments and promises, and a history of unreliable fiscal and macroeconomic statistics are major additional burdens on the programme. (bold in the original)

Other “Main Programme Objectives” are “to restore confidence and maintain financial stability”; “to improve competitiveness and alter the economy’s structure towards a more investment- and export-led growth model”; or “to modernize the public sector, to render product and labour markets more efficient and flexible”; as well as to “create a more open and accessible business environment for domestic and foreign investors, including a reduction of the state’s direct participation in domestic industries” (European Commission 2010: 10).

Moreover, illustrated through the debate about Greece’s possible exit out of the euro-zone or by the current success of the German anti-euro (anti-Greece) party “Alternative für Deutschland” (AFD), there is a public atmosphere of no small extent which makes solely Greece responsible for their problems. That fits to the neoliberal governmentality of seeing responsibility for failures on the individual level.

Conclusion

The market is, different to old liberal perspectives, not an isolated terrain. It is de-localized and there is no array which does not or could not belong to the market in principle. Contrary to the often propagated “retreat of the state” or “anarcho-capitalism”, neoliberalism is more about persistent, active and activating policies. The governmentality of neoliberalism is a form of an oblique steering of individuals, an indirect intervention. Virtually, there is no contraction of the state in neoliberalism, but an extension of the state into the minds of the citizens. And exactly the same principle is used by the IMF and the EC through their adjustment programs during the
Greek crisis. With help of the concept of governmentality it is possible to decode the neoliberal programs of a retreat of the state as a technique of governance. The crisis of Keynesianism and the cutbacks of welfare state benefits and other forms of intervention result less in a loss of governmental regulatory and steering competences than in a reorganization of governmental techniques, which shift “management capacities” away from the state to responsible and rational individuals (Lemke 2008: 56).

Foucault provides with his concept of governmentality an analytical axis which allows an investigation of the technologies of power in its interaction with collective and individual subjectivities. Central questions concerning how powerful actors could succeed to be part of the subjects and to influence their actions, and the logic behind making an apparent consensus between their actions and the governmental leadership techniques (Pieper/Gutierrez Rodríguez 2003: 10), are answered in a convincing manner. The perspective of Foucault’s concept of governmentality is proper for analyzing neoliberalism in two ways. First, it shows that the borders between the state and society as well as between the public and the private become blurred; and secondly, that the liberal polarity of subjectivity and power is dissolving because governance is a continuum of self- and external-leadership – governance could be produced directly by the political government and also by forms of self-governance (Lemke 2008: 54). Finally, the governmentality approach delivers new critical perspectives. It opens an epistemological field of discussions about what Foucault (1997) calls “politics of the truth” and which is going far beyond traditional criticisms of ideologies. Instead of analyzing ideas, concepts and theories only in terms of true and false, here, it is of interest how truth is produced and how and which power technologies are affiliated, which also works on the supranational level.
References


Lefkowitz, Disobedience and Political Authority:
North Carolina’s Moral Mondays as a Paradigmatic Case of Civil Disobedience

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Abstract

This paper examines political philosopher David Lefkowitz’s (2007) framework of public disobedience and argues that the acts of civil disobedience employed in the nonviolent Moral Monday protests held at the State Legislative building in the city of Raleigh, North Carolina (United States) during the summer of 2013, are consistent with his account. By definition, public disobedience is a “suitably constrained form of civil disobedience,” compatible with political authority, or a legitimate state's right to rule, because citizens are recognized as holding a moral right to engage in such acts. Specifically, I argue that North Carolina's Moral Mondays activism is a paradigmatic instance of civil, nonviolent resistance by demonstrating how the protests satisfy three necessary conditions of civil disobedience that are also present in Lefkowitz's framework. In my final analysis, I conclude that Moral Mondays are distinguishable from forthright, lawless acts of dissidence that undermine rather than safeguard political authority.

Keywords: European Court of Human Rights, freedom of speech, judicial decision-making, political discourse, philosophical and theoretical justifications, Slovak Republic, theories of freedom of speech.

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2 David Lefkowitz, “On the Moral Right to Civil Disobedience,” Ethics 117, no. 2 (2007): 206, 215. Lefkowitz argues that within a democratic state with recognized political authority, citizens have a political obligation to the state. On his view, the moral right to public disobedience derives from the understanding that political obligation entails a disjunctive duty for citizens to either obey the law or engage in a public act of disobedience. Hence, it follows that "agents act rightly when they disobey the law, or at least they do not act wrongly merely in virtue of having disobeyed it." (203). I also consider that in this sense compliance with the law and defiance of the law are compatible, in that the decision to do either comes as a result of one’s judgment of the degree that particular laws or policies are just.

3 I use the term “safeguard” in respect to the way that Lefkowitz's defense of civil disobedience operates in concert with democracy. Lefkowitz contends, "a state’s recognition of the moral right to public disobedience is not only compatible with this defense of political authority but also necessary for it" (209). See also footnote 15 in Lefkowitz's article.
Introduction

Were Moral Monday protests at the North Carolina Legislative Building consistent with David Lefkowitz's framework of public disobedience? This central question will be thoroughly considered throughout the essay since, in my view, Moral Mondays held during Summer 2013 in Raleigh, North Carolina not only exemplify acts of public disobedience but also illustrate key characteristics of civil breaches of the law. Despite the manner that the peaceful nonviolent protests at the capitol building have been herald as important examples of political engagement, other media sources have characterized Moral Monday demonstrations as little more than political stunts imbued with disorder and chaos. Furthermore, in a deliberate yet unsuccessful attempt to prevent future demonstrations, in 2014, amidst the execution of a second wave of protests at the capitol building, North Carolina lawmakers passed regulations that banned Moral Monday activism as a "disturbance" and "imminent threat." However, I challenge that contention, suggesting that protests rightly be thought of as less anarchic in nature and more democratic in spirit. In this essay, I will also address potential criticisms and counter arguments directed at my overarching claim. Furthermore, I will attempt to demonstrate the degree to which Lefkowitz's theory may fall short in conceptualizing a mode of civil disobedience that is essential to the preservation of political authority, or a legitimate state’s right to rule.

I open my argument with David Lefkowitz's definition of civil disobedience: "As I understand it here, [civil disobedience] consists in deliberate disobedience to one or more laws of a state for the purpose of advocating a change to that state's laws or policies." He asserts that his account of civil disobedience is distinct from criminal acts of disobedience, revolution as well as conscientious objections that seek not to perfect unjust laws but only to excuse one from the responsibility to uphold specific law and policies. Lefkowitz expounds on the moral aspect of public disobedience and its critical relationship to political authority:

Citizens of a state with a justified claim to political authority have a moral right to commit civil disobedience (or, more precisely, a moral right to a suitably constrained form of civil disobedience which I label public disobedience). If correct, this claim entails that citizens act within their moral rights when they commit an act of public disobedience, even when in doing so they fails to act rightly...a moral right to public disobedience consists of a right to do wrong.

In turn, the central feature of Lefkowitz's public disobedience concerns moral agents' aim to modify existing laws, while also recognizing the legitimate state's right to rule—that is why moral agents do not seek to replace the prevailing structure of government. As a means to draw a more apparent connection between public disobedience and civil disobedience, I also consider it useful to merely expand Lefkowitz's definition by presenting a similar, generally accepted

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5 A prime concern with Moral Mondays is the threat of disorder and social disintegration. State authorities were authorized to identity and properly apprehend anarchists at the Moral Monday demonstrations. Anne Blythe of the Raleigh News & Observer reports: "the chief at the helm of the law enforcement agency that arrested more than 930 people this past summer testified that his officers had scanned the many "Moral Monday" rallies with eyes trained for 'anarchists','" (par. 4). See Anne Blythe, "Police Were on the Lookout for Anarchists at Moral Monday Protests," News & Observer, October 7, 2013.


7 Lefkowitz, "On a Moral Right to Civil Disobedience," 204.

8 Ibid.

definition of civil disobedience, offered by American philosopher John Rawls.10 According to Rawls, civil disobedience is a “public, nonviolent, and conscientious act contrary to law usually done with the intent to bring about a change in the policies or law of the government.”11 This definition is consistent with the view that civil disobedience is a form of political dissent that signifies more than a refusal to obey the law. Rawls understands civil disobedience to characterize a political act that is inextricably bound up with morality:

It is an act justified by moral principles which define a conception of civil society and the public good. It rests, then, on political conviction as opposed to a search for self or group interest; and in the case of constitutional democracy, we may assume that this conviction involves the conception of justice (say that expressed by the contract doctrine) which underlies the constitution itself. That is, in a viable democratic regime there is a common conception of justice by reference to which its citizens regulate their political affairs and interpret the constitution. Civil disobedience is a public act which the dissenter believes to be justified by this conception of justice, and for this reason it may be understood as addressing the sense of justice of the majority in order to urge reconsideration of the measures protested and to warn that, in the sincere opinion of the dissenters, the conditions of social cooperation are not being honored.12

In a similar way that a Lefkowitzian framework accepts that agents of public disobedience have a moral right to public disobedience, Rawls' conception of disobedience is one that also validates the moral component of civil disobedience, placing it within the context of a common, public conception of justice. More important, public disobedience as a category of civil disobedience will act as a mechanism to improve upon and perfect the rule of law and order within a society--within the bounds of existing democratic authority.13 Rawls' characterization of civil disobedience is significant to degree that it contains three relevant features for my argument, which I will, hereafter, treat within Lefkowitz's framework: First, the notion that dissenting actions that fall within the category of civilly disobedient behavior must be public acts; second, that acts of civil disobedience must be relatively nonviolent; and, third, that engagement in civil disobedience must be grounded in principles of good faith. My attention to these three defining characteristics of civil disobedience, keeps with the viewpoint that I argue for, that Moral Mondays demonstrate consistency with Lefkowitz’s framework and thereby represent an archetypal example of civil disobedience. Yet, before I turn to my analysis of Lefkowitz’s theory, I will provide a detailed account of the Moral Mondays demonstrations.

The Case in Point: Moral Mondays Protests at the Capitol Building

The thirteen, weekly Moral Monday demonstrations held at the State Capitol building in Raleigh, North Carolina from April to June 2013 gained national attention and, also, were controversial. In an outcry against Tea Party state legislators' alignment with the American Legislative
Exchange Council (ALEC), a nonpartisan association comprised of conservative policymakers, hundreds of protestors and bystanders gathered each week, and nearly one thousand activists endured arrest over the thirteen week-period, in order to voice concerns about what they perceived to be socially regressive and economically debasing state legislative policies. Participants protested against voter ID laws, restrictions on abortion rights, funding cuts for Pre-K education, reductions in unemployment benefits, and Republican lawmakers’ decision not to expand Medicaid benefits, amongst other policy concerns.  

Speared by community leader and the North Carolina chapter NAACP President Reverend Dr. William Barber II, the movement, at its core, is founded on Christian values concerning collective moral responsibility, naming a common understanding of justice. A distinctive element of the Raleigh demonstrations were the success in bringing together individuals from all backgrounds, regardless of theological convictions, political affiliations, race and ethnicity, age, gender and social class. Moral Monday protests at the capitol offered a different way to view politics and for citizens to engage in the democratic process. Through the protests, civil disobedients demonstrated the necessity of their activism and the imperative for increased activism in the future. Additionally, through these mass acts of civil disobedience, dissenters also urged citizens to recognize their power to effect social change through the exercise of political participation.

A prime concern with the extreme politics of North Carolina lies in what has been described as a warning of what is to come for the future of the United States. Specifically, extremist Republican state legislation has the potential to expand to the federal government. Moral Mondays are not only an effectual example of nonviolent political action but are also one of the core components of a much larger People's Movement, or as it is known as, the Forward Together Movement. As Moral Mondays continue to thrive in different regions of the United States, I also consider that these mass political demonstrations hold striking similarity to the street protests in countries abroad. While very different in respect to the violence and unrest that ensued in these politically distressed nations, simultaneous demonstrations in Egypt, Turkey, and Brazil held similar characteristics to Moral Mondays. In each case, as a means to voice concerns about perceived social injustices, civil society engaged in public demonstrations to challenge different aspects of democratic governance.

When I refer to "democratic governance," I mean government authorities who have has been elected through a democratic process, although Egypt's military regime is not consistent with democracy. For a more detailed account of the protests against democratically elected governments in Egypt, Turkey and Brazil, see Khouri, Rami. "Historic Street Politics in Egypt, Turkey and Brazil." Agence Global, June 25, 2013.
citizens and state legislators by communicating a vision for justice and fairness, I consider it especially worthwhile to speak to circumstances that may warrant disobedience against the state, including illiberal states that deny its citizens the right to engage in acts of civil disobedience. But since my central project is devoted to the analysis of civil disobedience in liberal states, I will briefly reference illiberal states in my concluding remarks.

**Disobedience and Political Authority**

In Lefkowitz's view, liberal democratic authority is contingent on civil disobedience as a hallmark of a social and political institution. By that public disobedience is correlative to political authority because agents of civil disobedience have consented to comply with the laws of the government. Yet, as he contends, "where citizens have a duty to obey the law...the duty to obey the law may be a pro tanto or prima facie moral reason that is in some cases defeated by other moral considerations that favor (or even require) acting illegally, such that citizens act rightly." That is to say, the duty to obey the law is outweighed not by a moral right to defy a state's right to rule but to challenge the constitutionality of a law. Hence, acts of public disobedience do not disavow political authority but, rather, are indicative of citizens’ grievances with particular laws or policies in respect to the state.

I develop a defense of Lefkowitz's view as to why public disobedience is such a vital component of liberal democratic authority by engaging with philosopher David Estlund's (2008) normative consent theory of authority. According to Estlund, agents consent not to authority, but only to leadership. This is for the reason that non-consent in nullified in any condition of authority, which suggests, "even in cases where you have not consented [because consent is not qualified], you are under authority just as you would have been if you had consented [if consent had been qualified]." Therefore, non-consent under an authority condition is always disqualified because non-consent would be unjustified, "resulting in authority in any case."

In his scenario involving a flight attendant and passenger in the aftermath of a crash, the passenger "has a duty to follow her so long as she leads well under these urgent conditions, but authority is something more." And within a Lefkowitzian framework, acts of disobedience are compatible with political authority, since the condition of authority precludes non-consent.

Moral and political philosopher Kimberley Brownlee (2004) asserts a similar understanding in the manner that moral agents seek to express their dissatisfaction and distance from a disagreeable law. However, she advances a somewhat divergent viewpoint in assessing the relationship between civil disobedience and political authority: “In civilly disobeying the law, a person seeks

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17 When I make reference to the term liberal democracy, I speak only in terms of a democratic political institution that regards its citizens as free and equal agents who are also recognized as possessing broad rights of political participation. Joseph Raz (1979) argues, "all states can accordingly be divided into those in which the liberal principle is adequately recognized and protected in law and those in which it is not. Let states of the first kind be called 'liberal states' and others 'illiberal states,'" see Joseph Raz, "A Right to Dissent? I. Civil Disobedience," in *The Authority of Law: Essays on Law and Morality* (Oxford: Clarendon Press, New York: Oxford University Press, 1979), 272.

18 Lefkowitz, "On a Moral Right to Civil Disobedience," 205.


to convey her disavowal and condemnation of a law, as well as her dissociation from both that law and the government that enacted it.\textsuperscript{22} I argue that Brownlee makes too strong of a claim that through their act of civil disobedience agents distance themselves from the government.

To validate such a claim would advance the view that acts of civil disobedience serve the prime purpose to undermine the government and obstruct democracy rather than to cooperate with political authority. Brownlee’s contention runs counter to the viewpoint I argue, as well as the pattern of consistency that underlines Lefkowitz’s framework of disobedience. But more than that her claim ultimately puts forth the idea that agents of civil disobedience are opposed to, and question, the government itself, in addition to particular laws or policies they might regard as unjust. But this view is incorrect. While individuals may disagree with a specific policy enacted by a government, and thereby engage in an act of civil disobedience to oppose the measure, it is not the case, nor can it be, for the purposes of Lefkowitz’s argument, that moral agents oppose the government. Brownlee’s contention that civil disobedients dissociate themselves from the government is based on two flawed assumptions. One, that dissenters view themselves as existing outside the structure of government; and, two, that the aims of civil disobedients are inconsistent with, and far removed from, the existing structure of government.\textsuperscript{23} For instance, Brownlee contends that dissociation “involves a public declaration by the dissenter that she is wholly unconnected...to demonstrate her personal detachment.”\textsuperscript{24} To assert that an agent seeks to detach him or herself from a specific law as well as the government itself, suggests that political authority is in question. As I have argued before, since authority is legitimated without regard for consent, it is not the case that political authority is challenged.

In Brownlee’s view, dissenters act with the understanding that the government itself, not merely some laws and policies, are in need of reform.\textsuperscript{25} The motivations of Moral Monday protesters undercut these assumptions surrounding the illegitimacy of law and government.

Rather than the demonstrations serving as a means for protesters to distance themselves from an illegitimate government, those acts of civil disobedience were an attempt to exercise First Amendment rights as citizens of the government, and also to demand inclusion and that their voice be heard in said government. Furthermore, dissenters did not share a general impression that the Republican legislative body was corrupt nor that it was an illegitimate form of governance. Instead, Moral Monday concerns lie with more extreme Republican politics, not with Republican governance itself. Michael Walzer argues that to engage in civil disobedience does not mean that moral agents question the political authority of a government, only "its authority in this or that case or type of case or over persons of this or that sort. It does not seek


\textsuperscript{23}In light of my above points, I am led to consider Michael Walzer’s compelling argument on the obligation to disobey, in which he posits that even at odds with certain aspects of governmental authority, dissenting parties with morally serious commitments to disobedience need not question political authority, and thereby wholly remove themselves from the larger society: "None of them absolutely denies that sovereignty or supremacy [of the existing state]. They are, then, partial members..." See Michael Walzer, "The Obligation to Disobey," in \textit{Ethics, As an International Journal of Social, Political, and Legal Philosophy} 77, no. 3 (1967): 170.

\textsuperscript{24}Ibid.

\textsuperscript{25}I argue that this underlying assumption of Brownlee’s claim is characteristic of revolutionary disobedience, rather than civil disobedience. Joseph Raz (1982) defines revolutionary disobedience as an act initiated to “change or contribute directly to a change in government or of the constitutional arrangements—the system of government” (263). Hence, Brownlee’s assertion runs counter to the very character of civil disobedience.
to replace one sovereign power with another, only to call into question the precise range and incidence of sovereignty.”  

Hence, Moral Monday protests were a diplomatic display of citizens’ concerns about perceived unjust policies. And so their actions in fact acknowledged the state’s right to rule.

Similar to the manner that Lefkowitz conceives a mode of disobedience that is compatible with democracy, Michael Walzer (1970) bases his argument for the obligations of oppressed minorities on the principle that they opt to disobey “in political ways, which do not call into question the survival of the democratic system.”  

By presenting an example that demonstrates the congruity of civil disobedience and political authority, it is my aim to convey how the view that disobedience is compatible with democracy and notions of fidelity toward the law should be taken as a plausible.

Civil Disobedience as a Public Act

A moral right to civil disobedience is further supported by the view that these acts constitute a public act of communication. Lefkowitz asserts that “not all forms of civil disobedience are morally permissible...morally justifiable acts of civil disobedience must be acts of public communication.”  Hence, it is at this point that I devote discussion to the first of the three defining characteristics of civil disobedience, that is, the first condition of public disobedience.

In a public display of disobedience, there is an attempt to appeal to the moral character of one’s fellow citizens and, in most instances, the state. For this reason, the aim of effective communication is a guiding principle of public disobedience.

In the same respect, Moral Mondays also exhibit this communicative quality, in that the demonstrations at the State Legislative building were marked by an attempt to appeal to the less politically active members of the North Carolina electorate, and also to urge citizens to take a stand for issues with clear and significant implications for the polity. In his thoughtful and direct Huffington Post editorial, civil disobedient and Duke Law professor Jedediah Purdy captures Moral Mondays’ public communicative aspect:

Moral Monday protests are all about fumbling toward some answers. The rallies outside the capitol have been chances to explain how the Tea Party agenda adds up to a vision of society and to articulate a progressive alternative, committed to equality, tolerance, and mutual care. These are the first steps toward defining what’s at stake the next time North Carolina goes to the polls. By resisting the law [one hopes] to make an appeal from the people to themselves, that is, their higher consciences. That’s why civil disobedience makes sense, and why it’s part of the compact a civilized country makes with itself. [It is] a way citizens tell one another that an issue is very

26 Michael Walzer, “The Obligation to Disobey,” 168.


28 Rawls also argues that civil disobedience is civil in the manner that its agents uphold a respect for the law in their willingness to accept legal ramifications: “Civil disobedience expresses disobedience to law within the limits of fidelity to law.” See John Rawls, “The Justification of Civil Disobedience;” 247.

29 Ibid., 215.
important, that it might be worth real attention and thought. It's a way of trying to start serious conversations.\textsuperscript{30}

The description above illustrates the way Moral Mondays exemplify the aim to inform the public of the stakes involved that warrant an act of civil disobedience, but also expounds on the role that civil disobedience assumes within a society. Civil disobedience acts as an essential element of the mutual agreement or social contract among members of a society. This is so due to the manner, through the social contract doctrine, that citizens give up their sovereignty and accept their duty to the state. Moreover, such public acts of disobedience are distinguishable from private interests, denoting the significance of common interest in, and concern for, measures that Moral Monday protesters regard as detrimental to the social community— as well as an obstruction to the conception of justice invoked by the public institution. In light of their collective interest of justice, moral agents employ civil disobedience as a public display of their esteem for the law. Lefkowitz argues, within a liberal-democratic state with recognized political authority, citizens have a political obligation to the state: “in a state with a justifiable claim to political authority citizens of such a state have a duty to obey the law that correlates to the state’s right to rule them.”\textsuperscript{31} In fact, in Lefkowitz’s view, political obligation entails disjunctive principles of action: either the duty to obey the law, or the duty to disobey the law through civil disobedience.\textsuperscript{32} Hence, the duty to disobey is a constituent part of the agreement between the democratic state and its members, because it represents the obligation that citizens have to breach the agreement in the event that the state fails to uphold its end to honor the basic liberties of its people, and thereby the prime tenets of a political community.

\textbf{Civil Disobedience as Nonviolent}

I now argue that another characteristic of Lefkowitz’s framework of public disobedience, and a defining characteristic of civil disobedience, is that of nonviolence. I will also engage in a discussion on viewpoints that denote civil disobedience as idealistically nonviolent. In his “Letter from a Birmingham Jail,” Reverend Dr. Martin Luther King gives credence to the view that the acts of civil disobedience implemented in the American Civil Rights Movement be nonviolent:

One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. Nonviolence demands that the means we use must be as pure as the ends we seek. It is wrong to use immoral means to attain moral ends.\textsuperscript{33}

In this sense, King demonstrates that the success of state resistance depends, in large part, on a nonviolent approach. In King’s view, nonviolence speaks to the moral imperative of civil disobedience, in that its agents exercise sincerity and truth in motive as to indicate good means


\textsuperscript{31} Lefkowitz, “On a Moral Right to Civil Disobedience,” 205.

\textsuperscript{32} Ibid., 215. I also consider that, in this sense, the duty to comply with the law and the duty to disobey the law are compatible, in that, the decision to do either comes as a result of one’s judgment of the degree that particular laws or policies contribute to a good and civil society.

are correlative to good ends. An understanding that nonviolence calls for its agents to use moral means in order to reach moral ends suggests that civil disobedience possesses an inherent character of nonviolent resistance.

Furthermore, if one should question the place of nonviolence in acts of civil disobedience, one should consider a scenario in which nonviolence is not employed. For instance, the success of the American Civil Rights Movement can be attributed to the fact that agents of civil disobedience were peaceful in their acts of resisting Jim Crow legislation. One can imagine the outcome would have been different had the protesters resorted to violence, especially in response to the violence that law enforcement officials directed toward them. Political theorist Andrew Sabl (2001) argues that nonviolent resistance is an optimal choice in those instances when coercive and violent behavior may seem more justified. That is the case for the manner that agents of nonviolent resistance view their actions as part of a larger, long-term aim to foster future negotiations with the oppressor. These future possibilities are contingent on what Sabl defines as piecewise justice, in which the dominant group in a society possesses the capacity to act fairly towards its own, even if that group does not necessarily extend such a degree of fairness to the marginalized members of a society.34

In the example of the American Civil Rights Movement, activists envisioned the prospect of met aims. That is to say, there was far more at stake than the present injustice, but a need to evaluate and consider not only how relations between civil rights activists and the state may fair in the future, but also how the mode of resistance might shape those relations and future possibilities. Thus, if moral agents had resorted to guerilla warfare tactics, or more coercive and potentially violent measures of resistance, law enforcement would have had good reason to exact brute force on participants.35 Furthermore, there is a stronger likelihood that violent protests would have curbed the efforts to reform the policies supporting racial segregation and discrimination. In fact, the nonviolence of civil rights activists not only speak to the importance of nonviolence as a defining characteristic of civil disobedience, but also hearken back to communication and how well nonviolence facilitates effective communication of civil disobedients’ aims. For instance, the public communicative aspect of the 1950s and 1960s civil rights activism was so potent due to the manner that media coverage of the demonstrations depicted people enduring maltreatment in response to their peaceful and nonviolent resistance. Similar to the manner that civil rights activists were constrained in their mode of resistance, Moral Monday demonstrations were well thought-out and scripted, to the degree that agents of disobedience sought to garner mass public appeal through their nonviolent demonstrations.36


35 This point also gives way to a discussion regarding Lefkowitz’s view on state interference and the insistence that a moral right to public disobedience also includes a claim against punishment. I will devote space to an extensive argument about specific point later in the paper.

36 When I offer a comparison of the success in the nonviolent strategies employed in both the Civil Rights and Moral Monday movements, I do not make such a comparison to suggest the Moral Monday demonstrations were met with violence, as they were not. Nor do I desire that one imagine such a scenario, though it would not hurt to do so. Rather, the juxtaposition of these two case studies speaks specifically to the importance of media in garnering national attention and public morale. Additionally, exhibiting nonviolence in light of media coverage increases the likelihood that protesters will achieve the kind of response that they seek: one that is influenced by having accepted the consequences of breaking the law. A commentator on Moral Mondays has said: “In order to be successful, one of the primary ways a movement gets its message out is through media. In that way, it’s
Lefkowitz does not engage extensively with the question of nonviolence in his framework, but instead remains mum regarding whether violent or nonviolent action is a more suitable measure when engaging in public disobedience. However, he does cite that public disobedience should be non-coercive, and he permits violence as a reasonable course of action. In advancing his viewpoint, Lefkowitz discusses state interference and the liberty the state has to penalize acts of public disobedience. When the state intervenes in public disobedience in order to assert order and stability, Lefkowitz contends, “the state may justifiably impose certain types of costs or penalties, including fines and perhaps even temporary incarceration, on those who engage in such acts.”

When considering the permissibility of violence in Lefkowitz’s theory it should be understood to be in favor of non-coercion to the degree that non-coercive acts will have a positive influence on state inference, namely, that the state will impose penalties as opposed to punishments. That is to say, Lefkowitz’s admissibility of violence is conditional, in that, it is feasible insofar as it must also be non-coercive, in order to lay claim to his point that the right to public disobedience also entails a claim against punishment.

I would like to expand on Lefkowitz’s requirement that public disobedience be non-coercive, in order to advance my view for how I perceive his discussion of penalties and punishments to lend support to my side argument that public disobedience is most effective when it is both nonviolent and non-coercive. Lefkowitz offers a discussion of the manner that the state can issue penalties instead of punishments when interfering in the affairs of moral agents. In his discussion on state interference, he emphasizes that imposition of penalties is a favorable and legitimate measure if the penalties avoid casting a judgment on the behalf of the state in disapproval of the act of disobedience. Furthermore, to impose punishment would convey to agents of civil disobedience, as well as the larger social and political community, that the state condemns acts of public disobedience and therefore denies the claim right to civil disobedience. Known as the expressive function of punishment, American philosopher Joel Feinberg (1965) asserts that punishment is “a conventional device for the expression of attitudes of resentment and indignation, and of judgments of disapproval and reprobation.” When considering modes of state interference, I argue that nonviolent resistance is critical.

For example, if the state were to honor its duty not to impose punishments in response to acts of public disobedience, then it would fall on the responsibility of the moral agents to ensure that their mode of resistance could be met with a penalty. Ultimately, I argue that coercive acts of

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37 Lefkowitz, “On the Moral Right to Civil Disobedience,” 216. Lefkowitz contends that civil disobedients should abstain from actions given to “coercing the state into abandoning or adopting certain policies, but should “display their commitment to the equal authority of all citizens to determine what the law ought to be.” However, violence is permitted as long as it remains non-coercive. These assertions, taken together in full, also further Lefkowitz’s overarching claim concerning the compatibility of civil disobedience and democratic political authority.


39 Ibid., 218-219. Moreover, the discussion on penalties and punishment is significant for the way Lefkowitz understands the moral right to civil disobedience to derive from political participation, those rights extended to a person by virtue of citizenship and recognition as an autonomous individual (221). Hence, the use of punishment poses an even greater issue for the reason that it would express the state’s disavowal of moral agents’ basic rights.


41 Yet, arguably, the legal proceedings for the Moral Monday protests demonstrate the degree to which civil disobedients’ constrained acts alone, did not ensure that the state would issue penalties rather than resorting to expressive punishments.
civil disobedience should not be employed to any degree, for the reason that what may begin as coercive nonviolence could escalate to coercive violence. When employing non-coercive nonviolence, I consider that there is a strong likelihood those measures could quickly become coercive, depending on the degree of injustice that moral agents confront. For example, Brownlee argues that it is permissible for agents of civil disobedience to employ violence on the grounds that the wrong they seek to right be so outrageously evil that only a violent response properly matches its own coercive measures. But consent to a level-playing field is problematic.

I consider this to be the case for the reason that coercion implies a threat of violence, in that it acts as a precursor for violence to ensue, even if that is not the intended course that dissenters intend to take. I argue that to resist coercive practices with violence in an attempt to "re-establish the rights and civil liberties that [such] practices seek to suspend," is to express a noncommittal to the aims that one seeks to accomplish by engaging in public disobedience.

To hearken back to King's view concerning how civil disobedience should be characterized by correlative means and ends, it would follow that to impute coercion in an attempt to oppose coercive practices is not only morally hazardous, but also raises question concerning sincerity.

But, more important, such action is likely to provoke acts of resistance that overstep the bounds of public disobedience. In turn, it is plausible that such a scenario would result in a circumstance where the state ignores its duty to refrain from punishing acts of public disobedience.

Let us take into consideration the potential harm such a scenario would bring to Lefkowitz’s claim about interference and the state’s duty to refrain from punishment. That is but one reason why Lefkowitz should adopt a clear stance, one way or the other, for whether his account supports a claim that acts of public disobedience are ideally violent or ideally nonviolent. In other words, to permit acts of public disobedience to be violent, but only under the condition that they be restricted to non-coercive acts, is not feasible. I continue that to allow violence of any degree presents possibilities for those acts to spiral out of control, and in doing so, defeats the purpose of civil disobedience. In addition, public disobedience would cease to be the constrained mode of civil disobedience that is suitable to political authority.

instance, the convictions that have come down from the cases have been various, although civil disobedients were all engaged in a mass act of breaching the law. While some protesters were ordered to complete community service hours, or fined court fees, “others had their cases dismissed. Some were found not guilty, and some were found guilty of all the charges and have filed appeals.” See Anne Blythe, “Barber, ‘Moral Monday’ Protesters Appeal Convictions,” par. 23-24. Such a state response might be indicative of the possibility that the state, by issuing varied sanctions, expressed disapproval of the exercise of civil disobedience. This degree of state interference runs counter to Lefkowitz’s defense of public disobedience as a mode of opposition that is compatible with political authority. In turn, those decisions handed down for Moral Monday activism would serve to question the moral right and disjunctive duty protesters might have to engage in acts of civil disobedience.

