Dear Reader,

After another semester of hard work, I am proud to present the Spring 2014 Journal of Undergraduate International Studies. Each semester, we receive submissions from around the world pertaining to international topics and it is our editorial staff that combs through the assortment to find the brightest in undergraduate research. Showcased in this issue are academic pieces, both innovative in their approach and thought-provoking in their arguments; the literature presented not only looks at current affairs, but also comprises historical work that re-evaluates preexisting frameworks.

In our eleventh year as a publication, a special thanks goes out to the Coddon Family Foundation and the L&S Honors Program; their continued support is a testament to the strength of our journal. David Coddon founded the journal as an undergraduate at the University of Wisconsin-Madison in an effort to highlight undergraduate research in the global arena. To close this issue is a guest article by Coddon, on page 69, about the transnationalization of the oil industry.

The other six submissions cover topics as diverse as aid in Palestine to piracy in Somali. I hope you enjoy volume 16 of the journal, as much as we enjoyed putting it together. Stop by next semester for another round of international insight. Until then…

Sophia Jones
Editor-In-Chief
Journal of Undergraduate International Studies

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The Journal of Undergraduate International Studies would like to acknowledge its founder and first editor-in-chief, David Coddon. The first two issues of this journal were published with the generous support of the University of Wisconsin-Madison Leadership Trust and continued publication is made possible through the Coddon Family Foundation. Additional support is provided by the University of Wisconsin-Madison College of Letters and Science Honors Program, the Office of the Vice Provost for Teaching and Learning, the Department of Political Science, the Global Studies Program, Publications Committee, and the University of Wisconsin-Madison Library System.

The cover photograph was taken by Ashley Entringer, University of Wisconsin-Madison.

Surf's Up. Walking along the shores of Muizenberg Beach, one of Cape Town’s most popular and shark infested surfing areas, I came across a long row of beautiful beach huts. The various colors struck, as representative of the racial diversity present in South Africa, and how in recent years South Africans have demonstrated the ability to come together as one “Rainbow Nation.”

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Maham is a Sophomore and Spring semester transfer student from Oman, who originally comes from Pakistan. She is a Psychology major with specific interests in social and behavioral psychology. She hopes to one day be a professor at a University, with her own research lab. Other than that she enjoys writing snarky literature columns every week for The Daily Cardinal, classic rock, binge watching movies and traveling. Currently she is planning her first cross-country American road trip.

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Yi is a freshman majoring in Political Science, focusing on international relations, economics, and history, with particular interest in international development concerning global poverty and health inequity, specifically in Asia. She is also studying French and Mandarin Chinese. When she has spare time, she enjoys creative writing, painting, reading, wandering outside, and pursuing graphic design. In the future she plans on attending graduate school and working to develop sustainable solutions to rural poverty.
### Table of Contents

**pages 8-22**  
1. Foreign Funding to Palestine: Perceptions of International Aid, How it Demobilized Civil Society, and What Are the Next Steps?  
by Lexi Doolittle

**pages 23-29**  
2. Football in Bosnia: As an Aim towards Reconciliation  
by Sebastian Dutz

**pages 30-38**  
3. An Ambiguous Lesson: Tracing the Munich Analogy in Anglo-American Relations  
by Dexter Fergie

**pages 39-50**  
by Hannah Mullen

**pages 51-57**  
5. Why Inequality Doesn’t Threaten the CCP: A Rawlsian Take on Chinese Inequality  
by Sam Sussman

**pages 58-68**  
6. Global Shipping and the War on Somali Piracy  
by Elizaveta Klimenko

**pages 69-80**  
7. Deconstructing a Transnational Petroleum Order  
by David Coddon
Palestinians are a small group of thoughtful, committed citizens, who seek to change their part of the world, but are prevented from facilitating that transformation by a broken system of foreign aid that simultaneously sustains and diminishes their lives. The film Donor Opium, produced by George Azar and Mariam Shahin, describes foreign aid to Palestine as golden handcuffs: expensive, but restrictive and imprisoning for the Palestinian people. Aid currently given to the Occupied Territories (the Gaza Strip and the West Bank) saves lives, but it is so poorly rendered that it obstructs independent economic development, effective governmental checks and the evolution of civil society, while concurrently driving the Palestinian people deeper into impoverishment and despair. A few voices within Palestinian civil society responded to aid ineffectiveness by calling for a reform of international aid and a revival of domestic community-based aid, through which Palestinians can reclaim the trajectory of their own national development. This original research explores the literature evaluating the issues and results of giving foreign aid to Palestine, the local perceptions of the effects of that aid, and the recent trend in remobilizing civil society in the call to reform aid to the occupied Palestinian territories (OPT).

These findings indicate that the majority of Palestinians recognize the importance of humanitarian foreign aid for their quality of life, but are unhappy with how that aid is rendered, to which organizations and projects that aid is given, and the strict donor preconditions for organizations receiving the aid. The amount of aid and the rendering procedures have demobilized Palestinian civil society, promoting a national discourse of defeatism and lack of trust in the government and NGOs’ abilities to affect significant political change. This bleak prognosis of foreign aid is somewhat tempered by recent grassroots trends within the West Bank and Gaza Strip to take back projects and fund management on the community level. Spearheaded by the Dalia Association, this movement is spreading across the West Bank, Gaza Strip, and diaspora groups, and is igniting the reemergence of a sense of responsibility and accountability in villages and neighborhoods seeking to develop their own economies and political agency.

Evaluated over the course of this work are different types of quantitative and qualitative data. First the major schools of thought are outlined concerning the effects of foreign funding to Palestine, presenting a hypothesis, this paper follows with a methodological approach, highlighting the major sources of data. Findings and evaluations are presented using public opinion survey data, foreign aid capital flow reports and various media representations of foreign aid to Palestine. Additionally, summarized are positive perspectives of foreign aid to the West Bank and Gaza and the burgeoning small-scale NGO projects effecting change. This paper concludes by positioning this work within the greater scholarly discourse,

Lexi Doolittle. Lexi Doolittle is a senior at the University of Richmond, double majoring in Arabic Studies and International Studies with a concentration in World Politics and Diplomacy. Lexi is passionate about travel and developed the guiding questions for this body of research while studying abroad in Morocco, Jordan and Israel. Lexi would like to thank Dr. Monti Datta, her senior thesis advisor, for his tireless support and guidance throughout the completion of this work.
discussing how to continue this research given greater time and resources, and offering policy recommendations for how the system of foreign aid to Palestine should evolve.

**Literature Review**

Palestine is an occupied territory and is thus an exception to the traditional Westphalian notions of state and sovereignty. Palestine’s exceptional status creates circumstances in which the role of non-governmental organizations (NGOs) within the West Bank and Gaza is redefined, varied and significantly less traditional than it would be in most other developed or developing countries. This research delves into how foreign funding has transformed Palestinian civil society since 1994 (when the Oslo Peace Accords were signed) with regards to the political effects of NGO professionalization, and how to better render aid to promote positive mobilization within civil society.1

1. "This research delves into how foreign funding has transformed Palestinian civil society since 1994 (when the Oslo Peace Accords were signed) with regards to the political effects of NGO professionalization, and how to better render aid to promote positive mobilization within civil society."

the Palestinian government often seeks to benefit monetarily from an alliance with NGOs. Politicians in the Palestinian Authority (PA), the governmental structure in the West Bank, have developed close relationships with NGOs to capitalize on foreign funding, generating an expanding attitude of “BYO-NGO” in political circles.2 There is a substantial amount of money flowing into Palestine earmarked for NGOs, and many politicians would like to personally capitalize on that influx of capital.

To understand the post-Oslo transformation of Palestinian society, it is necessary to first examine the major schools of thought regarding the role and efficacy of NGOs within Palestine. There are three major schools of thought, all of which agree that Palestine needs foreign aid, but disagree on the efficacy of the funding to Palestinian NGOs (many of which have collaborated to create a network under the name PNGO). The first school, the Empowerment School, posits that international funding of NGOs is positive, empowering, and perhaps democratizing. The second school, the Ineffective School, asserts that aid provided to NGOs has a negative impact on the formation of civil society. The final school, the Political Balance School, propounds that although NGOs in Palestine are not as effective as they could be in serving humanitarian needs, they do provide a modest political check and balance on the virtually unchallenged Palestinian National Authority (PNA).

The Empowerment School argues that NGOs are successful in both serving humanitarian needs and empowering Palestinians to campaign for their rights utilizing Western aid. This school does not have a large following outside the immediate Palestinian NGO community. NGO leaders see their organizations as providing the majority of Palestinians with health care, education and rehabilitation services, which for them has the dual effect of sustaining the lives of many Palestinians, and enhancing NGO legitimacy in Palestine.3 NGOs are working to develop Palestinian civil society separate from Israel through democracy, lobbying and empowerment workshops. Although NGOs struggle with the difficult relationship between Israeli law and the PA, this first school contends that the organizations’ struggles promote positive civil society development and foster NGO legitimacy.4

The second school of thought, the Ineffective School, manifests in research conducted by Manal Jamal in “Democracy
Promotion, Civil Society Building, and the Primacy of Politics.” Jamal compares the role of foreign funding in the formation of civil society in Palestine to El Salvador, after country-wide peace accords. She finds that Western donor assistance did effectively promote a strong civil society, when the peace accords were inclusive of all prominent parties within the society, but when the peace accords were exclusive, Western donor assistance further polarized and weakened civil society. Jamal proposes that El Salvador’s successful civil society is at least in part due to its inclusive post-conflict peace settlement. While civil society in Palestine is weak and polarized because the Oslo Accords were not inclusive to all Palestinians and ostracized those not aligned with the PLO at the time.

This Oslo exclusivity has created circumstances of unequal distribution of foreign aid, resulting in three types of NGOs working in Palestine: Liberal Moderate organizations, Fatah Clientalistic organizations, and the Opposition organizations. The Liberal Moderates are those who have supported the Oslo Accords, and as a result received ample foreign funding, allowing them to professionalize and create hierarchical relationships between themselves and grassroots mobilizers. The Fatah Clientalistic organizations are closely aligned with Fatah and maintain a clientalist relationship with the Palestinian government from which they derive the majority of their financial support.

The Opposition organizations (generally Leftist or Islamist) are perceived by Western donors to historically oppose at least part of the Oslo agreements, for which they are now shunned and denied funding. Opposition organizations must instead rely on zakat, community donations and support from Gulf States. They are almost exclusively grassroots in nature, and are thus more connected to the Palestinian population than either of the other types of organizations. In El Salvador, comprehensive and all-inclusive peace accords created circumstances in which foreign funding could support a strong multi-party civil society, whereas in Palestine, Jamal argues, the exclusivity of the Oslo Accords established a weak civil foundation, which was only further polarized and diminished by unequal Western funding to the Liberal Moderate organizations.

The final school of thought regarding foreign funding of Palestinian NGOs and civil society, the Political Balance School, is primarily based on the work of Rema Hammami in “NGOs: The Professionalisation of Politics.” Hammami builds on Jamal’s work and posits that the continuation of unchallenged Fatah rule, beside a professionalized network of foreign-funded NGOs has created a political Palestinian discourse of defeatism. Foreign-funded Palestinian NGOs can afford to pay employees far above established labor market rates, creating a cadre of semi-professional NGO staff uninterested in pursuing grassroots projects connected to the needs of the general population. This hierarchy undermines opportunities for mass political mobilization and diminishes the capacity of NGOs to check the power of the PA. The divide between the Western-funded Liberal Moderate NGOs in Palestine and Jamal’s more bottom-up Opposition organizations has fostered a “discourse of defeat” in Palestinian civil society, sanctioning Palestinian acceptance of hegemonic PA governance.

The Empowerment School supports the current model of foreign funding to NGOs in the West Bank and Gaza, places too much emphasis on the humanitarian impact of the funding, while disregarding its political implications. Articles, which praise NGO work in Palestine were almost exclusively written by Palestinians within the NGO network, who are therefore inherently biased and may seek to please Western donors. Therefore the Empowerment School is not concurrent to this research. This paper focuses on the schools discussed by Jamal and Hammami, the Ineffective School and the Political Balance School, combining their two perspectives as a foundation on which to further examine Palestinian civil society and foreign aid. Currently, foreign funding that supports Liberal Moderate organizations, which allegedly seek to promote democracy and social empowerment, is inadvertently inhibiting democratic progress. The unequal aid distribution makes organizations more accountable to foreign donors than to...
Palestinians, discouraging fair competition, and creating a system, in which the needs of Palestinians are not represented by their government or their NGOs. Therefore, foreign donors are working against their own interests by uniquely supporting the organizations, whose projects align with the pro-Oslo Western discourse. This paper will further explain how donor aid can be appropriately allocated across all types of organizations to provoke Palestinian NGOs into strengthening their bases in civil society, attuning their projects to Palestine’s needs, concurrently reversing the national discourse of defeat.

Hypothesis

Poorly-rendered foreign aid to Palestine has thus far stagnated the development of civil society and resulted in negative economic development. Responses to these circumstances are the recent non-governmental organizational developments that promise an opportunity for the logical re-emergence of civil society and a system of checks and balances on the PA through a bottom-up reform approach. Organizations such as the Dalia Association spearhead this popular movement, and represent the potential for a burgeoning civil society that could provoke domestic and international aid reform. While overcoming many of the barriers to independent economic development in Palestine is conditional on Israeli law revisions, there may be a small opportunity for these types of organizations to obtain their aid reformation demands.

Methodology

Palestine is dependent on foreign aid, as about one-third of their Gross National Income (GNI) is foreign capital, and most facets of the society, its health care and education services in particular, require constant infusions of foreign donations. Palestine is also a Westphalian black hole. The standard rules of governance, sovereignty and use of force do not apply in Palestine, and thus the territory is unique in its relationships with Israel and Western donors such as the European Union, the World Bank and the United States. These uncommon relationships provide a unique foundation on which to build an understanding of the perceptions and efficacy of foreign aid within Palestine. By re-conceptualizing the dichotomy of domestic versus foreign aid, this paper focuses on foreign aid provided to domestic organizations. Utilizing the existing body of research regarding foreign aid and Palestine, focus here is on how and to whom foreign aid is given, and affects the formation, economic development and democratization process of Palestinian society. The evolution from an initial research topic lead to the final question: how has foreign aid rendered to non-governmental Palestinian organizations demobilized civil society, and further, how are Palestinian NGOs reacting to this demobilization?

The constant challenge of researching Palestine in particular is that the idea of Palestine itself is polarizing, compelling scholars and researchers alike to scrutinize all sources of information for its biases. There are additionally a countless number of topics concerning Palestine and the Palestinian-Israeli relationship, which due to space and time are not thoroughly addressed. To best dissect the effects of foreign funding on Palestinian civil society, a number of different types of sources are used to balance conflicting perspectives.

Research is based on information collected from scholarly articles and books focused on Palestine, civil society, foreign funding and donor reform. The works of major scholars such as Rema Hammami, Benoit Challand and Manal Jamal provide scholarly perspectives that position the social impact of foreign funding within the greater global scholarly discourse. This paper also delves into two economic assessments conducted by the World Bank: Stagnation or Revival? Israeli Disengagement and Palestinian Economic Prospects and Four Years - Intifada, Closures and Palestinian Economic Crisis, for a deeper understanding of Palestinian fiscal challenges and their relationship with foreign funding. Further evaluated is a decade long survey of donor funding to Palestine conducted through the Palestine Economic Policy Research Institute (MAS) with funding from the World Bank. This study, Tracking External Donor Funding to Palestinian Non-Governmental Organizations In the West Bank and Gaza 1999-2008, was compiled and analyzed by Joseph DeVoir and Alaa Tartir. Although
the entirety of their raw data is unavailable for public viewing, much of their information can be accessed and evaluated in their report. Additionally interviewed is Mr. Tartir in an effort to better understand his methodology and opinions on the future of foreign funding to Palestine.

Also looked at is raw data from the United States Organization for Economic Cooperation and Development (OECD), which publishes statistics regarding the impact of reforms made under the Paris Declaration on Aid Effectiveness signed in 2005. The Paris Declaration is a major international treaty that seeks to reform international aid on the basis of five principles: ownership, alignment, harmonization, results and mutual accountability. The OECD statistics published in 2010 are a measure of the efficacy of the 2005 Paris Declaration reforms. The OECD systematically measures data such as: what countries and organizations are giving aid, how much aid is distributed to the West Bank and the Gaza Strip, what form does that aid take, and how much of the aid is untied? In addition this paper uses the results of public opinion surveys from Fafo conducted in both the West Bank and the Gaza Strip. Originally founded as the Norwegian Confederation of Trade Unions, Fafo today operates as a tool to develop and disseminate knowledge about living and working conditions, economic data, and developmental challenges. Fafo uses sample sizes of about 1,000 people in each territory and provides the original questionnaires and actual respondent numbers. Focus is particular to their most recent study, conducted and published in 2010, concerning Palestinians’ attitudes towards foreign donors, receiving aid from those donors, and Palestinians’ opinions of their own NGOs and government. This more representative data supplies a solid and objective bedrock from which to evaluate sources that may be less thoroughly substantiated, but are more closely tied to the current pulse of Palestinian civil society.