42 Brownlee, "Paradigm Case of Civil Disobedience," 349.

43 Political theorist Hannah Arendt also argues that violence is uncharacteristic of civil disobedience—and in turn, would be incompatible with political authority since, citing philosopher Carl Cohen, she writes “the civil disobedient accepts…the frame of established authority and the general legitimacy of the system of laws.” See Hannah Arendt, “Civil Disobedience,” in *Crises of The Republic: Lying in Politics; Civil Disobedience; On Violence; Thoughts on Politics and Revolution* (New York: Harcourt Brace Jovanovich, Inc., 1972), 77. However, Arendt does not dismiss the use of violence entirely, granting it employment as defining element of other modes of political dissidence, such as revolution.
Civil Disobedience and Conscientiousness

The third and final aspect of civil disobedience that I will engage with concerns moral conscientiousness, or the conviction to be civilly disobedient. Conscientiousness assumes a critical role in Lefkowitz's framework of public disobedience, through the manner that he argues no person has a claim right to prevent others from supporting different, yet, otherwise reasonable views. From the assertion, it follows that one is at liberty to do wrong. In fact, this liberty right component distinguishes public disobedience from other forms of disobedience, through the manner that the liberty right to civil disobedience calls for citizens on either side of a political issue to engage in acts of civil disobedience in support of their respective viewpoint. For instance, in the case of the Moral Monday demonstrations, Lefkowitz’s view would hold that because protesters retained a liberty right to advocate their views, it was impermissible for anyone, the state and its legal authorities, spectators, or the political opponents, to keep them from exercising resistance. Likewise, because Lefkowitz argues that Moral Mondays protesters cannot be refrained from exercising their liberty right to civil disobedience, it also holds that state legislators have the same right to advocate their views, even if that means engaging in civil disobedience. This may be viewed by critics as, more or less, one of the main drawbacks of Lefkowitz’s framework.

To permit political opponents to engage in similar acts of disobedience in support of very different and, possibly, diametrically opposed viewpoints would seemingly defeat the purpose of employing public disobedience as a means to achieve just ends. What side could be said to fight for the just cause, and at what point would certain views be deemed too extreme for moral justification? Raz (1979) contends that a moral agent can in fairness deny others the right to civil disobedience, in the event that the opponent's aims are unjust: "He [moral agent] allows others to perform similar actions in pursuit of similarly just aims. He denies both himself and others the right to disobey in support of morally wrong aims." Hence, an individual's obligation to perform an act of public disobedience derives from the understanding that the act must appeal to, what I argue is, human dignity and decency.

Therefore, let one consider the following line of argument. We are aware that Lefkowitz argues that public disobedience is compatible with democracy in the manner that a right to public disobedience contributes to the stability of democracy. Now, it is also understood that the duty allows members of society to essentially become judges of what constitutes a just social arrangement. Hence, to then validate such a claim right on something as obscure as the reasonableness of a given viewpoint would seem to be a disservice to public disobedience. But I argue that especially in the case of Moral Mondays Lefkowitz’s assertion about an equal liberty right is sound because it stems from the basic right to political participation that is entitled to all citizens of liberal democracies. Brownlee summarizes Lefkowitz’s point when she asserts that as

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44 Lefkowitz argues, “I might disagree with others’ assessment of the laws and policies they advocate; that is, while I may recognize that their beliefs are reasonable, I may nonetheless think that they are erroneous. But I have no claim against them that they refrain from advocating such views. If I have no claim against others that they refrain from advocating reasonable views regarding the requirements of justice, and this is true for all others agents as well, then those others enjoy a liberty to advocate such views” (229).

a form of political participation public disobedience entails “respect for other citizens as persons who have equal authority to determine what the law ought to be.”

Still, opponents of this particular argument for a liberty right to civil disobedience, based on the reasonableness of a viewpoint, may contend that the argument does not hold unless there first be a consistent means to determine the reasonableness of viewpoints. I consider that to be a valid point, and, thus, I do find Lefkowitz’s argument to be weak, not on the point of equal liberty right to civil disobedience, but on the point of reasonableness as a decisive factor in whether public disobedience can be enacted. Nevertheless, Lefkowitz’s conceptualization is grounded in conscientious duty, in that agents of public disobedience have determined the wrongness of certain laws to outweigh the duty to comply. Moral Mondays protesters regarded actions of state lawmakers to be serious enough to justify activism that would knowingly lead to their arrest. Historian William Chafe describes the rationale of those who chose arrest:

We saw ourselves as really speaking as people who have worked hard on both documenting and creating the history of North Carolina that this legislature is now trying to dismantle. We wanted to set an example of how people...were willing to demonstrate their conviction that the legislature is pursuing a totally wrong direction. We are protecting against this determination to hurt people and destroy the common good.

This idea that civil disobeidents act in good faith, or with moral certainty of their actions, speaks to the degree of sincerity that comprises an act of civil disobedience. Furthermore, the willingness to demonstrate on behalf of the oppressed illustrates both the moral imperative and collective understanding regarding what democracy should resemble. But more than offering an appeal to the public about one’s vision of a good society, I argue that conscientiousness also derives its importance from the manner that it identifies those groups most disadvantaged by the injustice. As political theorist William Smith argues “it [civil disobedience] reveals that an injustice that may appear trivial to those not affected by it is, in fact, a matter of great sensitivity or hurt to its victims.”

And so, to engage in civil disobedience with an aim to demonstrate how a particular law or policy is harmful to members of society, speaks to a high level of moral conscientiousness on behalf of the civil disobedient.

Furthermore, such actions effectively speak to Lefkowitz’s view of public disobedience as a duty. Brownlee contends, “the person who believes that a law or policy requires revision and that the values behind her judgment are sufficiently weighty to warrant a breach of law in their defense would be morally inconsistent to deny that she has reasons to engage in civil disobedience against that law or policy.” To further her point, Brownlee argues that moral inconsistency is indicative of a lack of self-respect, and I add to her point, it also illuminates the way in which, on

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47 “In relation to civil disobedience, conscientiousness takes the form of a sincere and serious belief that a law or policy warrants revision and that the values that underpin that belief are sufficiently weighty to require a breach of law in their defense.” See Brownlee, “Features of a Paradigm Case of Civil Disobedience,” 341.
Lefkowitz’s view, the moral agent ignores her disjunctive duty to engage in civil disobedience. In consideration of this final point as it pertains to Moral Mondays, it comes down to an understanding that protesters’ collective act of civil disobedience constituted more than strong feelings, or a right to be civilly disobedient. More than that these demonstrations were the product of a conscientious duty each civil disobedient determined to be the course of action to best articulate his or her judgment of an efficient social arrangement.

**Further Considerations**

I have laid the stakes of my argument, having presented and supported the means that the Moral Mondays protests meet the conditions of civil disobedience as I have analyzed them within the scope of Lefkowitz’s framework of public disobedience, and the general view of civil disobedience. Although I have attended to criticisms in my analysis, I now provide room for reflection on additional criticisms not previously discussed. I consider it important to engage with these dissenting views as a way to acknowledge the shortcomings of my view, and also to demonstrate my openness to points that may allow for reconsideration of the claims I make. But, more important, I seek to address opposing views in a fashion that will further substantiate the ideas I expressed in this paper. Likewise, in my response any of these dissenting points, I will attempt to illustrate, when feasible and appropriate, how the views may not necessarily undermine the overarching claim that Moral Mondays are consistent with Lefkowitz’s framework and also serve as an archetypal example of civil disobedience. Rather, attention to these counterarguments might, in reality, work to strengthen the points I have made by reaffirming the main premises of my argument.

One apparent criticism of my argument concerns the manner that Lefkowitz’s framework of civil disobedience may be viewed as a mode of resistance that is too constrained. For instance, a critic might advance a scenario in which the state refused to recognize the liberty right to engage in acts of civil disobedience. For the purpose of addressing this particular rebuttal, I will reference a potential drawback in Lefkowitz’s framework, in respect to the constraints it places on civil disobedience in its compatibility to political authority. Although I have already discussed this point quite extensively in my analysis, I will revisit it for the sole purpose to relate it to the present criticism. Let us reconsider one of the conditions of public disobedience, that state interference be limited to penalties. As I have done in the analysis, let us again imagine a scenario where the state evades its duty not to impose punishment. But in these circumstances, let us assume that the reasons for refusing to comply with the duty are independent of actions taken by moral agents, other than their constrained act of public disobedience. Therefore, for reasons unknown, the state has chosen to disavow the right to public disobedience. And, in this view, it would be difficult for agents of public disobedience to respond to this infraction. This is so, because, since the state has essentially refused to recognize public disobedience as a liberty right, then the decision to employ future acts of public disobedience would simply be met with punishments, and plausibly harsher ones. But the prime point that I seek to make in addressing this criticism is the manner it may be rightly argued that public disobedience is too compatible with political authority. In fact, so compatible to the degree that it may authorize its own demise. Thus, in presenting my counter point, I would urge critics to consider another

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important feature of Lefkowitz's framework; that is, the manner that political authority, and essentially the stability of the social arrangement, depends on the recognition of the right to public disobedience. Based on the framework, because disobedience derives from the right to political participation, even in an instance where acts of public disobedience are met with punishments, it could not be the case that the state could succeed in an attempt to deny the right citizens have to public disobedience.

Another criticism of my argument lies in the degree that political authority may be understood to remain unchallenged in the efforts for civil disobedients to rectify laws and politics. The potential concern with the view of public disobedience as dispensable to political authority lies in the requirement that authority warrant the nullification of non-consent. Harking back to Estlund's normative consent theory of authority, and the manner that I use it to defend Lefkowitz's framework, there are those who may argue that it is implausible to assume that citizens of a liberal democracy will never question a legitimate state's right to rule. In addition, I consider that there are instances when authority and leadership are not so easily distinguishable. For instance, in the example of Moral Mondays, one may point to the excessive measures of governance as evidence of corrupt leadership, also extending that view to the authority of the leadership. However, in response to such a criticism, I must appeal to the fact that political authority entails political obligations. While political obligations may allow dissenting behavior (in the case of Lefkowitz's disjunctive duty), it is not permissible to resist the legitimacy of a political institution.

Conclusion

No state could readily succeed in disallowing civilly disobedient acts since any action on part of the state to undermine political participation would inadvertently call for justification to engage in such acts against the state. Joseph Raz (1979) argues, even in illiberal states where the individual right to civil disobedience is not recognized, "individuals whose rights are violated are entitled, other things being equal to disregard the offending laws and exercise their moral right as if it were recognized by law." This assertion also follows from the manner that Walzer argues, in a democracy, even one in which citizens have an evident obligation to obey the law, in return, the government has an obligation to protect the interests of its members: "that state provides equally to all its members certain essential services...the existence of a prima facie obligation to obey means no more than that disobedience must always be justified." And so, according to Walzer, members of society are never forbidden to exercise civil disobedience, even in light of what may be an apparent responsibility to obey the law; rather they have and only have legitimate reasons for disobeying, or strong moral justifications that do not threaten the existing government nor the well-being of its citizens. Moral justification of one's actions is important for the reason that a moral agent is forced to carefully evaluate her motives and also determine whether those aims are consistent with democratic governance.

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I have attempted to present a convincing argument for the manner that I view Moral Monday protests to be consistent with Lefkowitz’s public disobedience, in turn rendering them a paradigmatic case of civil disobedience. I have given appropriate consideration to opposing arguments, and I have also anticipated and addressed further criticisms. The viewpoint that I have presented should by no means be taken to represent a precise answer to the question I posed in the introduction. Rather, I have accomplished my aim to provide a persuasive answer to that question. Furthermore, it is my intention that the argument advanced in this paper should serve only as one possible account to determine if civil disobedience should be employed in a given circumstance. In the words of Lefkowitz, “whether or when agents are morally permitted (or even required) to engage in civil disobedience remains an open question.”

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References


Defense and Counter-Terrorism in Israel:
The Misappropriation of Deterrence

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Michael Joshua Fleet, 20, from Paradise (NL, Canada), is a third-year undergraduate student completing a Bachelor of Arts (Honours) in Political Science with a second major in German at Memorial University of Newfoundland. His interests include peacebuilding, identity politics, peace and security studies, democratic transition, and post-conflict research.

Abstract

This paper is an analysis of the research question “is the Israeli defence policy of deterrence effective in minimizing domestic-terrorism?” Through a two-part examination of deterrence and then reconciliation, it explains that Israel has adopted an anachronistic geo-political view of the issues in West Bank/Gaza that must be updated to one of domestic counter-terrorism. The author argues that a reconciliation process would be a more effective method of countering domestic terrorism in Israel as it, if done correctly, can address the deeply-entrenched grievances felt by the groups involved with the conflict.

Keywords: Counter-Terrorism, Deterrence, Integration, Israel, Reconciliation, Terrorism.
Introduction

The fighting between Palestinians and Israelis has been a bitter cycle of violence that has set deeply entrenched grievances on behalf of both groups. On September 6th, 1972, 11 members of the Israeli Olympic team were killed in Munich by the pro-Palestinian liberation groups Fatah and Black September Movement (Binder 1972: 184). Two days later, on September 8th, the Israeli Air Force bombed ten Arab guerrilla camps in Syria and Lebanon (Smith 1972: 184). In 1974, as an act of revenge for the 24 Israelis killed in Maalot after the Democratic Front for the Liberation of Palestine (DFLP) took hostages in the elementary school, Israel bombed the town of Nabatieh, Lebanon. A Palestinian woman driven out of Palestine and then out of a refugee camp near Saida, lamenting on the ruins of her newest destroyed village, was quoted as saying “Everywhere we go…[T]he Israelis are after us” (Roberts 1974: 193). These stories of the insurgency and the counter-terrorism methods utilised number in the hundreds. But these stories are not just relegated to the past. As reported in Al Jazeera (2014), the Palestinian group Islamic Jihad, bombed southern Israel with rockets and mortars while stating it was in reaction to the Israelis killing three of its members in an airstrike, breaching the brokered ceasefire. In the summer of 2014, after tensions were raised by the abduction and killing of a Palestinian boy and the retaliatory killings of three Israelis, Israel hammered down on Hamas to find rocket sites and had the Israeli Defence Force (IDF) enter Gaza, culminating in approximately 2100 deaths (Booth 2014).

Seeing this continued violence raises the question: Is the anti-terrorism policy utilised by Israel effective in minimizing terrorism? This is, and has been, a hotly debated topic by military elites and scholars for many years. Sloan (1986) advises a hard deterrent strategy, meeting any possible threat with reactive and pre-emptive punishments to destroy and disable the target. He outlines various methods for the use of military and para-military units that are specifically employed to search for and destroy any threat to the state. This can be viewed, however, with a realist perspective in the sense that it can be argued that he is promoting the use of the military to support state interests; in essence, anyone deemed a “threat” to the state and its interests can be hunted down by these units and eliminated to discourage anyone else from attempting such actions against the state. Other scholars argue for less harsh deterrence policies, and recommend methods that involve conciliation towards constituents who could possibly engage in terrorism in order to pacify them and to ensure that they do not feel the need to use such radical actions for political change (Chenoweth & Dugan 2012; Piazza & Walsh 2010; Sederberg, 1995). This is more or less a liberal perspective, as proponents of these strategies believe that through cooperation of sub-state actors, the situation can improve as the actors achieve what they want and finish more positively. Bar (2012) views the policies with a constructivist approach, discussing how the deterrence methods must evolve to the context of the individual leader of the terrorist organization whom the policies are meant to affect and influence, and that the place of the terrorist group in the social context dictates what the correct methods are to deal with them. Bar-Joseph (2007), via comparative analysis of how Israel applied different forms of deterrence to various incidents, found that the overall strategy of ‘cumulative’ deterrence (the overarching plan to put an end to the conflict with other states in the region over their existence) was effective.

Concerning reconciliation studies, Wolff (2002) discusses conflict management attempts by the British concerning Northern Ireland, primarily examining the conditions and interests of the
actors involved and how these led to various peace agreements. Spencer (2011) also examined Northern Ireland and discussed the methods of reconciliation used there. His article contains a constant reminder throughout that inter-party dialogue and truth-seeking is essential in a post-conflict state. Lambourne (2004) examines post-conflict reconciliation policies and highlights the importance justice has in ensuring effective resolution between competing parties. Machakanja (2010) similarly provides the same argument of the importance of justice, as well as public truth telling of historical issues, in the case of Zimbabwe. Bloomfield, Barnes, and Huyse (2003) provide in-depth analyses of the process of reconciliation, examining the theory and various case studies that exemplify various specific aspects of the theory.

This essay takes the liberal-constructivist approach, arguing that the current anti-terrorism policy in Israel is not practical at minimising terrorism in contemporary Gaza/West Bank. While effective in the past, this policy is rooted in an outdated geopolitical mindset of defence policy, and not one of domestic counter-terrorism. To resolve these issues, Israeli policy to Palestinians should begin to encourage a reconciliation process over the current deterrence strategy as a long-term counter-terrorism method.

This thesis and research question is important to many researchers, policy makers and civilians in the sense that, as it is so incredibly dynamic, terrorism and counter-terrorism is becoming an increasingly researched field. For policy makers, understanding policies that have worked or failed, and why, is of obvious importance to determine what policies are effective for their own state or institution. For civilians, it is important to understand the various aspects that concern terrorism, as these counter-terrorism policies have affected millions of lives and perspectives, especially after 9/11. Also, every year terrorist acts cost lives all around the world. To help to move towards world peace and stability, this issue must be researched and addressed.

To support this thesis, this essay will be constructed in two parts: Deterrence, then Reconciliation. Deterrence will be broken down into two sections: section one, titled Deterrence Theory, will examine the definition of terrorism and then move on to discuss deterrence theory. Section two, called Israeli Defence Policy, will discuss Israel’s use of deterrence theory, historically and today, and the effects it has had as an anti-terrorism policy. It will examine why the Israelis have utilised this strategy, and explain why it is not apt in the modern context.

Part two, Reconciliation, will be split into three sections: section one, titled Counter-Terrorism via Reconciliation, will examine the theory behind justice and reconciliation strategies and explain why it is appropriate as a counter-terrorism method. To support this, the second section, called Comparative Analyses, will briefly examine two cases: UK-Northern Ireland and Zimbabwe. It will specifically look at their conciliatory methods, and then discuss what worked, why, and vice-versa. Following this will be the third section, dubbed Deterrence in Defence Policy vs. Domestic Counter-Terrorism, which will examine the overarching reasons why the cases had success or not, and then apply the findings to Israel. All of this will be followed by policy recommendations and a conclusion.

To obtain a conclusion, a comparative analysis of cases that have utilised reconciliation as a method for long term peace will be used. The cases of UK-Northern Ireland and Zimbabwe have each been selected for several reasons. For one, each involved deep-seated grievances with
their respective actors, and enacted similar methods in attempts to achieve long-term peace. However, both are relatively unique in their situations: each case having different outcomes. Northern Ireland is an example of a more positive outcome occurring from its reconciliation process, whereas Zimbabwe is an example of a negative outcome. Through a comparative analysis, I will explain the similarities, what worked, what didn’t, and why, to build a framework to apply to the Israeli-Palestinian conflict as a recommendation over deterrence to achieve a more effective strategy to minimize terrorism.

The advantage of utilising a comparative approach is the ability to find patterns that have been effective in an attempt to build a framework. As well, by examining various cases that are very distinct from one another, we may be able to find a commonality of what and what does not work. However, there are limitations. The process of reconciliation is but part of a broader effort of peacebuilding, and there are many aspects that affect scenario. It is difficult to analyse every single variable that affects the process, be it international, regional, national, local, and sub-local.

For the purposes of this essay, effectiveness will be defined as whether the process utilised achieved its goal, and by what cost. The method’s goal is to minimise terrorism in Israel. A short-term solution will be defined as less effective than a method that does so for the long-term.

**Part One: Deterrence**

*Deterrence Theory*

To understand how to combat terrorism, one must understand exactly what it is and why it exists. The definition of terrorism is difficult to directly pin down, as it can be defined differently by various states. Even within the United States of America, the US State Department defines terrorism differently from the Federal Bureau of Investigation (FBI). The State Department defines it as “premeditated, politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience” (as cited in Gearson 2002: 9), whereas the FBI defines it as “the use of serious violence against persons or property, or the threat to use such violence, to intimidate or coerce a government, the public, or any section of the public in order to promote political, social or ideological objectives” (as cited in Gearson 2002: 9).

The other issue with defining terrorism is the view that one man’s terrorist is another man’s freedom fighter. However, as Sloan (1986:1) states, “Whether they are terrorists or freedom fighters, their victims face a grim and often final reality…terrorism is the premeditated, calculated use of force to achieve certain objectives”. It is utilised as a psychological and political form of warfare to force a reaction from its target or attempt to enforce the groups’ goal. Also, the violent acts utilised by terrorist groups can appear irrational and random, but, again, each is planned to receive a certain reaction (Sloan 1986:1). This essay will adopt the definition found by Blackbourn, Davis, and Taylor (2012): “Terrorism is some form of purposive and planned violence that has a political, religious, or ideological motivation. It is intended to coerce or intimidate and is targeted at civilians or government” (23).
Now we will move on to understand the theory of deterrence. The core definition is “…the persuasion of one’s opponent that the cost/or risks of a given course of action he might take outweigh its benefits” (as cited in Bar-Joseph 2007: 145). The main idea of the theory is to manipulate behaviour through “the application of threats” (Wilner & Wenger 2012: 5), known as deterrence by punishment; or to reduce the possible benefits that an enemy would obtain, which is known as deterrence by denial (Wilner & Wenger 2012: 5). To ensure that deterrence theory is used to maximum capacity, there are five theoretical requisites that Wilner and Wegner (2012: 5) discuss: commitment, communication, capability, credibility, and resolve. Failing to achieve all of those requisites diminishes the effectiveness of deterrence policy. To explain, commitment is the degree to which the actor, utilising deterrence, sticks to the policy, not wavering away from it; communication dictates that the actor must effectively ensure that its enemy is knowledgeable of the threat; capability refers to the degree in which the actor is able to raise the threat (e.g., from the threat of air strikes to a nuclear weapon); credibility describes the actor’s ability to ensure that its threats are legitimate (i.e., not ‘bluffing’); and finally, resolve is the actor’s willingness to carry out the threat should it be ignored.

Theoretically, deterrence theory should work against any organisation or state that has the ability of rational thought. But that is also the part of the dilemma facing deterrence theory. As Ganor (2005: 64) points out, deterrence is designed for nations or terrorist groups with a hierarchy, not individuals or networks; as well, he points out that even if you punish part of a terrorist organisation, most of the time they are organised in such a way that if one sector of the group is attacked, the rest of the group remains unaffected for they are “by…nature, clandestine”. The next issue is the fact that defence policies that draw from deterrence theory must be very unique to the terrorist organisation in question. The group must be convinced that the threat of retribution is too high for their actions; however, many terrorist organisations usually have different values than their enemies (Ganor 2005: 64). As well, groups that measure success in terms of their ability to “sow fear, injure the populace, and humiliate the government, have very little to lose and it is therefore extremely difficult to deter them...[as well] those activists [who] are prepared to commit suicide for religious or other reasons” (Ganor 2005: 65).

To further analyse issues with deterrence theory, George and Simons (1994) explained four risks with the concept (or, as they described it, ‘coercive diplomacy’):

The enemy may reject the threat upon belief that it is a bluff, and carry on with the attack;

The enemy may reject the threat because he/she believes that accepting the threat would be humiliating, being too damaging politically or socially, and carry out the attack;

The enemy may take the threat seriously, but ignore it, for reasons stated earlier (suicidal, differing values, etc.), and carry out the attack;

The enemy may neither accept nor reject the threat, and may try to force the coercing power into settling for less. (276-277)

We will see some of these issues come up next as we delve into the defence policies that Israel uses, which draw from deterrence theory.


**Israeli Defence Policy**

Since its creation, Israel has had to fight against terrorism within its borders, the Occupied Territories, and inside itself (Catignani 2008: 47). Initially, in the 1950s, Israel hoped to utilise diplomatic means to reduce terrorism, and use force only within its own borders; but Palestinian and other Arab Fedayeen elements were committed to carry out small-scale raids in hopes to provoke the IDF into retaliating, which would in turn escalate tensions between Israel and other Arab states in hope of bringing about a war to eliminate Israel (Catignani 2008: 47). So, in 1953, Israel began using reprisal raids to deter other Arab states from aiding and hosting any terrorist groups whose goal was the destruction of Israel (Catignani 2008: 47). COS Lt. Gen. Moshe Dayan described in 1955 the policy that Israel would utilise, a policy that is still relatively unchanged today:

> We cannot guard every water pipeline from explosion and every tree from uprooting. We cannot prevent the murder of a worker in an orchard or a family in their beds. But it is in our power to set a high price on our blood, a price too high for the Arab community, the Arab army or the Arab government to think worth paying. (as cited in Bar-Joseph 2007: 152)

The essential points of this quote are the deterrence aspect, and the words “Arab community”. This quote exemplifies how the conflict in West Bank/Gaza is framed in the minds of the Israeli elite. In a debate on Israeli borders in 1978, a young Benjamin Netanyahu (known as Ben Nitay at the time) outlined very clearly how the conflict is really a geopolitical conflict. When asked if self-determination is the root core of the conflict, he responds “[n]o, I don’t believe it is. The root core of the conflict is the unfortunate Arab refusal to accept the state of Israel” (“Young Benjamin Netanyahu (Debate on Israeli Borders) (Israel Live Com)”). He goes on to show that the PLO adopted its main objective in 1977 to destroy Israel, not to create the state of Palestine. From here, Netanyahu outlines the geopolitics of the region. He argues that as the Palestinians identify with the broader Arab community, they therefore share their ideology and hostility towards Israel. By the creation of their own state, they would become another state among the 21 other hostile Arab states (“Young Benjamin Netanyahu (Debate on Israeli Borders) (Israel Live Com)”). In the minds of Israeli elite, West Bank Gaza (WBG) is the stage of the broader geopolitical issue that threatens the existence of Israel. After fighting two wars, this threat was very real in 1978.

These are the viewpoints of the Israeli elite today. They do not view the conflict in West Bank/Gaza as domestic, but one that is geopolitical to the region. And so, Israel has not adopted a domestic counter-terrorism policy in WBG, but a foreign defence initiative.

The deterrence policy that Israel has utilised is comprised of two main parts: preventative and proactive strategies (Bar 2012: 209); or, as Brym and Anderson (2011: 484) describe it, use of threat (deterrence) and the use of disproportionate military force (compellence), both being part of cumulative deterrence.

According to Bar (2012: 209), preventative strategies surround measures that include “impeding terrorist movement and communication”, such as closing roads to Gaza and other passage restrictions to Palestinians. These measures frustrate terrorist abilities to convene and plan, as well as create an environment where it is difficult to carry out a successful attack on a target.
Other tactics are more controversial: the demolition of a terrorist’s home and forced expulsion from West Bank to Gaza (and vice versa), as well as economic and political pressures applied to the populace, like curfews and increased road blocks to close off access to territories (Bar 2012: 209). These were meant to force the population into submission, and turn against the ones who brought upon this misery, being the terrorists, and ease violence in the area to lift Israeli sanctions (Bar 2012: 209).

Proactive strategies, however, entail offensive and defensive tactics. These include the targeted assassinations of key planners and leaders in Palestinian territories and abroad; the “arrests inside Palestinian population centers; wide-scale military operations, like Operation Defensive Wall…[and] the ‘siege’ of Yasser Arafat’s compound in Ramallah” (Bar 2012: 210).

These policies of deterrence (preventative and proactive) ensure that Israel sets its threat very high and follows through with its disproportionate retaliation. It shows us that Israel is committed to the principles of: deterrence by threat, as Israel makes the threat known and when prompted applies that threat; and of deterrence by denial, as its disproportionate reaction would enforce the idea that no matter what one does against Israel, they will lose more. We can see the theory of deterrence used as a base from which Israel has drafted its defence policies, as it plays into rational-choice theory.

In the past, these strategies have proven to be very effective at minimizing, and at times, destroying terrorist threat. For example, after Munich in 1972, where 11 Israelis were murdered by Black September/Al Fatah terrorists, Israel responded with the targeted killings of every terrorist involved with the operation with Operation Spring of Youth. It showcased every aspect of Israel’s deterrence policy, and as a result, Fatah ceased international terrorist operations for years, and Black September ceased to exist; it also helped to push the PLO into formalizing the decision to refrain from international terrorism in 1974 (Bar 2012: 210). Furthermore, by initiating such disproportionate punishments to threats, Israel has ensured that surrounding hostile Arab states are kept in check, and that they sometimes learned to refuse to host terrorist groups (as in the case of Israel bombing the PLO headquarters Tunisia, which put pressure on the Tunisian government to impose sanctions on terrorist organisations (Bar 2012: 211)).

However, these targeted killings also had a variety of side effects. Rid (2012) explains that the policy of revenge attack has become predictable by terrorist groups, and suggests that these groups have even used the attacks to their advantage. For example, Hamas and other radical groups may have utilised the anticipated Israeli counter-reaction to show the populace ‘who the real enemy is’, and to validate their violence in stifling street protests in 2011 (Rid 2012: 140).

Dugan and Chenoweth (2012: 600) also point out that there is a possible backlash to indiscriminate and discriminate deterrence. The idea is that the punisher legitimises the actions of the punished, and can motivate others to join with the terrorist groups as they feel persecuted; as an example, when Israel focused home demolition of suicide bombers families, Palestinian suicide attacks decreased, whereas when Israel pre-emptively demolished the homes of ‘possible’ threats, suicide attacks jumped (Dugan & Chenoweth 2012: 600). By such abuses of power, it validates terrorist propaganda and gains support and sympathy for the group as they stand up against the perceived ‘aggressor’ (Walsh & Piazza 2010: 572).
Another effect is that targeted killings fed a “cycle of violence” (Bar 2012: 211), as many attacks in Israel by terrorists were seen by the perpetrators as acts of revenge, to which Israel would react (in revenge) against the terrorists. This action would be seen by the Palestinian populace as repressive, motivating further revenge attacks; simply feeding the cycle (Bar 2012: 211; Brym & Anderson 2011: 485; Dugan & Chenoweth 2012: 600-601).

The last effect is the result of the decentralisation and destruction of leaders in terrorist organisations. In the Second Intifada, Palestinian and Arab political leaders believed they were immune to the assassination policy Israel utilised. However, as the Intifada intensified, Israel began to target high level and low level leaders, from the Palestinian Islamic Jihad to Hamas, as well has Fatah and the Popular Front for the Liberation of Palestine (PFLP) (Bar 2012: 211). Even heads of organisations were not immune: the siege of Arafat’s compound, the leader of the PLO, and the killings of Hamas leaders Salah Shehadeh, Sheikh Ahmad Yassin, and Abd al-Aziz Rantisi (Bar 2012: 211). Two results came of this: one was the paralysation of various terrorist groups, the loss of know-how and the forcing of terrorist organisation leaders to go underground; the other, more negative result, was the decentralisation of power in various terrorist organisations to external leadership outside WBG, resulting in complicating and weakening their ability to effectively deter or compel terrorist groups (Bar 2012: 211).

And so we can see several issues with Israel’s domestic use of deterrence: it has become less and less effective over time, and it is being used against Israel as forces like Hamas know that they will carry out the threat, and use the disproportionate violence as legitimization of their cause. This only furthers the grievances and politicization of the Palestinian identity. Then, when they retaliate, they only further the grievances and politicization of the Israeli identity, making a vicious circle.

The understanding that the Israeli elite had of WBG as a geopolitical arena is inappropriate to dealing with domestic terrorism, and so they must adopt a strategy that is more conducive to domestic counter-terrorism. As Bar-Joseph (2007) found, the cumulative strategy of deterrence was effective in achieving its goal, with Egypt, Syria, and the Palestinian National Council (PNC) accepting Israel’s existence (the PNC even changed its Palestinian Covenant, removing the sections that called for the destruction of Israel that Netanyahu spoke of in 1978) (178). And so we see the misappropriation of deterrence.

Part Two: Reconciliation

*Counter Terrorism via Reconciliation*

Reconciliation as a method of counter-terrorism works as a long-term solution due to its ability to resolve the roots of the issue that terrorism is a symptom of: grievance. By identifying the grievances of a group and adopting a reconciliation process, the issue that inspires violence between groups can be resolved.

The idea of reconciliation can be very confusing and is often mistaken as a goal. In reality, reconciliation is a long-term process with many components to achieve a goal; the goal being peace. Bloomfield (2003: 14) identifies the common misperception of truth and justice as being
reconciliation, yet they are but two important aspects of the reconciliation process overall. Bloomfield provides a definition of the concept:

Reconciliation is an over-arching process which includes the search for truth, justice, forgiveness, healing and so on. At its simplest, it means finding a way to live alongside former enemies - not necessarily to love them, or forgive them, or forget the past in any way, but to coexist with them, to develop the degree of cooperation necessary to share our society with them, so that we all have better lives together than we have had separately (2003: 12)

Bloomfield also outlines the primary processes of reconciliation:

Finding a way to live that permits a vision of the future;

The (re)building of relationships;

Coming to terms with past acts and enemies;

A society-wide, long-term process of deep change;

A process of acknowledging, remembering, and learning from the past; and

Voluntary and cannot be imposed (2003: 14)

These processes also closely resemble Lambourne’s model of reconciliation (2004: 23-24).

The process of reconciliation is meant to penetrate deep into both the individual actors and the communities involved with the process, to address the historical grievances of each side in a manner to move forward. There are three stages to reconciliation that are meant to achieve this, that are not necessarily linear in application: 1. Replacing fear with non-violent co-existence, 2. Developing trust between the parties involved, and 3. Building empathy between the parties of the grievances experienced by the other (Huyse 2003: 19-21). To achieve each of these stages, there are four mechanisms that Huyse also identifies that must be mobilized:

Healing methods of survivors (i.e. support groups, compensations, symbolic forms of healing);

Retributive or restorative justice (based upon a cost-benefit analyses of the specific case);

Truth/story telling of historical events;

Reparation of material and psychological damage to victims of either side (2003: 23)

These mechanisms overlap each other in many ways, and work together to support each other and the overall process of reconciliation. They are also not alone, for other mechanisms such as education are also important for long-term assurance of peace.

Identifying that justice is a key aspect of reconciliation, it must be noted that the rule of law is absolutely key to insure the support of the four mechanisms. In a keynote speech at the Hague Institute for Global Justice by Dr. Hans Corell (2013), he discusses the importance of the rule of law in the peacebuilding process. He mentions as well the United Nations (S/2004/616) and the World Justice Program (“What is the Rule of Law?”) as supporters of the idea. The World Justice Program outlines the four main pillars of the rule of law:
The government and its officials and agents as well as individuals and private entities are accountable under the law.

The laws are clear, publicized, stable and just, are applied evenly, and protect fundamental rights, including the security of persons and property.

The process by which the laws are enacted, administered and enforced is accessible, fair and efficient.

Justice is delivered timely by competent, ethical, and independent representatives and neutrals that are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve. (“What is the Rule of Law?”)

By creating a legitimate institution that brings justice fairly and without discrimination in a non-violent way, people will have an outlet to bring their injustices without feeling like violence is the only method to voice their anger and concerns. However, it must be noted that failure to commit to the rule of law can have severe consequences upon the reconciliation process by reinforcing the mistrust between the parties involved and breaking the second stage (trust building) identified.

Now that the basic theory has been examined, let us now move on to examining the reconciliation strategies used in several cases.

**Comparative Analysis**

**UK-Northern Ireland**

The protracted conflict in Northern Ireland was one that exacerbated deep divisions within its society. From the 1960s to the late 1990s, more than 3,000 people were killed between the Unionists and Loyalists. The Irish Republican Army (IRA) led a series of increasingly sophisticated bombings in Northern Ireland and Britain, as Loyalist para-militaries attacked unionists and south into the Republic of Ireland (White 2003: 89).

In 1974, the Glencree Centre was set up as an NGO with a peacebuilding mandate. After the 1998 peace agreement, the centre formed a new dialogue programme focused on grassroots reconciliation, Let’s Involve the Victims’ Experience (LIVE) (White 2003:89). Their mission is “…helping the transformation and building of relationships...through facilitated inclusive dialogue and capacity building of stakeholders” (Glencree 2014).

This mission statement was put into action via LIVE (as well as through many other programs). LIVE was designed to create relationships between survivors/victims. To do this, LIVE used a three step program on 10 three day workshops held over a year which involved three components:

- Structured opportunities for discussion and the telling of participants’ stories;
- Inputs from professionals and therapists on issues directly related to managing post-traumatic stress; and
- Social activities aimed at allowing participants the chance to build relationships and share experiences in a less formal environment (White 2003: 91-92).
The program was expanded later on to involve a parallel program specifically for combatants. The success of these programs was inherent on their ability to allow non-judgmental dialogue between those who volunteered. The volunteering aspect is crucial, as one cannot force reconciliation.

By involving groups to interact and tell stories, Glencree was able to humanize “the Other” (as cited in Aiken 2010: 185). This is exceptionally important because it allowed the process of the slow removal of negative perceptions and connotations for the opposing group to begin.

Programs like Glencree can be viewed as successful in achieving its aforementioned mission. Aiken outlines one of the ways it was effective in this mission:

\[\text{Evidence suggests that the experience of positive intercommunity relations may be responsible, in part, for a growing trend of individuals identifying with group identities that are less oppositional than traditional nationalist/unionist or Protestant/Catholic ones, including an increase in identification with a more inclusive ‘Northern Irish’ identity (as cited in Aiken 2010:185).}\]

This building of mutual understanding, trust, and a collective deeper understanding of the past, programs like LIVE helped with the reconciliation process in Northern Ireland to ensure a long-term peace. While there is a long way to go, this case shows us that even within a society split along such deeply entrenched politicized lines, effective reconciliation policies aimed at the depoliticisation of hostile identities can contribute positively.

**Zimbabwe**

The case of Zimbabwe is one where the state, once hailed as a model of ethnic reconciliation of historical grievances, became an example of failed reconciliation policies. After the liberation war of the 1970s, Robert Mugabe (who was the first elected Prime Minister of Zimbabwe) attempted to begin the “politics of reconciliation” in the 1980s after the Lancaster dialogue between each of the conflicting parties and the agreement to end the war in 1979 (Huyse 2003: 34 ; Machakanja 2010: 10). Mugabe attempted to bring white settlers a chance for reconciliation “in exchange for positive peace and the promise of external foreign aid to rebuild the war-ravaged country” (Machakanja 2010: 10). However, over time, the seemingly pragmatic choices made in the name of reconciliation would become the undoing of the process and ultimately its failure in Zimbabwe.

The failure of the reconciliation process in Zimbabwe came from the inability to adhere to the four primary mechanisms of reconciliation discussed earlier. First to be examined is what Huyse calls “Amnesia” (2003: 36). This was a scenario where the state failed to institute methods of open communication between the various victims and perpetrators of the conflict. Instead, the state opted a “forgive and forget” strategy, through various amnesty orders (1988, 1995, 2000) that shut the door on the human rights abuses and crimes committed by political parties, the Rhodesian police, the secret service, and the army, and abuses inflicted on civilians by the liberation movements (Huyse 2003: 36; Machakanja 2010: 10).
This policy brought no retributive or restorative justice, and failed to open any constructive
dialogue between the actors involved. This allowed any grievances experienced or perceived to
remain under a veil, without bringing them into an environment where they can be recognized
and remedied. As the white population were given assurances on their land, they were able to
remain with their previous privileges, the previous destructive status-quo of social and economic
inequality remained; they even did not need to acknowledge any historical guilt, allowing the
grievances of other groups to remain unrecognized (Huyse, 2003: 37).

The reconciliation as imposed from above allowed for no societal involvement with the process.
As victims were not consulted, they had no avenue available to speak out against perpetrators
going unpunished and even given high ranking positions in the government and military
(Machakanja 2010: 6). Because of this, the “forgive and forget” policy attempted by Mugabe
failed to appeal to the general population as their grievances were too entrenched to simply
sweep away, and their political identities too politicized to begin identifying with their former
enemies as compatriots.

Because of the unresolved grievances, Mugabe’s “economic revolution”, where he took the land
he promised to the white settlers, was very popular to a large portion of the population (Huyse
2003: 37). This led to a plethora of issues from the white settlers, and shows us that
unrecognized grievances and imposed reconciliation can beget further problems.

**Deterrence in Defence Policy vs. Domestic Counter-Terrorism**

Examining Northern Ireland and Zimbabwe, we can see one strong common theme: the
necessity to address the grievances, both real and perceived, held by the participating groups.
This necessitates a de-politicisation of opposing identities to change the mindsets of groups from
“us and them” into “we”. By using the proper tools such as retributive or restorative justice and
a broad truth-telling strategy that permeates the various levels of society, grievances have a
chance to become somewhat satisfied to a level where peaceful co-existence and social progress
can begin in time.\(^{55}\)

There are several important factors that can be extrapolated from comparing how Israel,
Northern Ireland, and Zimbabwe dealt with their issues. Starting with Northern Ireland, there
was no geopolitical threat posed to the British or Northern Ireland. The methods that the British
used after the peace treaties were signed utilised light deterrence for security, and reconciliation.
These were part of their overall domestic counter-terrorism plan. The view was domestic, and so
it was dealt as such.

Looking at Zimbabwe, we see that the government was not deterring anything, but failed to
address the root causes of the conflict. This resulted in the issues festering and rising again later
on.

\(^{55}\) For other cases concerning the reconciliation process, I recommend: Rettig (2008), concerning the importance of
the rule of law in the Rwanda Gacaca courts. He argues that they have furthered ethnic divisions; Bockers, Stammel
& Knaevelsrud (2011), which examines post-conflict Cambodia and the methods of reconciliation enacted; Reyna
(2013), who examines Sri Lanka, and more specifically how the reconciliation process there affected women; and
Moon (2008), who dissects the discourse and events of the South African Truth and Reconciliation Commission,
and looks at its effects.
Finally, Israel lies in an area where it needs to achieve a balance. Right now, the view of the conflict as geopolitical is wrong. It may have been that way in 1978, but the context has changed (examine, for example, the modern cooperation between Israel and Egypt), making deterrence in WBG today anachronistic. The issue today requires a domestic counter-terrorism strategy. The strategy must involve reconciliation to attack to core root of terrorism (grievances), with deterrence as a complimentary method to maintain security.

**Policy Proposals**

To resolve some of the issues Israel faces with its current policy, Israel should reform the policy in a way to raise the benefits of abstaining from terrorism while still punishing those who operate in terrorist groups. As seen in the case analyses, case specific reconciliation policies can give a populace a reason to abstain from terrorism. As Dugan and Chenoweth (2012) state:

> Without additional reconciliation, the only value offered to terrorists and their constituencies for disengaging from terrorism is the absence of punishment - which is really just the status-quo. Had the status-quo been sufficient to avert terrorism, no terrorism would occur in the first place. (618)

In the context of Israel, using the lessons learned from Northern Ireland and Zimbabwe, the reconciliation process would be to be conceptualised as an inclusive, multi-dimensional process aimed at different levels of the society (political to social). Some examples of reconciliatory methods specific to Israel include the removal of a curfew, investigating abuse, admitting a mistake, negotiations, public positive announcements of cooperation with Palestinians, and meeting to discuss matters of importance (Dugan & Chenoweth 2012: 609).

The implementation process of reconciliation is crucial to its effectiveness. The reconciliation policy cannot benefit a terrorist group in anyway; instead, it must benefit the populace, pushing them away from engaging in terrorism. The policy must be indiscriminate to a part of the populace that is innocent, to encourage cooperation; while, at the same time, the policy will maintain the deterrence method by punishing those who are proven to engage in terrorism (Dugan & Chenoweth 2012: 619; Sederberg 1995: 309). This will remedy a few of the issues brought upon by the current deterrence policy; by encouraging cooperation and aiding innocent Palestinians, this disarms terrorist propaganda and disincentives the innocent populace from engaging in acts that would bring about punishment. Moreover, it will create a scenario where the ‘cycle of violence’ begins to slow down as the ‘recruiting grounds’ for terrorist organisations begin to dry up as the populace see that it is in their own interest to co-operate with Israel rather than join terrorist groups. As another effect of this, hopefully over time the innocent populace will cast out those who are involved with terrorism, seeing them as a threat to their current beneficial situation.

Other methods to engage with the Palestinian populace involve civil rights policies. Many Palestinians, when involved in talks and negotiations, even in joint activities with Israelis, wish to see Israel admit fault, and feel that the occupation of Palestine is a crime and that the only way they will be satisfied is the creation of a Palestinian state (Dajani & Baskin 2006: 89). Furthermore, many want Israelis to know of the suffering Palestinians face at their hands, and want an apology for these perceived sufferings (Dajani & Baskin 2006: 89). Thus, one way to
deal with this is for Israel to accept the right of existence for these peoples, as well as their own. According to Dichter & Abu-Asba (2006: 188), they can introduce several policies which could address the issues Palestinians face, such as full civic equality and collective rights between Israelis and Palestinians in the state; ensuring solid personal and group social relations; proper representation in state institutions and market sectors; and the legitimacy and inclusion of Palestinians in Israel. Another method could be a truth commission much like the one used in South Africa or such as the Glencree Centre, which could begin to recognize the historical grievances of either side to allow for healing. Without recognizing these grievances, the way forward is far more difficult.

With the example of Zimbabwe in mind, it is of the utmost importance that if these policies were to become instituted as a strategy, both sides must be volitional and committed. Bloomfield outlines four key points to remember:

Begin early, when attitudes are most receptive to change and challenge;

Stick to the commitment, and deal with the hard issues: they will only get harder with time;

Give it sufficient time: it cannot be rushed;

Be transparent about the goals, the difficulties, the time span and the resources (2003: 17).

The importance of the voluntary aspect involved with the process is perhaps one of the most difficult aspects when attempting to apply this method to the Israeli-Palestinian conflict. However, if it can occur in Northern Ireland, South Africa, and other areas where deep divisions existed between the groups involved, then there is still hope.

**Conclusion**

The situation Israel faces concerning terrorism is an incredibly difficult, multi-faceted problem. The responsibility of Israel to protect its citizens is the number one priority, and it is expected to do so. However, although its current policy of deterrence has worked in the past to reduce the terror threat and keep hostile Arab states at bay, it must change this policy concerning WBG. The idea that the issue in WBG is geopolitical may have been the case in the past, but today the issue is a misappropriation of deterrence to deal with the problem of terrorism. By changing the policy towards reconciliation as a counter-terrorism policy, it begins to give a reason to not engage in terrorism; benefits of cooperation that are physical and mental, as the grievances a group has are recognized and can heal. As for the civic rights policies and the proper institution of the rule of law, these can further address the issues and demands that Palestinians make; possibly further destroying the view that violence is the only method of political change.

The first part of this essay shows us the viewpoints that the Israeli elite have concerning WBG, and explains why deterrence is not appropriate in the modern context, because of its failure as a domestic counter-terrorism strategy.

The second part of the essay has shown us that reconciliation policies can make an impact when used correctly and with the right timing in environments involving factions with historical grievances. It also provided a warning of the dangers should the policies be applied incorrectly.
With the application of a custom reconciliation framework to the Israeli-Palestinian conflict, it is possible that reconciliation is better as a long-term anti-terrorism strategy than deterrence.

For further research, the author would like to delve deeper into other state responses to terrorism and why they were effective/ineffective (for example, Canada and its response to the Parti libéral du Québec (PLQ), or Germany and their response to the Red Army Faction). The author would also like to build upon the case by case analyses of reconciliatory strategies, and also look further into identity politics and grievances, the effects of power-sharing agreements, and bottom-up peacebuilding.

This information can also be used by those interested peacebuilding, as lessons learned through this specific case can be cross-examined with others, and vice-versa.

To try and understand terrorism and to attack its roots is incredibly important for our contemporary world. One of the main lessons is to understand what you are fighting. The other, once you understand why the terrorist group has reached a level of radicalisation, is that a possible remedy may be to cut them away from a potential audience by giving the populace an idea they want to live for, not an idea they will engage in terrorism and die for.
References


Occupy Rustaveli:
Overreliance on Space and the “Protest Fatigue” during the 2009 Cell Protests in Tbilisi

Tamta Gelashvili

2009 Cell Protests, Tbilisi, Georgia. Photo by Tamta Gelashvili.

Abstract

The paper aims to offer a spatial analysis of the 2009 protest movements in Tbilisi, the capital of Georgia, where the opposition activists occupied public space in an innovative manner, by placing prison cells on the main thoroughfare of the city. Rustaveli Avenue thus became the central space of contestation between the dominant powers and their opponents. Similar occupations of public space (the so-called “Occupy Movements”) have been widely researched; however, the case of the 2009 Tbilisi protests remain largely unstudied. Using Lefebvre’s ideas, the paper describes how political actors constantly produce the physical, conceptual, and social aspects of space. The paper studies the spatiality of political events that contributed to the Avenue’s meaning and function. After establishing the theoretical and historical background, the paper elaborates on the 2009 protests and discusses them from a spatial lens. The paper stresses the opposition activists’ overreliance on space, the absence of methodological, strategic planning, and the resulting protest fatigue. Finally, comparing the 2009 events to the 2011-2012 protests, the paper argues that overreliance on the significance of space can, in fact, decrease protest visibility and fervor, instead of increasing it.

Key words: Cell Protests, Georgia, Lefebvre, Occupy, Protest, Protest Fatigue, Rustaveli, Social Movements, Space, Spatiality, Tbilisi.
Introduction

Walking down Rustaveli Avenue, the main thoroughfare of Tbilisi, Georgia, in April 2009, one would have encountered an unusual scene. Instead of everyday routine with noisy traffic and people rushing to workplaces or schools, one would see people in mock prison cells going through morning procedures: “shaving, brushing their teeth, and drinking their morning tea” (Kabachnik 2012: 17). Anti-government protesters had occupied what would normally be the busiest part of the city.

The occupation started on April 21, when opposition leaders decided to bring a popular television show, Cell #5, to the streets of Tbilisi. The idea came from Giorgi Gachechiladze, the show host, who had imprisoned himself in a mock cell earlier that year, and had promised to stay confined until President Saakashvili’s resignation (www.liberali.ge 2010). With more than 100 cells placed on the street, the protests continued for several months.

In a way, these demonstrations resembled the 2011-2012 protests in Northern Africa, Southern Europe, and North America, when protesters occupied central parts of major cities. Unsurprisingly, these movements became popular subjects of social science research; a number of authors offered spatial analysis of these protests, focusing on the protesters’ attempts to contest state domination over space and on the governments’ attempts to regain control.

The ideas of Henri Lefebvre are especially useful for such spatial analyses. In his works, Lefebvre explains how space is produced continuously, through contests between governing elites and their opponents. This process of production, he notes, includes constant changes in the physical, mental/conceptual, and living/social aspects of space (Lefebvre, cited in Dhaliwal 2012: 256).

Lefebvre’s ideas would also be useful to analyze the production of space in the center of Tbilisi. However, unlike the 2011-2012 movements, the spatial aspect of the demonstrations in Georgia has attracted little attention of researchers. This paper attempts to fill in this gap in literature. It aims to offer a spatial analysis of Georgian protest movements, especially focusing on the 2009 cell protests. The paper focuses on the 2009 events because the cell protests clearly illustrate the production of Tbilisi’s central public space through continuous contest over its meaning and function.

With this objective in mind, the paper first summarizes Lefebvre’s ideas about the production of public space. Next, it briefly reviews spatial analyses of the 2011-2012 movements. Using these examples, the paper then turns to Georgia. Specifically, it studies Rustaveli Avenue as the central space of contestation between the dominant powers and their opponents. Using Lefebvre’s ideas, the paper argues that these actors constantly produce the physical, conceptual, and social aspects of this space. The paper studies the spatiality of political events that contributed to the Avenue’s meaning and function. After establishing the theoretical and historical background, the paper elaborates on the 2009 protests and discusses them from a spatial lens. Finally, by comparing the 2009 events to the 2011-2012 protests, the paper suggests that overreliance on the significance of space can, in fact, decrease protest visibility and fervor, instead of increasing it.
Literature on the Production of Space

Until the past three decades, space had been largely taken for granted in social science research. Lefebvre (1974) was one of the first social scientists to study the concept of space. He argues that space is inherently political, produced not only by formal transformations, but also by informal perceptions and living experiences (cited in Brenner and Elden 2009: 359).

Importantly, Lefebvre stresses that space should not be seen as a given. The production of space is a continuous process (Lefebvre, cited in Dhaliwal 2012: 256). This process, Lefebvre explains, involves transformations in three interrelated features: first, “spatial practice,” or the physical form of space; second, “representations of space,” or mental conceptions of space; and third, “representational spaces,” or the experience and social function of space (cited in Dhaliwal 2012: 256). Importantly, Lefebvre’s argument seems largely state-centric; he focuses on the governing power’s influence on the production of space. However, this paper uses Lefebvre’s ideas of space production to argue that people can also affect this process, mainly by changing the mental conceptions and lived experiences of space.

Narrowing the theory down to public spaces, it can be argued that both governments and ordinary citizens can participate in the production process (Attia 2011: 13). To begin with, public spaces signify state power. According to Stanford Lyman and Marvin Scott (1967), public spaces illustrate what Robert Sack calls territoriality (Sack 1986: 19), or the human desire to control the behavior of others by circumscribing a particular space. Indeed, as Lyman and Scott explain, governments (to varying degrees) regulate access to public spaces and control people’s behavior within them (Lyman and Scott 1967: 238). As a result, public spaces generally symbolize state power.

In order to challenge state power, then, people express their protest in public spaces (Attia 2011: 13). They occupy and give new meanings to space. In addition to symbolic importance, such occupation also has material significance. As the paper will illustrate further, public spaces often house administrative offices, business centers, educational institutions, and other key facilities. By occupying these spaces, protesters effectively hinder the transportation system, impede access to the abovementioned facilities, and thus, interrupt normal functioning of the cities.

Hence, political authorities and their opponents contribute to the production of space by affecting its physical, mental, or social features. As a result, contest over space is continuous (Brenner and Elden 2009: 367). This contest became evident during the 2011-2012 protests in Northern Africa, Southern Europe, and North America. The next section reviews spatial analyses of these movements in existing social science literature.

Literature on Occupy Movements

Space has been one of the most researched aspects of the recent protest movements. As Benski et al. explain, during the mass protests of 2011 and 2012, people occupied public spaces to challenge powerful elites. Examples are many: Bourguiba Avenue in Tunisia (AlsSayyad and Guvenc 2013), Tahrir Square in Egypt (Ramadan 2012), Syntagma Square in Greece (Leontidou 2012), Puerta del Sol Square and Plaza Cataluña in Spain (Dhaliwal 2012), and Zuccotti Park in the US (Juris 2012), among others (Benski et al. 2013: 553).
In the abovementioned cases, protesters challenged the dominant powers' influence over public space in several interrelated ways. Firstly, their actions changed the mental conception of these spaces. They occupied spaces with symbolic meaning: Bourguiba Avenue, Tahrir Square, Puerta del Sol Square and Syntagma Square have witnessed numerous political events. These places, as well as the Zuccotti Park, suggest symbolic presence of powerful elites (parliament buildings, embassies, financial districts, etc.). So by occupying them, the people expressed their resistance to these dominant powers (Benski et al. 2013).

Secondly, the protesters’ actions changed the social aspect, or the living experience, of these spaces. Since these spaces are located in city centers, their blockage implied hindrance in everyday dynamics. The protesters practically impeded governments from exercising control, created barriers in transport systems, and obstructed people’s access to workplaces, educational institutions, etc. They separated these spaces from the wider social order, and exercised direct democracy within (Benski et al. 2013: 553). Thus, by posing symbolic and practical challenges to the dominant power, the protesters gave new conceptual and social meaning to public spaces.

**Literature on Tbilisi Cell Protests**

Unlike the 2011-2012 movements, little research has focused on the 2009 demonstrations in Tbilisi. So far, extensive spatial analysis of these protests has not been published. The only article focusing on this case (Kabachnik 2012) largely emphasizes one particular element of the demonstrations - interestingly, the protesters placed mock prison cells in the center of capital Tbilisi.

The idea to use cells came from Giorgi Gachechiladze, the host of a widely watched television show, Cell #5. Gachechiladze “imprisoned” himself on January 29th, 2009. For the following 11 months, his daily reality show featured political discussions with different public figures. According to Gachechiladze, the idea behind his show was that under President Saakashvili, the country resembled a prison (www.liberali.ge 2010). The name of the show was also symbolic – Saakashvili’s ruling party, the United National Movement, was listed as number five on the election ballots (Kabachnik 2012: 7).

Given the added symbolism, it is not surprising that Kabachnik focuses on the metaphorical meaning of the mock cells. Additionally, Kabachnik does include spatial analysis in his research to some extent. He mentions how Rustaveli Avenue “has a long history of … transforming itself temporarily to an oppositional space that challenges the political status quo” (Kabachnik 2012: 8). However, he only mentions the demonstrations of 2007 and the incident of 1989 briefly. Comprehensive spatial analysis of the symbolic and material importance of Rustaveli Avenue is not his main objective. Rather, he studies the influence of popular culture on political behavior (Kabachnik 2012: 1). Regardless, his discussion of the cell metaphors, together with his study of the people’s attitudes towards the protests, offers important insights and is certainly useful for the purposes of this article.

In the following sections, the paper will outline the continuous transformation of Rustaveli Avenue space, using Lefebvre’s definitions of three spatial aspects. It will show how the political authorities influenced the physical form of Rustaveli Avenue. Concurrently, it will also discuss
the transformations in the mental and social aspects of this space. Finally, the paper will focus on the 2009 cell protests to illustrate these processes of contestation and change.

**Production of the Rustaveli Avenue Space**

Rustaveli Avenue is the main thoroughfare in Tbilisi. Since its construction, it has always been a contested space. Dominant powers have developed it as the city center, housing the Georgian Parliament, the National Museum, the National Academy of Sciences, the Kashueti Church, the Rustaveli National Theater, and many other political, cultural, educational and business facilities. Those against the authorities, in turn, have been challenging dominant representations of this space. In order to understand the role of Rustaveli Avenue in the contest between governing elites and opposition forces, it is useful to review how this space was produced throughout Georgia’s recent history.

The history of this avenue goes back to the early 1800s. After the annexation of Eastern Georgia by the Russian Empire in early 1800s, Russian Chief Commander’s palace was built in the beginning of the modern-day Rustaveli. Gradually, the Russian authorities, including Mikhail Vorontsov, the Russian Commander-in-chief and Viceroy for South Caucasus, started constructing an avenue, bridging the palace with Tbilisi’s other parts (De Waal 2010: 46). In mid-1800s, the avenue was named after Evgenii Golovin, then the Caucasian Governor (Kvirkvelia 1985: 26). It can be concluded that the Avenue, constructed with the initiative of the Russian authorities and named after the Russian-appointed Governor, adopted a particular conceptual and social character. Informally, the locals referred to this Avenue as the “road to Russia” (Kvirkvelia 1985: 27). Thus, as the Russians constructed the space as a manifestation of the dominant power, the Georgians associated the avenue with Russian domination.

When Georgia declared independence on May 26, 1918 (Suny 1994: 192), the government decided to change the name of the capital’s central avenue. It was now named after Shota Rustaveli, the author of the Knight in the Panther’s Skin, a national epic poem (Encyclopedia Britannica). In addition, the Avenue witnessed the first national military parade (Georgian National Archive). Apparently, hoping that the declaration of independence would terminate Russian domination, Georgians also tried to abandon the Avenue’s original symbolic meaning. Now, Rustaveli symbolized Georgia’s liberation from Russian influence.

Soon after, on February 25, 1921, the Red Army occupied Georgia (Suny 1994: 323). Following the occupation, new political authorities transformed Rustaveli Avenue again. They built a number of Soviet-style buildings (the Institute of Marxism and Leninism, the Telegraph, etc.). At the same time, they destroyed some of the older buildings. Importantly, the new political elite demolished the Alexander Nevski Military Church, where the cadets killed during the 1921 invasion were buried. In its place, they erected a new building for the Supreme Council of the Soviet Republic of Georgia (www.tbilisi.gov.ge). The building was an example of Soviet-style architecture. Interestingly, its facade had sixteen columns – arguably, to represent the sixteen member states of the Soviet Union (www.tbilisiguide.ge). Thus, after the occupation, the avenue re-acquired its original meaning. Surrounded by Soviet-style buildings, Rustaveli now symbolized Soviet power over Georgia.
Since the Avenue signified Soviet control, anti-regime demonstrators chose this place to protest. In 1956, Soviet forces crushed a demonstration calling for the secession of Georgia from the Soviet Union (Georgia Profile, BBC). The large-scale, clearly nationalistic demonstration, one of the few examples of civil disobedience and protest in the Soviet Union, followed the 20th Party Congress, where Khrushchev criticized Stalin (see Blauvelt 2009). Echoing the 1956 events, another nationalistic demonstration took place in 1978, when students protested the changes in language law, requiring the adoption of Russian (in addition to Georgian) as a state language (Walker and Stephenson 2013:115). This event shows how people contested Soviet authority over Rustaveli, expressing their resistance to the dominant power, and how the regime violently reacted, reclaiming its control over Rustaveli, and effectively, on Georgia.

Despite the violent response, the anti-Soviet sentiments continued to break out from time to time. In April 1989, the National Liberation Movement led an anti-Soviet demonstration on Rustaveli Avenue. On April 9, Soviet troops dismantled the protests, killing women and children (Tsamalashvili 2009). As in 1956, the protesters temporarily transformed Rustaveli Avenue into a space of resistance, thus challenging the Soviet power. Again, the regime emptied the street, restoring social order.

After the dissolution of the Soviet Union in 1991, Georgia declared independence, electing Zviad Gamsakhurdia as the first President of the country. The Parliament of independent Georgia was established in the former Supreme Council building (Tsuladze, Voice of America). Hence, as the newly formed government took political control over the country, it also acquired control over the city’s central space and changed its meaning. This space no longer epitomized Soviet rule; rather, the avenue, with the Parliament building in its center, symbolized the newly founded national government.

Soon after the declaration of independence, a civil war erupted. Now a symbol of the Georgian state, Rustaveli Avenue became a battleground between Gamsakhurdia’s government and its opponents. In January 1992, President Gamsakhurdia was overthrown. He was succeeded by Eduard Shevardnadze, who also got toppled after demonstrations (labeled as the “Rose Revolution”) on Rustaveli Avenue in 2003 (Georgia Profile, BBC).

After the Rose Revolution, Mikheil Saakashvili, the newly elected President, declared 2004 as the beginning of a new era in the country’s history. Georgia adopted a new flag, a new anthem, and a new coat of arms (www.liberali.ge 2009). As a part of his renovation campaign, Saakashvili also gave a new meaning to Rustaveli Avenue: the presidential inauguration, military parades, anniversaries of the Rose Revolution, commemorations of the 2008 Russian-Georgian War, and many other events took place on Rustaveli (Rodonaia 2004, Kunchulia 2009). Therefore, the new government changed the mental perception and the living experience associated with this space. Now, Rustaveli Avenue symbolized the reform-oriented Georgian government.

Concurrently, the avenue was also a common protest space. A few years after the revolution, massive anti-Saakashvili demonstrations erupted. Sporadic protests continued till November 2007, when people placed tents in front of the Parliament. For several days, people prevented the government from controlling the space that symbolized state power. In response, on the 7th of November, riot police violently crashed the demonstrations (Kabachnik 2012: 9). As the
government reclaimed control over space, the President declared a state of emergency till the 12th of November. During this period, military troops and vehicles were mobilized on Rustaveli Avenue (Kabachnik 2012: 9), reminding people that the government remained in charge.

After a temporary decline, protests re-emerged. On the 9th of April 2009, opposition forces started a large-scale campaign against Saakashvili (Kabachnik 2012: 2). Both the time and place of the initiation were symbolic. 9th of April is a national holiday, commemorating Soviet violence against peaceful pro-independence demonstrators. As usual, the rallies took place on Rustaveli Avenue, the traditional contested space between political authorities and their opponents. On April 21st, opposition leaders decided to place mock prison cells on Rustaveli Avenue (Kabachnik 2012: 5).

Spatial Analysis of the 2009 Protests

Transformations in Mental and Social Aspects

As the history of Rustaveli Avenue shows, governing powers have gradually changed the physical form of the avenue. Political authorities defined spatial practices, such as the architecture and function of the buildings, the transportation system, the street signs, etc. The mental conceptions and social experiences of this space, however, were affected not only by the government, but also by citizens. The 2009 cell protests clearly illustrate Lefebvre’s ideas about the production of mental and social space.

To begin with, the protesters chose Rustaveli as the terrain of resistance because of its historical conceptual meaning. As illustrated above, governing powers have always tried to influence the mental conception of this space. The Rustaveli Avenue, surrounded by administrative offices, educational institutions, and other facilities, symbolized state power and social order. By placing cells, the opposition challenged the state’s symbolic presence and the association of Rustaveli with the government.