Also numerous Palestinian blogs and newspapers that regularly update their articles and provide competing perspectives of the different challenges facing Palestinians daily are referenced. These blogs are easily accessible on the internet to both Arabic and English speakers, and when possible, the Arabic blogs and political cartoons are translated here to include as much of the Palestinian discourse as possible. These blogs are used as passive virtual interviews to gather opinions regarding the rendering of foreign aid and its ability to mobilize, demobilize, and affect change in the territories. Another source of public opinion and commentary was the documentary film Donor Opium created by the two aforementioned reporters who have produced multiple documentaries and written and photographed for al-Jazeera and other news outlets. In Donor Opium, a number of Palestinians are interviewed about their perceptions of foreign aid in Palestine. Their voices are used here to better understand Palestinian perspectives on aid. This paper also examines the satirical play, “House of Yasmine,” which is a commentary on foreign aid written and performed by Palestinians.

As mentioned earlier, Alaa Tartir is interviewed, who co-wrote the MAS report “Tracking Foreign Funding,” with Nora Lester Murad, a founder of the Dalia Association. These interviews are used to inform both the scholarly research and media research conducted here. The combination of scholarly articles, blogs, political cartoons, a documentary, a play, interviews and the World Bank assessments provides a thorough and balanced understanding of the challenges facing Palestinian civil society, as they relate to foreign funding. Not investigated is aid transparency, following the money from the donors’ hands to the Palestinian people, measuring what is spent where, who is hired for what type of projects, and how Palestinians engage with these projects. An entire portion of research could be devoted to the triangular relationship between Israel, the United States and Palestine, assessing the truth of perceptions of donor-imposed dominance, political conspiracies and the correlations between incidents of Palestinian violence, Israeli violence, suspension of foreign aid and the peace process. The amount of capital flowing into Palestine is not trivial, and merely asking, “where is the money going?” does not adequately address the incredibly complicated Palestinian aid system.
Findings: Understanding the Quantitative Data

Palestine is flooded with foreign capital and, as Graph A shows (figure 1), it is the highest per capita recipient of foreign aid; however, that foreign aid is not enough to sustain more than 3 million people without further independent economic development. Unemployment rates hover at 30 percent in the Gaza Strip, one of the highest proportions in the world, and at 20 percent in the West Bank. Graph B (figure 2) reveals that the majority of foreign aid goes to domestic governmental budget support, while only 10 percent of all foreign aid is given to Palestinian NGOs, resulting in a $22 million deficit in the NGO sector as of 2006. Additionally, the 10 percent of aid which is awarded to Palestinian NGOs is unequally distributed between those PNGOs, with about 80 percent of the funding going to only 20 percent of the roughly 2,000 organizations. The 20 percent (about 400 NGOs) tends to comprise the Liberal Moderate organizations that continue to support the Oslo Accords, the official peace process, and successfully adheres to Western stipulations and standards. The unequal dispensation of aid to NGOs is a clear cause and effect of the previously mentioned professionalization of the NGO community. Awareness of these figures is the first step towards recognizing that aid reform is no small challenge in Palestine.

Understanding the intricacies of both the immense amount and deficiency of aid, combined with its lopsided distribution are integral to dissecting its effects on Palestinian perceptions of aid, Palestinian public opinion of aid, and the aid reformation process. Figure 3 and 4 demonstrate how Palestinians view foreign aid and Palestinian NGOs, the graphs are created using Fafo data from public opinion surveys conducted in 2010. The variations in responses between the Gaza Strip (GS) and the West Bank (WB) are most likely due to the different political and humanitarian situations in the territories. Gaza has significantly higher levels of poverty and unemployment, and the United Nations Relief Works and Agency in Palestine (UNRWA) is engaged throughout Gaza. The West Bank is in a slightly better economic situation, is less dependent on foreign aid, and does not have the same level of UN participation and engagement.

The majority of respondents, when asked about their opinions regarding the purpose and consequences of international assistance, felt strongly that it does help ease their suffering (75% WB, 85% GS),...
but felt almost as strongly that it helps Israel continue the occupation, helps Palestine bear the burden of corruption and helps the donor countries impose their aims. Although the three additional sentiments are unfortunately concerning, they highlight the issues which civically-minded organizations can address to best engage and mobilize the Palestinian people. The second set of data that directly relates to Palestinian perception of international aid also calls attention to the challenges that grassroots organizations should seek to address. Just over 60 percent of respondents in both the West Bank and Gaza felt strongly that international assistance is only compensation from those responsible for the situation, and that it is humiliating and hurts their personal pride. In the Gaza Strip, 60 percent of respondents had positive feelings towards international aid, whereas in the West Bank, fewer than half of the respondents felt that “it is always good to get help.”

Looking forward, therefore, it would be most to overcome the professionalization of NGOs by responding to how Palestinians feel about foreign aid. They should also tailor their calls for reforms on how that aid can be rendered to better respect the Palestinian people, and address concerns of domination through foreign funding.

**A Case Study of the Conditionality of Foreign Aid: USAID**

Most foreign aid, governmental and non-governmental alike, to Palestine is subject to extreme preconditions by the donor nations and many PNGOs are reluctant to agree to these conditions in order to receive the aid. An examination of the particularly stringent United States Agency for International Development (USAID) preconditions reveals why there is a stigma for PNGOs to accept most foreign governments’ aid in particular. A report published through the Congressional Research Service by Jim Zanotti outlines the intricacies of rendering USAID to Palestine, which make it especially exasperating for Palestinians. The primary precondition of USAID is that the funds cannot be given to any organization, committee or group at all associated with Hamas or the Palestine Liberation Organization (PLO). This is especially problematic as Hamas is the...
elected party governing the Gaza Strip, which is home to about 1.7 million people, half of all Palestinians. The United States has a very clear policy of not supporting those whom they label terrorists, and Hamas is designated by the United States as a Foreign Terrorist Organization, a Specially Designated Terrorist, and a Specially Designated Global Terrorist. While it may be understandable why the United States government would not fund organizations and individuals who seek to subvert its own national security, Palestinians take issue with how the terror label is designated. States’ policies that classify terrorists, versus non-terrorists, are not equally applied across political alliances. Most Palestinians believe that the actions of Hamas, the PLO, and those who violently participated in the intifadas were justified on the grounds that the Israeli military is enforcing an unjust occupation and daily violating their human rights. Therefore, many Palestinians perceive their violent acts such as throwing stones at tanks, or firing rockets at Israel not as terrorism, but as proportional responses to the violence perpetrated against them using the weapons available to them. USAID conditionality also maintains that no funding may be given to a power-sharing government that includes Hamas as a member, or over which Hamas exercises “undue influence” – that is, unless all ministers have accepted both of the following two principles: 1) recognition of “the Jewish state of Israel’s right to exist” and 2) acceptance of previous Israeli-Palestinian agreements.

USAID restrictions beyond the Hamas terrorist designation effectively ensure the impossibility of democratic development and accountable governance. A further
The precondition of USAID stipulates that it cannot be provided to “support a future Palestinian state” unless the secretary of state certifies that three conditions have been met for the plans. The governing entity of the state must demonstrate “a firm commitment to peaceful coexistence with the state of Israel, that the state is “taking appropriate measure to counter terrorism and terrorist financing,” and finally that the state is working with other countries in the region to “vigorously pursue efforts to establish a just, lasting, and comprehensive peace in the Middle East that will enable Israel and an independent Palestinian state to exist.” These preconditions demonstrate how aid is used to maintain the current power balance between Israel and Palestine and undermine any attempt at sovereignty for the PA. The first condition illustrates this inequity because the “demonstration of a firm commitment to peace in order to support a future Palestinian state” imposes restrictions on aid given to the Palestinian government, which is not applied to aid given to the Israeli government. The preconditions also forbid the Fatah government from collaborating with its Gaza counterpart, Hamas, and make the PA accountable to foreign nations, rather than to its own people. This misplaced accountability paradoxically compromises the fledgling Palestinian democracy. The United States is not the largest contributor of aid to Palestine, but its capital is important to sustaining life in Palestine, and aid suspension because of non-compliance is a serious threat. The threat is enough to force the Fatah government to accept the Israeli-U.S. political position, instead of accurately representing the desires of the Palestinian people. In a political situation such as Palestine’s, this creates even further distance between the “democratic” government and the people, forcing Palestinians to rely on those few NGOs, who are not subject to similar foreign aid preconditions, to represent them, and to develop projects for their needs outside of Western influence.

USAID is additionally poorly rendered because it is misappropriated to projects to which the aid preconditions preclude success. Zanotti’s report cites that much of the USAID “assistance is in direct support of the PA’s security, governance, development, and reform programs aimed at building Palestinian institutions in advance of potential statehood.” It is the epitome of the Palestinian aid-dependence conundrum that the U.S. annually pours an average $170 million into developing PA-Fatah governance, reform, and advancing the possibility of statehood, while the conditions of USAID simultaneously prevent serious Palestinian independent political action against the Israeli state, which occupies the territories. USAID purportedly aims to help Fatah develop independent governance, but simultaneously requires that it pledges allegiance to Israeli political thought, accepts all past peace agreements and ignores the Gaza Strip. The United States has some of the most stringent aid-recipient restrictions, but it is not the only nation that imposes these types of restrictions on the Palestinian government and the NGOs. These constraints are meant to give the donor state oversight, but in the Palestinian situation, where there is not a strong and representative government, there are severe ramifications to these conditions. The ramifications paradoxically inhibit democratic progress, infringe on humanitarian relief and highlight short-term projects, without providing for long-term development.

Perceptions of Foreign Aid in the Media: A Drugged State

Examples of how the preconditions of foreign aid have demobilized civil society, inhibited democratic progress, and prevented independent economic development are evident throughout the reporting media within and about Palestine. Donor Opium depicts how aid is misappropriated in Palestine, funds meaningless projects, perpetuates a broken political system and keeps the Palestinian people in a listless drugged state of hopefulness. Before the Oslo Accords, about half of all Palestinians worked in the agricultural sector, growing enough food for their own needs and making a living selling and exporting their surplus. Today, 16 percent of the total labor force works in agriculture, and the sector represents only 4 percent of the West Bank’s GDP. The difference can be accounted for by the Oslo Accords, which gave Israel complete control of the...
water resources and the majority of the land in the West Bank, inhibiting further agricultural development. According to the World Bank, if Palestinians gained access to 3.5 percent of the Israeli controlled Oslo-designated Area C, about 12,500 acres of uncultivated land, they could agriculturally generate one billion dollars (USD) of revenue annually. Instead of addressing the land inequities and economic possibility of expanding the agriculture sector, donor funded projects, which focused on constructing industrial zones for technological plants never became operational, resulting in even less land for agricultural use. These conditions lead to further dependence on foreign aid, rather than the development of an independent economy.

Donor Opium documents how this dependence in turn further professionalized the NGO network, widening the chasm between the grassroots mobilization efforts attuned to the people’s needs, and the organizations implementing donor-dictated projects. It shows how the organizations which more readily receive foreign capital, the Liberal Moderates cited in the Inefficient School, are often focused on expanding Palestinian democratization through empowerment workshops. The workshops focus on teaching Palestinians how to lobby their representatives, generate petitions and take part in creating laws. All of these skills are important, but their usefulness is limited to a functioning democratic government, which represents and responds to the people. The classes are therefore misdirected donor-driven exercises that ignore the immediate needs of Palestinians. As one NGO worker in Palestine reflected in “International Aid Hurts Palestinian Civil Society,” “I can’t go into a Bedouin community that doesn’t even have water for their animals and give them a workshop about democracy or computer skills.” This sort of donor directed project implementation leads to many Palestinians considering foreign aid as referred to in Donor Opium to be a set of “golden handcuffs.” These golden handcuffs are shiny and expensive, but they are handcuffs nonetheless, locking in a broken political and economic system, which sustains Palestinians’ immediate needs without addressing the issues underlying post-Oslo society and providing for the future of the West Bank and Gaza.

Frustration with this imprisoning dependence has also been satirically portrayed on stage in a collaborative effort between theaters in Ramallah and Jerusalem. The play, called “House of Yasmine,” or “Beit Yasmine” in Arabic, depicts how donor aid sidelines Palestinian opinions and undermines civil society. “House of Yasmine” is the story of Yasmine, a UN worker who is critically wounded by a sniper shot, which forces her family and friends to seek outside medical assistance. Her loved ones contact a foreign official, who says that she can help, and after a long period of time she eventually procures a “green medicine.” At first, Yasmine’s loved ones distrust the “green medicine” and ask the foreign official, “isn’t it addictive?” The foreign official assures everyone that in small doses it will only have a positive effect. Yet as the positive effects begin to manifest in Yasmine, it seems as if...
everyone around her has found a way to benefit from her injuries, and would rather that she stay wounded. Yasmine’s illness and recovery process represent Palestine and the struggles faced by the West Bank and Gaza in their post-Oslo aid dependence. This play was intended to spark discussion not only among Palestinians about the societal effects of aid dependence, but also among foreign donors to Palestine, some of whom were invited to the play. Although the donors invited did not come to watch, the play was successful enough to warrant media attention in both Arabic and English. The creation and enactment of this play is a positive step towards meaningful aid reform to the territories because it recognizes the role that Palestinian complicity plays in impeding the effectiveness of aid that seeks to promote independent economic and democratic reform in the West Bank and the Gaza Strip.

“House of Yasmine” and Donor Opium are theatrical portrayals of Palestinian anger, disappointment and disenchantment with foreign aid, sentiments that are also reflected in a number of political cartoons. Two published political cartoons highlight the United States’ role in entrenching the Israeli occupation and stalling independent economic development. Cartoons about the United States are particularly prevalent due to public frustration with the rigorous USAID preconditions to West Bank recipients and the close Israeli-American relationship. The first widely distributed cartoon (figure 5) depicts the perceived hypocrisy of President Obama’s announcement that the United States will commit a substantial amount of USAID to the West Bank for infrastructure needs. This political cartoonist depicts how USAID, which on the surface seems positive, is in reality only part of a duplicitous cycle where the United States helps perpetuate continued destruction and reconstruction, further embedding the Israeli occupation and precluding positive development in the West Bank. In this instance the funds are not misappropriated to democratizing or empowerment workshops, but rather utilized as a broom to sweep up a mess that the United States played a hand in creating.

The second cartoon (figure 6) is a satirical representation of the asymmetrical distribution of foreign aid, which was also reflected in an interview in Donor Opium. Written in Arabic across the top of the cartoon is a phrase that translates to “Obama’s Visit to the Middle East!!” and it shows Obama giving Israel a bomb, while simultaneously giving Palestine a balloon. A Donor Opium interview with Iyad Al Riyahi at the Bisan Center for Research and Development in Ramallah refocuses this attitude globally, rather than strictly, against the U.S. Al Riyahi comments that “at the same time Obama gives Israel nuclear submarines.” Though an exaggeration, it is important to note that although some of the most vocal criticism of Palestinian foreign aid is against the United States, many nations have similar aid preconditions towards Palestine and close relationships with Israel.

The views expressed by these cartoonists are echoed by bloggers in Palestine, particularly Nora Lester Murad.
who founded the Dalia Association, which attempts a grassroots approach to aid reform in the West Bank and Palestine. Murad writes in her blog that aid in Palestine has only led to “local NGOs chasing international funding by modifying their programs, publishing information in English rather than in Arabic, and hiring extra staff to submit financial reports in foreign currencies.”  

Murad is speaking to the professionalization of Palestinian NGOs, paralleled in the Ineffective School, which has led to humanitarian non-governmental organizations representing donor interests, instead of the interests of those to whom they provide services. This professionalization, also emphasized by Hammami in the Political Balance School, created a system in which the very organizations designed to assist Palestinians are as removed from their needs as their government.

**Alternative Perspectives on Foreign Aid**

While the ramifications of foreign aid may demobilize civil society, the humanitarian support provided does positively affect the lives of millions of Palestinians. The Empowerment School is rooted in well-founded data that documents the expansive humanitarian relief efforts made possible by foreign capital. As of data available in 2005, the NGO sector is believed to cover over 60 percent of all healthcare services, 80 percent of all rehabilitation services and almost 100 percent of all preschool education. Additionally, the roughly 2,000 NGOs operating in the West Bank and Gaza Strip employ more than 20,000 individuals in different capacities. These employment and humanitarian resources are critical to sustaining life in the territories and without foreign capital there would be a dramatic decrease in the availability of services to Palestinians, and in their quality of life.