In addition to mental conceptions, the cell protests also influenced the living experiences associated with Rustaveli Avenue. As Kabachnik explains, the people resisting the dominant power changed (although temporarily) the function of this public space (Kabachnik 2012: 14). By occupying Rustaveli, the protesters disrupted the established order. Blocking Tbilisi’s main avenue meant that government officials faced difficulties reaching administrative offices, children were unable to attend classes in the Public School #1 (located next to the Parliament), people could not attend performances in the Rustaveli Theatre or movies in the Rustaveli Cinema, etc. Since Rustaveli Avenue is the central transport hub, its occupation also meant disturbances in the transport system. As Kabachnik mentions, the cells soon created a “major nuisance” (Kabachnik 2012: 15). Hence, isolating the main thoroughfare of Tbilisi from the rest of the capital had material consequences. This way, the rallies transformed Rustaveli Avenue into a “terrain of resistance” (Kabachnik 2012: 10), changing the “representational space,” or the way the Rustaveli Avenue space was “lived” (Lefebvre, cited in Dhaliwal 2012: 258).
In sum, the 2009 protests contested the government’s power over space not only symbolically, but also materially. In Lefebvre’s terms, these protests changed the mental and social space of Rustaveli Avenue.

Over-reliance on the Spatial Factor

With such transformation, the 2009 protests resembled the 2011-2012 movements in Northern Africa, Southern Europe, and North America. What made them different from these movements, however, was not only the added symbolism of cells, but also poor planning and over-reliance on space.

As noted above, the cell protests started in April. The number of cells gradually diminished, and in July, the last ones disappeared, presumably, in preparations for the US Vice President Joe Biden’s visit (Kabachnik 2012: 6). However, it can be argued that the cells had already lost their initial appeal.

As Tbilisi residents point out in interviews with Kabachnik, the cells “made people’s lives miserable and complicated,” and thus were “unbearable” (Kabachnik 2012: 15). In contrast with 2007, the government decided to avoid any involvement. Saakashvili’s decisions in 2007 caused harsh criticism from the international community (Kabachnik 2012: 12). Learning from the experience, the government stayed detached in 2009 and outlived the demonstrations. It even refused to provide movable toilets or to collect garbage (Kabachnik 2012: 14). As a result, the meaning of this space changed once again. As the government ignored the demonstrations, the situation evolved into chaos. People now compared Rustaveli to “a big toilet” and saw the cells as causes of “major nuisance” (Kabachnik 2012: 14-15). When the last cells finally disappeared, “erasing the traces of opposition in public space” (Kabachnik 2012: 6), the government regained control indirectly, without any active involvement.

Apparently, the Georgian protesters failed to organize the rallies carefully. In the 2011-2012 demonstrations, the protesters divided space into functional areas, created representative assemblies, and made decisions collectively (Benski et al. 2013: 553, Stavrides 2012: 588, Attia 2011: 14). While these protesters engaged in direct democracy, Georgian protesters aimed at prolonging occupation. Understanding the symbolic and material importance of space, they overemphasized and “fetishized” it (Miller and Nichols 2013: 467). Apparently, they forgot that the occupation of space had to be a means to an end – Saakashvili’s resignation - they had initially announced (www.liberali.ge 2010). Thus, occupation became an end in itself; the government refused to remove the cells, while the opposition activists rejected any proposals for political dialogue (www.liberali.ge 2010).

As a result, as much as the cells created a powerful metaphor in the beginning, they failed to sustain its meaning. As Kabachnik explains, over time, the cells started to irritate Tbilisi residents (Kabachnik 2012: 16). One possible reason why the powerful metaphor weakened over time is the failure of the opposition leaders to foresee alternative outcomes. As sociologist Iago Kachkachishvili notes, the opposition expected police violence that would cause international condemnation (as it did in 2007) and would eventually lead to Saakashvili’s resignation (www.liberali.ge 2010). The government defied these expectations by staying inactive. Without
any concrete plans of alternative action, the Georgian opposition was unable to spread the sense of protest and empowerment in the wider population (www.liberali.ge 2010).

Unlike the 2011-2012 protesters, notably, the Indignados in Spain, the Georgian protesters failed to extend resistance beyond Rustaveli Avenue. As Dhaliwal notes, the Indignados left the occupied spaces after a month (Dhaliwal 2012: 259). However, instead of “capitulating” like the Georgian opposition, the Indignados created grassroots organizations and organized weekly meetings (Dhaliwal 2012: 260). If the Indignados managed to create a “sustained movement, rather than a fleeting experiment” (Dhaliwal 2012: 270), the Georgian protesters appear to have done just the latter. Indeed, there is no evidence that the Georgian opposition organized similar associations, empowered people (including the youth) for further actions, or tried to attract the attention of active civil society actors and non-governmental organizations.

Conclusion

Hence, the cell protests did transform the meaning of space in several ways. Firstly, they contested the government’s symbolic presence on Rustaveli Avenue. They reclaimed the public space, and hence changed its mental conception. Secondly, they interrupted normal social order by blocking the central thoroughfare. Therefore, the protesters also managed to change the living experience of Rustaveli Avenue.

However, the protests failed to maintain the initial fervor. As the protest leaders overemphasized space and denied to reconsider plans, occupation of space became an end in itself. Gradually, the cells disappeared and the government regained control, not only over space, but also over the political process. The sense of protest failed to expand beyond Rustaveli Avenue and waned, or at least, receded for the moment. According to social polls conducted in summer 2009, cell protests actually diminished popular support for the opposition (www.liberali.ge 2010).

It is reasonable to conclude, therefore, that the 2009 protests exemplified “inappropriate politics” and contributed to “protest fatigue” among Georgians (Kabachnik 2012: 18). However, it can also be argued that even if the protests failed to achieve Saakashvili’s resignation, their main goal, they still contributed to a larger political process. At the very least, they demonstrated how people can reclaim authority over public space. These protests can remain as significant historical experiences as long as they remind political authorities of the potential threat of occupation movements. Certainly, the possibility of similar events taking place in the future, with a better-planned strategy, cannot be excluded.

Apparently, Saakashvili considered this possibility. He initiated constitutional changes, moving the Parliament to Kutaisi, the second largest city of Georgia (Tsuladze, Voice of America). It is important to note that, unlike the Tbilisi center, the new location bears no symbolic meaning. The only declared reason for the relocation was the need to diversify political life (Tsuladze, Voice of America). However, the changes were approved hastily, without researching public opinion or consulting the political spectrum. Also, the government singlehandedly delegated construction works to its affiliate company, without announcing bids as required by the law. In the meantime, the Ministry of Economy prepared the old Parliament building for privatization (Tsuladze, Voice of America). Such rushed relocation of the country’s main legislative structure seems to indicate the government’s eagerness to reclaim the Tbilisi center once again and to
avoiding future demonstrations on Rustaveli Avenue. This eagerness can at least partly be attributed to the history of protests, the 2009 cell protests being no exception. Bearing this recent history in mind, it is also symbolic that the new Georgian government, elected in 2012 (somewhat ironically, after massive anti-Saakashvili protests on Rustaveli Avenue), is currently planning to move the Parliament back to the old building in Tbilisi.
References


Just Peace at War’s End:
The jus post bellum Principles as National and Human Security Imperatives – Lessons of Iraq and Kosovo

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Abstract

The contemporary period is characterized by intense scholarly, legal and socio-political debates about the conceptual framework, which ought to guide state responses to unmitigated violence resulting from protracted armed conflicts across the globe. The prevalence of military interventionist discourse in the media and governmental organizations necessitates further reflection on the international community’s legal obligations not only with respect to putting an end to violence, but holding aggressors of armed perpetrations individually accountable for political unrest, economic destabilization and loss of life as well as responsible for the reestablishment of social and political order on the ground, which are to ensure human security in the process of post-conflict nation-building. The analysis of two recent conflicts in Kosovo and Iraq will provide a critical foundation for the examination of international bodies’ and state actors’, such as the United Nations (in the case of Kosovo) and of the United States (in the case of Iraq), implementation of legal mechanisms by which the jus post bellum principles can be made useful for, both, (i) the purposes of providing justifications for war and (ii) post-conflict restoration of order. In addition, relevant connections will be examined between the principles guiding humanitarian interventions and just war narratives, which make military intermediations publically palpable. The study and conclusions drawn may prove especially pertinent to a continuing diplomatic stalemate with regard to armed conflicts in Syria and Ukraine, renewed tensions in South Sudan, the Central African Republic and various micro-insurgencies in Somalia, Libya or Mali.

Keywords: Just war; Human Security; Laws of War; Humanitarian Intervention; Reconstruction.
Introduction

According to Robert Williams and Dan Caldwell in “Jus Post Bellum: Just War Theory and the Principles of Just Peace,” the just war tradition has provided tenable justifications for processes of decolonization, democratization, and development in the post-World War II period, while procuring ethical rationalizations for interventions aimed at restoration of political stability. The authors recognize that although theoretical principles direct conduct before (jus ad bellum) and during war (jus in bello), such principles are missing after the conclusion of active military engagement and the post-conflict environment. On the basis of the four jus post bellum principles suggested by Williams and Caldwell, such as: (i) the restoration of order; (ii) vindication of human rights; (iii) restoration of sovereignty; (iv) punishment of human rights violations, the following study aims to critically examine their usage and applicability to two recent post-conflict political conditions in Kosovo and Iraq and assess the role and duties of intervening states, international treaties and international judicial bodies in their promotion. While history logs are replete with instances of interventions in the name of human security, Kosovo and Iraq suggest themselves as substantively rich cases in international law and international relations discourse, which have aided in articulating the legal conditions for humanitarian intervention and hot preemption in a period of intense political debate and scarce legal guidance. The two represent three prongs of a vociferously contested legal conundrum, namely, whether a right to intervention on humanitarian grounds exists, how and when should it be exercised, and under whose authority (Evans and Sahnoun 2002). Second, should countries, believed to be implicated in the illicit acquisition of nuclear weapons and harboring of terrorists, be subject to a preemptive attack? Lastly, do invading countries have any special legal and moral responsibilities for post-conflict/post-war reconstruction? Up to now, literature on jus post bellum principles focused on meeting the necessary conditions for bringing about post-conflict peace, justice and reconciliation. Very little commentary has been given to any jus post bellum duties that states have towards other states, which they choose to intervene in, occupy, engage in preemptive attack or occupy. The article aims to contend for a post-bellum framework, which insists that invading states do have special duties of responsibility and care following a formal conclusion of armed activities, which ought to inform and constitute a non-negotiable part and parcel of pre-war planning, and which are wholly distinct from questions of restorative justice, restitution, and swift criminalization of acts of state mandating or justifying invasion and occupation.

Contemporary Theoretical Landscape

The contemporary period is characterized by intense scholarly, legal and socio-political debates about the conceptual framework, which ought to guide state responses to unmitigated violence resulting from protracted armed conflicts across the globe. The prevalence of military interventionist discourse in the media, governmental organizations, and states’ own respective seats of government, necessitates further reflection on the international community’s legal obligations not only with respect to putting an end to violence, but holding aggressors of armed perpetraitions individually accountable for political unrest, economic destabilization and loss of life as well as responsible for the reestablishment of social and political order on the ground, which are to ensure human security in the process of post-conflict nation-building. While the just war theory literature is rife with jus ad bellum and jus in bello principles, notions of guaranteeing a
just resolution of conflict under a *jus post bellum* framework are duly lacking. The analysis of two recent conflicts in Kosovo and Iraq will provide a critical foundation for the examination of regional actors’, such as the United Nations (in the case of Kosovo) and of the United States (in the case of Iraq), implementation of legal mechanisms by which the *jus post bellum* principles can be made useful for, both, (i) the purposes of providing justifications for war and (ii) post-conflict restoration of order. In addition, relevant connections will be examined between the principles guiding humanitarian interventions and just war narratives, which make military intermediations publically palpable. The study and conclusions drawn may prove especially pertinent to a continuing diplomatic stalemate with regard to armed conflicts in Syria and Ukraine renewed tensions in South Sudan, the Central African Republic and various micro-insurgencies in Somalia, Libya or Mali.

Proliferation of conflicts, civil wars, military interventions, and occupations necessitates a comprehensive response to the costs, impacts, and conditions such sudden and often destabilizing and highly destructive engagements provoke. According to the 2005 World Bank Report, it is estimated that “80 percent of the world’s 20 poorest countries have suffered major armed conflict since 1990, and that 44 per cent of post-war societies relapse into conflict in the first five years of peace” (Menocal and Eade 2005: 785). Omnipresence of war occasions reflections on the moral questions of responsibility for its conduct and post-conflict reconstruction. Because the nature and impact of wars prove destabilizing to the entire social fabric of societies, challenge governance structures and the political authority of conflict-torn states, *jus post bellum* principles ought to inform strategic military planning and occupy a prominent place in the international law of armed conflict discourse. After all, as Barakat Sultan points out, wars are “extremely destructive in terms of civilian casualties, displacement of population, destruction of livelihood and physical and social development”, which in turn, have a negative impact on development. If the *jus ad bellum* principles, which relate to the transition from peace to war and the *jus in bello* principles regulate conduct during war, then the transition back to peace (Evans and Sahnoun 2002) encompassed by ethical, legal and moral prescripts of the *jus post bellum* ought to find full expression in the legal and political lexicon of contemporary modes of global governance. After all, the elementary considerations of humanity duly defended by the Geneva Conventions do not expire with the conclusion of active war. But, whenever life is concerned ought to find continuous support in the post-conflict reconstruction. This may be exemplified, as Jan Klabbers posits, by: (i) the inclusion of all relevant stakeholders in the peace agreement; (ii) refraining from imposing onerous and aggressive reparations on states accused of having committed acts of aggression; (iii) preference for individual rather than collective responsibility; and (iv) attempts at reconciliation between warring parties. Such an approach might ease the burden on the civilian population, often displaced as a direct result of conflict, and hint at a possible solution to intra and post conflict refugee crises witnessed in present day conflicts in Syria, Ukraine or any number of affected African states. International law has fallen short, thus far, in articulating principles and providing effective remedies or remedial measures for victims against states whose actions persist in making the civilian population worse off in post-conflict scenarios than they have been prior to the initiation of armed activities. Without falling victim to the victor’s hubris, states and international organizations can fill a gap in the *jus post bellum* architecture of international law by working towards a normative and practical articulation of principles guiding the ending of wars and peacemaking.
The Law of Armed Conflict and its Normative Implications

The rules and principles of the law of armed conflict (LOAC) find their origin in (i) the Declaration of Paris of 1856; (ii) the Declaration of St. Petersburg of 1869; (iii) the Hague Peace Conferences of 1899 and 1907; (iv) the Geneva Protocol of 1925; (v) the Geneva Convention of 1929; (vi) the Four Geneva Conventions of 1949; and (vii) Two Additional Protocols of 1977. Collectively, they constitute the *jus in bello* rules that govern conduct during armed conflict and delineate moral limits on the use of force, set out principles for the treatment of individuals in the course of war, and minimize unnecessary suffering and the use of excessive violence. Alongside *jus ad bello*, or laws pertaining to the circumstances surrounding the initiation of conflict, the actors involved and their respective legal and moral justifications for the use of military power, *jus in bello*, aims to define the parameters and set restrictions on the conduct of war. Both sets of rules fall under the domain of public international law. The following discussion focuses on the historical development of the rules and principles of the law of armed conflict.

The *Jus in Bellum* as the body of law pertaining to the control of conduct during war takes its inspiration from the Old Testament and Koran, which, as scholar claim, provide the earliest articulation of the appropriate relationship between the “victors and the vanquished” (Bovarnick 2011: 11). Respectful treatment of captured soldiers and civilians according to established rules of war was also a matter of considerable concern for the Seventh Century Babylonians (Bovarnick 20122). And the Fourth Century Chinese military general and philosopher, Sun Tzu, in his work *The Art of War* considered “treatment and care of captives, and respect for women and children in captured territory” (Bovarnick 2011: 11) of significant importance to a civilized and humane conduct of warfare.

The scarcity of rules governing the use of force and conduct of war from antiquity to the Middle Ages, however, made itself apparent in unregulated practices of enslavement, trade in human capital, use of poisoned weapons, and indiscriminate appropriation and seizure of territory. The era of the just war doctrine, dominant in the medieval international system, conditioned the rights and duties of the belligerents on “the justice of the cause for which they waged war” (Kolb and Hyde 2012: 22). As long as the war (i) was conducted with *justa causa* or a just cause, i.e. in self-defense or to avenge past injuries; (ii) it was sanctioned by a lawful authority; and (iii) based on the right intention of belligerent parties, the means utilized could only be limited by what was necessary to achieve the desired purpose (Kolb and Hyde 2012: 22). The Treaty of Westphalia of 1648 and the inauguration of the modern state system did away with the just cause doctrine and considered the wager of war to be “a sovereign entitlement of every state” (Kolb and Hyde 2012: 22). With inviolable prerogative to wage war, the cruelty and devastation that followed, with time, awakened the international community’s public conscience. The turning point came in 1859, when the “miserable fate of the wounded left on the battlefield” (Kolb and Hyde 2012: 38) after the Battle of Solferino fought between the French, Sardinian and Austrian armies, propelled Henry Durant to articulate general principles aimed at humanizing the battlefield.

The enthusiastic response of the European nation-states to Durant’s proposals of (i) giving “a legal protection to the military wounded in the field” and (ii) creation of national societies who were to prepare in peacetime all the material and personnel needed in war” (Kolb and Hyde
2012: 38) resulted in gradual formalization of “non-derogable protections for the victims of war” (Bovarnick 2011: 20) formally collected and codified after World War II under four respective Geneva Conventions, jointly referred to as Geneva Law. Thus, the Geneva Convention of 1864 for the Amelioration of the Condition of the Wounded in Armies in the Field (GCI), intended to obligate states engaged in armed conflict to “respect, protect and aid wounded and sick military personnel without adverse discrimination” (Kolb and Hyde 2012: 38). The Geneva Convention on Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea (GCI) extended GCI land warfare protections to wounded, sick and shipwrecked personnel at sea and took protective note of hospital ships. The Geneva Prisoners of War Convention of 1949 (GCIII) defined the status of troops taken prisoner of war and, finally, the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 1949 (GCIV) aimed at the protection of the civilian population from the ravages of war. “The International Red Cross was created in 1870 to alleviate suffering in war” (Detter De Lupis 1987: 123).

The proliferation of non-international conflict in the decades following the end of World War II, gave rise to Two Additional Protocols of 1977, which “strengthen the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts and place limits on the way wars are fought.”56 The Two Protocols extend protections: (i) to civilian medical and religious personnel, (ii) of cultural objects and places of worship, (iii) of hospitals, medical ships and aircraft.57 While the Geneva Law represents “the passive side of the same coin (what the protected persons should not suffer), the Hague Law “expresses the active side of the coin (what the military may do)” (Kolb and Hyde 2012: 41) under conditions of armed conflict.

The prohibition on certain means and methods of combat (including weapons, tactics, and targeting decisions), which are considered excessive, is the primary aim of a body of rules collective referred to as the law of the Hague. In addition to the Declaration of Paris of 1856, which abolished privateering and regulated the relationship between enemy ships on the high seas,58 the Declaration of St. Petersburg of 1869 was among the first documents to articulate “the legitimate aims of warfare” and set out limitations on the means of its conduct (Kolb and Hyde 2012: 53). The Hague Conventions of 1899 and 1907 explicitly forbade the use of “poisoned weapons, or arms or projectiles which would cause unnecessary suffering, or the refusal of quarter” (Starke 1963: 423) and defined the “rights and duties of belligerents in occupied territories” (Kolb and Hyde 2012: 54). Additionally, Article 22 of the Hague Convention IV states that “the means of injuring the enemy are not unlimited” (Bovarnick 2011: 19) and the injunction applies to all theatres of war and mediums of combat: land, sea and air. Moreover, specific treaties and protocols aim to limit or prohibit the use of weapons which cause suffering disproportionate to military objectives and military necessity. The 1923 Geneva Protocol prohibits use of poisonous and asphyxiating gas; the 1993 Chemical Weapons Convention prohibits production, stockpiling, and use of chemical weapons; the 1925 Geneva Protocol

56 International Red Cross
57 Ibid.
58 International Red Cross
prohibits use of biological weapons and the 1972 Biological Weapons Convention prohibits their production and stockpiling; the 1980 Certain Conventional Weapons Convention prohibits or restricts the use of weapons which cause indiscriminate suffering, such as, laser weapons, mines, booby traps, or explosive remnants of war; and the 1954 Hague Cultural Property Convention seeks to preserve and protect cultural property in the event of armed conflict (Bovernick 2011: 20). Moreover, the 1998 Rome Statute on the International Criminal Court (itself, not an implicit part of the LOAC) expands upon the provisions of the LOAC, and aims to repress and penalize the occurrence and perpetration of international crimes, including war crimes (Kolb and Hyde 2012: 55), ensures that States abide by international humanitarian law, and provides new guidelines for the scope and methods of war and use of force under public international law.

The law of armed conflict consists thus of a set of practical and clearly defined principles, which seek to strike a balance between humanity and military necessity (Kolb and Hyde 2012: 55). They are, the principle of: (i) **distinction** (GPI, Arts. 48, 52) – armed forces must distinguish between combatants and civilians; (ii) **proportionality** (HR IV, Arts. 22, 23; GPI, Arts. 57, 51(5)(b) of Additional Protocol) – excessive use of force is in violation of LOAC; (iii) **military necessity** (H IV, Art. 23(g) – to make the opponent submit, reasonable use of force is permitted; (iv) **limitation** (HR IV, Arts 22, 23; GP I, Arts. 35(1), 57, Additional Protocol 1) – means and methods of warfare are not unlimited and unnecessary suffering and superfluous injury are prohibited; (v) **humanity** (GC I-IV, Art. 12; Article 4 of Additional Protocol II) – belligerents are to treat protected persons with respect; (vi) **good faith and reciprocity** – between opponents is a customary principle of warfare and good faith must be shown in the interpretation of the LOAC (Kolb and Hyde 2012: 45-49).

**Evolution of Cosmopolitan Standards Regarding the ad/in/post Bellum Moral Terrain**

*In toto*, the above reflect an evolving moral landscape, which puts emphasis on individual subjects as entities proper of public international law. The international community, according to Michael Barnett, has come to increasingly recognize acts of violence as “causeways for benevolence” (2011: 23), thus treating massacres, international and civil wars, war crimes, crimes against humanity, and war-induced famines as “calls to alms”. Moreover, advances in military technology and logistics of military strategy, “furthered the desire of the international community to expand the laws of war and provide more protections and relief to civilians” (Barnett 2011: 23). Yet such beneficent largesse on the part of humanity could not have occurred spontaneously and without a chartered institutional trajectory of law articulation, interpretation, and enforcement. Alongside the first pangs of cosmopolitan enlightenment exemplified by compassionate recognition of human need and suffering across the globe and the growing internationalization and institutionalization of humanitarianism - which provided normative foundations for action - the rise of a supranational legal regime with its novel emphasis on human security and protection of individual human beings has begun to play a decisively transformative role in the discourse and practice of international relations. The Declaration of Human Rights, the Geneva Convention, the International Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights are but a few examples of multilateral legal instruments which allow, “humanity to assert itself through law” and seek civil and criminal accountability for overt transgressions of
“the universalizable content of the core humanity law norms” (Teitel 2011) through a global institutional order. Naturally, this emerging humanitarian-cosmopolitical turn identified by scholars has amplified the importance of supranational judiciaries, such as the Inter-American Court of Human Rights, the International Criminal Court and the European Court of Human Rights, in “furthering the humanity-based scheme of jurisdiction that follows the person” (Teitel 2011).

As “state-sovereignty-oriented approaches have been gradually supplanted by human-oriented approaches,” Teitel notes, the evolution of the international and cosmopolitan legal regime, which emphasizes “the primacy of individual responsibility” as well as “protection and preservation of persons and peoples,” has come to the fore in both domestic and international political and legal discourse. Concurrently, it is recognized that a more resolute recognition of human rights and cosmopolitan approaches by supranational judicial bodies must therefore co-evolve alongside such paradigmatic and sacrosanct norms as state sovereignty, monopoly on the use of force, and the superior prerogatives of state security.

In sum, the fundamental purpose of the modern-day laws of armed conflict, derived from rich and varied historical disputations among venerable scholars, is to prevent unnecessary suffering, avoid unmitigated escalation of force and spread of conflict, protect civilian objects from indiscriminate targeting or annihilation, and protect civilian population and non-combatants and hors de combat from sustaining damages to the mind and body during armed struggles. The principles of law and the realities of combat, however, often conflict and require proper and judicious balancing by both the military and civilian personnel directly involved in the pursuit of and conduct of war. Whereas a clear and distinct trajectory of law-articulation and law-making exists for both the jus ad bellum and jus in bello obligations, the jus post bellum framework has received cursory attention hesitatingly and selectively undertaken in the 20th century by Oppenheim and Phillipson. Under the present international law architecture, no compelling reason exists for why the above-stated principles guiding conduct in combat should not be extended to conditions of peace, reconciliation, and reconstruction.

Moreover, developments in the normative bases of the twenty-first century framework of the Responsibility to Protect (R2P) call into question the indivisible sovereign authority and appeal to humanitarian conscience for the right to intervene in the name of preserving humanity from harm at the hands of the state. The duty and responsibility to protect the most vulnerable strata of non-belligerent civilian population in times of egregious human rights violations brought about by the inevitable fog of war, also provides the international community with urgent and ample opportunities for moral refinement of the just war doctrine with a view to further theorization and grounding in reason and law of the modern-day humanitarian-intervention mandate. A just war framework regarding the R2P norm can be conceived, which takes into account and responds to the litmus test of the ad/in/post bellum scenario. Thus, when the international assembly of states evaluates the issue of protecting communities from “mass killings, of women from systematic rape, and of children from starvation”, that is, from “the point of view of those needing support and assistance, rather than those who may be considering intervention” (Evans and Sahnoun, 2002) and grants that the primary responsibility for the well-being of citizens rests with the state, the international community acts in accordance with preordained jus ad bellum principles. Only if the state is “unable or unwilling to fulfill its
responsibility to protect, or is itself the perpetrator, should the international community take the responsibility to act in its place” (Evans and Sahnoun, 2002). The *jus ad bellum* implies that the international community has a “responsibility to react” to overt transgressions of humanity’s law. What is more, in its exercise of the “responsibility to prevent”, the international community upholds the *jus in bello* norms by adhering to norms stipulating the right conduct in war codified in international humanitarian law and the law of war. Lastly, no modern-day just war theory would be complete and palatable to the aggrieved parties, without a reaffirmation of *jus post bellum* or the international community’s commitment to the post-conflict reality and its concomitant “responsibility to rebuild.” While the normative underpinnings of the R2P provide fecund ground for legal controversy, the just war theorists can make a substantive contribution to an ongoing and much needed debate about its legal and moral value and import to public international law.

**War: Common Justifications**

Traditional approaches to the ethics of war such as: (i) realism; (ii) utilitarianism; (iii) pacifism; and (iv) just war theory, provide variegated sets of arguments for the decision in support of war or of its utter unacceptability. A scholarly consensus has emerged around the concept of the just war theory and its viability in advancing a more nuanced understanding of the legal and moral principles that ideally ought to guide conduct in the occasion of war. According to Michael Walzer and Igor Primoratz, just war theory is bifurcated into: (i) an analysis of “conditions for a morally justified decision to go to war (*jus ad bellum)*,” and (ii) an analysis of “what may and may not be done in the course of waging war (*jus in bello)*.” (Primoratz 2002: 222). Such a definition is based on a long practice of intellectual scrutiny of the justifications for war, which found their most celebrated articulations in the writings of Aristotle, St. Augustine, and St. Thomas Aquinas, who maintained that (i) the “purpose of war is to remove the things that disturb peace” (Aristotle); (ii) that the “purpose of waging war is peace” (St. Augustine); and (iii) that those who engage in just war with “proper authority, just cause and right intention” must “intend the advancement of good, or the avoidance of evil” (St. Thomas) (Primoratz 2002: 222). Williams and Caldwell argue that the right intention principle inherent to the just war theory “prohibits the pursuit of unjust ends” (Williams and Caldwell 2006: 312); and the war, itself, to be deemed morally acceptable must be one of “defense against aggression” and involve the pursuit of “legitimate targets, soldiers and a narrowly circumscribed class of civilians,” (Primoratz 2002: 222) who demonstrate active engagement in the “business of war” (Walzer 2000: 43).

Arbitrary declarations of war without just cause for the purposes of “avenging of injuries, punishing wrongs, and returning what was wrongfully taken” was conceived by St. Augustine to be contrary to the natural order tailored for the purposes of preserving “peace of mortal things” (Sharma 2008, 11). The *ad bellum* principles calling for a just cause to war and proper authority in declaring it remained the cardinal sphere of concern for early Christian theologians, prompting Thomas Aquinas to reflect more expansively on the inner demons propelling nations to war with one another. For him, as much as for St. Augustine, thus, inward dispositions of rulers and soldiers engaged in the business of war mattered a great deal. A lawful war, writes Aquinas in his *Summa Theologiae*, waged with a legitimate authority and a just cause “may be rendered unlawful by wicked intent” (IIaIIae 40), where “the desire for harming, the cruelty of revenge, the restless
and implacable mind, the savageness of revolting, the lust of dominating” (in Sharma 2008, 14), adds St. Augustine, reveal an utterly malevolent propensity and cruel and vindictive inner character, which must be avoided. Francisco Suarez, a Spanish Jesuit priest, philosopher and theologian, would emphasize and prioritize the right manner of waging war (debitus modus) over right intention, giving rise to questions of the appropriate conduct in war, with which jus in bello has since concerned itself. Any sovereign, therefore, who takes his nation to an unjust war, Emer de Vattel concluded in his 1797 Law of Nations,

“is guilty of a crime against the enemy, whom he attacks, oppresses, and massacres, without cause: he is guilty of a crime against his people, whom he forces into acts of injustice, and exposes to danger, without reason or necessity, —against those of his subjects who are ruined or distressed by the war, —who lose their lives, their property, or their health, in consequence of it: finally, he is guilty of a crime against mankind in general, whose peace he disturbs, and to whom he sets a pernicious example” (383).

A brief genealogy of just war theory suggests that its origins are deeply rooted in Christian ethics, which have been informed by a tradition of natural law, that is, a collection of normative precepts and universal principles whose authority is “absolute, immutable, and universal for all times and places” (Hayman 2002: 1) and whose source rests in other than human invention, that is in (i) nature, (ii) Supreme Being; or (iii) human reason. Cicero would therefore claim that “true law is right reason in agreement with nature; it is of universal application, unchanging and everlasting … to curtail this law is unholy, to amend it illicit, to repeal it impossible” (Hayman 2002: 3). Such inadmissibility of challenge permitted the natural law theory, and alongside it, the jus gentium (the law of the people) and jus civile (the civil law), to continue to evolve and flourish. With “peace and well-being of the community” (Hayman 2002: 4) in mind, “the obligation of government was to protect the natural rights to life, liberty, and possessions” (Locke, 1998: 303). To this important facet of jurisprudence has been added a consideration for a doctrine of human rights as a rationale for just war, which today, as Walzer argues, can constitute the only consequential motivation worth fighting for and the “most effective limit on military activity” (Walzer 2000: 304).

According to the jus ad bellum principle, a just war is one that is justifiable; that is, it is above all

“fought in defense of human rights when those rights – at least the fundamental rights to life and liberty – cannot be secured in any other way. Likewise, a war is fought justly if it is fought with respect for the human rights of noncombatants … a war is concluded justly – that is, a just peace exists – when the human rights of those involved in the war – both winners and losers – are more secure than they were before the war” (Williams and Caldwell 2006: 316-317).

Moreover, a just recourse to war and its just execution mandate that a just war be:

(i) publically declared; (ii) have a reasonable prospect for success; (iii) its cause be proportional and sufficiently grave to warrant the extreme measure of war; (iv) waged as a last resort; (v) waged for a just cause; and (v) waged by a legitimate authority (Calhoun 2001: 45).

The restoration of just peace, as a minimal restitution for harms suffered in the course of active military engagement, and the conditions for postwar justice, which fall under the rubric of the just post bellum, require that purposes for which the war was waged be achieved. Moreover, the
recognition and due punishment of depravities descended to by the parties involved, eases the transition from the state of aggression to the phase of re-establishment of the status quo ante bellum. In its most fundamental expression, a just peace demands a full vindication of human rights of all parties to the conflict in a proportional manner and with regard to prevention of future violation (Calhoun 2001: 317). Robert Williams and Dan Caldwell point out that principles informing postwar policies must also take seriously the following dictates: (i) restoration of (public) order by the victor through elimination or minimization of widespread violence and vindication of human rights; (ii) rehabilitation in the form of economic reconstruction of war-torn economies, which necessitates responsible administering of the state with a view to bettering the welfare of the people; (iii) restoration of full sovereignty and self-determination; (iv) punishment of human rights violations, prosecution of abuses of the laws of war, and condemnation of war crimes (Calhoun 2001: 318).

Recognition of the burdens imposed upon the modern leaders by the jus post bellum principles of the just war theory, its insistence on the understanding and sober approach to the pre, during, and post conflict challenges, provides the necessary restraint on the means by which war is fought and peace restored. Consequential to the endeavor of strategizing about military engagement is its characteristically modern symptom of protraction, lack of a traditional and spatially defined battlefield, and abandonment of formal means for declaring and concluding armed conflict by means of peace treaties and reparation agreements. Such a state supports James Turner Johnson’s claim that “the most difficult problem posed by contemporary warfare, all in all, is the difficulty of achieving a stable, secure ending to it” (Johnson 1975: 318). Such a condition impedes not only the adherence to and fulfillment of the above listed jus post bellum principles, but hinders a process of “developing a shared national vision of the future; developing collaborative governance; and understanding the historical, cultural, and regional context” (Barakat 2005: 571), which collectively delineate the steps of a post-war reconstruction and permit for the issuance of final judgments on the justifiability and legality of the war effort itself.

In view of the above, it is essential to consider how the just post bellum principles fare in the post-conflict contexts requiring substantial reconstruction interventions. As mentioned above, special attention will be given to post-conflict Kosovo and post-Saddam Iraq, as illustrations of the degree of difficulty such ongoing reconciliations of the complexities of human conflict and reevaluation of means for the restoration of stable peace and security inevitably pose to international organizations, judicial bodies, and governmental institutions.

**Post-Saddam Iraq and Just Peace?**

In Reconstructing War-torn Societies: Afghanistan, Barakat Sultan considers reconstruction as primarily a development challenge, which requires good governance and institutional development brought about as a result of a “healthy collaboration between the state, the market, and civil society.” Roland Paris in At War’s End: Building Peace after Civil Conflict cautions, however, against a too rapid investment in market-based initiatives arguing for their inherently destabilizing effect when initiated in the absence of the rebuilding and strengthening efforts of domestic institutions. Yet, negligence of political and economic reforms and development, Gerd Junne and Willem Verkoren in Postconflict Development: Meeting New Challenges argue, will almost certainly eventuate in the renewal of violence. Rehabilitation of war-torn countries as a precondition for meeting the
basics of *jus post bellum* or post war justice, must include, according to Robert Rotberg’s *When States Fail: Causes and Consequences*, (i) economic jump-starting; (ii) elections; (iii) judicial reforms; (iv) demobilization of ex-combatants; and (v) participation of civil society. To this, Caroline Sweetman in *Gender, Peacebuilding, and Reconstruction* adds equal representation of all citizens in decision-making. To the extent to which participatory approach of all key stakeholders is vital to post-war development, to that extent formal cessation of military engagements and variegated sets of military strategies will seek to incorporate reconstruction blueprints in their transitioning from conflict to peace building.

When in his 2002 speech to the United Nations, President George W. Bush characterized Iraq as a dangerous threat to international peace and security, and the United Nations Security Council in its Resolution 1441 responded in tandem, holding Iraq in material breach of previous Security Council resolutions mandating verification, inspection and monitoring mechanisms over its weapons arsenal, an international ad hoc “coalition of the willing” was formed to put an end to Saddam Hussein’s Ba’thist party regime on 1 May 2003. In adherence to Resolution 1432, the United States quickly assumed the position of an occupying power responsible for essential reconstruction functions in Iraq. Restoration of peace and re-development of Iraq’s infrastructure, which has undergone a deliberate destruction following the U.S. invasion, proved elusive, however, demonstrating that practical application of a post-conflict formula is at best difficult and at worst contested. The absence of formal capitulation, incomplete political settlement, and protracted occupation had disallowed Iraq to benefit fully from rehabilitative measures. Today, similar and significant hurdles, such as the lack of substantive diplomatic engagement, formal capitulation and incomplete political settlement also impede restoration of peace in Syria, Ukraine, and South Sudan. Because post-war reconstruction denotes a “range of holistic activities in an integrated process designed not only to reanimate economic and social development but at the same time to create a peaceful environment by addressing the emerging deficits in security and political and institutional capacity that will prevent a relapse into violence” (Barakat 2005: 573), Iraq’s peculiarly uncertain political situation prevents full adoption of policies aimed at stimulating development; leaving the country, despite its considerable liquid resource asset wealth and robust human capital, underserved and under a constant threat of renewal of violent disruptions. “The widespread violence that has plagued Iraq since the end of U.S. combat operations in May 2003,” Williams and Caldwell argue, “has jeopardized the ability of both the occupation forces and the Iraqi government to secure human rights of Iraq’s people” (Williams and Caldwell 2006: 318), leaving *just post bellum’s* first principle of restoring order, precariously unfulfilled.

Vindication of human rights in terms of economic reconstruction mandated by the second principle of the *just post bellum* rationale, provides the occupying power and the fledgling Iraqi government with opportunities not typically encountered in war-torn nations, whose otherwise poor institutional development, scarce resource base, negligent human capital lead to “long-term dependence on international finance and technical assistance to support capacity building and development” (Barakat 2005: 574). The World Bank Report estimates Iraq to hold the second largest oil reserves in the world, which provided the country throughout the 1980s’ with substantial revenue base for the creation of a modern state with a “largely educated population, public services and infrastructure” (Barakat 2005: 574) thus boding well for its eventual
independence and self-sufficiency. An effective coordination of the reconstruction program
necessitates, however, not merely an adequately responsive administrative process and technical
literacy, but a shared political vision capable of prioritizing the multidimensionality of regional,
national, and international challenges the country is likely to encounter on the road to recovery.
The formulation of a national vision is deemed essential for peace building, because “it can
provide a unified conceptual framework around which reconstruction partners can build relevant
and integrated strategies in a collaborative coalition of international and national actors” (Barakat
2005: 578). In the sphere of economic redevelopment, any failure to minimally attend to a
collective national vision can result in publically damning and uncomplimentary awarding of no-
contest contracts. Their unilateral coordination by the U.S. Corp of Engineers to U.S. companies
and their subsequent hiring of multinational corporations at the exclusion of local human
capacity can lead to a perception of unfair outsourcing and exploitation of national wealth, while
contributing only marginally to the internal development of local economies and infrastructural
projects. It is important to note, however, that the parameters for the U.S.-led economic
reconstruction were already defined in the pre-war plans at the behest of critically sidelining
United Nations developmental capacities and international financial institutional programs.

From a study by the Centre for Strategic and International Studies (CSIS), which attempted to
evaluate the reconstruction progress in Iraq, it is possible to deduce a rather dismal and
unsatisfactory picture of Iraq’s qualitative development. Through structured conversation
methodology, the researchers attempted to capture the public’s sentiments regarding five
important dimensions along which a comprehensive understanding of progress may be obtained,
they were: (i) security (defined by the statement “I feel secure in my home and in my daily
activities); (ii) governance and participation (defined by the statement: “I have a say in how Iraq
is run”); (iii) economic opportunity (defined by the statement: “I have a means of income”); (iv)
services (defined by the statement: “I have access to basic services, such as power, water and
sanitation”); and (v) social well-being (defined by the statement: “My family and I have access to
health care and education”) (Barakat, Chard and Jones 2005: 845). The study procures a vision of
reconstruction efforts, which result in negative public perceptions in all five key areas of human
development, with little prospects for radical improvement. Confounded by the complexities of
micro and macro level economic priorities, i.e. the rehabilitation of the banking system and
currency stabilization, debathification, privatization of state enterprises, management of
unemployment and disbanding of army and security services, governments of Iraq and of the
United States accepted as inevitable the consequences of war, while also concentrating their
attention on relief and developmental strategies in the hopes of creating a secure environment
for the re-establishment of the rule of law. Failures and oversights in collective post bellum
initiatives raise legitimate doubts among scholars and skeptics alike, who point to an imprudent
hubris of the international community in thinking that major donors and international bodies can
assist in reconstruction of entire societies after war and state collapse in countries as culturally,
religiously, and ethnically complex and diverse as Iraq, Angola, Democratic Republic of Congo,
Liberia, or Sierra Leone (Luckham 2004: 13).

In addition to putting in place technical capacity for improving material conditions of
populations sundered by war, the overriding priority ought to aim at the establishment of the
rule of law. The third requirement for the vindication of human rights mandated by the just post
"bellum" principle and its emphasis on full restoration of sovereignty and rights to self-determination, allows for putting in place a form of “collaborative governance” instrumental to the rebuilding of fragile relationships between citizens and institutions. By successfully developing the “ability to invite civil society groups and local communities to participate effectively in the identification and development of reconstruction programmes” the government can reconstitute its capacity to “deliver and account for reconstruction policies at the national and sub-national levels, while providing a conducive environment for recovery” (Barakat 2005: 580). Just peace requires that sovereign political institutions take note of equal and fair distribution of power among disparate social groups, while working on the rebuilding of civic culture and robust civil society capable of maturing into a system of governance in which stringently fair electoral standards lead to “sustainable power-sharing arrangements” (Barakat 2005: 581). Since goals for social development are, according to Barakat, qualitative, long-term, holistic, and essentially political, governmental capacity capable of managing sovereignty must embrace and display as well as encourage: (i) promotion of inclusion and equality; (ii) policy and strategy development; (iii) leadership and vision; (iv) participation of public and international partners; (v) respect for diversity; (vi) space for dialogue; (vii) capacity and effectiveness of resource delivery (Barakat, Chard and Jones 2005: 844). Mere reproduction of U.S. administrative norms delegitimizes the prospects for meaningful and sustainable political vision that is shared and consensually accepted by the larger citizen body. Institutions and administrative entities that are “sustainable and sufficiently robust to deal with the vicissitudes of human nature and political activity – be it struggles for power, criminal behavior, corruption, violence, or merely lack of experience” (Samuels 2005: 734), must be developed with a view to collaboration, which actively seeks out local input.

“Democracy,” Barakat contends, “has to be negotiated and built, it cannot be imported” (Barakat 2005: 586). Sustainable peace-building which makes manifest a mobile and robust democratic spirit must be attuned to and recognize the value of participatory engagement and public socio-political empowerment, and not be averse to the creation of discursive spaces in which national dialogue comes to its full potential and realization. To live up to the articulations of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, scholars advise that Iraq’s reconstruction ought to meet with an interest of the international community and the United Nations in particular, as that independent political entity that can best translate, facilitate, and coordinate the multifaceted reconstruction programs while paying particular attention to the advancement of human rights. The international community, however, must be wary of appearing overzealous in the political stabilization of the developing and war-torn societies and refrain from tenuous humanitarian justifications for intervention, which may be perceived as acting in and serving the great power politics and multinational corporate interests (Luckham 2004: 15).

The final, fourth principle of *jus post bellum* doctrine requires implementation of legal punitive mechanism through which war-induced violations are prosecuted and crimes commensurably punished. “While laws of war define non-combatants in terms of what they are not,” writes Thomas W. Smith in “Humanitas in bello: Human Rights and the Norms of Modern Warfare,” rights “turn civilian status into a positive identity” necessitating an obliging behavior on the part of combatants who “must actively protect civilians, not just refrain from targeting them” (Smith
2010: 1). Moreover, while humanitarian law “focuses on headline atrocities, human rights takes a more catholic view of the effects of war – on public health, social fabric, environment, indirect, secondary, and enduring violence, immediate as well as long-term fallout from war” (Smith 2010: 1). Just war theory holds individuals responsible not only for what they do in the course of fighting the war, but also for the mere participation in it (Primoratz 2002: 229). Thus, three categories of individuals forfeit their right to immunity in the face of war crimes: (i) soldiers upon whose shoulders rests the responsibility of distinguishing between legitimate and illegitimate targets in war; (ii) high-ranking political officials responsible for the conceptual framing of the war and in making the final decision of pursuing it as an end of political action; and (iii) arms and ammunition factory workers implicated in the arms supply chain required for successful realization of the military and political war plans.  

According to Igor Primoratz, civilians who choose to “make silence a token of consent” (2002: 238) are equally likely to lose any exemption from prosecution for human rights violations. A moral duty, however, to hold violators of the laws of war accountable to international treaties and human rights norms for the purposes of vindicating human rights and restoring social order is a condition sine qua non for the conferral of authority and legitimacy to the government and the international community. Thus, Williams and Caldwell argue, “human rights can be vindicated in Iraq and Afghanistan only if American violations of the laws of war are prosecuted along with our enemies’ crimes” (Williams and Caldwell 2006: 318). Indispensable to the notion of post war justice is the consideration of obligations that extend beyond war itself, such as, ensuring of post-conflict justice, truth and reconciliation, compensation, rehabilitation, and reconstitution of bitterly divided societies (Smith 2010: 28) as well as reconciliation and compromise of the language of the right to life with that of military proportionality and strategic advantage. The Geneva Convention recognizes that “human rights entitle and oblige,” when military strategizing and questions of human security allow for prioritization (Oberleitner 2005: 605). It is therefore of essence to make the jus post bellum principle a guiding force behind war’s operational norms in pre, during, and post planning and all subsequent peace building efforts. Restitution of human rights can bring to light the possibility of building meaningful just peace in the absence of compelling and persuasive rationales for fighting a just war and a prolonged maintenance of a justifiable occupation. While the normative foundations for the reinvigorated debate about the contours of post-war justice are strong in principle, their practical application on the ground is far less persuasive. Not only significant problems with establishing the formal conclusion of hostilities, exit strategies, and institutional preparedness of bearing the burden of peace-building pose a legal conundrum, evidence suggests that a massive nine-year $60 billion effort to reconstruct Iraq has made but a tepid material progress. Despite Washington’s $15 billion investment in Iraq’s power and water supply, school, road and housing repair, a $9 billion health care, law enforcement and humanitarian assistance; a $20 billion raining and re-equipping of Iraqi security forces; $8 billion

59 Although this last category is not directly responsible for the atrocity in war, workers tacit consent and active participation in the war effort through arms supply or what Michael Walzer refers to as engagement in the “business of war”, makes them indirectly culpable of human rights violations.

60 Primoratz’s position is not collaborated by more traditional just war theory scholars, e.g. Michael Walzer. Not only is Primoratz making a facetious distinction between tacitly consenting and overtly consenting, but not directly engaged in the atrocities of war public, but his argument when put to the pragmatic test, fails to yield satisfying results. Moreover, Primoratz fails to acknowledge citizen’s fallibility in assessing the situation in the face of incomplete information, and leaves no room for a change of position regarding war, once full information is obtained, thus minimizing, if not eliminating the degree of culpability.
effort to enhance the rule of law and battle narcotics, and $5 billion effort to prop up the economy\textsuperscript{61}, the country’s political and economic situation looks at best precarious, suggesting that a financial commitment must be accompanied by a rich contextual and historical as well as long-term institutional approach to reconstruction and be embedded in all aspects of pre-war military and political planning.

**The Balkan Wars: *Jus post bellum* Principles and Just Peace in Kosovo**

The breakup of the Socialist Republic of Yugoslavia in 1991, radicalized divisions among three main ethnic groups, the Serbs, Croats, and Muslims\textsuperscript{62} which accounted for the country’s distinctive cosmopolitanism in the midst of a more homogenous continental Europe. The wave of destruction the sudden political turmoil unleashed and serious human rights violations to which it gave rise, necessitated involvement, albeit reluctant and slow, of major governmental and non-governmental organizations of the Western hemisphere, chief among them, the United States, France, Canada, the European Union, the United Nations, and the North Atlantic Treaty Organization forces. Although, the war in former Yugoslavia does not fall directly under any formal just war theory considerations, as its nature was one of belligerent aggression, population expulsions, and ethnic cleansings that occurred without regard or formal recourse to any of the aforementioned international law principles, it is possible, nonetheless, to consider the (in)adequacy of international norms regimes, presumably in operation at the time of the ongoing violence, and evaluate the role and effectiveness of international organizations’ efforts at restoring stability and achieving a just peace in view of the requirements of the *jus post bellum* doctrine. By so doing, this section will pay special attention to the UN institutional reconstruction efforts of the judiciary and security forces, as promising means of vindicating human rights by demonstrating commitment to justice and holding criminals individually accountable for their transgressions committed during active military engagement.

The conflict in Kosovo originated with Slobodan Milosevic’s, the former President of Yugoslavia, suspension of the region’s autonomy and semi-independence, which it has enjoyed since 1968. With Milosevic’s ambitions of obtaining a stronger hold on the region, came social restrictions and prohibitions barring the ethnic Albanians from serving as judges, prosecutors, and legal educators. Following expulsions from professional circles, ethnic Albanian filed formal grievances and came to gradually exhaust all reconciliation mechanisms meant to arbitrate between competing legal claims. With Albanian support for independent Kosovo growing, Milosevic quickly decided to embrace a violent resolution in the form of ethnic cleansing of Kosovar Albanians and forced the displacement of many others. The United Nations Resolution 1199 of September 23, 1998 strongly condemned Milosevic’s actions and called for immediate cessation of hostilities, ordering total withdrawal of security forces from Kosovar territory and termination of attacks on the region’s civilian population. Shortly after, the Organization for Security and Cooperation in Europe sent numerous groups of unarmed monitors to assess the situation on the ground and finding the UN resolution implemented. Milosevic’s temporary implementation of the UN resolution proved short lived, however, and much more intensified

\textsuperscript{61} “The Failed Reconstruction of Iraq” [http://www.theatlantic.com/international/archive/2013/03/the-failed-reconstruction-of-iraq/274041/].

military campaign against Kosovo, necessitated intervention of NATO forces in the Spring of 1999, and subsequent introduction of a UN peacekeeping mission to the region.

The protracted Balkan conflict encompassing Kosovo, Croatia, and Serbia resulted in a widespread humanitarian crisis and severe challenges connected with population evacuations and displacements as well as mass refugee influxes into the neighboring states. Under the UN auspices and mandate, rehabilitation and reconstruction plans for the region, which eventually emerged following the war’s ending on June 9, 1999, were organized around four main pillars: (i) humanitarian assistance; (ii) civil administration; (iii) democratization and institution building; and (iv) reconstruction and economic development (Wilson 2006: 157). Also important, were ethical responsibilities for the displaced refugees, and legal obligations of the UN and neighboring countries in regards to their expressive rights under the 1951 Convention.

Human Rights Norms and Protections

This leads to a psychological and moral conundrum of displacement, which raises important questions about the legal duties and general ethics of care. As Simone Weil noted in *The Need for Roots*, to be rooted is the most important and least recognized need of the human soul. Rootedness obliges and privileges, binds and deinvisibilizes. The geographical space allocated to growing roots, conveys social rank and political value, and naturalizes beings into the environment, which they inhabit and within the confines of which they become legitimated subjects and bearers of right. Aware of this basic human need for socio-psychological stability, the world community in Article 15 of the 1948 Universal Declaration of Human Rights extended protections over safe shelter and habitable human dwelling for thousands of displaced victims of forced “uprootings” of the 20th Century, induced by wars, military campaigns, occupations and political programs of denationalization and mass extermination. In times of forceful ascensions of some European powers and prompt dissolutions of others, during the period between the two world wars, the status of the Rights of Man became conjoined with the fates of nation-states. Displacement of populations, deemed a temporary condition and a by-product of some crisis event, was historically redressed either by assimilation, repatriation or naturalization. By promulgating every person’s right to citizenship, that is, the right to belong to a nation state, the United Nations moved from basic norms of the international law to a new cosmopolitan regime, a juridical proclamation of rights that was to apply universally; a promulgation, however, which never transgressed the immanent category of the nation-state, but reasserted it and took it for the sole sovereign agent capable of turning a human being into a citizen. Social and political integration, through interiorization of the mechanisms of power proper to a given nation-state, transforms stateless alienation into disciplined subjectivity, a political aberration of refugeeism into the norm of citizenship.

The United Nations commitment to universal human rights, best exemplified by its humanitarian interventionism and illustrated in the case of Kosovo, creates an institutional paradox. On the one hand, the organization constituted as a society of states with a global outreach, abolishes the statist paradigm of non-interference and sovereignty established by Hobbes, who insisted on the self-sufficiency of state units being in a state of nature in their relations with one another. On the other hand, due to lack of comprehensive theory of the global order, the United Nations cannot but integrate in and place under the protectorate of the state, the human agents which it sought,
in the first place, to extricate from underneath its rule. The victims of genocides, ethnic
cleansings, and protracted civil wars generate a broad range of new positive and negative duties;
and although the premise for intervention rests precisely on the assumption that neither their nor
our humanity is exhausted by juridical citizenship, our collective destiny, nonetheless, is
congealed by an institutional framework of the state vested with the power to acknowledge or
annul our political existence.

It is therefore not a coincidence that the United Nations Department of Justice sought first to
consolidate a legal base for the reintegration of refugees in the aftermath of the war’s forced
population displacements. As part of the reconstruction effort, a sophisticated judicial branch
consisting of four separate divisions was created to address matters pertaining directly to the
consequences of the Balkan wars: (i) the Judicial Development Division; (ii) the Penal
Management Division; (iii) the International Judicial Development Division; and (iv) the Office
of Missing Persons and Forensics (Wilson 2006: 158). In addition, a security force charged with
“reconstruction of nonmilitary facilities, search and rescue missions, disaster response,
humanitarian relief, and infrastructure reform” (Wilson 2006: 158) was created as a means for
ensuring rapid response to crisis situations in the war-torn zone. Recognition of the necessity to
equip the region with basic institutional skeleton would ensure the protection of refugees and
streamline the process of their repatriation into a much-changed geopolitical landscape. Thus as
a matter of foresight and conscious of its obligations under the Human Rights Law, the United
Nations sought to create conditions for the actualization of *jus post bello* principles of restoration
of order by creating mechanisms adequate for accommodating some 750,000 refugees and
internally displaced from Albania (431,000), Macedonia (234,000), Bosnia and Herzegovina
(18,500) and Montenegro (64,300) (Ogata 2005: 153).

Realizing the flagrant nature of the social and political context, the Interim Administration
Mission (UNMIK) invested in the professionally trained police force. “Compared to recent
nation-building operations such as those in Afghanistan and Iraq, Kosovo has enjoyed a higher
ratio of national police to the total population, and in general, the international teams have been
more successful in training police” (Wilson 2006: 160). Incremental restoration of order in
Kosovo went hand in hand with increases in reconstruction aid. According to Jeremy Wilson,
“Kosovo had the highest level of economic assistance for the overall mission … [its] annual aid
per capita over the first two years of reconstruction was US$526, whereas it was US$225 for Iraq
and US$30 for Afghanistan over a similar period” (2006: 160). It was also recognized that
corruption of public officials and organized crime posed significant problems to the second
principle of *jus post bellum* – vindication of human rights through economic reconstruction.
Strengthened judicial and police system permitted for responsive action and resulted in many
notable arrests. In addition, ethnically divided Kosovo necessitated interventions which would
significantly decrease the levels of discrimination and tension that still prevailed following the
conflict, requiring broad measures aimed at integrating Serbian and Albanian populations into an
institutional and, above all, social framework.

Scholars point to four variables that are sought out at the beginning of post-conflict
reconstruction, they are: (i) functioning government; (ii) status of security forces; (iii) status of
the rule of law; and (iv) peace settlement (Wilson 2006: 155). The presence of such conditions on
the ground can advance specific *jus post bellum* principles, which aim at the human rights defense,
restoration, and punishment of violations. The importance of good and stable governance not only makes the defense of human rights feasible, but government’s promotion of “economic development, pluralist, and democratic, and effective institutions” (Einborn 2001: 22-25) and respect for an independent judiciary, can reinvigorate the shared political vision necessary for the country to effectively heal and embrace a sovereign nation-building program. Advancement of any and all of the above four goals requires assistance of foreign military forces or peace-keeping missions in addition to judges and special representatives proficient in the letter of the law. Durable financial assistance and technical knowledge, often provided by foreign training personnel, are also of especial assistance in conceptualizing logistical difficulties of reconstruction and efficiently surmounting them. The level and success of stabilization in Kosovo were assessed, as in the case of the aforementioned 2004 study of post-Saddam Iraq, by variations in public’s perceptions of security, the rule of law, and corruption, as well as crime rates, and levels of political violence and preponderance of insurgencies.

Moreover, the UN Security Resolution 1244 (1999) “called for an international security force to be deployed to Kosovo, which led to the creation of the KFOR. KFOR’s official purpose was to ensure a safe and secure environment that would facilitate the return of refugees and the implementation of UNMIK’s stabilization mandate” (Perito 2002). In cooperation with the UN Refugee agency (UNHCR), which under the guidelines of the 1951 convention, worked to ensure that rights of refugees were duly respected, KFOR maintained public order, conducted regular patrols, crowd control, and intelligence gathering. In addition, working closely with UNMIK, KFOR created Kosovo Protection Corps of civilian Kosovars charged with providing emergency services, rescue missions, relief, and infrastructural repairs (Wilson 2006: 164).

Recognizing the prominence of security measures in the strengthening of emerging democracies and putting in place mechanisms necessary for its actualization, such as creating a police and correctional system, and literate judiciary, the United Nations’ post-war planning in Kosovo proved widely successful. The Freedom in the World indicators, which offer numerical indication of the level of freedom of expression and belief, judicial independence, and civil rights, show Kosovo moving steadily in the positive direction. At the nation’s inception, “Freedom House rated Kosovo’s rule of law and civil liberties as being the worst possible (i.e., 7). This rating has improved modestly since then, to a 5 by the fifth year, indicating reconstruction efforts have helped to enhance individual freedom, personal security, and procedural justice” (Wilson 2006: 168). In a country where inter-ethnic strife was rampant and explosive, early stabilization efforts in the form of a functioning multi-ethnic legal and criminal system and enhanced security mechanisms became decisive in proceeding with the reconstruction and nation-building following the war. More importantly, delegation of responsibilities among multiple governmental and non-governmental institutions, as illustrated above, has allowed for a multipronged approach to reconstruction aimed at achievement of concrete objectives without instilling a fear of long-term occupation and coerced installment of foreign and non-descript political authority.

Rehabilitation and vindication of human rights prescribed the jus post bellum and norms of justice, in case of Kosovo, permits for reassessment and moral evaluation of measures undertaken before and during the conflict. The international community’s initial reluctance in responding to calamities of the Balkan wars necessitated a humanitarian response, which sought to establish
general requirements for postwar justice. Recognizing its limited scope for action and acknowledging the belatedness and inadequacy of their response, the United Nations and its partners, it can be observed, attempted to put in place institutional framework which would support and promote the *jus post bellum* doctrine in all key areas: the restoration of order, vindication of human rights through economic reconstruction, restoration of sovereignty, and punishment of human rights violators via war tribunals and legal channels of the International Criminal Court. Moreover, international peace building and achievement of sustainable peace required a participatory, pluralistic, and democratic approach of all stakeholders. High on the list of priorities were: (i) transformation of the society from violence-prone to one recognizing and seeking political means for the resolution of conflict; (ii) reformation and/or reconstruction of institutional frameworks of governance which permits for and encourages social dialogue, reconciliation of differences, negotiation over future socio-political arrangements, thus preventing over conflict stemming from political exclusion and social marginalization; (iii) creation of sustainable and domestically-conditioned rather than externally imposed institutions with durable impact and longevity capable of withstanding formal cessation of international interventions (Samuels 2005: 728).

**Conclusion**

The growth in the number of ethno-national conflict, “tectonic plate wars”, and proliferation of “small wars,” which collectively display a seeming disregard for traditional just war principles, necessitates a careful and prodding attention from legal scholars and social scientists. The emerging trend toward invasive military action and protracted occupation without formal declaration of war or cessation of active military activity by means of a peace treaty has considerable and adverse consequences for civilian rights-endowed populations. As the Nuremberg and Tokyo war crimes trials following the conclusion of World War II presented a watershed moment in military and legal history for excluding from the field of acceptable justifications for action a defense of mere “taking of orders”, likewise today, the norms of transnational justice call for an oversight and analysis of pre, during, and post war justifiability of conflict and military intervention in the name of “deterrence” or defense against ill-defined “terrorist activity”, and their subsequent assessment in congruence with the cosmopolitan norms regime procured by articulate human rights provisions and doctrines of the just war theory.

It ought to be recognized, as Georgio Agamben and David Cole suggest, that political and social ethics and the rules guiding the conduct of war disallow for the sovereign nation state to exert total control over the collective life of all individuals by declaring a protracted “state of exception” which the war effort and its superior cause necessitates, but which effectively suspends human rights claims and the provisions of the law itself. The unmitigated reluctance to hold military strategists and high-ranking officials accountable to the rules of war and to the high moral standards procured by the doctrine of just war and its *jus ad bellum, jus in bello*, and *jus post bellum* precripts, may bid ill for the resolution of wars in Afghanistan and Iraq, and set an unwelcomed international precedent for future military interventions in Syria, Ukraine or South Sudan, which with the passage of time, may reveal themselves ultimately dispossessed of sensible and answerable rationale. There exists, therefore, a pressing need for articulating and inscribing *jus post bellum* principles into the formal architecture of international law that is intent on
sustaining peace rather than merely brokering an end to violence (Stahn 2008: 107). Such a framework must be dynamic in scope, flexible and sufficiently responsive to apply to situations of internal and external conflict of conventional, and increasingly, unconventional character. In sum, just cause, right intention, discrimination and proportionality, and legitimate authority adhered to before and during war must not abandon post-conflict responsibilities aimed at stable and lasting peace settlement, vindication of rights, inclusion, compensation, accountability and punishment, which aim at full restoration of individual dignity, humanity, and legal personality to those adversely affected by the dehumanizing machinery of modern warfare.
References


The Politics of Decision Making in the Council of the EU: Explaining Consensus

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Abstract

This paper examines the decision making of the Council of the European Union to gain insight into how consensus decisions emerge and how they change power allocations and influence the behavior of negotiators and voting blocs. It surveys rationalist and non-rationalist accounts of consensus decisions in the Council and concludes that rationalist explanations are more convincing. In this connection, the central argument of the essay is that consensus emerges as rational negotiators (a) coalesce into blocs dominant enough to win over and suppress opposing coalitions and (b) undertake strategies to avoid blame for failing to win consensus around their own preferred policy.

Keywords: Blocking-coalitions, consensus, Council of the European Union, qualified majority voting (QMV), blame avoidance.
Introduction

When top decision makers in complex organizations, such as firms and governments, make executive decisions, they tend to do so with consensus, or large majority, rules. This tendency alters power allocations and exerts influence on the behavior of negotiating actors. This essay attempts to explain how consensus decisions are reached by studying the decision making of the Council of the European Union in light of the recent changes to its voting rules, from the qualified majority voting (QMV) threshold of 74.8% to a threshold of 65% effective November 2014. It reviews relevant literature that has attempted to explain the high rate of consensus decision making in the Council and it draws insights from the arguments of Frank Häge (2013) to suggest that consensus emerges as negotiators act rationally to form coalitions as a means of strengthening their position in the decision making process and of enhancing their prospects of surmounting QMV thresholds near their own policy preferences. It differs from the views of Häge, however, in that it does not accept the blocking-coalition thesis exactly as he describes and it attempts to offer an alternative rationalist explanation of consensus in the Council of the European Union: namely, that consensus decisions emerge, in part, as negotiators coalesce into dominant blocs strong enough to win over, or suppress, opposing coalitions. It extends this rationalist account by arguing along the lines of R. Kent Weaver (1986) and Stéphanie Novak (2014) to suggest that losing negotiators become motivated to form consensus around the policy preferences of the winners in order to avoiding blame and public disapproval for failing to secure consensus around their own preference.

Consensus in the Council of the European Union

The Council of the European Union is a decision making body of the European Union; its decision makers are the national ministers from each EU country who meet in a variety of arrangements to ‘negotiate and adopt new EU legislation, adapt it when necessary and coordinate policies’.

Decisions in the Council of the European Union (EU) are formally subject to qualified majority voting (QMV) rules which require that votes above a certain threshold be received in order for proposals to pass. The current threshold of the Council is set at 258 out of 345, or 74.8 per cent, established under the Treaty of Nice in February 2001. Countries are assigned artificial vote shares which were defined under the same Treaty (Dunleavy and Konstantinidis, 2013). Interestingly, despite the fact that decisions in ‘most major policy areas under EU jurisdiction has long been subject to qualified majority rule…unanimous decisions are still the norm rather than the exception in the Council of the EU’ (Häge, p. 481). Indeed, decisions by consensus have occurred, on average, 82 per cent of the time between 1994 and 2006 (Häge, p. 484). In this context, it is important to note that consensus does not necessarily imply unanimity but rather that collective decisions are adopted ‘without contesting votes’ (Häge, p. 482). What is more is that these high rates of consensus decision making in the Council of the EU have been achieved notwithstanding the increased membership to the Council from 12 states in 1994 to 25 member-states in 2006. Intuition would dictate that as more Member States join, the heterogeneity of policy preferences would increase, thus making consensus more difficult to

64 Taken from Eurofound. Accessible at WWW: http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/qualifiedmajorityvoting.htm.
achieve. In practice, however, this has not happened as illustrated in Figure 1. Clearly, then, consensus rules change power allocations and exert influence on the behavior of negotiating actors in the decision making process.