The ill-effects of rendered aid are not just the responsibility of independent donors, but can also be attributed to the donors’ fear of being found guilty by the media for funding terrorism. Donors are forbidden by their governments to fund terrorism, and Palestinians who commit violence against Israel are widely considered terrorists rather than military combatants because Palestine is not an internationally-recognized sovereign nation. This makes donors fearful of giving medical supplies to hospitals, or directing government finances, since Fatah or Hamas could use materials to help those accused or convicted of terrorist acts against Israel. A quick internet search perennially reveals a host of articles depicting how foreign aid to Palestine is being channeled into the hands of terrorists. While the legitimacy of the claims leveled in these articles may be questionable, donors fear media scrutiny into their funding activities to Palestinians.

If non-governmental donors do choose to fund Palestinian organizations, they are obliged by their own governments to require extensive and detailed reports from their benefactors, leading to additional professionalization by PNGOs. Palestinian organizations respond to these requirements by hiring individuals with uncommon skills such as fluency in multiple languages or competency in certain computer programs, which contributes to creating a systemic NGO hierarchy. In an interview conducted with Nora Lester Murad, she said, “both on the Palestinian side and on the donor side, they are hiring people to service the donors. So this creates NGOs that are not political, but bureaucratic. They are designed to implement projects, not to respond to communities, to analyze and be flexible in response to political events. They’re less relevant organizations than they could be if they weren’t constructed this way.” Placing the blame uniquely on the shoulders of donors for the ill effects of NGO professionalization is not only unfair, but also detracts from the agency of Palestinians.

**Looking Forward**

It is clear that foreign aid to the West Bank and Gaza needs to be re-conceptualized. Funneling billions of conditional funds into Palestine since the Oslo Accords has resulted in a professionalization of the NGO community and created a hierarchical relationship between grassroots mobilizers’ and organizations with the capital necessary to implement reforms. As well as a demobilization of civil society, and has
not yet stimulated independent economic growth. Palestinians and donors alike are frustrated and fatigued, but the Israeli government - the prodigious impediment to change - is currently immovable. What Palestine needs more than money is agency, and the Dalia Association is the forerunner of a movement that is working to redevelop that agency through domestic aid reform.

The Dalia Association is an organization founded in 2007 in response to an upheaval in civil society and the perceived need to address aid reform, with the mission, “to mobilize and properly utilize resources necessary to empower a vibrant, independent and accountable civil society.” Its aim is highly relevant to contemporary challenges, as PNGOs receive about 80 percent of their revenue from foreign aid, making the PNGO program implementation almost exclusively accountable to their donors, rather than to their constituents. Dalia has initiated a number of different small-scale economic programs, such as “community foundations” across the West Bank, East Jerusalem, Gaza Strip, Israel and the Diaspora to counter the misplaced accountability and professionalization of many PNGOs, and the decrease in volunteerism. A community foundation is funded by endowment and dispersed collectively by the community. The funds are generally used for micro-lending to invest in small scale sustainable projects such as opening a neighborhood shop, or buying the seeds and supplies to start a tree farm. Murad finds that Dalia’s work in helping initiate these small community foundations has a profound effect on Palestinian neighborhoods. She notes that, “the whole village decides how to make the grants and then there’s a local monitoring and evaluation committee, and they realize that they have a responsibility to hold their own accountable. And when they do their own projects they value their local resources.” Through projects such as community foundations, the Dalia Association instigates reform at the grassroots level, allowing Palestinians to empower themselves without the preconditions of foreign aid, or project implementation beholden to outside donors. These programs remobilize citizens, eliminating the majority of bureaucratic aid burdens, while also positively politicizing Palestinians. The Dalia Association is a rational response to the professionalization of the PNGO community that addresses many of the issues raised by the Ineffective and Political Balance Schools.

Conclusion
Foreign aid to Palestine provides modest humanitarian relief, but the combination of its preconditions and the broken political systems of the West Bank and Gaza Strip facilitates a professionalization of Palestinian NGOs. This in turn creates a divide between the needs of the people and the responsiveness of the organizations. Donors are fatigued as they see billions of dollars fail to catalyze independent Palestinian economic development or build a truly functioning democratic society. Donors feel forced to institute aid preconditions because they fear unknowingly funding terrorism, while many Palestinians feel that violent action against their occupiers is the only means to affect political development, which conditional aid ostensibly seeks to inspire. It is a cycle that will be perpetuated unless connections can be fostered between the larger, well-funded, pro-Western PNGOs and grassroots movements, between the Palestinian people and their government, and between foreign donors and NGOs with productive ideas for developing the West Bank and Palestine.

There are significant relevant policy implications to the findings of this research for donors, governments and aid recipients globally. Donor organizations and governments alike have to be aware that aid is most effective when its implementation is dictated by its recipients. Mandating certain projects because they align with donor values without respecting benefactors’ input preordains project failure, or at least does not qualify guaranteed success. The United States government in particular needs to reassess its rigorous aid preconditions, since current guidelines preclude the outcomes, which aid is purportedly intended to facilitate. Giving is admirable, but it should be done so that both the donor and the recipient can benefit fully, instead of both feeling unsatisfied and exasperated.

Scholars are very aware of the issues in rendering aid to Palestine,
Foreign Funding to Palestine: Perceptions of International Aid, How it Demobilized Civil Society, and What Are the Next Steps? / Lexi Doo-little

but they now have a responsibility to disseminate that awareness beyond the academic community. They should compel politicians, donors and recipients to reevaluate their roles in perpetuating a broken system that preserves an inequitable status quo between Israel and Palestine, while also weakening the Palestinian economy and limiting the lives of millions. Foreign aid is meant to help, and in small ways it does, but in the case of Palestine, the small successes often serve to conceal the larger more important issues. Organizations like the Dalia Association should be prioritized, donors should allow Palestinians the space to donate time and money, collectively distribute funds and account for their own projects. The Dalia Association and similar types of programs have the potential to remobilize civil society and encourage positive development in the West Bank and Gaza Strip; these small groups of thoughtful committed citizens, if given the right opportunity, can change Palestine.

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Foreign Funding to Palestine: Perceptions of International Aid, How it Demobilized Civil Society, and What Are the Next Steps? / Lexi Doolittle


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early two decades after Dayton, the Bosnian state remains divided, dysfunctional and deadlocked. Attempts at reconciliation and integration through a political framework have stalled or failed. An alternative strategy is thus needed. This paper will examine the effect that sports based initiatives have as a strategy for reconciliation and in creating co-ethnic unity in Bosnia and Herzegovina. A two-pronged analysis of sports, looking at the professional, as well as the grassroots level will be utilized. Placing particular emphasis on football, the “world’s sport,” this paper will analyze the Bosnian national football team and grassroots NGO efforts toward peacebuilding. At the professional and recreational levels, football, and more broadly sports, is a means of affecting change, while avoiding the political quagmire of Bosnian society. This paper will demonstrate that although football based initiatives face limitations, in some cases severe, grassroots level sports projects are potentially an important way to advance Bosnia’s deadlocked society, which deserves support and further exploration.

The strategic objective and effect of the conflict in Bosnia seriously divided ethnic communities. Approximately 2.2 million people were displaced after years of ethnic cleansing. Rape, mass executions and other atrocities committed during the conflict destroyed the relationships and the trust between Bosnia’s three main ethnic group: Bosniaks, Croats and Serbs. In the wake of the conflict, peacebuilding efforts have focused on top-down change through the sphere of politics. The Dayton Accords, implemented in 1995, prioritized immediate stability over long-term integration. The creation of ethno-nationalist entities recognized and reified the ethnic cleansing that occurred during the conflict. While the use of ethnic quotas for positions in government, such as a revolving presidency, and the provision of an ethnic veto ensured stability, these provisions now mean that political change in Bosnia is all but impossible. Veto power is frequently wielded to block reforms that do not serve ethnic interests. As Roberto Belpolli mentions in, State Building and International Intervention in Bosnia, since Dayton, “top down projects with discrete and observable results have been preferred to more challenging, longer term social initiatives.” This is evidenced by the push to organize free and fair elections, seen as an important benchmark of progress, without addressing the deep-rooted problems of ethnic bloc voting and societal divisions. The main issue with recent attempts to integrate society through politics is that reform is reliant on ethno-nationalist politicians, who lack the political will to reform. Politicians play up fears of the “other” and reinforce segregated ethnic homogeneity. The sad reality that ethnicity is the defining principle of political life is evidenced by the fact that 57 percent of all campaign messages in the 2002 election were framed as ethnic issues. Reform through a political framework has also lost credibility amongst the Bosnian people. People have lost faith in politics. This is reflected in the view of local activist Nedim Jahic, who says that “all politicians are vain, incompe-

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tent and corrupt” and by polls that say 77 percent of Bosniaks, 82 percent of Serbs and 84 percent of Croats think the country is unfairly run by a couple major interests. In sum, top-down peacebuilding has failed. There are no functional political multiethnic institutions and the current political elite are obstructive. No “national narrative” or identity in Bosnia exists. Relationships between the three major ethnic groups still tend to be considered as a zero sum game. A new alternative strategy is sorely needed. But in what form could this nonpolitical strategy manifest itself? Looking at civil society and sports may be an effective means for reconciliation, cooperation, and the creation of a co-ethnic identity in Bosnia.

Why Sport

Why sport? At first blush, sport, defined by the United Nations as “all forms of physical activity that contribute to physical fitness, mental well being and social interaction” may seem trivial. However, the element of social interaction found in sport has important consequences. As a common ground for positive interaction, sports have a potent socializing effect that can lead to interethnic communication, cooperation, and integration. As Kofi Annan says, “Sport is a universal language...at its best it can bring people together, no matter what their background.” The international community has recognized the important role sports can play in documents, such as UN Resolution 61/10 14, which states that sport has the ability to promote and take action to foster peace. In addition to its positive power, sport is an area worth focusing on because it is a pervasive component of Bosnian society. As a 2008 report by the Sport For Development and Peace International Working Group makes clear, sports are an important part of Bosnian civil society. In fact, sports based organizations make up 19 percent of all registered associations in Bosnia. Football teams were rebranded and renamed to remove national or ethnic affiliations. Communist symbols and names, such as “Red Star” or “Partizan” were used. As Zero, a tour guide from Sarajevo fondly remembers, “in the days of Yugoslavia, football was a peaceful, enjoyable activity... families could go watch national league games and there was never any violence.” Football fields are common. These football fields are almost always full of children playing. Furthermore, advertisements for football teams were present on store signs, and football stadiums were passed by on each city tour taken as part of the field trip. Due to its popularity, football is a worthy area to focus initiatives on.

History

A brief history of football in Bosnia serves useful to set the context for both elite and local level football initiatives. In the Yugoslav era, sport played “brotherhood and unity.” Under the rule of Josip Tito, a national professional Yugoslav football league was created. Football teams were rebranded and renamed to remove national or ethnic affiliations. Communist symbols and names, such as “Red Star” or “Partizan” were used. As Zero, a tour guide from Sarajevo fondly remembers, “in the days of Yugoslavia, football was a peaceful, enjoyable activity... families could go watch national league games and there was never any violence.” While there may be some Yugoslav nostalgia present in this statement, the sentiment demonstrates how positively football is remembered as part of Bosnia’s past. Football was an important symbol of unity and

"...the element of social interaction found in sport has important consequences. As a common ground for positive interaction, sports have a potent socializing effect that can lead to interethnic communication, cooperation, and integration."
prestige. Support for the multiethnic national Yugoslav team was high and helped people of all ethnicities “feel connected.” However, football became infected with nationalism in the lead up to the dissolution of Yugoslavia. Football fans began to use nationalistic slogans and chants at games. Football stadiums, as it states in Targeting Social Cohesion in Post Conflict Societies through Sport, were soon turned into “laboratories for mass behavior and the generation of conflict.” Football fans were some of the first to become radicalized. Sport and conflict became intertwined as many football fans became voluntary militia fighters. During the conflict, all Bosnian football teams disintegrated. Conflict raged and sport died. Now, football has reemerged in the post-conflict society. A new domestic league and national football team were created shortly after Dayton. Unfortunately the violence that became ingrained in Bosnian football remains to a certain extent. In Sarajevo, the tour guide claimed that “it is now unsafe to go watch league game due to violence and offensive signs and chants.” In Mostar, the tour guide explained that violent clashes are common between supporters of the Bosnian and Croat league teams in the city. There is thus a negative side to football, in addition to its positive ability to bring people together. It is in this ambiguous, uncertain context, where sport can lead to violence that elite and local level football initiatives are being launched.

**Football at the Professional Level**

At the professional level, the Bosnian national football team is a rare example of a successful multiethnic institution that fosters co-ethnic, unified Bosnian identity. The team, which has joint Bosniak and Serb co-captains, is made up of a diverse mix of all major ethnicities. The team was recently readmitted to international competition after Bosnia’s Football Federation reformed its structure. A single presidency was created for professional soccer in Bosnia in place of a three member cabinet based on ethnic quotas. The team has reached a new high, ranking 15th in the world, and support is increasing. As a Bosnian Serb fan says, “If you told me 10 years ago I’d feel something for the Bosnian national team, I’d have said, as a Serb: ‘Never!’ But I’ll be watching and wanting them to win.” In both Sarajevo and Mostar, shops can be found that sell national team paraphernalia and photos of the national team’s star player, Edin Dzeko, are plastered outside of sports bars. Supporting the national team has created a common interest for Bosniaks, Serbs and Croats. Through cheering for a “Bosnian” team, the notion of a shared, non-ethnic Bosnian identity can develop. Funding and promoting the national team can in this way, create positive changes in Bosnian society.

Improving football at the professional level does, however, have limitations. While co-ethnic support for the national team may exist, this support is mostly temporary and conditional on the team’s performance. When asked, youth activist Nedim Jahic explained, “there is not much support for the Bosnian national team...maybe if they do well, like qualify for the world cup.” When the Bosnian team performs poorly, people tend to revert to their personal ethnic affiliation in football. For example, during the Euro 2008 football tournament, Bosniaks in Mostar cheered for Turkey, whilst Croats cheered for Croatia. Ethnic clashes ensued. Even when there is unified support for football at the professional level, this support may not be positive or peaceful. The competitive nature of professional sports can lead to the development of a win at all cost mentality and stoke aggression. Take for example, the multiethnic football supporter...
firm BiH Fanaticos, whose website states they are “ready in any way to defend the colour and emblem of their country.” The website also endorses the use of flares and catalogues supporter songs such as “No Surrender.” Football based initiatives at the professional level then, while they can inspire brief moments of co-ethnic unity, are unsustainable in the long run.

**Football at the Grassroots Level**

It is at the grassroots community level that projects utilizing football can really make a difference. Grassroots sports organizations, as defined in, Guidelines for Good Governance in Grassroots Sports, are “nongovernmental, not for profit and democratic organizations that organize sport and physical activities on a regular basis for other purposes than high level performance.” These organizations can be a powerful force for reconciliation. Football can assist with this by creating positive experiences and interactions between divided peoples. As Huma Haider, an academic who studies transitional justice notes, it is difficult to overcome prejudices and stereotypes in “the absence of positive experiences with the other.”

Sports projects create a positive space for dialogue that can slowly, but surely erode barriers between people. Sociological literature shows that through sport, people can develop reciprocity, build friendships and establish mutual trust. Sports help bridge social capital. Prejudices are reduced, and opportunities are expanded through the loose ties and connections forged through sport. As a fun and routine activity, playing sports humanizes “the other.” Sports foster a sense of understanding and respect. Importantly, community level football initiatives can focus on the positive recreational aspect of the sport, rather than the competitive aspect present at the professional level. Football is an especially useful mechanism because it offers an enjoyable, neutral and natural place for interaction. As many Bosnians already play or follow sports, it is not an imposed or awkward means of interaction. Football has the potential to open the door to further interaction and cooperation in other areas. It is a vital “icebreaker” in the peacebuilding process. The successes of two prominent grassroots organizations, Open Fun Football Schools and the Balkan Alpe Adria Project demonstrate the transformative power of sport.

Founded in 1998 by a Danish humanitarian organization, the Open Fun Football School project targets children from 7-11-years-old in Bosnia. It has the stated aim of “building friendship and sports cooperation among children and adults from divided communities based on equality and non-discrimination.” The project attempts to achieve this aim by running five day long “schools” where children learn technical football skills in mixed ethnic groups, while parents attend workshops and coaches participate in training sessions. The project places heavy emphasis on involving local communities and has developed a large network of local volunteers and leaders. Since its inception, the project has setup 216 of these “schools” in Bosnia and has involved roughly 45,000 children. Independent evaluations have lauded the organization as a success, specifically the twin-city concept employed by the project. In order to be chosen as a site for the football “schools,” local communities have to partner with a “twin” community from across the ethnic divide and work in tandem. The OFFS program showed special progress when it was able to achieve the first post-war contact between municipalities in Srebrenica, an especially sensitive area. The twin city concept, and the schools in general, bring together people from divided communities, allow for a productive working relationship, and create bonds among children and parents. The project has succeeded in normalizing relations between children, but also in improving relationships of the older generation. Reconciliation is indirectly addressed as parents interact over their children’s sport activities. While according to Lars Udsholt’s Evaluation Study: CCPA’s Open Fun Football Schools Programme, the project could do more to “connect with other networks outside of grassroots sport” and “more selectively choose project sites”, it is in general a successful example of what community football initiatives.

Since 2006, the Balkan Alpe Adria Project (BAAP) has sought to educate youth about the dangers of ethnic nationalism through football workshops and events. The project takes a wider scope,
looking not only at eliminating prejudices within Bosnia, but also at greater regional cooperation and intercultural exchange. Its website describes how it uses “football as a medium to communicate an integrating message by targeting young people.”

BAAP runs a similar short run event, like OFFS, but on a regional level, called the Balkaniade. Balkaniade is a tournament for teams of children with friendly competition, workshops, brochures handed out and testimonial speeches by professional football players. Now in its second year, this event successfully brings youth from conflict zones together, and is a valuable example of the potential for grassroots sports to lead to regional, as well as domestic cooperation and integration.

Looking Forward

Grassroots football initiatives can be successful, yet are also faced with limitations. Simply setting up football activities between divided communities is not enough. Sports programs need to be strategically designed. Football cannot be considered a “natural” and universally applicable remedy for post-conflict divisions all on its own. As OFFS has done, workshops and seminar discussions about tolerance and non-discrimination need to supplement sport activities. There is also the fear that connections made through sport, or “sports friendships” will wane after leaving the field. A five day session opens the door to future communication, but may not create deep lasting connection between players or parents. Grassroots football projects also face logistical challenges in Bosnia. Funding from local, regional and national levels of government is lacking in Bosnia and plagued with corruption. Many civil society organizations are founded, only to lose funding shortly thereafter. Only about 6,600 of Bosnia’s 12,000 registered civil society organizations are operational. The lack of local support leads grassroots organizations to seek international funding, which is often project based and tied to the interests of donors. Football projects also have to deal with an undeveloped volunteer culture in Bosnia. Only 4.5 percent of Bosnians are registered volunteers. These initiatives thus face limits in how effective they can be.

However, these limitations may be overcome. Moving forward, sport based initiatives can increase their effectiveness by tailoring to specific historical and cultural contexts. It is more labor intensive, but general policies may not work, as the meaning of reconciliation differs within Bosnia, based on what experiences during the conflict were like. To ensure that progress made through football initiatives is not lost, follow up sessions should be held. Borrowing a tactic from Sports Sans Frontiers, a Kosovo NGO, past participants in football schools such as OFFS could be brought back as program leaders. By taking the role of leader, lessons learned from the program would be reinforced. Projects should also be tied into broader networks that include other peacebuilding and reconciliation organizations. This would allow expertise to be shared across fields and strengthen the reconciliation aspect of the sports programs. Additionally, links with national organizations like the Football Federation of Bosnia and national football clubs could be pursued for improved funding. As a final note, more empirical research on sports civil society organizations and the role of sport in Bosnian society needs to be conducted. Through this research, sports policies can be better refined and targeted, resulting in increased effectiveness.

Conclusion

As shown in the essay, sports, specifically football, are an arena where ethnic reconciliation is possible. Although professional level initiatives like the Bosnian national team are problematic, community level projects have proven to be successful. Grassroots efforts by international and local NGO’s should thus be given additional funding and support. In a country where top-down political reform has merely led to paralysis, a new strategy is needed. Sports based reform is one such different strategy that has a good chance for success. If reconciliation and integration can be achieved through sport, momentum can be built. Success can then start to spill over to other more significant issues and divisions. Connecting football initiatives to broader networks can accelerate this process. While the establishment of trust and cooperation between different
ethnic groups in Bosnia may seem far away, using football to improve relationships is an important initial step.

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he interwar years of isolationist and appeasement policies—culminating in the Munich Conference of 1938—and its consequences were a formative experience for both the American and British wartime generation. American President Lyndon B. Johnson called it “the clearest lesson of… [his] time,” while British Prime Minister Anthony Eden stated that the “lessons of the thirties and their application to the fifties” were the reason for writing his autobiography. Despite sharing similar views on the significance, alleged clarity, and even policy-relevance of the lessons of appeasement, the postwar foreign policies of each country illustrate no such agreement on the lesson’s application. Through tracing the differing usages of the Munich analogy within the early Cold War foreign policies of the US and Great Britain, this paper argues that pre-existing intellectual paradigms within each country’s respective foreign policy community determined contrary interpretations of the Munich analogy. By way of theorizing the role of the Munich analogy, also argued more generally is that the process of historical analogizing is both subjective and experiential, and that a country’s particular history must be factored into any analysis of its employment of analogies.

Introduction: Memory of Appeasement

The failure to confront fascism before the Second World War haunted statesmen in Washington and London long after the war ended. Recalling their countries’ and their own experiences in the 1930s, many were committed to learning the lessons of the past and to preventing their repetition. Former Prime Minister Anthony Eden described in his 1960 memoirs his involvement in the events, recounting the era of the Munich Conference. Only months before Prime Minister Neville Chamberlain returned from Munich declaring “peace in our time,” and just one year before Germany attacked Poland, Eden, protesting Chamberlain’s appeasement policies, resigned as Foreign Secretary. Over twenty years later, he named his memoirs “Full Circle,” so as to emphasize how the present world resembled this troubled past. Eden explained his reasons for the book and its title: “the lessons of the thirties and their application to the fifties are the themes of my memoirs.”1 The employment of this historical memory—in short, the Munich analogy.2 However, despite both nations’ experiences with the consequences of appeasement in the 1930s; and even more fascinatingly, despite politicians in the postwar period on both sides of the Atlantic declaring to have learned the same lessons of Munich, the two nations did not agree with each other’s application of the analogy. To explain this divergence however, one must look beyond the Munich analogy. Both the Americans and the British invoked the past only in accordance with their respective pre-existing intellectual frameworks, that is, their pre-existing particular ways of seeing and analyzing the world. As a result of the two countries’ dissimilar intellectual frameworks, the Americans and

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British could not agree on when those important “lessons of the thirties” were to be applied. Britain, with its intellectual framework grounded in a traditional imperial history, recalled the Munich analogy when their immediate strategic, economic, or colonial interests were threatened, while the United States, seeing the world through the intellectual framework first espoused by Woodrow Wilson, invoked the analogy when the liberal world order was threatened.

From these empirical claims regarding the United States and Great Britain, this paper will also argue more theoretically that historical memory and historical analogizing depend on particular contexts and intellectual frameworks operating on a national level. This analysis will argue against Yuen Foong Khong’s over-estimation of analogies, as he outlined in his book, Analogies at War. Whereas he explains foreign policy decisions through the analogical reasoning of foreign policy staff, this paper suggests that an intellectual framework must already be presupposed.

The Munich Analogy: Lessons drawn by both the British and Americans

The term “historical analogy,” according to Khong, refers to an “inference that if two or more events separated in time agree in one respect, then they may also agree in another.” Functionally, these are “intellectual devices” employed by policymakers “to perform a set of diagnostic tasks relevant to political decision-making.” First, the policymaker uses previous experience to define the nature of the current problem within the coordinates of the past. This highlights similarities between the previous experience and the matter at hand, while also concealing any differences they may have. Thus the stakes of the current issue are provided, and the efficacy and “rightness” of any alternative solutions to it may be measured against the analogue experience. Taking these tasks together, the analogy helps the policymaker understand the current problem—both the nature and potential consequences of the problem—and prompts him towards certain policy options, while discouraging others.

The Munich analogy in particular was the analogy most powerfully informing Washington and London’s decision-making in the immediate postwar years. President Lyndon B. Johnson called it “the clearest lesson of… [his] time,” while his Secretary of State Dean Rusk declared the historical episode “the principal lesson” from the Second World War. On the British side meanwhile, in his famous postwar speech, the “Sinews of Peace” speech, Churchill grounded the argument for confronting the Soviet Union in the tragic lessons from the West’s appeasement policies. These lessons drawn from their experience with fascism in the 1930s firmly implanted a disdain for appeasement within the American and British minds.

The first and most central lesson learned from the 1930s and Munich is the following: “aggression left unchecked leads to general war later.” In other words, if small acts of aggression are not addressed early on, they will accumulate and develop into a much larger conflict, and eventually draw in other nations, such as the United States. The failure of the West to act against fascist belligerence in the 1930s resulted in the Second World War. Policymakers conjured up this imagery of fascist behavior repetitively when faced with violent or aggressive acts committed by other countries in the postwar era.

Analogizing to the 1930s in order to describe current foreign policy issues furthermore provides the statesman with a considerable sense of the stakes involved. 
sons from World War III.”9 The British also shared this view of the gravity of appeasement. When describing Nasser’s regime as a “fascist government” at the height of the Suez Crisis in 1956, Prime Minister Anthony Eden stated, “we all remember, all too well, what the cost can be in giving in to Fascism.”10 Rusk and Eden defined the nature of the current problem within the coordinates of 1930s fascism, and then from this, estimated costs.

The second element of the Munich analogy is the foreclosure of anything resembling a compromise with aggressors. Debating to intervene in Korea in 1950, President Harry Truman’s advisors all agreed with his analysis that “refusal to repel the aggression would be nothing but ‘appeasement’… And appeasement as history has shown,” continued Truman, “would ultimately lead to war.”11 This fear of appeasement instructed policymakers, such as Truman to avoid political and diplomatic settlements with aggressors, such as China and the Soviet Union—who were using Kim Il-Sung as a pawn, the Americans thought, to expand the boundaries of the Communist world— and to favor military intervention.

The British also employed this element of the analogy. Again in reference to the Suez Crisis, Eden implicitly employed the Munich analogy to deny the possibility of negotiations:

I could not return from Geneva with a piece of paper and commend it to the House of Commons, when I knew it had no real value… I had been through so much of this before…12

Eden referenced his own experience as the Foreign Secretary during the 1930s and Prime Minister Chamberlain’s theatrical waving of the Anglo-German Declaration (“a piece of paper”) upon returning from the Munich Conference. The point was clear: negotiating with aggressors like Hitler and Mussolini, and by analogy, Nasser, was meaningless.

Although it is evident that the Munich analogy helped frame issues for both British and American leaders in the postwar period, the two sides reached very different conclusions regarding the analogy’s application. In the two case studies to be examined—the American attempt to intervene in Vietnam in 1954 and British reaction to Egyptian President Gamal Nasser’s nationalization of the Suez Canal in 1956— the relevance of the application was disputed. These disagreements point to a lack of explanatory power in the Munich analogy. Khong rightly argues that “the Munich analogy magnified the stakes of Vietnam for the United States because it envisioned a 1930s syndrome in Southeast Asia.”13 Although this is true, the Munich analogy cannot fully explain why the United States “envisioned a 1930s syndrome” for this particular region, especially because the country equally gripped by the analogy, England, did not agree with the Americans’ geopolitical diagnosis.14

As the historian Frank Ninkovich writes, the Munich analogy “specified only what was not permitted, the only practical injunction deducible from it being a negative – ‘Thou shalt not appease’– which ruled out any attempts at negotiation.”15 By providing no clear positive policy injunctions, Khong’s analysis gives the analogy too much emphasis at the expense of another critically important conceptual stage in the determination of American and British foreign policy in the postwar years. The lessons of the Munich analogy were filtered through each countries’ historical differences and pre-existing conceptualizations of world politics. As this paper will argue in the following section, the intellectual framework belonging to the Americans was a Wilsonian worldview.

**Wilsonian Paradigm: The Metaphor of a Domino World**

During the battle of Dien Bien Phu, Eisenhower explicitly detailed his so-called domino theory:

You have broader considerations that might follow what you would call the “falling domino” principle. You have a row of dominoes set up, you knock over the first one, and what will happen to the last one is the certainty that it will go over very quickly. So you have a beginning of a disintegration that would have the most profound influences…16

Walking his audience through this worst-case scenario, Eisenhower then predicted the losses of Indochina, Burma, Thailand, and Indonesia. This obsession over the hyper-interdependence of the geopolitical world, Ninkovich argues, is
the American intellectual paradigm.17

The domino metaphor, capturing the worldview of American foreign policy makers, had immediate consequences as to how the world is interpreted. The metaphor emphasizes the principle of “strategic interdependence,” which, according to Keith Shimko obscures national differences; the domino imagery makes no distinctions between dominoes. “Physically, dominoes are alike and interchangeable,” and whatever differences do exist, “do not alter a domino’s susceptibility to being knocked over in a chain reaction.” Shimko rightfully concludes that this tendency to overlook national differences cannot be derived solely from the Munich analogy.18

It stems instead from the worldview of former American President Woodrow Wilson.

Writing shortly after the armistice of the First World War, Wilson stated, “The facts of the world have changed.”19

Upon witnessing how the world was pulled into a local European war, Wilson anticipated future local wars would also escalate into more general conflicts. In a letter, Wilson wrote, “any quarrel however small, however limited the questions it involves, may again, if carried to the point of war, kindle a flame throughout the world.”20

No longer could the national interest lie solely in the immediate strategic and economic spheres. With a hyper-connected world of dominoes ready to fall interest was expanded to include the very maintenance of this interdependent world, bringing previously peripheral swathes of territory into the realm of national security. An NSC report from September 1953 communicated this new definition of the national interest:

The principle of collective security... if it is to continue to survive as a deterrent to continued piecemeal aggression and a promise of an eventual effective world security system, should be upheld even in areas not of vital strategic importance.21

The periphery had become the center for the makers of American foreign policy.

Incommensurability: The
Munich Analogy in Anglo-
American Relations
(I) Dominoes, History, and the near-decision to go to War:

In the spring of 1954, when notable Vietnamese General Vo Nguyen Giap commanded the Vietminh troops against 12,000 elite French soldiers in a decisive battle at the isolated fortress of Dien Bien Phu, the French were stumbling into a “deteriorating situation.”22 The United States were watching the events with a deep-seated anxiety; if the Vietminh defeat the French and take control of the country, they feared, Indochina would be the first domino of the region to fall to communism—a victim of Soviet and Chinese imperialism.23

While the battle of Dien Bien Phu was being fought between the Vietminh and the French, Dulles communicated the American concern for Vietnam and the region at a press conference:

The United States feels that that possibility should not be passively accepted but should be met by united action. This might involve serious risks. But these risks are far less than those that will face us a few years from now if we dare not be resolute today... The chances for peace are usually bettered by letting a potential aggressor know in advance where his aggression could lead him.24

The lesson is relayed clearly: to not address this act of aggression in the present would only beget a much more serious crisis in the future.

Consequently Dulles proposed a “United Action;” that is, a coalition composed of the United States, Great Britain, France, New Zealand, Australia, and the Associated States of Indochina to protect Indochina from the Communist aggressors. Congress secretly endorsed intervention under three conditions: “satisfactory commitment” of allies including Britain, an unequivocal French promise to grant independence to Indochina, and another French promise that they would not withdraw prematurely. While they were well aware of the lack of interest among Americans in embarking alone on another “Korea,” Dulles and Eisenhower pursued the first condition with extreme diligence, as the very concept of “United Action” depended on it.25
In its attempt to summon support for a United Action, the administration went to great lengths to convince the British that inaction in 1954 would repeat the errors of 1938. In a pleading private letter to Churchill, Eisenhower appeals to their shared history of dealing with fascism:

*If I may refer again to history, we failed to halt Hirohito, Mussolini and Hitler by not acting in unity and in time. That marked the beginning of many years of stark tragedy and desperate peril. May it not be that our nations have learned something from the lesson?*

Eisenhower defined the current situation in Indochina within the terminology of 1930s fascism. According to the analogy, the aggressive behavior and plans of world domination of Japan, Italy, and Germany were substituted for the Soviet Union and China.

Although Churchill would find agreement with Eisenhower’s explication of Munich’s lessons, he disagreed with the application of this lesson to a region such as Indochina. Writing only a few days later, Churchill responds rather tersely to Eisenhower: “We discussed your proposal about Indo-China in the Cabinet this morning… it is however a topic which raises many problems for us.” He did not intend on committing economic or even military aid to a territory in which the British had “no historic connection.”