**Figure 1: Consensus Decisions in the Council of the European Union, 1994-2006**

![Consensus Decisions Graph](image)


**Non-rationalist explanations of consensus in the Council**

Political scientists are divided in their explanations of the influence of large-majority rules on voting behaviour. Some contend that consensus decision making in the Council of the EU is a result of non-rationalist factors the like of which include informal norms, culture, and ‘good chemistry’ among negotiators (Heisenberg, 2005, p. 68). Dorothee Heisenberg (2005), for example, points to a ‘culture of consensus’ that has developed in the European Union as a ‘result of the 40-year history of negotiations among the same partners’ (Heisenberg, p. 68). Jeffrey Lewis (1998) puts forward the view that this history of negotiation has enabled constant exchange and information gathering among the Council’s Member States which, in turn, has led to the development a “common frame of reference”. This frame of reference allows Member States to see issues through the same lens and to arrive at unified decisions more frequently and more easily. Seeking to confirm this view, Lewis (2000) interviewed participants of Coreper\(^6\) and found that negotiators developed decision making styles characterized by factors such as ‘diffuse reciprocity, thick trust, mutual responsiveness, a consensus-reflex and a culture of

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\(^6\) Coreper, also known as The Permanent Representatives Committee, is the body responsible for preparing the work of the Council of the European Union.
compromise’ (Lewis, p. 261). Other thinkers have argued that consensus is maintained despite growing number of Member States because new Member States will adopt, rather than challenge, existing norms in the Council. Field, for example, maintains that after expansion, new Member states are “likely to at least partly adopt the norm that they should not allow the smooth functioning of the EU’s business to be impeded by their desires to further national concerns” (Field, 2001, p. 67). On the basis of these findings, Heisenberg claims that, within the Council of the EU, ‘informal norms of consensus are the primary mode of decision making’ (Heisenberg, p. 65). She admits, however, that less attention has been paid to ‘the informal norms of decision making probably because they are difficult to observe…and even more difficult to generalize in order to theorize’ (Heisenberg, p. 66).

Undoubtedly, informal norms such as the ones pointed out by Heisenberg and Lewis exert some influence on the voting behavior of negotiators, especially in an institution like the Council of the European Union. Indeed, it is difficult to imagine that decisions would be taken in any organization without some degree of trust, reciprocity and mutuality among the negotiators involved. At the same time, formulating and enacting policy decisions within organizations are typically ‘long, hard slogs’ that necessitate ‘a range of formidable capabilities’ including ‘the capacity to overcome collective action problems, mobilize resources, develop extensive expertise, focus sustained attention, coordinate actions with others, and operate flexibly across multiple domains’ (Hacker and Pierson, 2010, p. 172). It therefore seems implausible to suggest that non-rational factors alone are the cause of consensus voting in an organization as complex as the Council of the EU. To say that its decisions are influenced by institutional culture and informal norms does not deny the existence of choices to be made in the first place. Thus, while acknowledging the role that culture and informal norms might play in decision making, this paper maintains that consensus within the Council emerges as actors act rationally.

Rationalist explanations of consensus in the Council

Rationalist explanations maintain that consensus in the Council is the result of negotiators acting rationally in order to have their preferences incorporated into the final outcome of the Council’s decisions. Rationalist explanations fall into several categories. For example, some contend that institutions are primarily responsible for achieving high rates of consensus in the Council. Steunenberg (1994), for example, highlights the powers of the European Commission, in its capacity as agenda-setter and the body responsible to initiate legislation, as the main driver of consensus. The Commission anticipates ‘the positions of Member States’ and will ‘only introduce a proposal when a sufficient majority of Member States exists to support the new policy’ (Häge, p. 485). Arguing along similar lines, Mattila and Lane (2001) suggest that because the Council is aware of the preferences of various Member States, it will draft legislative proposals in such a manner so as to always have the backing of at least a minimum winning coalition of Member States. Other rationalist explanations include those of vote-trading, or log-rolling. In this respect, Carruba and Volden (2001) as well as König and Junge (2009) argue that consensus is an outcome of swapping votes. That is, negotiators offer support for the proposal of other negotiators in return for support of their own proposals in the future. Finally, another class of rationalist explanations of consensus focuses on compliance concerns. These arguments posit that consensus decisions are be reached in order to avoid the possibility of non-compliance or
incorrect compliance of policy by dissenters in non-consensus decisions. That is to say laws are adopted by consensus at the EU level in order to avoid difficulties with respect to compliance when those laws are to be implemented at the national level (Falkner, Hartlapp, Leiber and Treib (2004); Maggi and Morelli, (2006); Rittberger and Zangl, (2006)).

As plausible as these explanations may be, arguments have been put forward to show that they cannot explain the reasoning behind consensus voting in the Council of the EU in its totality. In this connection, Häge provides evidence to suggest that each of the three rationalist explanations cited above ‘have trouble with the observation that the consensus rate remains largely constant despite a considerable increase in the number of Member States in recent years’ (Häge, p. 486). Another explanation is needed and Häge sets out to achieve this task. The idea central to his argument is that of a ‘blocking-coalition’: a coalition of Member States large enough to block any decision from passing the QMV threshold. His argument is summarized below.

**Consensus as an ‘unintended byproduct’ of blocking-coalitions**

Examining decisions of the Council of the European Union, Häge argues that negotiators are ‘boundedly rational’ actors who work consciously with like-minded negotiators to form coalitions large enough to block decisions from reaching the QMV threshold. As shown in the panel labeled Initial Positions in Figure 2, the decision making process begins with the Member States defining their initial policy preferences. In order to clear the QMV threshold, negotiators must adapt their preferences and coalesce into blocs. Member States thus have ‘an incentive to coordinate their behavior and their negotiation positions with other like-minded states’ (Häge, p. 482). Accordingly, a negotiator begins to look at the policy preferences and voting power of her nearest neighbor and other negotiators do the same. If a neighboring coalition is larger, the negotiator adapts her preferences and joins the coalition, knowing that if she does not, she will ‘run the risk of becoming marginalized and [her preferences] ignored in the negotiation process’ (Häge, p. 482). If the neighboring coalition is not larger, then the negotiator stays put, knowing that others will coalesce around her ideal point. Negotiators continue to adapt their preferences until, at last, only a small number of distinct yet similarly sized coalitions are formed. Under the current 74 per cent rule, three blocking-coalitions of 27 per cent can be realized, each of which is large enough to block the decision from passing the QMV threshold. To surpass the threshold, then, a compromised decision is reached which incorporates the preferences of each coalition. Thus, being ‘part of a blocking minority ensures that the Member State’s views cannot be ignored’ (Häge, p. 482). Put differently, when ‘all Member States are organized in blocking minority coalitions, then no policy can be adopted without unanimous consent’ (Häge, p. 482). For Häge, then, consensus emerges ‘endogenously as an unintended by-product of the coalition-building behavior of negotiators who seek to form blocking minority coalitions’ (Häge, p. 482). The end result is consensus through compromise.

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66 Boundedly rational actors are, in the words of Häge, ‘goal oriented’ but, because they navigate ‘complex and uncertain environments, they rely on simple heuristics to pursue their goals rather than on complicated assessments of the consequences of different courses of action’ (Häge, p. 492). Häge also refers to the work of Gigerenzer and Goldstein who explain that boundedly rational actors are those who ‘make inferences about the world under limited time and knowledge’ (Gigerenzer and Goldstein, p. 650). This is in contrast to purely rational models which suggest that actors have access to complete information and unlimited time.
Limitations of blocking-coalitions: an alternative view of consensus

As appealing as Häge’s explanation may be, and as much as this paper might endorse its coalition building ideas, this paper asserts that the blocking-coalition thesis cannot explain consensus in the Council of the EU under all conditions. Indeed, Häge’s argument is well suited to the current rules of the Council of the EU where the relatively high QMV threshold of 74 per cent allows for three blocking-coalitions to form. In this section, two arguments will be put forward to demonstrate that, while negotiators still act rationally to coalesce into blocs in order to pass QMV thresholds, the precise blocking-coalition mechanism Häge describes—in which every negotiator falls into one or another blocking-coalition whose preferences will ultimately be met in some grand compromise—does not explain large majority decision making in all cases. First, it argues that the new voting rules of the Council have major implications for coalition building
dynamics in the decisions making process, and second, it claims that blame avoidance accounts for part of the reasoning behind large majority decisions in the Council.

i. **Lowering the QMV threshold**

As of November 2014, both the voting threshold and the voting weights in the Council of the European Union will be altered per the Treaty of Lisbon (established in December 2007). Under the new rules, an act will be adopted if it wins ‘the support of at least 55 per cent of the EU Member States (i.e. 15 Member States) and at least 65 per cent of the population of the EU. A blocking minority must include at least four Member States.’ Moreover, for the first time in the history of the European Union, the voting shares of the Member States have been assigned by population size (Dunleavy and Konstantinidis, 2013). The Member States and their vote shares under both treaties are shown in Table 1.

**Table 1: The EU member states and their voting shares under the Nice and Lisbon treaties** *(Blue countries = already Eurozone member; Black = due to join; Red = opt out states)*

<table>
<thead>
<tr>
<th>Country</th>
<th>Population (M)</th>
<th>Vote Share (%) (Nice Treaty)</th>
<th>Vote Share (%) (Lisbon Treaty)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>82.54</td>
<td>8.4</td>
<td>16.5</td>
</tr>
<tr>
<td>France</td>
<td>59.64</td>
<td>8.4</td>
<td>12.9</td>
</tr>
<tr>
<td>UK</td>
<td>59.33</td>
<td>8.4</td>
<td>12.4</td>
</tr>
<tr>
<td>Italy</td>
<td>57.32</td>
<td>8.4</td>
<td>12.0</td>
</tr>
<tr>
<td>Spain</td>
<td>41.55</td>
<td>7.8</td>
<td>9.0</td>
</tr>
<tr>
<td>Poland</td>
<td>38.22</td>
<td>7.8</td>
<td>7.6</td>
</tr>
<tr>
<td>Romania</td>
<td>21.77</td>
<td>4.1</td>
<td>4.3</td>
</tr>
<tr>
<td>Netherlands</td>
<td>16.19</td>
<td>3.8</td>
<td>3.3</td>
</tr>
<tr>
<td>Greece</td>
<td>11.01</td>
<td>3.5</td>
<td>2.2</td>
</tr>
<tr>
<td>Portugal</td>
<td>10.41</td>
<td>3.5</td>
<td>2.1</td>
</tr>
<tr>
<td>Belgium</td>
<td>10.36</td>
<td>3.5</td>
<td>2.1</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>10.2</td>
<td>3.5</td>
<td>2.1</td>
</tr>
<tr>
<td>Hungary</td>
<td>10.14</td>
<td>3.5</td>
<td>2.0</td>
</tr>
<tr>
<td>Sweden</td>
<td>8.94</td>
<td>2.9</td>
<td>1.9</td>
</tr>
<tr>
<td>Austria</td>
<td>8.08</td>
<td>2.9</td>
<td>1.7</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>7.85</td>
<td>2.9</td>
<td>1.5</td>
</tr>
<tr>
<td>Denmark</td>
<td>5.38</td>
<td>2.0</td>
<td>1.1</td>
</tr>
<tr>
<td>Slovakia</td>
<td>5.38</td>
<td>2.0</td>
<td>1.1</td>
</tr>
</tbody>
</table>

67 Taken from Eurofound. See footnote 63 for website address.
The changes to the QMV rules render impracticable Häge’s blocking-coalition theory. Most fundamentally, the lower threshold of 65 per cent considerably enlarges the effective competition space (ECS) in the Council of the EU. This means that proposals will pass easier and more quickly than before because proposals are more difficult to block. Indeed, under the current 74 per cent threshold, a coalition would need to make up 27 per cent of the vote in order to block. This rule thus allows for up to three coalitions of 27 per cent and the final outcome would need to accommodate the preferences of all three, since any two together would not be large enough to pass the threshold. Moreover, three blocking-coalitions of 27 per cent account for 81 per cent of the vote, leaving 19 per cent as a leftover dummy vote. Given that there are three coalitions to choose from and given that the size of the dummy vote is quite small, Häge’s argument that coalition building will continue until each vote is accounted for in one or another coalition seems reasonable.

It does not seem plausible, however, that such dynamics would unfold under the new rules. The 65 per cent threshold, as mentioned, enlarges the effective competition space and makes blocking proposals much harder. With the new rules, a coalition must command 36 per cent of the vote or greater in order to block; this allows for only two blocking-coalitions to form, which, together, would account for 72 per cent of the total vote, leaving a 28 per cent dummy vote. The size of the dummy vote is much larger and the number of options to join other coalitions is less. Whereas under the Nice Treaty, a 19 per cent dummy vote could join one or another of three coalitions, the new rules leave negotiators in the 28 per cent dummy vote with only two coalitions to choose from. Given the greater size of the dummy vote and the reduced choice negotiators in it face, it is unlikely that they will merge with one or another coalition as easily as they would under the current rules. As a result, the new rules, more than the present ones, allow for the dummy vote to simply be dismissed. Accordingly, this paper suggests that consensus will emerge as the two blocking-coalitions seek to win over one another, knowing that if they do, the remaining dummy vote will have no choice but to join. Consensus is thus achieved as rational actors in the main voting bloc seek to win over, or unblock, the opposing blocking-coalition.

This idea is supported by historical evidence. Historically, the ‘dominant axis driving for EU integration has been the near-permanent coalition of Germany, France and the Benelux countries sandwiched between them (Belgium, Netherlands, and Luxembourg’ (Dunleavy and

<table>
<thead>
<tr>
<th>Country</th>
<th>QMV</th>
<th>QMV</th>
<th>QMV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finland</td>
<td>5.21</td>
<td>2.0</td>
<td>1.1</td>
</tr>
<tr>
<td>Ireland</td>
<td>3.96</td>
<td>2.0</td>
<td>0.9</td>
</tr>
<tr>
<td>Lithuania</td>
<td>3.46</td>
<td>2.0</td>
<td>0.7</td>
</tr>
<tr>
<td>Latvia</td>
<td>2.33</td>
<td>1.2</td>
<td>0.5</td>
</tr>
<tr>
<td>Slovenia</td>
<td>2.00</td>
<td>1.2</td>
<td>0.4</td>
</tr>
<tr>
<td>Estonia</td>
<td>1.36</td>
<td>1.2</td>
<td>0.3</td>
</tr>
<tr>
<td>Cyprus</td>
<td>0.72</td>
<td>1.2</td>
<td>0.2</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>0.45</td>
<td>1.2</td>
<td>0.1</td>
</tr>
<tr>
<td>Malta</td>
<td>0.40</td>
<td>0.9</td>
<td>0.1</td>
</tr>
</tbody>
</table>

Total for EU | 484.2 | 100.0 | 100.0 |

Konstantinidis). Under the present rules of the Nice Treaty, these five countries command 25.3 per cent of the vote. Recall that 27 per cent is required to block a proposal from passing. Effectively, then, these Member States under the current arrangements can block any proposal which they do not agree with, though they would need to coalesce with a number of other member-states in order to pass a proposal. Under the new Lisbon Treaty rules, these five states possess 34.9 per cent of the vote which puts them in a similar position in terms of blocking. However, should nations such as Spain, the UK or Italy share the preferences of this dominant axis, then this coalition will become much stronger than the other, thus making consensus around its preference much more likely than compromise.

Let us suppose, for the sake of an example, that the policy preferences of Spain and Italy (9 per cent and 12 per cent vote share, respectively, under the new rules) with respect to environmental matters are initially located close to the preferences of the dominant axis. One can well envision that through effective bargaining Spain and Italy can be negotiated to share the policy preferences of the dominant axis, thereby forming a dominant coalition that would command 56 per cent of the vote. Let us suppose further that one blocking-coalition exists that occupies 36 per cent of the vote share; this would leave 8 per cent as a dummy vote. Far from seeking a grand compromise, as Häge might suggest, the rationale put forward in this paper anticipates that consensus will emerge as the dominant 56 per cent bloc seeks to exert its influence in order to win over the 36 per cent blocking-coalition entirely, thereby surpassing the QMV threshold around its own preferences and leaving the 8 per cent dummy vote with no choice but to join a consensus vote. These initial positions, along with the coalition building dynamics that might unfold throughout the process, are shown below in a stylized two-dimensional policy space (actors denoted by their country initials).

**Figure 3: Coalition Building Dynamics in the Council of the EU**

The issues used in this stylized example are taken from actual policy decisions made by the Council regarding its 2030 Policy Framework on Climate Change (http://www.consilium.europa.eu/homepage/showfocus?lang=en&focusID=101784), though the actors and their positions are simulated for the purposes of demonstrating the argument of the essay.
ii. Blame avoidance

In addition to the coalition building dynamics described above, this essay argues that consensus decisions occur owing to yet another feature of rationality: that of blame avoidance, an idea wholly absent from Häge’s analysis. Simply put, losing negotiators are motivated to form consensus, even if it is around a policy preference which they do not share, in order to avoid blame for losing out on negotiations.

Developing a more elaborate theory of the concept, R. Kent Weaver’s (1986) model of blame avoidance rests on two key insights: first, it is based on the assumption that rational policymakers are motivated to a significant degree by their ‘desire to maximize their prospects for reelection’ or, in the case of the Council of the European Union, ‘for reappointment and advancement’ (Kent, p. 373). Second, and crucially, Kent argues that blame avoidance is based on an asymmetry between the response to losses and gains. In this connection, he cites a range of evidence to show that policy losses are felt more acutely than are policy gains inasmuch as ‘persons who have suffered losses are more likely to notice the loss, to feel aggrieved and to act on that grievance, than gainers are to act on the basis of their improved state’ (Kent, p. 373). Because people are more sensitive to losses than they are to gains, it is more important for rational policymakers to ensure that they are unassociated with policy decisions that lead to losses than they are associated with decisions that lead to policy gains. To accomplish this, legislators undertake blame avoidance strategies. Kent analyzes eight such strategies, the like of which include limiting the agenda, redefining the issue and scapegoating (Kent, p. 385). And whilst it could be argued that anyone of these blame avoidance strategies may account, at least partially, for why losing negotiators in the Council of the European Union throw in their lot with the policy preferences of the more dominant bloc, his ‘jump on the bandwagon’ strategy appears most convincing for the particular context in question (Kent, p. 388).

According to this strategy, once a policymaker is clear as to which piece of legislation is likely to pass, he or she realizes that his or her preference (and hence, his or her vote) for an ‘unpopular side no longer serves any useful purpose’ (Kent. P. 388). As a result, he or she ‘can switch [his or
her] vote to support the more popular side on final passage’ (Kent, p. 388). Indeed, it is this particular strategy of blame avoidance which analysts suggest account for high rates of consensus in the Council of the European Union. Losing negotiators within the Council ‘anticipate when they are in a losing position and refrain from making their opposition public’ (Novak, 2014). The reason why Ministers refrain from public opposition is ‘because they expect that the media and their domestic constituencies will interpret said opposition to adopted measures as a failure in the negotiation process’ (Novak, 2014). As a result, losing Ministers, one by one, jump onto the winning bandwagon until consensus around that point is achieved. One might even imagine that, if a Minister’s initial policy preference has not been made public, he or she, if clever enough, may attempt to claim credit for building consensus, arguing all along that he or she maintained the popular policy preference in the first place and that he or she helped persuade others to join the dominant coalition which, privately, he or she opposed.

Whatever the particular case may be, this paper asserts that consensus in the Council of the European Union emerges as rational actors work to build coalitions strong enough to win over opposing coalitions and as losing negotiators consider blame avoidance strategies, including jumping from off the losing bandwagon of their own policy preference and onto the winning bandwagon of the dominant coalition and its policy preference.

Conclusion

For the past twenty years, the decisions of the Council of the European Union have, by and large, been made by consensus, even as the number of Member States represented in the Council has more than doubled over this time period. The explanations of how and why such consensus is reached are varied but they generally fall into two categories. First, non-rationalist accounts maintain that factors such as culture, norms and good chemistry among the negotiators of the Council are what account for high rates of consensus. Second, rationalist accounts posit that consensus is the result of rational actors who make deliberate and calculated choices to ensure that their interests are incorporated in the final outcome of the Council’s deliberation. This essay has taken somewhat of a pluralist approach. On the one hand, it has maintained that any organization—especially one as complex as the Council of the EU—is likely to have a good measure of non-rationalist factors that inform the decision making of its senior decision makers. However, given the complexity of decision making at such levels, the essay cast doubt on the assertion that non-rationalist factors alone have the capacity to explain such high rates of Consensus in the Council of the EU and it accordingly set out to provide a rationalist account of consensus.

Within the rationalist class of arguments, the explanations of consensus are equally varied. Perhaps the most prominent accounts of consensus are those of institutions, vote trading, and compliance. Where each of these accounts fall short, however, is that their arguments prove either unsatisfactory or inadequate when one seeks to understand why consensus decision making in the Council of the EU should remain so high even as the membership to the Council of the EU grows. Recognising this gap, Häge does an admirable job of offering a compelling account of consensus that holds up in the face of increased heterogeneity on the Council of the EU due to increased membership. Where his account falls short, however, is that his arguments, which centre on the concept of a blocking coalition, do not seem capable of explaining
consensus under the new voting rules of the Council. The new rules lower the QMV threshold thus making it easier to pass proposals and harder to block them. Accordingly, this essay set out to complement Häge’s analysis by furthering its coalition building ideas while at the same time refuting its commitment to the notion of a blocking-coalition. The paper argues that high rates of policy consensus among such varied Member States are achieved when negotiators act rationally to build coalitions as a means of buttressing their power against opposition in a decision making process. As negotiators adapt their preferences and adjust their goals, they form dominant coalitions which, while not large enough to enact decisions on their own, are strong enough to win over opposing blocs and thus build consensus around their own ideal point. In addition, losing negotiators are motivated not to block proposals as Häge might suggest—for such efforts under the new rules have greater risk of simply being dismissed—but rather to throw in their lot with the dominant bloc so as to avoid blame from constituents. In the final analysis, then, it is the combination of strategies undertaken by rational negotiators to (a) build strong, dominant coalitions and (b) avoid blame for losing negotiations that accounts for high rates of consensus in the Council of the European Union.

It is hoped that the arguments presented in the paper and the evidence used in support provide useful insights that can help better understand the influence of large majority voting rules on the behavior of voting blocs and actors within complex organizations.
References


Historical Connections of Sexism on the Matatu

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Abstract

This paper considers why the transportation sector, the matatu sector, in Nairobi is hostile towards women. It argues that the pressures of the sector have created an alienated environment for the workers which as a result projects misogyny. This paper first explains the rise of the informal economy in Nairobi and the pressures it creates. It then identifies the daily life of a worker and the demographics of the employees. It also explains how matatu workers are exploited and how this creates an alienated environment, projects sexism, and what the implications for this are.

Keywords: Exploitative labour, informal economy, matatu, misogyny, Nairobi, transportation.
**Introduction**

Matatus are the main form of transportation in Nairobi and an urban phenomenon due to the way both the workers and passengers on the matatu can project norms, such as sexism. My research question asks, why is the matatu sector hostile towards women and what are the gender implications of this? Matatus are minivans that have been a source of transportation for Nairobi residents since colonialism. Under colonialism they were illegal, yet operators still would provide service for residents for three cents, which is where the name originates (matatu means three in Swahili) (Rasmussen 2012, 461). These types of vehicles are a low-income country phenomenon and can be found whenever there is a public need for transportation that the state is unable to provide, such as throughout sub-Saharan Africa (Mutongi 2006, 550). In this paper I will show that due to the intense pressures of the industry, matatu workers are aggressive because of alienation, which projects misogyny. Mostly young males work in the matatu sector; many of which come from marginalized backgrounds. The workers are alienated in terms of how they do not have a control to the means of their labour, as they are placed in a highly exploitative position where the owners of production can demand unjust things. I will first explain through the literature how the informal economy has emerged and why it has created societal pressures for urban survival and how the matatu sector fits into this. Then, I will describe the daily life of a matatu worker in order to understand the relationship between the workers and the industry itself. Next, I will explain how matatu workers are exploited and how this creates an alienated environment. Then I will use the literature to show how the combination of these factors creates a misogynistic space and what the implications of this are. This social phenomenon is worth examining because there is a rise in informal sectors throughout sub-Saharan Africa due to the pressures of liberalization. Despite the research examining the economic consequences of informal employment there is very little research on the sociological impacts, especially relating to transportation. This should be further examined, as there are many unintended consequences of informal spaces. As these spaces grow, they will continue to alter social dynamics, specifically as it pertains to gender dynamics.

**Informal Economies Normalized**

The informal economy can be understood as a sphere of self-employment that has low-entry qualifications and small-scale workforces (see Myers & Murray 2010, Keith Hart 1973). It is a vague term that characterizes one of the most common sources of urban employment in African cities, which consists of unskilled labour with a high turnover rate (Ibid). Informal employment is also based on a self-employment enterprise, which means that the workers have to mobilize their own resources. It is not just the urban poor who participate in the informal economy. The informal economy is unregulated and often extra-legal both in the treatment of workers and the

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69 The workers are alienated in terms of how they do not have a control to the means of their labour, as they are placed in a highly exploitative position where the owners of production can demand unjust things. My understanding of misogyny is defined as the hatred or dislike of women or girls. It can be manifested through sexual discrimination, denigration of women, violence against women, and the sexual objectification of women. This paper does not assume that all matatu workers are misogynists, but rather are a part of a work culture that is a catalyst for that sort of behaviour.
activities it entails. Some common informal markets are street vending, basic service provision, and transportation. The informal economy is societally driven with minimal state presence. It is estimated that in the future the informal economy will account for 90% of urban jobs in low-income countries (Sommers 2010, 322).

The growth of the informal economy emerged out of the patterns of mass urbanization in African cities without development over the past 50 years (Myers & Murray 2010). Urbanization within the Global South, in general, is occurring at higher rates than industrialized countries, which has decreased the possibility for residents to find opportunities for formal work. This is due to the lack of infrastructure in transportation, sanitation, housing, and formal employment. It is also because of a lack of economic growth that typically prepares cities for a wave of population growth such as creating formal employment. This also occurred during a period of neo-liberalization as a capitalist order became globalized, which was spread through the introduction of Structural Adjustment Programs (SAPs) in many African countries (Hansen and Vaa 2004, 11). Under these programs states were expected to cut back on public expenditures, increase trade liberalization, deregulate the market, and privatize municipal enterprises (Myers & Murray 5). These events eliminated the formal sector from urban spaces; as industrial jobs lack capital so there was labour market depletion, which resulted in an increase in unemployment and prices (Ibid). SAPs effectively drew the state out of service provision and the creation of formal employment. Society was expected to create jobs, housing, and social services, which became difficult, as these things at market value were only available to those who could afford it. This set the stage for competitive environments within the city, which was only exacerbated by the scarcity that emerged as a result of the lack of infrastructure and planning for the wave of urbanization. The combination of mass urbanization at a time of global neoliberal economic policies has weakened the ability for a formal economy to thrive in African cities. It has affected the order of economic activity and networks, as the state has not been able to provide for citizens, thus causing increases in poverty and social inequality (Hansen and Vaa 2004, 12). This has left youth to face the effects of poverty, unemployment, and illiteracy (Kilonzo 2012, 230).

Despite the fact the state was supposed to become laissez-faire under the SAPs, it was also compliant in other respects, which enabled the growth of the informal economy. By maintaining strategic business-political relationships, the state could benefit from the privatization of capital. By reducing the presence of capital in the public sector and allowing private capital to grow, formal employment continued to become scarce, which contributed to the growth of informal employment (Meagher 1995, 264). When the state is unable to provide public services citizens have to resort to private hierarchical linkages (Rasmussen 2012, 416). A pattern emerges when people begin to use informal networks to find service provision such as access to water and sanitation, as well as housing, which is dispersed in unregulated ways in the city by different groups. This is all in a manner that is untouched by the state. The state is tacitly enabling the development of informality by not creating an environment where formal employment can thrive. This compliance is a deliberate policy that is dismantling the institution of reproducing labour, which is left under control of elites who control informal markets (Meagher 1995, 279). The growth of the informal economy is not an act of liberation by the public; it is actually only possible due to the neglect of the state. With the pressures of neoliberalism, both the state and elite groups have created a system that voids each party of responsibility, while still experiencing
economic gains. As the state has lost capacity to meet its responsibility to provide services to citizens, urban poverty has continued to spread (Sommers 319).

The matatu sector has always been private in Kenya, despite continuous attempts of the state to regulate it. President Jomo Kenyatta saw this sector as crucial to the livelihoods of citizens, so in 1973 he decided to lift all regulations surrounding transportation so that the owners could participate in a liberalized market (Mutongi 2006, 550). The matatu sector is the largest indigenous economic enterprise invented in Kenya. The use of matatus in Kenya has grown through patterns of urbanization and neoliberalism, given that the government has not attempted to takeover the sector in the long-term. The barriers to entry for the middle class owners were heightened with minimal legislation in 1984, The Traffic Amendment Act, which created regulative matatu inspections annually (Mutongi 2006, 555). This made operations more expensive, as the vehicles had to be maintained, which was a cost that not all middle-class entrepreneurs could reach given the economic restrictions of liberalization. This created a hierarchical structure in the sector, with ownership consisting of 20% of the sector, as it was more difficult for someone to own a matatu with the unintended costs of repairs. There were also hikes in insurance, as the insurance companies knew this was a mandatory factor of matatu ownership. Matatu ownership became monopolized, to the extent that only upper-class elites could access this market. There were no longer middle-class owners with one vehicle operating in the sector, as they could not keep up with the rising costs. This law opened up space for “saccos”, which were registered businesses with multiple vehicles, run by elites. They solidified their monopoly by forming route-based cartels (Rasmussen 2012, 419 and Katumanga 2006, 508). Each sacco would have their own section of the city to make profits, which was based on the agreement that one group would not take over another group’s area. This division of rents was a way to manage what groups could access the market.

This law is an example of how the government still seeks to impose fees and control in the informal economy where possible, as intervention in the sector fundamentally changed the barriers to entry (Meagher 1995, 262). Furthermore, in sectors that can generate large amounts of money, the state will attempt to “regulate” it by imposing arbitrary fines in an inconsistent manner. The transportation industry is an example of this, as a single matatu can generate large sums of money in a day, which attracts attention from politicians and law enforcement (Rasmussen 2012, 418). That being said, it was not uncommon to find roadblocks set up by traffic police after this law was created. Many officers began to demand bribes from matatu operators under the threat of inspecting the vehicle (Mutongi 2006, 555). This has become so common that it is one of the many anticipated fees that a driver will expect to pay regularly. In some instances where the matatu workers do not bribe the police, they will be arrested or have their sacco suspended from routes (wa Mungai and Samper 2006, 60).

The informal sector also has negative effects on livelihoods, as it operates on a patronage network, with the workers getting paid a fraction of the money being earned despite intensive time and effort put into the labour (Myers & Murray 2007, 6). Matatus are known for their dangerous driving and unruly treatment of passengers (wa Mungai and Samper 2006, 57). The livelihoods of employees are often illegal, given the state of labour wages and hours, respective to the owner’s demands (Sommers 2010, 322). Many urban residents who seek to generate additional income will participate and facilitate this type of labour, such as the restricted
ownership of matatus to a small group of elites. The patronage strategy is the main form of regulation, because it forces workers to remain loyal. This system helps maintain the social network that comprises of these workers, and limit turnover when possible. Although it appears to be resourceful, many informal workers have turned to this market as a survival strategy. The informal workers comprise approximately 80% of the sector as a whole, with the other 20% being the owners of informal production (Meagher 1995, 268). The increases of unemployment and intense livelihood pressures caused a flood of entry into the sphere, which has created mass fragmentation among the young workers (Meagher 2011, 56). This is due to the increased competition, which causes individuals to develop tensions among class, age, and gender. There are still barriers to entry due to the competitive nature of the sector and the tendency for elites to grant positions based on patronage relationships. Patronage structures are an informal practice where an elite will grant favors or positions to those who will help advance their interests. This is a rigid, top-down structure that has a hierarchical nature.

One of the cartels that came into control of many of the matatu routes was the Mungiki, a youth vigilante group that emerged in Nairobi in the 1980s (Kilonzo 2012, 233, Rasmussen 2012.) Mungiki took control over the sector after establishing its prominence as an urban militia that employed marginalized youth from slums through patronage strategies (Ibid). Using the matatu sector as a springboard, the group moved into other informal areas such as garbage collection, settlements, and racketeering for security as it grew in prominence (Ibid). Mungiki regularly extort money from matatu operators, at a rate of approximately 200KSH ($2.50 USD) per trip. In 2007 the matatu sector began to complain about this extortion, which resulted in a wave of killings of matatu workers in various slum neighborhoods (Ibid, 236). Mungiki nets 90 million KSH (1.3 million USD) a day, a majority of the profits coming from extortion (Ibid). Despite the coercive nature of the group, it also provides public services to slum residents (at a cost) such as security, power installation, and toilet cleaning (Ibid, 237, Rasmussen 2012). Mungiki forcefully recruit marginalized youth, which explains their ability to extent into various communities within Nairobi (Ibid). Mungiki are an example how the informalization of society leads way to other powerful elite groups to grow in prominence. Its manifestation is one of the ways that disenfranchised youths have showed governments that they need to deal with youth issues and socio-economic challenges (Ibid 243, Rasmussen 2012, Sommers 2010).

The combination of patronage, a dense social network, and marginalized workers is what allows the informal economy to thrive. Those who control sectors will quickly exploit those who they know are most willing to participate in undesirable jobs to prove themselves, which often falls under young workers. Many of the citizens who have participated in mass urbanization are young men and women who come to cities to seek employment (Rasmussen 2012, 418). There are few economic opportunities in the formal and public sector, which cause youth to resort to the informal sector (Hansen and Vaa 2004, 13, and Meagher 1995, 265). This is challenging, as it may seem that the informal economy is opening up economic opportunity to marginalized groups, when the opposite has occurred. The intense pressures leave out any opportunity for apprenticeships, regulations, or collective organization (Meagher 2011, 58). This entrenches the patronage structure, and makes it increasingly difficult for young workers to voice their demands. The state is also a complicit bystander in that it is their failure to provide services that causes citizens to resort to informal strategies for survival. Despite their complicity, states often do not
always have a choice in whether or not to participate in a global economy that may or may not allow them to thrive. In order to continue to receive assistance, they must meet these demands, considering that if they did not comply they could be in an even worse socio-economic situation. This predicament is paralleled in the matatu worker, as they too are forced to participate in this economic order.

The Alienated Worker

If one examines the daily life of a matatu worker, it is degrading due to the need to bribe and then push themselves onto both passengers and peers to meet quotas. This creates a reckless mentality that often results in many car accidents. This is an unfortunate combination considering there is little money to take home after all of this. Elite members of society are the owners of matatus who then will rent the vehicles out to employees. That matatu driver is supposed to pay for the rent of the vehicle daily to the owner, gas, and any parking fees. In addition they are expected to pay traffic police, often through bribery. The remaining money at the end will be divided between the driver and the tout, who is trying to get passengers on the bus. The average working day of a matatu driver and tout is approximately 18 hours (Mutongi 2006, 554). Workers are pushed by the owners to do anything in order to meet a daily quota (Ibid). As a result, safety laws are seldom abided by due to the need to make that minimum amount of money; customer service is often disregarded again due to the demands (Ibid, wa Mungai and Samper 2006). Preventable accidents are very common, as the drivers often speed and drive recklessly (Raynor and Mirzoev 2014, 344). The justification for dangerous driving is the fact that the owners push the drivers to make a minimum amount of money daily and the driver wants to make enough so that he has something left over for himself (wa Mungai and Samper 2006, Rasmussen 2012). Drivers are paid based on the amount of passengers they have, so the constant state of rushing as many passengers on is their primary concern. What is troubling is that a matatu worker may make more than they would at an entry-level administrative job, despite how hard they are to come by. (wa Mungai and Samper 2006, 557) A majority of employees within this sector are young marginalized lower-class males. They are economically vulnerable and so as a means of identity they project sexism to protect their idea of a positive identity. This pervasive culture has been integral to the growth of the sector and its exclusion of women. To work within a competitive atmosphere of the informal economy such as this, it requires aggressive behaviour, as there are no guarantees of retaining your employment despite the long hours and hard work (Ibid, Rasmussen 2012, 418). Matatu workers are underpaid in comparison to the money that they produce, which creates alienation due to the unrealistic expectations they must meet, given that they do not own their means of production. Furthermore, they are reduced in their mobility with little exit strategy (Salon 2010). For these workers, it is a matter of survival to make the bare minimum that the sector requires – this goes beyond the conception of a competitive environment. This competition occurs in a group setting, as there are many workers that are constantly interacting. The sector is often the only source of social survival for marginalized youth, whose only realistic opportunity is to one day become a matatu owner and continue the cycle (Rasmussen 2012, 418).

Informal work for youth has become exploitive due to the intense competition, which makes working spaces highly contested (Sommers 2010, 320). A worker is forced to meet the demands
of the sector, as another person would be willing to take their position if they failed. Matatu owners have begun to seek employees as young as high school boys, given the deteriorating economy and the willingness of young boys to work in the sector (Mutongi 2006, 557). When many unemployed individuals are seeking the few available positions, it becomes easy to find replacements that are willing to work under dire conditions (Ibid, 554). The work that youth are engaged in often has small returns or is labour in return for bartered items or services, which is not nearly enough for a living wage in urban spaces (Sommers 2010, 323). This causes alienation because they are subjected to the demands of another person and are forced to partake in a relationship that is highly exploitative. The amount of work put in in comparison to the returns is uneven, and the labour itself is often indirect and takes form of scattered services. Most of this labour is temporary and requires people who are cunning and aggressive to be able to keep up with its demands (see Sommers 2010, Mutongi 2006). Youth have to be able to adapt to this behaviour in order to “make it” in the urban setting, which many are willing to do. It is the most feasible alternative in comparison to trying to find formal work or returning to rural homes, which also has minimal opportunities. In Nairobi, an informal worker is called a “hustler”, based on his need to hustle for various jobs given the lack of consistent work available. This stage in between casual labour and unemployment is very common for urban youth.

In addition to being alienated from labour, youth are also increasingly alienated from society. Despite the fact that they make up a majority of urban populations, youth feel excluded due to the assumptions that they are violent and corrupted members of society (Sommers 2010, 324). On top of the pressures that come along with scarce employment, the stigma associated with it makes youth seem unfavorable in urban spaces. This dialogue that youth are dangerous to cities and should not occupy it is not uncommon (Sommers 2006, 2010). Youth are often treated as the scapegoats of urban issues, as they are often an already marginalized group (Katununga 2006, 507). This alienation at the societal level impacts how youth interact with other members of society. As this perception grows within youth identity, it becomes easier for one to be hostile. If youth already feel like they are unwanted on top of all of the other pressures they have to face, apathetic behaviour is a quick coping mechanism. Matatu workers are forced to behave aggressively due to external pressures, but when this exists as well as the negative stereotypes associated with youth in general it creates an environment where the worker never feels wanted.

At its inception, the public views towards matatu workers were positive. However, this changed in the 80s, as wealthy men began to take advantage of the lack of regulation in the sector and transformed it, with a 30% increase in matatus on the road and the rising prominence of cartels (Mutongi 2006, 554, wa Mungai and Samper 2006, 60, Rasmussen 2012). This resulted in an increase in competition, which is why matatu workers became increasingly aggressive, thus ruining public perceptions. The sector still became one of the largest entrepreneurial sectors in Kenya, which drew in the interests of more elites and increased competition (Ibid). Matatu operators in Nairobi are now seen as thugs who exploit and mistreat passengers, as well as participating in gang-like violence (Mutongi 2006, 549 wa Mungai and Samper 2006, 57, Rasmussen 2012). Some of the common traits of matatu workers include misogynistic language, loud music, overcrowding, speeding, and the rough handling of passengers (Ibid).
Implications of Misogyny

Traditional gender roles in urban spaces are a contributing factor to the misogyny seen in matatus. Although mass rural migration has occurred for youth, many still believe that males should dominate the public sphere, which can create dangerous trajectories (Sommers 2010, 324). This explains the overall male presence in the matatu industry, as it is not seen as a place where a woman should thrive. Another role is the notion that men are taught how to exercise authority while women are taught to be submissive. This dichotomy creates space for men to express themselves without repercussions (wa Mungai and Samper 2006, 58). They are socialized in a manner where it is accepted to be authoritative towards others and express prejudiced views because just being a man acceptably habituates it. Furthermore, this is an expected behaviour, which has consequences for those who do not conform to this standard. Under group settings, males are pressured to adhere to these norms. To not act in the way that other authoritative males are often leads to that person being criticized for not being masculine enough. It can become escalated when combined with the pressures of the sector, which provides an understanding behind the tendencies for the workers to project aggressive behaviour. Although the urban space is understood as a space of modernity, these rigid gender roles contribute to the perceptions of how women and men should act.

Urban male youth are particularly vulnerable to the harsh societal expectations of masculinity that exist in comparison to the minimal economic opportunities that exist (Barker 2005, 13). Society imposes particular behaviours on males, and when males cannot fit into that definition they are often victimized. On top of male authority being a gender rigid role, another role is the expectation of the male as a breadwinner. When a male reaches manhood, there is an expectation that they will have adequate employment (Ibid, Sommers 2010). With all of the structural obstacles mentioned, it is difficult for youth to be able to meet these milestones in their life. When a man cannot provide for a family and progress societally, his manhood is questioned (Ibid). Hardships are a setting that makes one question male identity. When that is challenged, males struggle to handle those pressures (Sommers 2010, 324). When males feel emasculated, they can often resort to aggressive behaviour (Ibid). Another tendency is to point out gender differences (for example a male nurse will say they aren’t interested in the nurturing aspects of a job but rather the science and technical aspects) in order to maintain their manhood. If a male’s public space feels threatened they can react through misogynistic practices. Aggression in the matatu industry can be understood as an expression of manhood, as labour is a central component to identity (Barker 2005, 21). Without employment, males cannot adequately express their identity, which resorts to demeaning behaviour in order to reclaim that identity (Ibid).

When females are excluded from an occupational space it can negatively affect their social status. It can also result in normalizing how men conceive of how women should perform in an acceptable role and so it becomes customary to exclude them (Raynor and Mirzoev 2014, 316, Barker 2005). There is a perception that matatu work is not for females due to its aggressive work conditions. Both passengers and other matatu workers frequently harass the few female matatu workers that exist, calling them prostitutes among other forms of derogatory language (Mutongi 2006, 564). This line of thinking that suggests that women aren’t suitable for certain forms of work shows that society has a learned tendency to believe how a male and female should stereotypically behave (Anker 1997, 316). This contributes to gender stereotypes, which
has problems on both sides. For females, when their behaviour is normalized to fit a certain frame it becomes easy for males to demean them when they do not fit the standard. Like with the example of the male nurse, males are celebrated for taking on roles that would be conventionally female and build their identity on the masculine aspects of the profession. But when a female enters a male-oriented space, she is discredited and demeaned (Ibid). Although there is a male advantage, males still have the expectation to associate themselves with the masculine identity of their profession (Ibid). Jobs that are perceived as “masculine”, such as the matatu industry, have a set of behavioral standards that the male is supposed to meet. This once again contributes to a man’s masculinity to come into question when it does not meet certain standards, which can have demeaning effects. These stereotypical expectations make it hard for people to adopt individual identities, as they must adjust to societal gender constructs.

The misogyny that exists within the matatu space begins with the artwork or stickers on the matatus themselves. Some of the stickers read, “A woman is like a common maize cob for every man to chew,” and “Men are like oxygen women cannot do without them” (Mutongi 2006, 560). Matatu workers defend these types of stickers by saying that the customers find them funny (Ibid). Whether or not this is the case, it is uncommon for a passenger to criticize the stickers, considering that they rely on the matatu for transportation, are aware of the aggressive tendencies of the workers, and might take amusement in them. This creates an environment where misogynistic language becomes tacitly permissible. The conformity of commuters enables this tendency, which makes it increasingly difficult for these deep-seeded views to change (wa Mungai and Samper 2006, 58). It leads to an excessively masculine culture, which becomes reinforced as the workers continue to face hardship. This type of projection of misogyny is also hard to fight, as the matatus are not under government control so they are not subject to any workplace codes or human rights violations.

The Kenya Demographic and Health Survey (KDHS) in 2009 indicated that approximately 45% of women aged 15-59 have experienced either physical or sexual violence (KDHS Survey 2009). The Police Annual Crime Report showed an 8% increase in rape, and 19% increase in defilement (Ibid). In this report, 23% had experienced rape, 13% of which occurred in the past year (Otsola 2012). Whether it is a comment on a young woman’s body, derogatory remarks or an insult, this more direct behaviour is common (Ibid, 565, Githinji 2008, 26). There have been frequent accounts of matatu workers sexually and physically assaulting female passengers as well (see wa Mungai and Samper 2006, Carotenuto 2012, 60, Guguyu 2014). Despite this, there have not been any surveys conducted to quantify the percentage of women who experience assault or harassment in the matatu space. This, in connection with the limited data on the statistics of gender violence in Kenya, could be due to the prevalence of socialization. Women in Kenya are socialized to accept, tolerate, rationalize, and to remain silent on these experiences (Otsola 2012). The most recent research suggests that there is a correlation between population density and gender violence (Ibid). This behavior contributes to, and is exacerbated by, the economic and socio-political discrimination that women face (Ibid). This has negative implications as the matatu industry has grown through population density and is in itself a gendered space that can create likely conditions for gender-based violence.

Objectification is one of the most prevalent forms of harassment/assault on matatus. Workers are confident enough to harass passengers, knowing that the other passengers are unlikely to
challenge their actions. Whether this is due to fear of the workers or the possibility that the passengers agree with what is being said in the case of insults, it is another example of unwarranted misogynistic behaviour (Mutongi 2006, 566). The objectification of women in public settings has many consequences, including the normalization of these acts. By participating, male authority and female passivity is re-asserted. Derogatory language has the tendency to portray women as deviants given that social roles are biased against women (Githinji 2008, 30). It publically reinforces the acceptability of male aggressiveness towards females.

In Nairobi, matatu workers recently stripped a woman naked for thinking that she was dressed inappropriately (Guguyu 2014). This resulted in charges laid against the workers, however it also resulted in additional cases of women being stripped by matatu workers for perceived inappropriate clothing as well as sexual assaults (Ibid). Public stripping is not a new act in Nairobi. Mungiki have stripped women who wore trousers and miniskirts, believing that women should return to indigenous beliefs and practices (Kilonzo 2012, 223). They are part of a bigger societal pressure for women to conform to various cultural norms. Public humiliation of females on matatus date back to the colonial period in Kenya, and points to a broader history of public violence being used to shape a morality of civic virtue and a gendered conduct (Carotenuto 2012, 9). In this sense, public corrective measures have become a part of urban culture in order to reflect the traditional expectations of female behavior. These events have sparked protests entitled “My Dress My Choice,” and condemnation from the government, but this speaks to the type of attitudes that exist towards the role of male authority governing female lives. It also expresses a positive push back against those attitudes, which is arguably an attempt to reshape them. This is an extreme case of misogyny, where the workers felt they had the right to dictate how a female should present herself in society. Although there is a public call for retribution, these acts mirror a greater spread of sexism as a result of the masculinity that matatu workers project. These views could possibly reflect a societal view of gender appropriateness in Nairobi. The act of public harassment and shaming to reinforce male authority helps entrenches a dichotomous and hostile masculine identity. Public shaming may reaffirm this belief, as people do not correct the shaming and people are not learning what is and is not acceptable.

Many commuters acknowledge that matatu workers will never change due to the pressures they face and that is a price to pay in accepting their provision of transportation (Mutongi 2006, 561-562). Some even argue that this aggressive behaviour reflects the aggressive and youthful qualities of Nairobi (Ibid, 563). Despite the concession, matatu workers acknowledge that they have to meet daily demands, which forces them to react to bad circumstances generated elsewhere (Ibid, Rasmussen 2012, Raynor and Mirzoev 2014). Furthermore, matatu workers are often the scapegoat for larger issues at hand despite the fact that they are trying to survive under intense circumstances that has resulted from government being unengaged (Mutongi 2006, 563). These pressures cause them to lash out and be aggressive as well as occasionally participate in illegal actions (Ibid, Rasmussen 2012, Raynor and Mirzoev 2014). The dangerousness and high instances of accidents, as well as overall behaviour can be attributed to the consistent demands from both passengers and owners. The acknowledgement of aggressive behaviour shows that the workers do not always act in this way, but the job is what reduces them to this (Ibid). What is interesting is that the workers are able to admit the connection between the pressures and their
actions, however there is rarely a dialogue surrounding some of the reasons behind their tendency to be misogynistic.

One plausible reason for this is the fact that the industry has created such a masculine culture that is integral to the survival of a worker. The industry has supported fostered characteristics that are traditionally associated with males, and it has become integral to the survival of the worker. The workers themselves are able to acknowledge that they are projecting their frustrations on others, but are not self-critical as to why they are projecting certain ideals over others (Mutongi 2006, wa Mungai 2006). This is significant because vulnerable men tend to hang on to the one part of their identity that cannot be contested, their manhood. A worker may not be able to self-direct their work and may be heavily exploited in their workplace but can still characterize their work in a desirable way that is socially rewards along the lines of gender. By engaging in misogynistic dialogue, it tries to re-affirm male hierarchy, which can serve as a comforting reality. By virtue of participating in a manly work culture they are able to retain a positive identity, one that aligns acceptably with who they socially are supposed to be. This can have long term implications as gender stereotypes can be rigid, and can perpetuate gender inequality to further generations (Raynor and Mirzoev 2014, 316). Alternatively, it can promote the assertion of rigid, dichotomous gender stereotypes so that males can maintain positive identities. However it can also perpetuate gender inequalities unto further generations.

**Conclusion**

Young, male matatu workers are trying to survive in a highly competitive market that demands aggression and subjects them to highly exploitative, vulnerable labour. To maintain some positive outlook and they resort to highlighting and excluding certain gender features within their work, which results in an atmosphere that is very hostile to women. There is an intertwined relationship between the tendencies for males to project masculinity within their workspace and the lack of social rewards that comes from their labour. As a result of these inner-conflicts, they resort to sexist behaviours. This contributes to rigid societal gender roles, and makes it hard for both men and women to challenge them. This also has negative implications for gender roles within society. As this behaviour persists, it will remain difficult for women to challenge the sexist spaces they must exist in. The structural rigidities of the sector also make it difficult to conceive of how the workers can reclaim their identity in a way that is not derogatory to others and self-empowering in a holistic manner. If there is a correlation between population density and gender-based violence as Otsola (2012) poses, then a critical examination of gendered labor spaces is necessary, as Nairobi is a city that is rapidly urbanizing (thus increasing population density). The worker’s identity is a large part of this struggle. The informal economy is not always a state of survival like the matatu industry is, but the intensity of struggle pushes worker’s behaviours and identities. In a sense, bare necessity reduces people to this. By having to operate and survive in this highly competitive atmosphere, it becomes evident how this struggle creates space for misogynists. Although females are sparsely challenging the societal expectations forced upon them, they are outnumbered by a larger voice of misogyny in public spaces. In order to address this issue, one must first consider the structural reasons that are causing matatu workers to act this way in the first place.
References


The organized struggle over institutions in Tunisia: the role of organized capital and labor unions

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Abstract

This article examines the prospects for Tunisia with regard to the formation of a more inclusive economic- and political system. Special focus is on employees’ associations and labor unions as two decisive social groups that have historically played an important role in Tunisian politics. Eva Bellin’s (2000) model of organized capital and –labor’s (material) interests is used, as well as a broader historical analysis of the Tunisian institutional context before and after Ben Ali stepped down from power. It is concluded that prospects for further inclusive institutionalization looks reasonably positive, although much is uncertain. While the business community has suffered substantial costs as a result of the fall of the Ben Ali-regime, it is much less collectively organized and is unlikely to openly act against further inclusiveness. Labor unions, in contrast, have gained from the move to some more inclusive institutions by securing an important role in Tunisian politics.

Keywords: Political Economy, Institutions, Arab Spring, Tunisia, Democratization, Capital-Labor relations.
Introduction

Mohammed Bouazizi’s tragic self-immolation on December 17th 2010 caused a wave of large political protests in Tunisia and not much later in six other Arab countries including Egypt, Libya, Yemen, Syria and Bahrain (Aarts, et al. 2012). It also resulted in smaller protests in such diverse Arab countries as Jordan, Kuwait, Lebanon, Oman, Algeria and Morocco. After the initial optimism for positive political change, severe pessimism kicked in. Syria drifted into a civil war, Libya turned into chaos after the killing of Qadhafi and, in general, there arose a (Western) fear of growing radical Islamist influence in Middle Eastern politics. In sum, according to some the “Arab Spring” has actually turned into an “Arab Winter”.

This article examines possible changes in institutional dynamics in Arab politics, since 2011. More specifically it will focus on the case of Tunisia, since this country is generally seen as the most promising case for substantive political reform in the near future. In other words, this research will employ a so-called most-likely case study design. If in Tunisia nothing has changed fundamentally, this will most probably be so in the rest of the Arab countries where demonstrations have been going on.

Numerous explanations have been given for autocratic rule in general and, more specifically, the significant absence of the Third Wave of Democratization in the Arab world (Brynen, et al. 2012). Most common (aggregated) explanations, for example, the Islamic culture and religion are not, however, able to withstand systematic scrutiny. Central to this analysis will be the role of (domestic) institutions in the governing of the political- and economic game. It will be argued that besides other important domestic and international factors institutions have a determining influence on the prospects of democratization and responsive governance in all countries.

Institutions create the incentives that structure the behavior of political elites, civilians, employees, employers, civil society groups, the military and all other relevant actors that can influence political- and economic development in a country. Do rulers have an incentive to create policies for the greater good or is it more beneficial for them to create policies that benefit a few? How is the societal status of an individual best increased? By hard work and merit, or by knowing the right people? Do businesses see an impersonal and impartial bureaucracy as an advantage or a danger for their interests? These are the question that matter in a society. The considerations and answers to these questions of various individuals and collectivized stakeholders in a country determine if there is a real support and push for inclusive and fair rule, or that patrimonialism, clientelism and authoritarianism will continue to flourish. Because of this reason, this research will not only examine the institutional context itself, but will also specifically focus on the role of two important social groups – employers and employees – within the Tunisian institutional context.

The standard explanations

Many of the past studies within the literature of political development in the Middle East and North Africa (MENA) have focused on explaining the (past) survival of authoritarian regimes in the region, some of which lasted more than seventy years (Bellin 2012). Although undoubtedly still useful in a lot of instances (particularly when considering the authoritarian backlash after the...
“Arab Spring” in a lot of Arab countries), these perspectives are naturally quite structural in nature and therefore have trouble explaining change in general. More specifically, they have problems explaining different forms and magnitudes of change between Arab countries. Here, I will discuss three of such perspectives that I regard as central to the literature.

First, there is the category of cultural explanations. Although many variants are evident, the basic idea is that Arab culture is in a certain sense undemocratic and therefore forms a structural obstacle for political reform (be it because there is no separation of Mosque and state, because Arabs are presumed to give the primacy to God instead of human sovereignty or because of some other causal mechanism).

Important questions can be raised about this perspective, however. First, by seeing the Arab world as one homogeneous unit with one culture that is causally driving particular political outcomes, it becomes impossible to assess and understand differences between Arab countries. Especially today, with such stark differences between countries as Egypt, Syria and Tunisia, this seems problematic. Second, many empirical studies have found no significant effect of civic culture on democratization, or claim that interpersonal trust is, rather, a result than a cause of democratization (Muller & Seligson 1994). Third, results from the World Value Survey (Brynen, et. al. 2012; Tessler 2012) and the Arab Barometer (Tessler, Jamal & Robbins 2012) have consistently indicated that support for democracy is equal or even higher within Arab countries compared to all other countries in the world (including democratic societies). Fourth, significant attitudinal variation towards democracy exists across state, generation, and social-class lines in the Arab world, which further substantiates the claim that it is difficult to speak of one determining culture (the differences between and within the Arab countries are simply too large) (Brynen, et. al., 2012).

Second, there is modernization theory. The basic causal mechanism here is that a country needs particular social requisites before it can develop democratically. These social requisites, in turn, are caused by particular economic development processes. Industrialization and the creation of modern economies leads to all sorts of processes, like urbanization and increases in education levels, which in turn create a new relatively autonomous and powerful social group in society: a middle class. This group will in the process become more self-conscious and will develop values and demands for a political system which recognizes the right of each individual human being to have at least some agency over the conditions of life. In other words, it is the middle class that is created by economic development and is relatively unattached to the current state of affairs that will push towards more inclusive political processes.

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70 Political culture is defined by Pye and Verba (1965) as: “A people’s predominant beliefs, attitudes, values, ideals, sentiments, and evaluations about the political system of its country, and the role of itself in that system.”

71 See for the classic study into the link between culture and political development: Inglehart (1988). In terms of the Arab region see for “older” variants of this argument: Wittfogel (1957) and Edward Said’s response in Orientalism (1978). For more modern studies into the role of culture in democratization, see: Diamond (1994; 1997), Hudson (1995) and Kedourie (1994).

72 See for the classic article in this tradition: Lipset (1959). See Rostow’s stages of growth model (1960) for one of the basic conceptual building blocks were modernization theory is built upon. See for a more recent version of this argument: Rueschemeyer et. al. (1992). A classic study which follows the same logic but does not necessarily puts
Although economic development might be a necessary condition for political liberalization, there are at least two problems with seeing economic modernization as a sufficient condition for political liberalization in the case of Tunisia. First, Tunisia has already had a reasonable large middle class for decades. Its population is relatively well educated and rich (with a GNI per capita of $4,150 in 2012) (Bellin 2013). In addition, its economy is quite modern and far more diversified than most other Arab countries (and even democratic South-American countries) (African Economic Outlook 2013). Therefore, Tunisia was in fact already seen as a candidate for democratization when Ben Ali unseated Habib Bourguiba in 1987 (Langohr 2004). Second, the suggestion that “civil society” (i.e. the groups that are relatively autonomous of the state) is always pro-democratic might be misleading as well. Hawthorne (2004: 3) argues, for example:

“Like elsewhere, the zone of civil society in Arab Countries can be a source of democratic change, but it is not inherently one. The bulk of Arab Civil society is made up of organizations, associations, and movements that support the status quo, advocate conservative reforms, or are simply apolitical.”

Third, there is the resource-curse argument. For two reasons the authors in this stream of literature argue that natural resource wealth is negatively affecting the chances of democratization. Rentier states are, on the one hand, because of the revenue of selling oil (or other natural resources) much less dependent upon the taxation of their citizens. This, so the argument goes, leads to a situation where the population is much less likely to demand political rights of their governments. The extra money earned from selling the natural resources, on the other hand, can help state elites to selectively buy of political support and, therefore, to unleash some of the political pressures for reform that arise in society. In addition, the revenue can be used to suppress the population through high(er) expenditure on military and security forces.

Also this argument is problematic for two reasons. First, it seems doubtful that it is actually the existence of natural resources that is causing these adverse political effects. In the end, there are many countries in this world that do possess and exploit natural resources and do not have these political effects and actually seem to be able to use these extra sources of wealth to their advantage by distributing it through investment in education or other sectors that benefit all layers of society (see for example Norway or the Netherlands). What really seems to matter, after all, is how the political system itself deals with the discovery and exploitation of such a big source of relatively “easy” money. Put this way, resource wealth might be an important interaction variable but it is actually the institutional framework that is doing the causal work here. Second, there are even examples of authoritarian states that seem to deal quite well with natural resource wealth. Yom (2011) argues, for example, that Kuwait, also an Arab country, provides a clear case of an oil-rich autocracy that is not governed by exploitive rentierism but instead by some form of popular rentierism. Not surprisingly this is caused by institutions that ensure a somewhat more

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73 See for empirical illustrations of this argument: Jamal (2007) and Langohr (2004).

74 See most prominently the work of Ross (2001; 2009; 2011; 2012) in this context. For a time-series analysis of the relationship see: Smith (2004).


76 See Okruhlik (1999) for a nuanced assessment of the importance of the timing of resource wealth discovery, and the political reactions and interactions it provokes.
inclusive political process that guarantees loyalty from below but protection from abuse from above (ibid).

This all taken together leads me to actually focus on the politics within Tunisia as my primary causal focus point. More specifically, I focus on the Tunisian institutional context.

**The politics around institutions**

The institutions of a society – the rules influencing how the economic-, political- and social interactions in a country work – are of extreme importance for the nature of any society (Acemoglu and Robinson 2012). Institutions could be formal rules, organizational bodies but also more implicit but durable social conventions (Fukuyama 2011). There is politics – conflict over distribution issues – surrounding institutions for the simple reason that every institution or system of institutions is (more) beneficial to one or certain groups in society, at the expense of others (Fukuyama 2011; Acemoglu & Robinson 2012). The elites of a present time have an interest in defending the status quo, even if this is harmful for the vast majority of citizens (Fukuyama 2011). The important question is how the political system deals with this vested interest.

In this paper I will refer to inclusive institutions, instead of, for example, democratic institutions, since, at least in my view, we should be interested in more than the narrow political system. This is especially so, since economic grievances were so central in the 2011 uprisings and because economic and political power in authoritarian regimes tends to reinforce each other (Acemoglu & Robinson 2012). Extractive political institutions enable the elites controlling political power to choose economic institutions with few constraints or opposing forces. Extractive economic institutions enrich the same elites, and their economic wealth and power help consolidate their political dominance (ibid.).

Inclusive economic institutions, in turn, are forged on foundations laid by inclusive political institutions, which make power (more) broadly distributed in society and constrain its arbitrary use. In such a society, those controlling political power cannot easily use it to set up extractive economic institutions for their own benefit (ibid.). To make power broadly distributed in society it is essential that there are more power centres counterbalancing the centralized power of the state. This is where organized social groups become relevant (Bellin 2000).

Institutional change has to come from a struggle between new and old interest coalitions or new configurations between already existing actors with political power. Political change depends on the extent to which political coalitions that try to preserve the status quo can be neutralized (Fukuyama 2011).

It follows that if one is interested in prospects for institutional change one should focus on the interests of important groups next to the state that can influence state-elite behavior.

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77 Inclusive institutions are here defined as: institutions were all coalitions of interests have approximately equal importance, there is an equal access and influence on government policy and –decisions. In the decision making itself there is a continuous quest for democratic balance and the government avoids collaboration with specific stakeholders (Kickert and Hakvoort 2000).
Research design

In the following text, I will first give an outline of the social-economic and political-institutional situation in Tunisia, before and after the revolution in 2011. I will then focus on two very important social groups in Tunisia, especially given the synergetic relationship between the economic- and political sphere in most authoritarian regimes, as described earlier. The first will be that of organized capital: mostly private sector industrialist and financial institutions that are collectively organized. The second will be organized labor: mostly national labor unions. Both social groups, but especially the central labor union Union Générale Tunisienne du Travail (UGTT), have been very prominent in Tunisian socio-economic and political history over the last half-century.

I hereby do not claim that these are the only important social groups that are relevant for the struggle for inclusive institutions in Tunisia. Other powers, as for example human rights organizations, could also be of sever importance. I also do not assume an inherent antagonistic relationship between labor and capital (as classic Marxists would claim). Both groups could actually have the same interest with regard to the form of government (inclusive- or extractive institutions). In fact, this seems to be the case in most consolidated democracies since the cost of breaking with the existing inclusive institutions is seen as to high for both groups (Bellin 2004).

I do claim, however, that if organized capital and labor would both not have a substantial interest in pushing for more inclusive institutions, the chances for democratization would significantly decrease in Tunisia, and prospects for further inclusiveness are not looking bright.

Empirical research suggests that social forces are most likely to champion (further) inclusiveness when their economic interests put them at odds with the (past) authoritarian regime (Bellin 2000). For both employers- and employees groups, Bellin distinguishes two variables to examine their interest in inclusive change. For capital, these are state dependency and fear of social unrest (ibid.). For labor, state dependence and aristocratic position (ibid.).