Churchill’s response to Dulles spoke to the conceptualizations of global politics separating Britain from the United States. While Eisenhower and his administration applied the lessons of Munich to a strategically and economically peripheral part of the world—as the Wilsonian worldview and Domino theory instructed them to—Churchill and the British opposed the application. They did not share the American specter of the falling domino theory and believed that their own colonial possessions, such as Malaya, could be defended from the Communist threat even if Indochina slipped out of the imperial arms of France. As Indochina did not belong to the British Empire, Churchill and his cabinet were not concerned with defending it. In contrast to the American Wilsonian worldview, the British response points to a more traditional national interest grounded in strategic and economic factors. The differences between these two paradigms which the Americans firmly repudiated. A British colonial possession since the previous century, Egypt was a relic of the former greatness of the British Empire. However, the British position was severely challenged by the Free Officers’ Revolution, which overthrew the British-backed King Farouk, and brought Nasser to power. Despite this, the British interest in Egypt did not wane. For geographical reasons, Egypt was the crossroads of the Commonwealth, linking Britain to its colonies and other economically important regions in the Far East. The British also saw Egypt as a critical bulwark for European defense, “the geopolitical pivot of the Middle East and North Africa… [and] the shield of Africa against Russian expansion.” Finally, in addition to economic and strategic in-

"The American framework—–a Wilsonian internationalism— predisposed Washington to invoke the memories of Munich during crises that threatened the liberal world order, regardless of immediate strategic and economic interests."
“strictly, de-internationalize” – the Suez Canal Company, which brought about immediate pandemonium within the Eden cabinet. At a meeting on 27 July, Eden and his staff agreed that, “failure to hold the Suez Canal would lead inevitably to the loss one by one of all … [their] interests and assets in the Middle East.”

From this, one can observe that British concerns for Egypt had little to do with the Cold War or the maintenance of the liberal world order, but rather the survival of their Empire.

As the crisis was unfolding, Eden’s cabinet continuously drew parallels to the 1930s. Eden himself made the comparison to fascist Italy – even christening Nasser a “Moslem Mussolini” – while also employing the Munich analogy numerous times throughout the crisis as well. For instance, at one point Eden stressed the importance of reducing “the stature of the megalomaniacal dictator at an early stage. A check to Hitler when he moved to occupy the Rhineland would not have destroyed him, but it would have made him pause.”

Evidently Eden drew from Munich the general lesson that aggression must be addressed early on.

The other aspect of the Munich analogy – “Thou shalt not appease” – foreclosed the possibility of a diplomatic settlement. Upon depicting Nasser and the Crisis as analogous to the fascists of the 1930s, Eden and his cabinet favored a military resolution to the conflict. This is suggested by Eden’s comment that “the Arabs will interpret any other course short of military intervention as a sign of weakness.”

Due to this unwillingness to seek a negotiated end to the conflict, the British interfered with both attempts to resolve the Crisis diplomatically first at the Menzies Commission and then at the Anglo-French-Egyptian talks planned for Geneva.

The British faced a difficult task of persuading the Americans of their use of the Munich analogy. Resembling the tone and urgency of Eisenhower’s own letter to Churchill during the Dien Bien Phu crisis, Eden wrote to Eisenhower:

*In the 1930s Hitler established his position by a series of carefully planned movements. These began with the occupation of the Rhineland and were followed by successive acts of aggression against Austria, Czechoslovakia, Poland and the West. His actions were tolerated and excused by the majority of the population of Western Europe…*

After imparting this rhetorical history lesson, Eden then posited the parallels between the 1930s and the current situation in Egypt, claiming Nasser to be following in the footsteps of Hitler. Nasser, he wrote, is conducting a “planned campaign” to remove all Western influence from Arab countries. According to Eden, he was even going to “mount revolutions of young officers in Saudi Arabia, Jordan, Syria, and Iraq,” eventually leading to a “united Arabia” in possession of all Middle Eastern oil. From this diagnosis of the Suez Crisis, Eden concluded with a subtle proposal to intervene militarily.

Eisenhower’s reply speaks to the incommensurability of their respective geopolitical worldviews. Harshly criticizing Eden’s hyperbolic reaction to Nasser, Eisenhower warned Eden that such phrases, as “ignoble end to our long history,” did nothing, but inflate Nasser’s importance, while reducing England’s own power. Overall, Eisenhower wrote, Eden’s depiction was “…a picture too dark and is severely distorting.”

Moreover, despite their own frustrations over Nasser’s “diplomatic blackmail” towards the United States, in which Nasser supposedly toyed with the two superpowers, Eisenhower, as well Dulles, were unequivocal in their warnings against the use of force. In another letter, Eisenhower couched his cautioning of the use of force within symbolic terms:

*The peoples of the Near East and of North Africa and, to some extent, of all of Asia and all of Africa, would be consolidated against the West to a degree which, I fear, could not be overcome in a generation.*

Whereas Eden emphasized the problems of the Crisis in terms of the strategic, economic, and prestigious losses to the British Empire, Eisenhower was concerned not just with Egypt or the British Empire. He feared that the largest threat to the liberal world order would be the reaction of world opinion against the West due to Britain’s military campaign in Egypt.

Not agreeing with the application of the Munich analogy, Dulles attempted to orchestrate a political settlement out of the Crisis, which was evidently not the first resort when the Americans invoked the Munich analogy during the Dien Bien Phu
An Ambiguous Lesson: Tracing the Analogy in Anglo-American Relations/Dexter Fergie

Anchored in the country’s particular history and national concerns. It appears, however, that among the policymakers there was an awareness of this; during a meeting between President Johnson, his advisors, and former President Eisenhower on the eve of the escalation of the American war effort in Vietnam, Eisenhower made a comment, in which he recognized this intellectual incommensurability between the United States and Great Britain. Eisenhower observed “Prime Minister Wilson of the U.K. had not had experience with this kind of problem. We, however, have learned that Munichs win nothing.”

Although sharing the experiences of the Second World War and the struggle against fascism, both countries remembered and recalled different histories— even different “Munichs”— during different crises in pursuing their postwar foreign policies, and as Eisenhower explains, neither could understand the other’s analogizing.

Conclusion

While analogical reasoning is critical in all mental activities, including the conduct of foreign policy, one cannot omit the subject’s own pre-existing notions, and experience from determining the meaning of an analogy. Analogies are not notions freely suspended in the air without any attachment to a mind, but as mental processes themselves, they presuppose a mind. This is precisely where Khong’s analysis goes awry. For the Munich analogy to influence American foreign policy, the American mind must have already been constituted by some intellectual framework. The American framework—a Wilsonian internationalism— predisposed Washington to invoke the memories of Munich during crises that threatened the liberal world order, regardless of immediate strategic and economic interests. In contrast, Britain’s usage of the analogy derived from their imperial past, in which their national interest was determined not by the international order, but the welfare of its empire. This predisposed them to employ the analogy when, and only when, their strategic, economic, and prestigious interests were at risk.

These disagreements over the application of the Munich analogy illustrate the ambiguity of the 1930s lessons and of historical analogies more generally. The process of historical analogizing is both subjective and experiential, and to understand the meaning of analogies used, one must factor in the country’s particular history and national concerns. It appears, however, that among the policymakers there was an awareness of this; during a meeting between President Johnson, his advisors, and former President Eisenhower on the eve of the escalation of the American war effort in Vietnam, Eisenhower made a comment, in which he recognized this intellectual incommensurability between the United States and Great Britain. Eisenhower observed “Prime Minister Wilson of the U.K. had not had experience with this kind of problem. We, however, have learned that Munichs win nothing.”

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Endnotes


2. As a disclosure, I use synonymously the lessons of Munich, Appeasement, the 1930s, fascism, Hitler, Mussolini, and Hirohito, because the primary documents themselves often substitute one term for another. In this regard, as the clearest example of appeasement, the Munich analogy is only taken to be the signifier for the more general historical memory of the international struggle against fascism, and its consequences.


7. Addressing the problem of truth in political discourse, Khong conducted a quantitative analysis of the analogies employed by senior officials working in American foreign policy between 1950 and 1966. Assuming that politicians speak their mind much more genuinely in private than do in the public record, Khong compared the public and private uses of analogies. Khong discovered that analogies to the 1930s were some of the most popular in both spheres, which suggests that these analogies were not used retrospectively to justify policy decisions, but in fact helped senior officials frame current issues. See Khong, Analogies at War, 60.

8. Ibid., 64.

9. Dean Rusk Oral History Interview II.


An Ambiguous Lesson: Tracing the Analogy in Anglo-American Relations/ Dexter Fergie

20. Ibid., 83.
27. Ibid., 139.
30. Ibid., 221.
32. Hyam, Britain’s Declining Empire, 227.
34. Quoted in Macdonald, Rolling the Iron Dice, 123.
36. Quoted in Macdonald, Rolling the Iron Dice, 130.
41. Macdonald, Throwing the Iron Dice, 133.
43. Macdonald, Throwing the Iron Dice, 134.

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An Ambiguous Lesson: Tracing the Analogy in Anglo-American Relations/ Dexter Fergie


n the 1970s, both Chile and Argentina experienced military coups leading to brutal military dictatorships that embraced neoliberal economic policies. This paper argues that despite their surface similarities, Argentinian and Chilean neoliberalism arose from unrelated phenomena. While Chilean policymakers sought to emulate Milton Friedman and other American economists, Argentinian leaders drew upon decades-old loathing for Peronism when crafting their economic policy.

On March 24, 1976, a military junta led by General Jorge Rafael Videla seized control of the Argentinian government. Referring to itself as the “National Reorganization Process,” or Proceso, the military government set out to fundamentally restructure the state, society, and economy. Jose Martinez de Hoz assumed control of the finance ministry and began instituting liberal economic policies, slashing price controls, and lifting protectionist tariffs. Simultaneously, the military embarked on a horrifying process of nearly indiscriminate torture, kidnapping, and murder that left tens of thousands dead. Efforts by political scientists and economists to contextualize and explain the two central facets of the Proceso regime – the rise of neoliberalism and the rise of extreme repression – have generally been undertaken in separate spheres. Scholars look to the contemporary international context to explain the rise of neoliberalism, examining the rise of neoliberal thought with such figures as Milton Friedman and Augusto Pinochet of Chile. The internationally focused analysis contrasts with the historical analysis undertaken to examine the regime’s repressive tactics. Scholars tend to examine the regime’s repression as a product of the military’s struggle against Peronism, which began after the coup of 1955. Thus, in the current literature, the Proceso’s neoliberal policies are contextualized within the contemporary international conditions, while the regime’s repressive policies are contextualized within historical country-specific conditions.

This paper will argue that an internationally focused analysis of the rise of neoliberalism under General Videla is incomplete. When contextualized within the twenty-year struggle between the military and Peronist unions, the regime’s choice of neoliberal economic policies takes on a more sinister role. Neoliberal policies devastate unions and the working class in the short run. Reducing tariffs ravages inefficient domestic industry, causing wages to plunge, real prices to rise as price controls are eliminated, and unemployment to increase, weakening the collective bargaining power of unions. In essence, the effects of neoliberal economic policies were the perfect complement to the Proceso’s political reign of terror – both worked towards eliminating the political and economic power of the entity most hated by the regime, Peronist unions. Thus, this paper proposes a framework of analysis in which the regime’s repression and neoliberal economic policies are not separate organisms, but two arms of one anti-Peronist beast.

This analysis will be undertaken in

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stages. First, a literature review will examine the current frameworks within which Argentina's neoliberal policies are analyzed. Second, the Proceso will be necessarily distinguished from Pinochet’s Chile, the more famous and quite influential case of an authoritarian Southern Cone government in the 1970s implementing neoliberal economic policies. Finally, and most importantly, the rise of neoliberal economic policies during the Proceso will be examined from the perspective of the two-decade conflict between military forces and the Peronist unions.

The work of Karen Remmer, Hector Schamis, and John Sheahan has followed in the influential footsteps of Argentinian political scientist, Guillermo O’Donnell by examining the rise of neoliberalism and authoritarianism in Latin America in the 1970s as a wave. In other words, they focus on common international conditions that can explain the rise of a new strand of authoritarianism in the 1970s in Latin America—one that differs substantially from O’Donnell’s famous Bureaucratic Authoritarian model, which described the rise of military regimes in the 1960s oriented towards state-led economic development.

Hector Schamis, in *Reconceptualizing Latin American Authoritarianism in the 1970s: From Bureaucratic Authoritarianism to Neoconservatism*, works to distinguish the Chilean and Argentinian coups of the 1970s from O’Donnell’s bureaucratic authoritarian cases of Brazil and Peru in the 1960s. He explains that bureaucratic authoritarian regimes sought the “deepening” of the productive structure through heavy state involvement in the economy, a model that does little to explain the “second wave” of authoritarianism in the 1970s. The regimes of the 1970s, such as Chile and Argentina, reversed the deepening of the productive structure, banned collective representation, and disavowed corporatism in pursuit of a social order regulated by market relations. Without cooptation, regimes were left only with coercion as an available tool to deal with opposition. Within Schamis’s work, we find two themes consistently echoed throughout the literature on Chile and Argentina in the 1970s: repression was a tool to squash opposition to new neoliberal economic policies, and the two cases were part of a larger ideological wave of authoritarianism that swept across the Southern Cone in the 1970s.

John Sheahan, in *Market-Oriented Economic Policies and Political Repression in Latin America*, echoes Schamis’s argument that political repression stems from neoconservative regimes’ desire to preserve unpopular economic restructuring. He notes that market-oriented economic policies are associated with limitations on arbitrary actions by government in Western Europe and North America, but in Latin America the opposite seems to be true. Sheahan argues that the structural characteristics of Latin American economies, including concentrated holdings of wealth and resources, high poverty rates, and “dualistic labor markets in which a small minority of workers with regular employment have incomes from greater than the average in agriculture or in fringe urban occupations,” predispose high societal opposition to neoliberal policies and encourage accompanying political repression. Sheahan and Schamis both argue that the repressive tactics of Pinochet’s Chile and the Proceso stemmed from the regimes’ desire to implement unpopular neoliberal economic policies.

Finally, the work of Karen Remmer makes explicit an implicit assumption that can be found throughout the
analysis of neoliberal economic policies. In *Evaluating the Policy Impact of Military Regimes in Latin America*, Remmer provides an overview of the debate between economists and political scientists regarding the success or failure of military governments in promoting economic development. She reviews the arguments of two groups of scholars: one arguing that military governments tend to promote socioeconomic development, and a second arguing the opposite. Despite the conflicting perspectives, all the arguments reviewed by Remmer center around the assumption that any regime, authoritarian or democratic, chooses economic policy with the intention of furthering economic progress in their country. This is an assumption that will be seriously challenged upon closer examination of the Proceso’s neoliberal regime.

Remmer, Sheahan, Schamis, and O’Donnell’s wave-based analysis of 1970s Latin America produces two central conclusions: that military governments sought to improve the economic outcomes within their country, and that repression was a necessary component of instituting neoliberal reforms. The characterization of neoconservatism as a wave that swept across Latin America in the 1970s encourages the conflation of the Chilean and Argentinian cases. However, as Paul G. Buchanan states in “The Varied Faces of Domination: State Terror, Economic Policy, and Social Rupture during the Argentine Proceso,” the understanding that “the prescription of Martínez de Hoz and his “liberal” colleagues was awarded further credence […] by the fact that his policies were being followed with apparent success by the military regime in neighboring Chile” obscures deep and critical differences between the Chilean and Argentinian cases. The comparison between Chile and Argentinian neoliberal economic policies demands two preconditions: first, an explanation of neoliberal economic philosophy and second, an overview of both regimes’ policy choices. Following the necessary background, this paper distinguishes the Argentinian case from the Chilean case, arguing that concentrating on an internationally focused framework of analysis provides an incomplete explanation for the rise of neoliberalism in the Argentinian Proceso.

“Neoliberal” refers to the resurgence of liberal economic philosophy, as first pioneered by Adam Smith, the Scottish political economist considered to be the founding father of liberal economic thought. The individual takes center stage in liberal philosophy; the best interests of society are promoted only when the individual is able to pursue his or her best interests. Thus, there is a strong emphasis on freedom within liberal thought, as defined by a lack of intervention in individual decisions and affairs. For the liberal, economic freedom is paramount; removing the government from the economic arena leaves the individual free to pursue whatever consumption, employment, and investment decisions he so chooses and leads to better outcomes for the whole of society. The mid-20th century revival of liberal thought was led by economists, such as Milton Friedman, who lashed out against the perceived failure of Keynesian economics, while advocating for smaller government and market-led growth models. In 1973, a group of neoliberal economists known as the Chicago Boys took hold of economic policy in Chile and instituted the most radical free-market experiment in history.

After overthrowing Salvador Allende’s democratic socialist experiment in 1973, General Pinochet and his military regime in Chile turned to the Chicago Boys to craft economic policy. In October 1973, the military government announced that the prescription of Martínez de Hoz and his “liberal” colleagues was awarded further credence […] by the fact that his policies were being followed with apparent success by the military regime in neighboring Chile obscures deep and critical differences between the Chilean and Argentinian cases. The comparison between Chile and Argentinian neoliberal economic policies demands two preconditions: first, an explanation of neoliberal economic philosophy and second, an overview of both regimes’ policy choices. Following the necessary background, this paper distinguishes the Argentinian case from the Chilean case, arguing that concentrating on an internationally focused framework of analysis provides an incomplete explanation for the rise of neoliberalism in the Argentinian Proceso.

The economic free-market experiment in history.

After overthrowing Salvador Allende’s democratic socialist experiment in 1973, General Pinochet and his military regime in Chile turned to the Chicago Boys to craft economic policy. In October 1973, the military government announced that the reduction of inflation, which had exceeded 600 percent in the past 12 months, was one of its main economic goals; other important short-term goals included reducing government controls, reducing the fiscal deficit, reorganizing the productive sector, and avoiding a major balance-of-payments crisis. In 1973 and 1974, the regime followed a gradualist approach to de-inflationary policy and reducing government expenditures, with limited success. Still, 18 months after the ascension of Pinochet to head of state, inflation remained out of control, with the growth rate of consumer prices reaching 370 percent in 1974. In April 1975, the regime abandoned its gradualist approach for a drastic shift in policy known as the “shock treatment.” An across-the-board slashing of government expenditures between
15 percent and 25 percent, a 10 percent temporary hike in income taxes, an accelerated effort to privatize publicly held enterprises, and a tight monetary policy followed. Inflation promptly dropped to 26 percent in the fourth quarter of 1975, and the shock program was ended in early 1976.\textsuperscript{11} Next, the regime moved to nearly eliminate tariffs, reducing them from an average of 94 percent in 1973 to an average of 33 percent in 1976, and devaluing the Chilean peso by pegging it to the dollar in 1979.\textsuperscript{12}

The devaluation of the peso, combined with a glut of OPEC (Organization of the Petroleum Exporting Countries) oil revenues, seeking overseas investment, led to an immense growth of foreign investment in the Chilean economy between 1979 and 1981. The so-called “Chilean Miracle” led to stunning growth rates—an average of 8.5 percent per year between 1977 and 1980— that came to an abrupt end in the deep recession of 1981 and 1982.\textsuperscript{13} Although the stunning growth rates of the late 1970s did not last, the structural changes induced by the Chicago Boys did. Industries that traditionally enjoyed a high level of protection, such as textiles and leather goods experienced large losses and widespread bankruptcies, after the trade liberalization. But some industries survived by introducing new technologies, greatly increasing efficiency, and adopting modern management systems.\textsuperscript{14} In short, the Chilean experience with neoliberalism was one of explosive growth followed by near fiscal collapse in the early 1980s that had far-reaching sectoral consequences for industry.

Meanwhile in 1976, the Argentinian military seized power from the government of Isabel Perón in the context of runaway inflation following the elimination of price ceilings in June 1975.\textsuperscript{15} The new regime instituted a three-part plan to tackle inflation. First, it controlled demand through wage restraints that pushed worker incomes down by 56 percent in real terms between 1976 and 1978.\textsuperscript{16} Second, the government turned to restrictive monetary policy in June 1977 and freed interest rates from Central Bank control. Finally, the tablita monetary policy of 1979 and 1980 allowed the devaluation rate of the peso to trail behind the domestic rate of inflation.\textsuperscript{17} Though the tablita yielded very little success in regards to combating inflation, it had a ruinous effect on domestic firms, many of whom were driven out of business due to price advantages afforded to foreign corporations.\textsuperscript{18} Alongside its anti-inflationary policies, the Proceso implemented major banking liberalization and a dramatic drop in tariff rates on exportable goods.

The surface similarities between the Chilean and Argentinian cases encourage an analysis of the rise of neoliberalism under the Proceso that focuses on contemporary international conditions. As pointed out by Schamis and other proponents of “wave” theories of neoliberalism, the Argentinian regime rose to power only three years after Pinochet’s coup, and exhibited a host of common characteristics:

"The surface similarities between the Chilean and Argentinian cases encourage an analysis of the rise of neoliberalism under the Proceso that focuses on contemporary international conditions."
neoliberalism did not play a central role in determining the Proceso’s economic policy choices.

A closer examination of the two regimes reveals a range of questions left unanswered by an international-focused analysis of the rise of neoliberalism in the Proceso, suggesting the need to examine the Proceso’s economic policies from a more historical point of view. While the Chilean Chicago Boys were academic technocrats determined to construct the purest form of neoliberalism possible, Argentina’s Martinez de Hoz embodied the anti-Peronist alliance between the military and the landed elite. Therefore, though the significant international influence of Milton Friedman and other pioneers of neoliberalism validates the hypothesis that the Pinochet regime’s neoliberalism stemmed from an “wave” of economic thought, the Argentine case demands an alternative, more historical, perspective.

IV

The Chilean Chicago Boys, as academics removed from Chilean politics until being recruited to join Pinochet’s junta in 1973, sought to implement in the real world the neoliberal economic principles they had learned under the tutelage of Milton Friedman. Naval officers, under the leadership of captains Troncoso, Castro, and Lopez, were the first members of the military to advocate a coup in 1973. Troncoso, Castro, and Lopez realized that they would have no idea how to run the economy should a coup succeed and, through their network, reached out to Orlando Saenz, the president of the Association of Chilean Manufacturers. The Association had a research department whose head, Sergio Undurraga, was an economist trained at the Catholic University of Santiago and formed part of the local Chicago network. The network consisted of a group of American-trained Chilean economists, who sensing the changing political winds had begun meeting informally to discuss the state of the economy. At the urging of the three naval captains the meetings were formalized and plans were drawn up for the economy in the event of Allende’s downfall. The economists at the meetings, soon to be known as the Chicago Boys, were products of a U.S. government program that partnered the University of Chicago with Chile’s Catholic University. Between 1956 and 1961, approximately 150 promising Chilean students of economics received full graduate fellowships at the University of Chicago, where they were immersed in the free trade doctrine of professors, such as Milton Friedman. As Joseph Collins writes in Chile’s Free Market Miracle: A Second Look, “Many of these Chicago Boys took on the theoretical certitude of their mentors and returned crusader-like to Chile,” determined to spread neoliberal philosophy to their countrymen. After the coup, the Chicago Boys were appointed to various positions throughout the regime; most notably, they gained control over economic policymaking.

Though the Chicago Boys were certain that neoliberal economic policies were the best choice for Pinochet’s young military regime, members of the ruling junta were less sure. The Chicago Boys campaigned to win over General Pinochet and the rest of the military, many of who were worried about the political consequences of skyrocketing prices on imported goods. In 1973, they worked to implement their ‘gradualist’ plan, which paired a removal of price controls on goods and services with current devaluation; this combination resulted, predictably, in dramatic price increases on imported goods on which Chile was very dependent. The Chicago Boys faced backlash within the regime; junta member Admiral Merino furiously stated that the price increases were “intolerable […] the military junta cannot be increasing prices. We will be accused of killing the people with hunger.” The gradualist plan was ineffective at reducing inflation, so, in 1975, the Chicago Boys designed their ‘shock’ plan. Already facing skepticism about their past policies, the Chicago Boys launched an extensive lobbying effort to convince the junta to approve deep fiscal shocks and restrictive monetary policy, even bringing Milton Friedman to Chile. In a whirlwind of public appearances and television interviews, Friedman insisted that economic reforms by the military government had not gone far enough; he insisted that unless “the diseased parts of the economy were am-
putated the final costs would be higher."28

Won over, Pinochet approved the plan in April 1976, and the ensuing slashes in government spending and contraction of the money supply plunged the country even deeper into recession.29

The intra-regime dynamics between the military junta and the Chicago Boys reveal the depth of the Chicago Boys’ devotion to Friedman’s neoliberal philosophy. Collins explains that the Chicago Boys were “Determined that the economy would be managed on technical rather than social criteria.”30 As a result, the Chicago Boys set aside immediate general welfare in favor of lowering inflation and other quantifiable accomplishments.31 In the short run, they advocated neoliberal policies with consequences for the working class, so harsh they alarmed even Admiral Merino and other brutal generals responsible for turning Chile’s national soccer stadium into a concentration camp.32 But the Chicago Boys firmly believed that the high short-term costs of unemployment and recession would yield even higher long-term benefits for production and stability, and would eventually form the foundations for a stable democratic system. When accused of being anti-democratic, a seemingly bewildered Chicago Boy wondered aloud, “We are making a policy in order to lose power, how can we be concentrating it?”33 In short, Pinochet’s economic policymakers were academics, casting aside social consequences and determined to implement the most pure form of neoliberal economics possible. Therefore, the hypothesis by Schamis and Sheahan that neoliberalism was a product of the political environment surrounding Latin America in the 1970s can be applied to the Chilean case. The heavy influence of Milton Friedman, the University of Chicago’s program with Chile’s Catholic University, and the Chicago Boys’ technocratic fervor for pure neoliberal philosophy reveal the extent to which neoliberalism in Chile was ideologically linked to forces outside its borders.

However, the hypothesis that neoliberalism arose in Latin America in the 1970s due to the international environment does not apply as easily to the Argentinian case. Unlike the Chicago Boys, Jose Martínez de Hoz had been involved in Argentine politics for decades before the 1976 coup and his appointment by Videla as Minister of Economics in the Proceso. Martínez de Hoz was a former Secretary of Agriculture, officer of a large landowner’s association (the Sociedad Rural Argentina), Business Council director, and academician; he had also served as an economic advisor to the military government that overthrew Arturo Frondizi in a 1962 coup.34 Beyond his extensive credentials and past experience, he “symbolized through his personal interests the unity of agrarian, industrial, and financial concerns.”35 As an heir to one of Argentina’s wealthiest, most well known, and aristocratic families of the agricultural elite, he ensured that the interests of the landed upper class were well represented within the Proceso. More importantly, he personified the underlying premise of the Proceso’s rule: an alliance between the military hierarchy and the upper bourgeoisie built upon “a mutual dedication to the eradication of Peronism as a social and political force in Argentina, something that had been repeatedly attempted without success since the overthrow of the first Peronist regime in 1955.”36 Martínez de Hoz, unlike the technocratic Chicago Boys, was a political actor entrenched in the protracted ideological battle against Peronism waged by the military and Argentine landed elite. As a result, his decision to spearhead the implementation of neoliberal economic policies is not served by an analysis focusing on the surrounding international factors.

Martínez de Hoz, and the Proceso as a whole, were shaped by variables and ideology contained within the history of Argentina. In order to fully understand and contextualize the Proceso’s embrace of neoliberal economic philosophy, one must turn not to the international context, but instead to the ongoing struggle between two central forces in Argentinian society: the military and Peronism.

Juan Perón served as Argentina’s president from 1946 to 1955.37 During his political rise and reign, pro-working class populist rhetoric spawned Peronism, a movement that incorporated the working class into Argentinian political life. During Perón’s term, the working class made both institutional and social advancements; the relationship between government and labor, the extent of unioniza-
tion, and the number of union-sponsored members of congress grew exponentially, as did the less tangible factors of working-class pride, self-respect and dignity. After the military overthrew Perón, in a coup in 1955, the Peronist union movement evolved, from the principle institutional channel of the working class’s allegiance to Perón, into the keeper of Perón’s ideology and legacy. Peronism was more than a union movement, or a political party with the goal of empowering the working class, deeply tied to the identity of being working-class in Argentina, it encapsulated the promise of empowerment and self-respect.

In 1955, after overthrowing Perón, General Pedro Eudenio Aramburu and Admiral Isaac Rojas set up a military regime with policy based on the assumption that Peronism was an aberration that had to be eliminated from Argentinian society. All Peronist entities were banned in an attempt to exorcise it from political and economic life; Peronist political parties, unions, and any type of Peronist gathering were banned. The government attempted to remove an entire generation of Peronist trade union officials from further union activity, consistently repressed and intimidated grass-roots union organizations and rank-and-file activists, and worked to hold down wages, while restructuring the collective bargaining system. The military regime hoped to return Argentina to democratic rule after having purged Peronism from its midst, but Peronism refused to budge. Though forced underground, Peronism remained powerfully attractive to the working class; as a result, the military and civilian leaders confronted, what Guillermo O’Donnell refers to as, the “impossible game.”

In the impossible game, Argentinian leaders faced a no-win situation, in order to return Argentina to a full democracy, as was the goal, Peronism would have to be permitted in the electoral arena. But in 1962 and 1965, civilian governments’ attempts to re-legalize Peronism led to military coups, as the military remained staunchly anti-Peronist. As a result, Argentina remained in an apparently unshakeable state of political instability. The military’s attempts to weaken Peronism had backfired; Peronism was not only surviving the systematic attempts to dismantle its union movement and eradicate its influence within the working class, but it was becoming stronger than ever. By the mid-1960s, Peronism was an entity of great social and political power. In fact as Daniel James states in, Resistance and Integration: Peronism and the Argentine working class, “together with the armed forces [Peronist unions] were, indeed, the two fundamental poles around which Argentinian society seemed to revolve.”

In May 1973, Juan Perón returned triumphantly from exile to again serve as president, an experiment that quickly devolved into a crisis marked by uncontrollable political polarization, mismanagement of the economy, and severely damaging international economic trends. In March 1976 the military overthrew Perón’s widow and former vice president, Isabel Perón, more determined than ever to stamp out Peronism as a social, political, and economic force. In the words of General Jorge Rafael Videla, first president of the Proceso, “In March 1976, our nation was gripped by one of the most profound crises of its existence, and, without a doubt, the gravest in its contemporary history . . . [a] total crisis, whose most salient point was the total breakdown of the institutional system, as power had reached a phase of disaggregation that left Argentina framed in a picture of increased feudalization and headed towards extinction.” The military, and their elite allies, believed that Peronism was the source of the economic and political instability that had plagued Argentina for over two decades. Faced with civil disorder and economic collapse, the new military regime launched a massive campaign of state terror aimed at eliminating Peronism once and for all.

By reducing the populace to a quiscent citizenry incapable of generating opposition, the regime hoped to use terror and repression to permanently end the power of Peronism. Military leaders were remarkably candid in explaining the rationale behind state terrorism. General Luciano Menendez, then head of the strategic Third Army Region in Cordoba, offered a particularly blunt explanation, stating that “We are going to have to kill 50,000 people: 25,000 subversives, 20,000 sympathizers, and we will make 5,000 mistakes.” The judicial system was disregarded, along with habeas corpus, due
process, and the right to a trial. The deliberate and tragic randomness of those victimized by state terror—the abducted, tortured, and killed include scores of pregnant women, children, and the elderly—is a testament to the regime’s determination to blanket society in crippling fear. The military even placed torture centers near towns, so that the residents could hear the victims’ screams of agony.

Unsurprisingly, the majority of the victims of the Proceso’s “dirty war” came from social groups associated with supporting Peronism. Forty percent of all those disappeared, or kidnapped by government forces and never seen again, were trade union activists and union members. Another 19 percent came from occupations directly related to working class, particularly journalists, medical doctors, and teachers. But the Proceso’s targeting of the working class Peronist base stretched far beyond its efforts to kidnap, torture, and kill. The navy did not only spearhead the “anti-subversive” efforts, as state terror was known, but also controlled the Ministry of Social Welfare.

Through the programs administered by the Ministry of Social Welfare, the navy expanded its assault on the working class. Generally, the amount of financial resources allocated to public health and social security were cut by more than half between 1976 and 1981. The total number of beds provided by public hospitals decreased by more than 25 percent, and public hospitals and medical attention facilities in working-class neighborhoods were systematically closed, most often on the grounds that there was a scarcity of demand. Simultaneously, price controls on basic medical products were lifted, causing the expenses associated with caring for oneself outside of a hospital to skyrocket. These more subtle forms of repression caused disease and mortality rates among the working-class population to increase dramatically between 1976 and 1981. In summary, the Proceso’s determination to target Peronism’s political and economic base manifested itself politically, through state terror, and socially, through the massive drawdown of public health services in low-income neighborhoods.

When examined within the framework of the Proceso’s determination to stamp out Peronism, the regime’s embrace of neoliberal economic policies appears more sinister. Minister of Economy Martinez de Hoz, heir to one of Argentina’s most well known landed aristocratic names, represented the interests of Argentina’s agricultural elites. As both a landed aristocrat and a former member of the 1962 coup coalition, he also embodied the alliance between Argentina’s upper bourgeoisie and military hierarchy. As Paul Buchanan explains, social and military elites in Argentina believed that “the roots of Argentina’s demise as a world power harked back to the advent of Peronism as a political and social force in the mid-1940s. Consequently, the underlying premise of their rule was a mutual dedication to the eradication of Peronism as a social and political force in Argentina.”

Thus, the regime’s embrace of neoliberal principles and rhetoric can be conceptualized within the Proceso’s larger anti-Peronist struggle. Peronism was not just a social and political force that could be targeted with fewer hospital beds and rampant state terror—it was, first and foremost, an economic actor. Therefore, state measures targeting Peronism were social, political and economic in nature; neoliberal economic policies undermined Peronist unions’ bargaining ability and power, while state repression discouraged dissent, and social policies targeted the working class Peronist base.