When it comes to capital, state dependence refers to the degree to which private profitability is subject to the discretionary support of the state. This support usually comes in the form of subsidized inputs, protected market positions, close collaboration in forming economic policy, and state containment of labor and the capital poor (ibid.). When state dependence is high, it is unlikely that organized capital will oppose state policy and power, and thus chances on a sufficient push to inclusiveness and state accountability will be lower.

The fear of social unrest is the second variable that hinders private sector enthusiasm for inclusiveness. As everywhere, private sector capital organizations are first and foremost concerned with the protection of property rights and securing the long-term profitability of its past investment through the guarantee of order. Social stability is threatened when poverty is widespread and the poor are potentially well mobilized. In such a context, the mass inclusion and

78 This focus on order is definitely not unjustified. Geopolicy, for example, estimated ‘the cost’ of the Arab Spring in 2011 for Tunisia to be 2.03 billion U.S. dollars (Middlebrook, et al. 2011). Recently the cost of the Arab Spring as a whole to Arab economies was estimated by HSBC on 800 billion dollars between 2011 and 2013 (Website Reuters, October 9th 2013).
empowerment associated with democratization and the forming of more inclusive institutions undermines capital’s basic interests (ibid).

Organized labor is always – because of its dependence on collective action – more dependent upon the state (ibid). However, this dependency can be increased by states following a corporatist’s strategy that provides unions with financial and organizational support in exchange for political loyalty and self-constraint. As we have seen in the past, this has been a very common strategy for authoritarian regimes in the Arab world (Heydemann 2007).

The second important factor – aristocratic position – is more focused on actors within the labor movement itself. It covers the degree to which organized labor is economically privileged in comparison to the rest of the general population. When organized labor is strongly privileged, it is likely to exhibit less solidarity towards unorganized masses in the informal sector and/or agriculture (ibid). In such circumstances, labor will perceive its interests to be better served by maintaining a cozy relationship with a government that provides them disproportional power, rather than championing inclusive institutions that make the state accountable to mass interests (ibid).

To examine these factors Bellin has distinguished three indicators per variable (see figure 1). I will use these indicators to examine to what extent organized labor and capital in Tunisia have an interest in more inclusive institutions.

**Figure 1** Indicators for modeling organized capital and organized labor

<table>
<thead>
<tr>
<th>Capital unions</th>
<th>Labor unions</th>
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<tbody>
<tr>
<td><strong>Indicator I: State dependence</strong></td>
<td><strong>Indicator I: State dependence</strong></td>
</tr>
<tr>
<td>- Subsidized inputs</td>
<td>- Union dependence on state subsidies</td>
</tr>
<tr>
<td>- Protected markets</td>
<td>- Union members’ access to state-subsidized benefits (for example credit and housing)</td>
</tr>
<tr>
<td>- Cronyistic relations with state elites</td>
<td>- Politically manipulated (inflated) setting of wage levels</td>
</tr>
</tbody>
</table>

| **Indicator II: Fear of social unrest**              | **Indicator II: Aristocratic position**           |
| - The pervasiveness of poverty                       | - Differences found between the organized and unorganized in matters of wage levels |
| - The organizational strength of the capital poor    | - Access to stable employment                     |
| - Past incidences of popular violence                | - Social security, and other nonwage benefits such as legally mandated job security |

Source: Bellin, 2000

**The Tunisian institutional framework and economy**

Between 1956 and the beginning of 2011, Tunisia operated as a de facto single party state, dominated by the Constitutional Democratic Rally (RCD) under former presidents Habib Bourgiba and Zine el Abidine Ben Ali. The regime under Ben Ali could be regarded as an absolute dictatorship with a modernist face. It was essentially based on three pillars: i) a strongly
organized economic elite; ii) a very effective and modern police system, which was continuously used for repression and intimidation; and, finally, iii) a systematic clientelistic policy of extraction and selective redistribution of natural resources – especially phosphate – with a particular preference for the middle class that could see, at the expense of citizens living in poor but resource-rich parts of the country, its level of consumption rise quickly over the past 20 years (Ayeb 2011).

With regard to the business community, the Ben Ali-regime consistently followed a policy of binding, repression and anticipation of needs (Melani 2007). As a result, the Tunisian business community as a collective has never been an influential and active actor in policy making (ibid.). The regime anticipated the preferences of industrialists, evident in the extension of credit and technical support programs, sponsorship of vocational training centers, the institutionalization of triennial wage bargaining negotiations, and repression of labor mobilization, to prevent the business sector from actively organizing (ibid.). It made business organizations – including the largest business association the Tunisian Union of Industry, Commerce and Artisanship (UTICA) – virtually meaningless. Support was given on an individual level to firms, making them effective vehicles for conveying state policy to the private sector (ibid.). Repression was mostly done with little force, but rather through arbitrary law enforcement by the so-called Brigades Economiques, the tax-auditing wing of the Ministry of Finance (ibid.).

Labor unions and especially the UGTT have had a much more turbulent relationship with the RCD governments (Bellin 2000). The UGTT has a long history of challenging the government and was targeted by periods of repression and relative release from the 1960s onwards (Deane 2013). Generally, the UGTT was violently repressed when posing a serious threat to political-and/or economic power but was helped by the state in situations where this was in line with current political logic (often to counterbalance other social groups or to legitimize the pursued policy) (Bellin 2002).

Contrary to expectations, the state under Ben Ali took the initiative to restore the previously highly repressed UGTT (ibid.). Ben Ali was, however, as so often in Tunisian history, interested in a relatively strong position of the UGTT for political reasons: to secure his own position towards the strong treat of Islamist forces and to give credibility to his “democratic” reforms (ibid.). To make no illusions, however, the regime did not reinstate many syndicate rights, abolished in the 1970s and mid-1980s, essential to trade union independence and combativeness, and used violent repression if that was considered necessary (ibid.).

The UGTT has always had two currents: one, represents what is commonly called the “union bureaucracy”, which tends to be submissive to the government. The other stream, in contrast, advocates resistance to (the illegitimate use of) state power. This second group of labor representatives has historically got the upper hand in times of crisis (Website le Monde, November 2012). But during periods where the “union bureaucracy” was dominant, many social

79 Special focus will be here on the UGTT, since this is by far the most prominent and biggest political heavyweight when it comes to organized labor in Tunisia. It claims one third of the work force as members, although hard numbers are unclear and highly deviating between sources (Website Global Security).
movements have found support from the UGTT. It is remarkable, especially in comparison to the UTICA, how combative and well-organized labor has been in Tunisia even while the UGTT-leadership was in jail during the 1980s. In addition, the UGTT has always been influential, and important for governments, especially for creating the bonds between different sectors of society (Bellin 2013).

Since the revolution the UGTT has got a very prominent role in Tunisian politics. It was a crucial actor in the writing of the new Tunisian constitution and is generally seen by the population as a positive force towards democratization. For many actors in the whole process (demonstration groups, citizens and (bureaucratic) elites) it is now seen to play the broker role between different political-economic groups and as the assembler of oppositional forces. In that sense, the union can be seen as having some political stake and interest in propagating more inclusive institutions (Bellin 2013). It is unlikely, however, that this will be enough if its organizational interest or the material interest of main actors within the organization will put it at odds with further institutionalization of inclusiveness.

**Organized capital in Tunisia**

The successive Tunisian governments after the 14th of January 2011 – the day that former president Ben Ali fled the country – have implemented an expansionary fiscal policy largely as a reaction to pressing socio-economic demands (African Economic Outlook 2014). This led to the abolishment of the tax ceiling, implemented by Ben Ali, on industry, commercial- and professional firms in 2012 (ibid.). This, obviously, was a big blow to large firms that used to be strongly supported by limited tax rates in order to be competitive on the world market (Melani 2007).

When it comes to the economy and the markets itself slight changes have occurred, but in general the strongly centralized and monopolized (domestic) economic institutions have prevailed. As Guazzone (2013: 34) states: “[…] the Jebali and Larayedh governments basically continued the previous government’s plan without making significant progress in their implementation.” Especially the domestic market continues to be strongly protected and largely closed for foreign direct investments (ibid.). The natural resource production by Groupe Chimique Tunisien – the second largest exporter in phosphate in the world – remains fully in hands of the state elite. In the financial sector 39% of total assets is still held by state banks (ibid.). When it comes to more export-oriented sectors the Tunisian economy has always been relatively open and has become increasingly so since 2011.

With respect to the relationship between industrial- and state elites, not much has changed as well. In fact, they are still overlapping to a great extent (Haugbolle 2012). Companies previously privatized for political reasons by Ben Ali, are still owned by the same people that Ben Ali rewarded. Although there have been reforms and laws to bring back corruption on paper, these are mostly not accompanied by serious measures for successful implementation (African Economic Outlook 2014). In fact, corruption has actually increased since 2011 and legislation on powerful sectors is still often not enforced (ibid.).

With regard to the second variable – fair of social unrest – things have actually got a lot less favorable for business interests. Unemployment rose from 14,9% to 18,9% nationally since the
revolution. It has reached 30% for graduates and 50% in most deprived regions (Guazzone 2013). While the poverty rate declined under Ben Ali – from 34.4% in 2000 to 15.5% in 2010 – it has most probably risen again (no data available after 2010) (African Economic Outlook 2014). Just as during Ben Ali’s regime, there is still an enormous geographic disparity between groups within the country. Nothing has structurally changed about the large disparity and unequal exchange between the wealthy and powerful northern and eastern parts of the country on the one hand, and the marginalized southern, centre and western regions, on the other hand (Ayeb 2011).

This second part of the country sees its resources being transferred to other regions of the country without any real compensation in return (ibid). This explosive mix of extreme poverty and extraction of natural resources is still there, and certainly poses a severe threat to long-term stability and investment interests (ibid). In addition, in absence of Ben Ali’s repression and with the adoption of a new media law, it has become all the more visible and prominent (Bellin 2013).

Also, the organizational strength of the capital poor has obviously increased. Not only was the 2011 protest at least to some extent a product of the capital poor in deprived regions of Tunisia that came into rebellion, there is also a clear rise in strikes and blockades in general (African Economic Outlook 2014). It is highly likely that Tunisia lost some of its export markets by the repeated breaks in production due to strikes (ibid). In the summer of 2012, 170 foreign companies have closed, and European foreign direct investments have dried up (Deane 2013). More fundamental, collective action (i.e. demonstrations and riots) by capital poor has now been done. This potential will definitely raise the bar when it comes to fear of social unrest.

Last, and maybe most important, there have been multiple cases of (quite extreme) political- and popular violence in Tunisia in the past years. First, there was the violent Salafis protest at the U.S. embassy in September 2012, resulting in multiple causalities (Guazzone 2013). Second, in 2013 two liberal opposition leaders – Chokri Belaïd and Mohamed Brahmi – were killed (Website New York Times1, July 25th 2013). Besides these relatively well-reported incidents, there are continuous incidents, often with causalities, going on from a day-to-day basis. Take for example the riots that spread from poor parts of the country to Tunis on January 12th of 2014 which clearly indicates that popular violence can spread very fast and widely over the country (Website New York Times2, January 13th 2014). As a result, tourist activity in 2011 alone dropped by 33% (African Economic Outlook 2014).

From this analysis I conclude that the prospect of organized capital being in favor of forming more inclusive institutions is low (see figure 2). Or, at least, the results of the revolution for business interest have been (very) negative.
**Figure 2** Organized capital score on indicators.

<table>
<thead>
<tr>
<th>State dependence</th>
</tr>
</thead>
</table>
| Subsidized inputs                                     | −  
| Protected markets                                     | =  
| Cronyistic relations with state elites                | =  

<table>
<thead>
<tr>
<th>Fear for social unrest</th>
</tr>
</thead>
</table>
| The pervasiveness of poverty                           | −  
| The organizational strength of the capital poor       | −  
| Past incidence of popular violence                    | −  

*Note:* + means more in favor of inclusiveness.

Source: Author.

**Organized labor in Tunisia**

The UGTT has always been more or less independent of the state apparatus (Yousfi 2013). Although it is difficult to find reliable data, it seems that not much has changed in practice and law concerning this aspect. The last change in the statute of the UGTT dates from February 2002. When it comes to the Tunisian law the last significant change reported by the *International Labor Organization* was in June 2010 (Website ILO, July 25th 2010). Traditional mechanisms to suppress civil society organizations – bans on the receipt of foreign funds, attacks on the press and inhibiting forms of permit and licenses – have largely been eliminated (Deane 2013). Although it turns out to be fairly difficult to identify the exact funding of the UGTT, and the role of the state apparatus in this, the actual stance and behavior of the UGTT seems to be extremely independent of the state apparatus and ruling government.

It lent vigorous support for the occupations of Kasbah Square just after Ben Ali’s flight, which in January and February 2011 led to the fall of the first two transition governments, and mostly consisted of ministers that served under Ben Ali’s prior government (Website le Monde, November 2012). It has also strongly criticized (pro-revolutionary) governments since, such as in the political battle over municipal employees, and led to a big conflict with secretaries-general Hamadi Jebali (*Ennahda*), who was himself imprisoned for 15 years under the Ben Ali regime (*ibid.*).

There are also no reports in academic and/or news articles of union members being systematically privileged when it comes to access to state-subsidized benefits. To be sure, this does definitely not mean that there have been no cases of (possible) corruption. See, for example, the charges against Abdessalem Jrad, the Secretary General of the UGTT (Website Tunisia-live, November 21st 2011). Especially interesting was the UGTT reaction in this case: general strikes, instead of accepting an independent investigation (*ibid.*). This, at least to me, indicates for most a stance of union representatives to secure the political position of the UGTT leadership, instead of fostering transparent and inclusive institutions with regard to their own organization.

When it comes to the setting of wage levels, there is definitely some evidence of manipulation for political reasons. As a result of the demand-driven fiscal policy, there have been substantial rises in salaries and subsidies (although subsidies on fuel have been cut lately) (African Economic
Outlook 2014). The UGTT secured 350,000 (extra) permanent contracts for workers. The deal also included pay rises for several sectors, without any substantial increase in productivity (ibid). This seems to be, however, more a result of the pressing socio-economic demands of the protesters and deprived regions than political ransom of the state in an attempt to bind the union. It could probably even better be seen as dependency and fair of the power of the union instead of the other way around.

With regard to the aristocratic position of union members, there is definitely a difference between organized and unorganized occupational groups in terms of wage levels. Huge gaps still exist between women’s and unorganized sectors (or maybe more regions) in the Tunisian economy (African Economic Outlook 2014). The UGTT interest and focus (still) seems to be biased towards well-organized sectors, as for example educational or other civil occupations, and regions located near Tunis or the coast (Website Open Democracy). On the other hand, not much significant seems to have changed since 2011. So a more negative view on inclusiveness cannot be expected.

Union members in general do not have standard access to stable employment, although some sectors, especially the civil service, definitely have disproportional job stability in comparison to others. As for UGTT leadership, the salaries are very high but there is no mention of guaranteed employment and/or change since 2011 (ibid).

There is also no mention of specific social security benefits for union members and/or -leaders. In general, the social protection programs in Tunisia are not well-targeted, and, also, social class and region matters instead of socio-economic position (African Economic Outlook 2014). The lack of social safety nets has become increasingly clear since the ongoing riots coming from the deprived parts of Tunisia. Because of this reason, social transfers have multiplied since the revolution, from 135,000 to 235,000 families receiving social programs (ibid). However, as with a lot of Tunisian policy, not much have changed in the actual execution of laws.

From this analysis, I conclude that not much have changed in the mere (material) interests of the UGTT (see figure 3). It is important to notice, however, that although the material interests of the UGTT have not seemed to have changed, two things in the institutional surrounding has. First, the power of the state government to constrain the behaviour of the UGTT has significantly decreased with the fall of Ben Ali and the large popular quest for more representative and transparent government. Second, in this whole process the UGTT has played an important role and could therefore to a certain extent be seen as bounded to the “democratic promise” of the constitution that they themselves helped write. This pressure will be felt especially in the light of a much more free media environment (Bellin 2013).
Figure 3 Organized labor score on indicators

<table>
<thead>
<tr>
<th>State dependence</th>
<th>No data available. But behavior UGTT is independent of the government.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Union dependence on state subsidies</td>
<td>=</td>
</tr>
<tr>
<td>Union members’ access to state-subsidized benefits</td>
<td>=</td>
</tr>
<tr>
<td>Politically manipulated (inflated) setting of wage levels</td>
<td>+</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Aristocratic position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Differences found between the organized and unorganized in matters of wage levels</td>
</tr>
<tr>
<td>Access to stable employment</td>
</tr>
<tr>
<td>Social security, and other nonwage benefits such as legally mandated job security</td>
</tr>
</tbody>
</table>

Note: + means more in favor of inclusiveness.
Source: Author.

Prospects for Tunisia

Now I can put all the parts together and answer the central question: ‘what are the prospects of (further) inclusive institutionalization in Tunisia?’ It is clear that the effects of the revolution have affected organized capital negatively. On all conceptualized indicators, their interests have been negatively influenced or the situation has stayed the same. This could indicate that capital organizations in Tunisia have a strong incentive to get back to the old situation of state repression and substantial economic support from the state. There are two important reservations to this, however. First, there will most probably be a very high cost associated with openly counterbalancing processes towards further inclusiveness. The media is freer than ever, resulting in a high chance of exposing and condemning behavior that seems to be opposing the further diffusion of political- and economic power. Besides that the so-called “genie in the bottle” – mass interest in especially the poorer regions – is freed and is unlikely to get back in order now that collective action has been done and has, at least to some extent, led to change. Second, as described above, the business community has traditionally – as result of conscious policy of Ben Ali – been much less organized than the labor unions in Tunisia.

In the case of organized labor, not much has changed when it comes to the relationship with the state. What has changed, however, is the political power the UGTT has received since the revolution, especially with regard to its role of bringing different groups together, but also in opposing and pressuring incumbent cabinets (Website VK). This will definitely give the UGTT more interest in maintaining and possibly further institutionalizing a more inclusive political-economic system. In sum, when controlling for the difference in political importance and degree of organization between the capital union and the labor union, things are looking reasonable positive for Tunisia. It could at least be argued that both capital- and labor groups in the Tunisian society are unlikely to be willing and/or able to systematically act against further inclusiveness in the near future.
Conclusion

Contrary to many common proposed explanations for political development in the MENA region, this paper argues that we should actually pay much more close attention to domestic political-institutional developments within Arab countries. The transition to a more inclusive political- and economic system is made by a struggle of social groups in society. The difference between extractive rule – whereby a few benefit over the many – and inclusive rule – whereby institutions are pluralistic – is strongly determined by the stance and behavior of important organized social groups towards the state and the ruling elite. There are always people benefiting, economically and politically, from the status quo as it is.

This research has specifically focused on two important social groups – organized capital and labor – that can play an important role in counterbalancing against the power of the state and push for more inclusive institutions in Tunisia. Since political and economic power in an authoritarian regime tends to reproduce and strengthen each other over time, it is of essential importance to understand how the interests of these groups has altered since the large changes in the political context catalyst by the 2011 revolt.

Labor turns out to have benefitted from the revolution in 2011. Although its relation to the state has remained stable over time, it has obtained a central role as broker and coalition builder of progressive forces in Tunisian politics. Organized capital, in contrast, has seen its material interests deteriorated: tax benefit has been cut-back and the fear for social unrest has had significant negative effects on investment and profitability in the future.

It is argued in this paper, however, that prospects for at least consolidating the ‘new’ institutions since 2011 and possibly progressing to further inclusiveness are looking reasonably hopeful for Tunisia. This is the case because labor unions, and especially the UGTT, have acquired a much more central role in Tunisian politics, are far better organized than employees’ associations and are bounded to the “democratic promise” of the new constitutions which they helped write.

To be sure, there are still many factors that can influence the road to inclusive institutions negatively, and material interests are not all decisive when it comes to political preferences. In addition, one important factor that questions the categorization in organized capital- and labor is the enormous disparity between different regions within the Tunisian economy, especially within the labor force. This fact casts doubts on the idea of seeing “labor interests” as a somewhat homogenous enough entity to analyse as a relevant political actor in Tunisia. Another important factor is the widespread corruption that has actually increased since 2011.

Besides these, there are also other factors that have been left out of this research, for example the role of geopolitics and the role of the global economy. The influence of global powers could have a determining influence on the political process in Tunisia although Tunisia is of much less geopolitical importance than, for example, Egypt. Furthermore, the global economy, and especially the European crisis, could throw Tunisia into a negative spiral towards more extractive behavior of economic actors instead of more inclusive behavior focused on merit and innovation.
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CSDP-NATO:
Shaping the power relation between states

Research Note

Alexandre Rodríguez Barriocanal

Alexandre, 21 from Ourense (Spain), is an undergraduate student who is going to receive his Bachelor’s degree in “Political Sciences and Public Affairs” at the University of Santiago de Compostela in 2015. During his studies he took part in an international exchange in The Hague, where he has been in contact with ICC workers and got thoroughly familiar with his policy. Additionally, he engaged in an internship in Utrecht at a Foreign Affairs minister institution. During his time there, he got in touch with the Centre for Conflict Studies at Utrecht University increasing his knowledge about international conflict management.

Abstract

In the 21st century, we are living a new age of international community where different allies are playing a fundamental role in the international equilibrium. The young CSDP in Europe has to mediate and rise in this new scenario where NATO has traditionally been the big defence leader in the European community. In fact CSDP has found different issues over which to provide security to Europe.

Keywords: CSDP, Defence Policy, European Union, NATO, Security Dilemma.
Late nineties, the entire world witnessed the astonishing debut of a new political and military plan: the Common Security and Defence Policy (CSDP). One of the few examples in modern history where many sovereign states have elected for their own endeavour to cooperate in security and defence policies in the field of crisis management and civilian operations without any kind of external threats. This is something new since the creation of the EU, this remained a purely “civilian actor” focusing chiefly in economics policy areas.

During this research note, I am going to focus on the two main security actors in the Europe-Atlantic area: the CSDP and NATO, comparing the similarities, differences, and relationship of these entities as also how the creation of the CSDP has changed the international community.

The EU and NATO are organizations of different nature; they were mutually reinforcing in the security field creating similarities and proximities in both entities under the common goal of delivering security in the European framework. Also, it is worth pointing out that 22 of the 28 states in the European Union are also members of NATO. However, the similarity and proximity could end with the military “monopoly” of NATO in Europe. Thus raising a possible discrimination problem (HUNTER, 2002:36) that indicate NATO members, which are not part of the EU would be able to take part in the EU military operations. For instance, Turkey, which is a part of NATO and yearns to be a part of EU. However, the opposite situation is equally true—a state can be a member of the EU but not NATO (for example Ireland or Finland could be criticized by NATO’s non European members for using their forces). The EU might set to the fore with its own developments, potentially widening the political and psychological gap with NATO, possibly more by inadvertence than by design because we cannot forget that NATO is the military giant. In the beginning of 2000 the European Council and NATO met to correct this discrimination issue that I call the “50% gap”, due to the fact that there are members of one entity and not the other one. Unfortunately nowadays this is still a problem between these two entities.

This issue above added new controversies to the security dilemma environment. In one way, the “50% gap” countries are being benefited by the other entity (NATO or EU) without any kind of cost. Take the Georgian situation for example. Due to its unstable geopolitical situation after the war (being in Europe, but not in EU and not in NATO either) has benefited by a two CSDP plans in 2004 and 2008 with NATO cooperation and a total budget higher than €2050 million (GAERC, 2008:7). Another subject matter that augments the security dilemma is the fact that with the creation of an own defence system in Europe the rest of the international entities such as the states of the Arab League will feel weak or vulnerable with less military power than Europe. Thus, the creation of the CSDP could be provocative for the rest of countries like the Maghreb and Russia despite attempts of cooperation with them.

Directly and indirectly, strength and weakness can modify the equilibrium of security in international relations creating a spiral pattern and producing escalation (action-reaction) due to the actions of a State to augment their security, increase their military strength and the search for partnership may lead other states to respond with similar measures, causing higher voltages that perhaps create conflict, even when neither parties really craves it. When a state increases its power, it creates a sense of insecurity in the other states, so they must match their power through the arms race (MORGENTHAU, 1973:47). By this argument and adjusting the situation to the
21st century where the international organization play a main role, the CSDP is an actor playing with others, making the international community smaller but more difficult to manage due to the different ties among the states in different alliances.

Another point to bear in mind in this large project is the rise of economics and duplication problems creating double capacities—what was done effectively solely under the command of NATO. At least at the time of St. Mâlo (December 1998) the summit was significant in the sense of crafting CSDP, not to spend unlimited resources on trying to make a second set of capabilities that they could just as easily obtain from NATO. Of course, most U.S. analysts also judge that nowadays the EU was in fact not very likely to take any military action of any major size by itself: for example, Madeleine Albright supposed that any considerable military challenge would also hire the United States due to his weigh in the organization. Nevertheless, the issue of “unnecessary duplication” has continued to be at the core of transatlantic debate about the future of CSDP and the recently created EDA (European Defence Agency) and its connection to NATO.

The Common and Security Defence Policy is becoming more important (HOWORTH, 2007:6), by opening new agencies and increasing the number of operations over the world (20 operations in 15 different countries). Thanks to CSDP, the answer after the terrorist attack in Paris was fast with a magnificent cooperation among the EU countries and with a sense of unity never before seen in Europe. This is the goal of the entity—break the bureaucracy and geopolitical borders of EU for the aim of security and defence whenever Europe needs it.

The key point is making a stronger CSDP. Improving thus European values (EUROBAROMETER) and acting with an European leadership, enhancing the European situation or thwarting possible threats. The issue is not trying to make CSDP well matched with NATO’s capabilities and methods of operations. Both are different institutions, although they could cooperate together (avoiding the points explained above) in the international community. The issue is the insecurity escalation that is being created in the international community by the security dilemma, which has increased due to new and improved spying method after the Cold War. We are in front of a new international scenario where the young CSDP has to be one of the axes that move it. “The conflict is unnecessary and unavoidable in certain circumstances and war can be avoided by creating international security institutions” (SNYDER, 1991:23).
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Trauma Rehabilitation after War and Conflict:  
Community and Individual Perspectives

Erin Martz, Editor (2010)

Book Review

Adela-Mihaela Militaru

Adela Militaru, 27, from Bucharest, Romania, is currently a final-year student in the International Development graduate program of the Babeş-Bolyai University in Cluj-Napoca, Romania. In 2010, she obtained her BA degree in Psychology, and has since graduated from an M.A. in Counseling and Educational Psychology at the University of Bucharest. In 2013, she turned her attention to the field of Development Studies after spending some time in South Africa and more recently, India. Her professional interests encompass the fields of facilitation and capacity building in intercultural settings, peacebuilding and conflict transformation, personal coaching, and global education. At the moment, Adela is a free-lance professional looking at innovative ways of bringing Psychological science into Development, and has recently joined the Romanian Association for International Cooperation and Development (ARCADIA), to further pursue her passion for Global Education, and capacity building in developing country contexts.

Key words: Community, development, mental health intervention, post-conflict, post-war, reconstruction, rehabilitation, trauma.

80 Babeş-Bolyai University, Faculty of Political, Administrative and Communications Sciences, M.A. in International Development.
The book edited by Erin Martz, *Trauma Rehabilitation after War and Conflict: Community and Individual Perspectives*, addresses a very relevant issue in post-war reconstruction, building on interdisciplinary perspectives, with growing implications for development professionals. Specifically, the authors’ main purpose is to examine the human dimension in the aftermath of war and armed conflict, by looking at evidence-based interventions, tackling psychological and physical distress, as well as recovery from social and economic stress. Such complementary perspectives on human livelihoods in post-conflict contexts equip the readers with tools for establishing community support structures and enhancing individual coping mechanisms in the process of rehabilitation.

The strength of *Trauma Rehabilitation after War and Conflict* is that it examines not only the psychological and social impact of traumatic stress reactions to armed conflict at individual level, but also the necessity of promoting adaptive coping and building stability at the level of affected communities, in order to prevent future conflict. This, in turn, requires the thoughtful examination of alterations in individual- and community-level awareness, self-perception, emotional bonds, trust and relationships, as well as inevitable alterations of life philosophy of affected individuals and communities. Covering these topics comprehensively throughout the sixteen chapters of the book, the authors succeed in persuading readers to consider the fundamental role of mental health interventions in post-conflict areas.

Nonetheless, despite highlighting solid evidence from relevant literature, from a stylistic perspective the book seems rather disadvantaged by the specialized terminology it uses, narrowing the audience to academics and professionals. The book seems clearly targeted at an audience that is interested in a comprehensive description of long-term approaches to post-war rehabilitation. Even though it does offer valid approaches to building resilience of individuals and groups in war-affected areas, the book proposes a clear-cut, structured approach, leaving little space for constructive interdisciplinary arguments or creative interpretations. However, readers from multiple backgrounds would clearly benefit from the solid basis of information provided by the authors.

Overall, *Trauma Rehabilitation after War and Conflict* provides an overview of available rehabilitation services in the process of reconstructing identities after war and armed conflict on psychological, vocational and social levels. As useful as this may prove for early-career professionals, it appears to lack the innovative perspective and refinement that senior expert readers would benefit from. However, the book indeed provides a useful framework for addressing community resources that may complement the relevant interventions needed to address sustainable rehabilitation after individual and social trauma. For professionals working in war-affected areas, where a thorough understanding of quality research on trauma and psychological disequilibrium is essential, this book may serve several interrelated fields such as emergency intervention, public policy, diplomacy, international relations, public health, development work, and humanitarian aid.

To conclude, I would strongly advise this book to emerging development practitioners and professionals already working on the ground in war-affected areas as well as other social and political scientists interested in the psychological and social mechanisms of rehabilitation in post-war contexts. In addition, policy makers and professionals engaged with “hard” aspects of post-war rehabilitation could also largely benefit from this reading. In turn, despite its early
publication date (2010), I believe this book may help us advance a more balanced vision of post-war reconstruction, and shift from predominantly economic rehabilitation towards a more human dimension. The work of Erin Martz and her co-authors can help more professionals engage with sustainable, highly qualitative development planning in post-war recovery.
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Subtitles (Section Headings): Garamond 14, bold;

Sub-Subtitles (Sub-section Headings): Garamond 12, bold, italic;

Footnotes: Garamond 10, spacing 1.15;

Presentation: Garamond 12, spacing 1.15, italic.

Paragraphs: First line indentation 1.25 cm, no spaces between paragraphs

Borders: top and bottom 2,5 cm, left and right 3,00cm (default)

Quotes: sectioned off if more than two sentences; Garamond 11, indented 1.25 cm

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Tables and Charts are continuously numbered, each fits on one page at maximum, and all are sourced (if original, use “Source: Author.”)

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No more than 150 words. Research question, original parts of research, conclusions.

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5 to 10 keywords, general and specific, in alphabetical order.

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What is the research question and why should academics research it, scientific and societal relevance.

*Literature review*

What has previously been written on the topic, what conclusions others reached.

*(Model construction) and Theoretical framework*

What theoretical framework and approach is used and why. If applicable, causal model may be shown at this point, or later, after data investigation.

*Conceptualization and operationalization*

Definition of basic terms and their indicators, choice of variables and their validity testing. Formulation of hypotheses (explicit or implicit) based on the theory/theories. Elaboration of specific claim(s) in the investigated theory/theories. If applicable, description of the causal mechanism, i.e. the chain of events purported to link your explanatory variables to the specific outcome.

*Methodology*

Description of the specific research method used (i.e., process-tracing, discursive analysis, MLA, etc.), its advantages and weaknesses and why it is chosen.

*Data*

Description of the data used, number of cases, method of case-selection, source of data, method of data collection, sampling method.

*Analysis and findings*

What the data show in detail, general tendencies and interesting particularities.

*(Model construction) and Conclusions*

Causal models may be formulated and general conclusions reached. Conclusions may or may not specifically challenge or support findings in existing literature.
**Future research**

Possibilities of future research for the researcher or other scholars, promising directions, requirements for future research.

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**Appendices**

Every piece of data used shown so as to facilitate potential replications. If possible, data shared publicly and/or presented together with the manuscript.

**Presentation of the author:**

Please, include a short presentation of yourself (approx. 100 words) in the following style (3rd person singular): Name, age, (hometown), university, degree, focus of your studies/Master or Bachelor Thesis, current employment or study interests, e.g.:

"Françoise Deutsch, 32, is a graduate who received his Bachelor in "European Studies" at the University of Shire in 2008. In 2009, he obtained an LL.M/M.Sc./MA in International Relations at the University of Stadt. He wrote his Master Thesis on ???, and currently interns/works/studies at the WWW. His interests include security studies, human rights, democratic transition, development studies, political philosophy, conflict resolution, etc."

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