Not only had the events of the 1960s shaped Peronist unions into formidable opponents for the military, but structural conditions also strengthened Peronism’s role in society: Argentina’s historically low birth rate led to a relative scarcity of labor. The resulting low rate of unemployment remained throughout Argentine history gave unions a disproportionately strong bargaining position, since there was no reserve labor pool for employers to draw from in the event of a strike. Neo-liberal economic policies adopted by the regime, therefore, were crucial to raising the rate of unemployment and breaking the power of unions. Opening domestic markets by lowering tariffs was designed to eliminate industries, in which unions had the most strength, and also punish “traitorous” domestic entrepreneurs, who
had allied themselves with the Peronists in previous years. After the ensuing wave of bankruptcies, the large pool of unemployed labor could then be used to break the power of unions in other economic sectors. As Paul Buchanan states, “The unique obstacles posed by the Peronist movement—especially its socioeconomic bases, ideological orientation, organizational strength, and mobilizational ability—required an economic, political, and social strategy that would diminish Peronism as a force at all three levels.” Contextualized within the regime’s determination to eliminate Peronism, neoliberal economic policies may be conceptualized as yet another bludgeon used on the working class.

Further evidence that the Proceso considered neoliberalism to be part of a multi-pronged repressive strategy comes from the navy’s vehement defense of Martínez de Hoz at the end of General Videla’s term. In the last week of March 1980, the Banco Intercambio Regional collapsed, and three more of the nation’s largest financial institutions—Banco de los Andes, Banco Oddone, and Banco Internacional—followed in the next few days. For the first time, regime officials began openly questioning Martínez de Hoz; several times during late April and May, he and his entire ministerial cabinet were called before high-ranking officials from all branches of the armed forces. In an unprecedented public expression of disapproval for the economics minister, Commander-in-Chief of the Air Force, Brig. General Omar Rubens Graffigna, said, “We [the junta] do not remain indifferent to those responsible for the regime’s problems.” Clearly, Martínez de Hoz’s job security was in question, especially considering that General Videla was due to retire the following March, in 1981.

The navy, the branch of military under whose supervision the infamous terror and torture of the “Dirty War” was planned and executed, emerged as Martínez de Hoz’s most fervent defender. On October 3, the junta announced that it had chosen General Roberto Viola to succeed Videla. The navy voted against Viola, while the army and the air force approved. As David Pion-Berlin states in the piece, “The Fall of Military Rule in Argentina: 1976-1983, “The vote suggested the degree to which the internal cleavage fell along economic lines: the navy had become the champion of neoclassical economics and was clearly advocating the Martinez de Hoz position.” Viola constituted a threat to the neoliberal policies, as he believed that policy could not be made in a vacuum. He advocated governance in consultation with important socio-economic sectors, including organized labor, which would upset the established liberal economic strategy. In his inaugural address on March 28th, Viola introduced his plan of “national integration,” which involved the gradual normalization of intermediary organizations, such as unions and political parties, restoring to them some of the rights surrendered in the past five years. Though Viola purposely kept his plans vague, his speech suggested that he eventually envisioned a possible process of national re-democratization. Thus, political repression and neoliberal economic policies moved in tandem in the Proceso. The regime’s war against Peronism, championed by the navy, fell out of favor under the Viola government.

Further study of the Proceso’s selection of ‘neoliberal’ policies indicates that economic policymaking was subordinate to overall repressive tactics. Unlike the Chicago Boys of Chile, who were determined to craft the purest form of neoliberal free-market economics possible, the Proceso instituted neoliberal reforms in a piecemeal and half-hearted manner that revealed its utter lack of interest in the academics and philosophy surrounding the policies. Far from a technocratic fascination with free market economics, the Argentinian military regime systematically subordinated neoliberal philosophy to its scheme of wide scale and brutal repression. The military imposed a range of conditions on economic policymaking, with the insistence that no actions that might impede the “anti-terrorist campaign” were acceptable. Most policies that in any way limited the military’s direct influence and power over the citizenry were blocked in the name of national defense. Public enterprises remained unprivatized; everything from telecommunications to national airlines to steel mills was considered vital to national defense, regardless of the ram-
pant inefficiency and cost associated with them. Most obviously, military expenditures themselves were not reduced, but instead tremendously increased during the course of the Proceso as the budget deficit ballooned. Without the privatization of publicly held industries and a reduction in the budget deficit, the Proceso’s ‘neoliberal’ policies were far from the small-government ideal envisioned by Milton Friedman and implemented by the Chicago Boys. Instead, the government prioritization of coercive capacity over neoliberal economic structure supports the hypothesis that the regime’s economic policymaking was driven by a desire to stamp out Peronism, rather than a technocratic interest in neoliberal philosophy.

Finally, even when postulating that the Proceso was drawn to neoliberal policies because of their potential value in fighting Peronism, rather than their international appeal, the influence of the Chilean case cannot be entirely disregarded. Undoubtedly, the Chicago Boys’ famous neoliberal experiment loomed large as Martínez de Hoz and the rest of the Proceso crafted their economic policy. But characterizing the influence of the ‘Chilean miracle’ as proof that the neoliberal model promoted growth and made Argentina’s “liberal program” seem eminently rational and objectively advisable gravely misreads history. The ‘Chilean Miracle’ did not begin in earnest until late 1977, when foreign funds began to flow into Chile from overseas. In 1976, the country was still deep in recession following the Chicago Boys’ shock program. Unemployment stood at 28 percent, and soared to 80 percent in the shantytowns of Santiago, where it was commonplace to see young girls selling themselves on street corners. Chile’s already tenuous social security service broke down, almost completely, as firms going into bankruptcy defaulted on social security insurance payments and the government refused to pay unemployment benefits. The minimum wage diminished and the real rate of interest skyrocketed to 178 percent annually, making it impossible for firms to borrow to stave off bankruptcy. Any policymaker from Argentina examining the possibility of neoliberal policies would not have found a healthy, thriving economy in Chile in 1976, as they might have in 1979. Instead, they would have found a society deep in recession, with the worst suffering felt by the working class. Therefore, if the Chilean case did encourage the adoption of neoliberalism in Argentina in 1976, it was due to the devastation it wrought upon the working class, not any type of policy success.

VII

In summary, the surface similarities between Pinochet’s Chile and the Argentinean Proceso encourage “wave” theorists like Sheahan, Schamis, Remmer, and O’Donnell to set aside country-specific analysis in favor of examining the coordinated rise of neoliberalism across the Southern Cone in the 1970s. However, an internationally focused framework obfuscates the differences in the rise of neoliberalism under the two military regimes. In Chile, the Chicago Boys maintained strong links to the University of Chicago and Milton Friedman, even bringing Friedman on a tour of Chile when lobbying the military junta on behalf of their ‘shock’ program in 1975. Academics and technocrats, the Chicago Boys had no previous political experience and were dedicated to the ideals of neoliberal economics. Therefore, the Chilean case is well served by an analysis that contends that the neoliberal rise can be explained by international factors. The Argentinian case, however, is not. Martínez de Hoz and the rest of the Proceso were engaged in an all-out war against the social, political, and economic forces of Peronism. Far from an academic, with a technocratic fascination with neoliberalism, Martínez de Hoz was a career politician and representative of the landed elite who had been involved in the military’s anti-Peronist efforts since the coup of 1962. The Videla government’s determination to completely eliminate Peronism manifested itself in brutal repressive tactics, merciless deprivation of social services, and a strategic implementation of neoliberal policies that broke unions’ hold on industries. The regime’s unwillingness to compromise its coercive capacity, the navy’s embrace of Martínez de Hoz and neoliberalism, and Viola’s insistence that neoliberal policies and repressive tactics both be relaxed at the same time, indicates that the regime considered neoliberal economic policies another way to target the Peronist base. Therefore, it is most useful to analyze the
rise of neoliberalism under the Proceso in the context of the historical antagonism between the military and Peronism in Argentina.

Endnotes


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his spring, the General Office of the Chinese Communist Party circulated a brief memo warning against “seven perils” to the strength of Party rule. Document 9, distributed to all local and regional CCP officials, called for renewed caution against “infiltration” of foreign ideology, institutions, and individuals who threaten the political power of the CCP. In the eight months since, the CCP has increased repression of human rights activists, foreign and domestic media outlets, and dissident academics, suggesting that, far from being mere rhetoric, Document 9 describes the phenomena the CCP sincerely understands as most threatening to its staying power.

Many of these ‘perils’ are no surprise. The list of perceived threats to China’s political stability includes constitutional democracy, universal values, civil society, ‘neoliberalism,’ freedom of the press, denying the historical contributions of the CCP, and condemning the market-oriented reforms of the past three decades. Yet one recent trend which commentators in western press consistently identify, as a major source of political instability did not make the list: economic inequality.

The standard case for the threat economic inequality poses to CCP political rule was summarized in a September 2013 piece in the Financial Times, alarmingly titled ‘How long can the Communist Party survive in China?’; “Modernisation theory holds that authoritarian systems tend to democratise as incomes rise, that the creation of a large middle class hastens the process and that economic slowdown following a long period of rapid growth makes that transition more likely. Serious and worsening inequality coupled with high levels of corruption can add to the impetus for change.” This article is merely one of many similarly themed pieces in the academic and popular press, which offers the standard modernization theory account, that changing class dynamics and/or wealth inequality will threaten China’s political stability.

These claims rarely seek to explain why the CCP does not also see economic inequality as a threat—and more importantly why most Chinese citizens do not either. How can we explain this disconnect between so many esteemed commentators’ anticipation that income inequality will undermine Chinese social stability, and CCP leaders’ apparent belief that it will not?

In Part I, this paper will briefly survey economic inequality in contemporary China. In Part II, it will argue that, across socioeconomic and geographic divides, contemporary Chinese citizens acknowledge economic inequality as an acceptable consequence of the vast market reform project of the past three decades, thus associating wealth inequality with the CCP’s greatest success, not its most significant weakness. After analyzing these trends, this paper will briefly consider in Part III how such attitudes to inequality are in fact not greatly dissimilar from attitudes toward economic inequality in both contemporary American politics, and Anglo-American political philosophy. In

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conclusion, it will suggest that economic inequality is far from the political issue around which Chinese citizens are likely to engage in political organization, and that, consequentially, the CCP is right not to bother listing it as one of the “seven perils,” along with more serious threats such as freedom of the press, civil society, and universal values.

I. Economic Inequality in Contemporary China

China’s reform era economic miracle needs no introduction. Policies such as decollectivization of agriculture, privatization of state-owned enterprises, mass employment restructuring, foreign investment-friendly development zones and state assistance to export sectors have catalyzed GDP growth between 8 and 14 percent every year since 1991. Today, China’s GDP is the world’s second largest. However, as Deng Xiaoping foreshadowed by observing, “Some people must get rich first,” economic reform has been accompanied by a dramatic rise of economic inequality. Between 1988 and 2002, China’s Gini coefficient grew from 39.5 to 46.8, moving China from near the global median to the 25th percentile in terms of economic inequality. This may in fact be understating the case, because those figures rely on data supplied by the CCP. Independent analysis published by a joint Chinese-American research team concludes that China’s Gini coefficient is 61, which would place China behind only South Africa as the world’s most unequal society.

These inequalities are especially apparent across geographic and gender lines. The geographical divide can be attributed both to higher levels of investment in urban centers throughout the reform period, and to state initiated market distortions that privilege urban populations. Zhao Renwei and Ding Sai in Inequality and Public Policy in China documented how when widespread urban home ownership was first popularized in the 1990s, the CCP created a range of state incentives that artificially increased the value of urban real estate by as much as eightfold. This tremendously lucrative rent-seeking benefited the small number of capital flush urbanites able to invest in China’s housing boom.

Rather than making land acquisition easy and profitable, as in urban centers, state policy worked to keep land ownership minimal in rural China. Decades after decollectivization, it remains difficult to purchase land even in rural China, largely because state policy designates huge tracts of rural land off limits due to its value for public development projects. Because property is the most valuable asset of Chinese citizens, as it is of citizens in the industrialized west, these disparate trends between urban and rural China contributed to tremendous economic inequality across geographic lines.

The investment bubble in higher education has also exacerbated urban-rural economic inequality. Between 1997 and 2006, the number of Chinese students enrolled at universities increased from two million to seven million. As Shujie Yao, Bin Wu and Fang Su argue in “The Impact of Higher Education Expansion on Social Justice in China: A Spatial and Inter-Temporal Analysis,” this trend has predominately benefited urban families able to afford tuition. Since tuition fees were re instituted in place of public funding in the late 1990s, low-income populations, such as those concentrated in rural areas,
struggled to afford the cost of higher education. Rural Chinese who do make it to university are less likely to study in prestigious institutions, a fact which has further exacerbated the role of the higher education bubble in driving economic inequality. Minxin Pei in the journal article “Is CCP Rule Fragile or Resilient?” argues that students who are not able to attend top-tier universities, and who are thus less likely to achieve either gainful employment or CCP membership, “are bound to be frustrated politically and socially,” such that, “the prospect that this group will form an antiregime force has become ever more likely.” Pei’s conclusions concerning the higher education bubble fit well into his prediction that economic modernization and attendant inequality will ultimately drive the CCP from power.

In addition to the property and higher education bubble, two state policies importantly reinforce economic wealth inequality. Health care spending is disproportionately directed toward urban populations, who typically benefit from both greater quantity and quality of medical care than is available in rural China. Second, China’s pension system often rewards urban workers with comfortable retirements on state or private sector pensions that are simply not offered in rural China.

In an open economy, migration would balance these geographical inequities, as rural workers moved to cities, urban workers would lose bargaining power, and rural workers would gain it. A modicum of equilibrium would be approached vis-à-vis urban and rural labor’s respective ability to bargain with private employers for better health, education and retirement benefits, and with the state for more equitable public policies. Yet rural to urban migration is strictly regulated by the hukou permit system, which ties access to employment opportunities and social benefits to residential permits. This locks rural migrants out of the market and the public service infrastructure of urban China. In its rigid enforcement of the hukou system, the CCP has even demolished unofficial urban schools for the children of illegal rural migrants.

II. Accepting Inequality?

Clearly, these inequalities offend both western conceptions of distributional justice and the historical tradition of the Chinese Communist Party. Unsurprisingly, China’s vast inequality has led to consistent speculation in the western academic and popular press that economic inequality poses a severe threat to the staying power of the CCP. In a standard example, a paper for the Council on Foreign Relations argued that, “Perhaps most pressing is the CCP’s treatment of the massive income disparity that China’s economic boom created.” Early this year, Minxin Pei, who has long argued that CCP economic governance is unsustainable, argued in the popular press that “What should make the members of the ruling Chinese Communist Party stay awake at night is the combination of the high level of inequality, the rate of its increase, and how these trends fly in the face of the party’s nominally egalitarian ideology.” Pei argues: “Societies with huge income and wealth disparities display more symptoms of social distress and political instability. But societies in which such disparities have risen rapidly in a short period of time fare even worse. For a country ruled by a party that pays lip service to communist egalitarianism, rising income inequality poses an existential political threat.”

The month before, in January 2012, Pei published a similarly themed article in the leading academic journal of modernization theory, Larry Diamond’s Journal of Democracy. In “Is CCP Rule Fragile or Resilient?” Pei argued, “Corruption also contributes to rising inequality by benefiting a small number of well-connected elites at the expense of public welfare, thus further fueling anti-regime sentiments and social tensions.” In an accompanying article in the same journal, Francis Fukuyama argued that China’s rapidly changing demographics will soon force the CCP to exacerbate economic inequality trends by slashing public services and raising taxes, decisions which, because they will be imposed by an authoritarian government, “risk generating a social explosion” of political resistance.

Given these expert accounts, how can we explain the fact that the CCP does not consider economic inequality to be one of the seven major threats to its rule? The answer lies in the miscalculation by modernization theorists of popular
attitudes toward inequality within rural China. Much anticipation of supposedly budding political instability focuses on the countryside, and the ostensibly economically and politically discontent rural Chinese, a very convenient subject for the modernization theorist. It is on the sword of this imputed discontent that the Chinese Community Party is expected to fall. Yet this assumption about the attitudes of rural Chinese does not adhere with research about their attitudes towards economic inequality.

Recent research by Martin King Whyte offers a compelling counter-narrative of rural Chinese political attitudes. Based on interviews with 3,267 citizens across rural China, Whyte argues in *Myth of the Social Volcano: Perceptions of Inequality and Distributive Injustice in Contemporary China* that “farmers stand out as a group least likely to express critical and fatalistic views” of the Chinese economic system. The difference lies in the comparison point assumed by modernization theorists, who often reason that low-income Chinese compare their well-being to their most well-off peers. However, Whyte’s research shows that when the poorest Chinese consider their living standards, their comparison is not to the wealth accumulated by the biggest winners of the reform period, but, rather, to their own living standards prior to the reform period. After the specter of Mao, economic inequality strikes even rural poor Chinese, as less than the existential crisis that the commentators above identify it as. Whyte finds “no evident nostalgia for Maoism, nor any real evidence of anger at the emerging capitalist system.”

More than this, Whyte finds that, like most Americans, Chinese citizens attribute economic inequality to merit and hard work, not luck. Chinese citizens believe that the economic system under which they live is fair—more so than their counterparts in Japan, and in Western and Eastern Europe. Remarkably, only 28 percent of Chinese think values of socialism are violated by the inequalities of the reform period. More Chinese than not believe there is no or little conflict between rich and poor, employers and employees, or urban and rural residents. The vision of Hu Jintao and Wen Jiabao of a “harmonious society” has been more successful than those whose views are informed solely by China’s Gini coefficient believe.

Teresa Wright reinforces this narrative in her own findings on political attitudes amongst less affluent Chinese in *Accepting Authoritarianism: State-Society Relations in China’s Reform Era*. Pointing out that between 1989 and 2005, the yearly real per capita income of rural farmers increased by 300 percent, Wright highlights the importance of rural Chinese experiences with past forced collectivization in mitigating expected outrage against contemporary inequalities. Many contemporary rural Chinese accept economic inequality precisely because “most farmers were highly critical of the forced egalitarianism of the Mao era,” and perceived “their ability to rise economically as limited by socialist legacies and state controls.” Evaluating political attitudes of other low-income constituencies who might be expected to engage in anti-systemic political resistance, Wright shows that the economic success of the reform period has effectively secured political loyalty from every socioeconomic constituency of contemporary Chinese society. It is not news that modernization has secured the loyalty of private entrepreneurs and professionals, nor that, because they believe that political liberalization and/or democratization would catalyze economic redistribution, these well-off Chinese are content accepting minimal political rights in exchange for economic privilege. (In many cases, of course, there is no trade-off).

Wright’s most important contributions are in her analysis of attitudes amongst low-income urban state sector and private workers, as well as her reinforcement of Whyte’s research concerning low-income rural framers. Wright demonstrations that, far from being concerned with the shortcomings of the reform period, these constituencies both credit the CCP for the accomplishments of the reform period, and anticipate that state policy will offer future benefits. For urban state sector workers, the generous social welfare benefits that contribute to the urban-rural economic disparities discussed in Part I have sufficiently sustained loyalty to the CCP. Rank and file private sector
workers are slightly less privileged, but apparently equally content, in large part because the hukou system of migration institutionalizes the importance of these workers in urban labor markets, ensuring short supplies of urban labor and low unemployment rates. In short, while China may appear a highly unequal society from the outside, the broad-based gains of the past three decades have inculcated a sense of optimism in Chinese of all class backgrounds.

III. Peculiar Attitudes

In his seminal work on distributive justice, *A Theory of Justice*, John Rawls argued that behind a veil of ignorance, which obscured ethnicity, class, race, gender, intelligence, ability and any other social characteristics, a deliberative, representative population would conclude justice required the distribution of social product, such that inequalities could only be justified if they benefited the least well off. While he rejected traditional liberal understandings of moral desert, Rawls assumed that production and consumption dynamics require that the principle of fair equality of opportunity can best be approximated by what he termed ‘the difference principle.’ The principle is formulated such that economic inequality can only be justified if it benefits the less fortunate. For Rawls, distributonal justice permits—might even require— a production model in which capital is concentrated, but which ultimately permits higher standards of living for the least well off. In its simplest terms, some people get rich first.

Without delving into the value of political philosophy for concrete problems of political economy, the validity of contractarian justifications of distributional justice, the equality-of-what debate, or the other vastly fascinating questions of moral and political philosophy at stake in Rawls’ account, this paper will suggest that Rawls’ social psychology may be useful in understanding China’s high tolerance for economic inequality. As well as illustrating how attitudes toward inequality in China do not differ immensely from those in the American political tradition, both popular and academic.

China is a vastly unequal society, but the genesis of that inequality—the reform period—also parented the most rapid economic expansion in world history. While rural peasants might have benefited more from a differently conceived approach to reform, they benefited immensely nonetheless. No other social constituency is as invested in the current economic regime, because no other social constituency has had as horrid an alternative with which to compare it. If Rawls is right, that a deliberative representative population would choose a distribution of wealth in which there is greater economic inequality, but in which the least well off fare better, as opposed to an alternative distribution in which there is less inequality, but in which the less off are worse off, then rural Chinese preference for the highly inegalitarian current regime is understandable, to the extent to which low-income farmers fair better, than in the rigidity of the collectivization period.

As opposed to the alarmism that results from considering China’s wealth gaps through the lens of modernization theory, framing popular Chinese acceptance of economic inequality in the terms of the leading Anglo-American political philosopher of distributional justice forces important reconsiderations. For not merely attitudes, but also concrete realities, are not as different as we might
imagine between China and the United States. After all, with a Gini coefficient of 45, the United States’ economy is not significantly more egalitarian than China’s (if we believe official Chinese data). Yet despite having the second lowest intergenerational social mobility rate in the industrialized world, the U.S. ranks first in the percentage of its citizens who believe that hard work is rewarded.

Commentators who wonder why low-income Chinese do not endeavor to resist economic inequality by means of political organization might well ask why such agitation is not more prevalent in the United States, where it faces fewer legal barriers. In each country, the general public strongly believes that the economic system is fundamentally fair. Those who doubt this comparison might reconsider the evidence cited above that more Chinese citizens believe that they live in a fair economic system than do citizens of Japan, and both western and eastern Europe.

IV. Conclusion

That many low-income Chinese accept severe wealth gaps does not mean that Chinese policy makers must choose between the false dichotomy of past, inefficient models of public ownership or its current egalitarian economy. Renwai and Sai, as well as Yao, Wu, Su and Wang, are right to suggest that Chinese state policy can more effectively levy progressive taxation and improve health, education and pension policies to reduce economic inequalities that are systematically inefficient. Similarly, the official inequality reduction plan that the CCP released in February—which aims to cut the number of people in poverty by 50M, or 40 percent—should be lauded. Yet these reforms are slight alterations to an overall well-conceived and executed model of state-led development in the reform period. They are not a radical departure from present policy, imperative to avert social unrest.

In this light, it is understandable why Document 9 includes constitutional democracy, universal values, civil society and a free press as fundamental threats to CCP power, but not economic inequality. It is also why Document 9 is so sensitive to denials of the historical contributions of the CCP, and to critiques of the reform period. As argued above, it is precisely these beliefs which facilitate popular acceptance of economic inequality. But from that inequality itself, the Party has little to fear. Even if economic growth slows from past record rates, low-income earners will continue to favor the current inegalitarian regime to the shared impoverishment of rural Chinese in Maoist generations past.

Endnotes

12. Whyte, p. 74
13. Wright, p. 46
15. Wright, p. 146
16. Wright, p. 55
17. Wright, p. 133

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ninety percent of the world’s goods are transported by sea and twenty percent of the global trade is delivered through the Gulf of Aden. Somalia is situated in the Horn of Africa, in one of the world’s most geographically strategic locations, stretching along the Gulf of Aden. This, however, is problematic, because Somalia has been a fractured region since the colonial era, the instability of which led to the escalation of piracy and transformation of a geographically strategic sea route into a High Risk Area (HRA). Piracy has evolved since the 1990s, and despite the fact that many counter-piracy measures have been implemented to this day Somali piracy is a threat to the global economy and the international maritime security of seafarers. The issue is immensely complex, but can be primarily broken down into three root causes: state failure, the rise of militant Islamic groups, and extreme poverty. Efforts to eradicate piracy vary in effectiveness and include military and naval deployment, Best Management Practices, large-scale information sharing, regional and international diplomacy, judicial tribunals, and state building efforts, along with humanitarian aid. With this in mind, the paper will argue for strengthened security on board ships passing through the region, enhanced capacity of Somalia and other regional states like Kenya to implement Somali pirate sentencing, in addition to stressing the importance of prosecution in Somalia, and the emphasized establishment of a more comprehensive economic development agenda from the World Bank towards prioritizing, funding, and aiding the mining sector of Somalia.

The Nature of the Problem

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) under Article 301 of Part XVI declares that “States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations.” Piracy, a domestic problem with large-scale international repercussions, is one of the greatest violations to this international law. The magnitude of the threat posed by Somali piracy cannot be underestimated, because the world greatly relies on the transit through the Suez Canal and the Gulf of Aden, and the threat of seafarers being hijacked is immense. The crew’s security largely depends on whether they have taken the necessary precautions to prevent a pirate attack on their vessel. However, with current international legal limitations, not much can be done against fully armed, risk-assertive criminals that will stop at nothing to acquire wealth. Peaceful navigation is unrealistic as pirate attacks often lead to crew captivity under poor conditions, or even the death of a crewmember.

The effect piracy has on the global economy is a growing concern, forcing the international community to revisit its counter-piracy measures. Not only do pirates demand unreasonably large ransoms (with the record ransom being $9.5 million paid by a Greek supertanker), but due to the

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greater risk of attack, insurance for vessels passing through the Gulf of Aden has also escalated dramatically, further increasing the costs of voyages.\(^7\) Due to attempts to increase security of commercial shipping, shipping companies often hire privatized guards to deter approaching pirate skiffs. Such growing expenses have also affected the prices on imported and exported goods, increasing costs for both producers and consumers. According to the Secretary General of the Gulf Petro-Chemical and Chemical Association (GPCA), Dr. Al Sadoun, heavily loaded chemical and oil vessels are the easiest pirate targets due to their lack of speed and appropriate height, making them more vulnerable and accessible for pirates. However, as noted by Al Sadoun, all vessels are targets nowadays, and that contributes to the “negative economic domino effects throughout the whole vertical value chain within the entire maritime sector”.\(^8\) Many ships are now considering taking alternative routes, such as circulating the Cape of Good Hope,\(^9\) but such a passage would be time-consuming and expensive even in return for a smaller chance of pirate attack.

Finally, and perhaps the greatest problem of piracy is its continuous spread into the Indian Ocean Region (IOR). According to Article 3 under Part II of the UNCLOS, “Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles.”\(^10\) However, some countries refuse to follow these terms of the convention, such as Somalia, along with a few other pirate-infested nations, which have expanded their territorial waters up to 800 nautical miles.\(^11\) With this comes the issue of how to contain these levels of crime over areas of such magnitude.

**The Root Causes of Piracy**

Before analyzing the efficacy of what has been done to combat piracy, the core of the issue and its causes must be evaluated. Somalia has long faced internal political turmoil, which began during the Scramble for Africa, continued throughout the Cold War, and intensified under Siad Barre. In 1991, the clan group, Somali National Movement overthrew the dictator’s regime.\(^12\) These conditions were a precursor to the modern day lawless, fractured, poverty-stricken nation of Somalia.\(^13\)

To help the Somali region back on its feet, the UN, in cooperation with the African Union’s African Mission to Somalia (AMISOM) and the United States, established the internationally recognized Transitional Federal Government (TFG) in Mogadishu. The TFG, however, was soon taken down and replaced by their rival group, the Islamic Courts Union (ICU). Due to terrorist organization linkages, Ethiopia militarily intervened to oust the ICU and reinstate the TFG. Weak\(^14\) and inexperienced, the interim TFG handed control over to the Federal Government of Somalia (FGS). This instability provided the breeding ground for the emergence of another critical problem, the rise of terrorism\(^15\), which the FGS is currently trying to battle along with its other objective of unifying the country.\(^16\)

One of the greatest barriers to stability and unity within the nation is the Al-Qaeda affiliated terrorist group of Somalia, Al-Shabaab.\(^17\) Formerly a militant wing of the UIC, which was able to regroup in 2008 after its defeat,\(^18\) the terrorist network has been standing in the way of the former internationally supported interim TFG, and the present FGS, primarily because these governments have the reputation of being “western imposed.”\(^19\) Declared the “enemy of Islam,” the U.S. has long been a leading target of these extremists, who provide training and weapons to young men to operate jihad against the U.S. and its allies.\(^20\) Al-Shabaab should be a major concern for the international community because it hampers western involvement in the Somali government through training, funding, and support, which further destabilizes the region, allowing pirates to take advantage of impunity.\(^21\) The government’s distraction with its counterinsurgency objective has created a sick national economy as well. This has led to massive unemployment and poverty,\(^22\) impacting\(^23\) fishermen and encouraging wealth-seeking\(^24\) Somali teenagers to turn to crime on sea.\(^25\)

Initially, when Siad Barre’s government had just fallen apart and Somalia was in no condition to deal with foreigners considering its domestic problems, countries like Switzerland and Italy signed contracts with a Somali ‘government’ official to dump toxic waste into Somalia’s territorial waters at the cost of $2.50 per ton (such waste disposal would cost $1000 per ton in European waters), contaminating the coastal Somali marine
life. Furthermore, foreign vessels, taking advantage of the chaotic, weak, and unstable Somali government, began illegally fishing in Somalia’s territorial waters, which increased starvation on land. As climate on land diminished the crops, Somali fishermen were not able to feed their families, increasing dependency on fish and leading to famine. This drove some Somali fishermen to take up weapons and defend their waters. Over time, these fishermen began attacking any ship that passed by, hijacking the crew, and demanding ransom. Foreign exploitation of Somalia’s territorial waters now serves as one of the justifications for Somali pirates, becoming widely known by the locals as the “coast guards” of Somalia.

The lack of domestic will to combat piracy is further explained by the growth of towns, due to the flow of riches, urbanization, and employment for thousands of Somalis. With annual Somali per capita income being only $600, the possibility of acquiring thousands of dollars of ransom from one single hijacking encouraged fishermen to turn to the more profitable business of piracy. As pirates returned to their lairs, citizens flowed into ports to establish small restaurants and shops due to an influx of customers with the capacity to buy. Piracy has led to the creation of infrastructure and jobs on the coastline of Somalia, another major justification for the locals’ support. In addition, it has been noted that piracy gains have a correlation with decreasing Somali rice prices and reduce the depreciation of the Somali shilling.

Analysis of Current Counter-Piracy Measures

International Measures – On Sea

In order to fulfill the eradication of piracy, multiple countries, organizations, and civil societies around the world have taken countless measures to target the issues, both on land and sea. One strategy has been the deployment of the navy into the HRA through the European Union Naval Force (EU NAVFOR – Operation Atlanta). Initiated in 2008, EU NAVFOR’s mission includes: protecting the delivery of the humanitarian aid resources by the World Food Programme (WFP) and the AMISOM to Somalia, deterring, preventing, and repressing piracy in Somalia’s territorial waters and the HRA, protecting shipping in or near Somalia’s territorial waters, and monitoring fishing enterprise. China, Iran, India, Russia, and other nations have also deployed their navies into the IOR. The U.S. deployment has been one of the greatest due to the nation’s special interest in the region, particularly after the First and Second Gulf Wars, the Iran and Iraq War, and the U.S. war on terrorism.

The U.S. led multinational Combined Task Force 151 unit has also included the use of aircraft. The naval deployment so far has successfully decreased pirate attacks and has guaranteed a 100 percent success rate of protecting the delivery of humanitarian aid. However, because of this greater risk, pirates have become more aggressive and have developed new tactics of assault, with the use of advanced weaponry including AK47’s, RPG-7 rocket launchers, TT-30 semiautomatic pistols, hand grenades, and other forms of technology, such as the GPS. Pirates have also begun using motherships, allowing them to cover a greater distance under higher speed. On top of this increasing aggression, the international naval deployment in the Gulf of Aden has ultimately given birth to a new issue: it has forced piracy to extend its territorial range and operation into the Indian Ocean Region, making it nearly impossible to be tracked. Even within the Internationally Recommended Transit Corridor (IRTC), the naval deployment is insufficient to cover the 2.5 million square miles of sea. In addition, legal is-
sues, such as under which circumstances the navy can approach, and board a suspected ship, have impeded progress. Another counter-piracy measure that has been developed is the use of Best Management Practices, a report on preventative attack measures within the HRA.\textsuperscript{40} Issued by the Maritime Security Center – Horn of Africa (MSCHOA) and supported by IMO, the report provides a list of recommendations highly encouraged for merchant ships, passenger and dry cargo vessels, tankers, and others to follow when passing through the HRA. Advice and information on risk assessment, typical pirate attacks, company planning, ship protection measures, suggested actions in case of a pirate attack, reporting procedures and more is provided by the international maritime community. Advice provided in the BMP is formulated from submitted reports on pirate incidents from vessels that have been previously attacked. Although these international suggestions are helpful, they cannot compete against AK47’s. In addition, the preventative measure of the use of citadels as a secure haven from boarded pirates has sometimes led to cases of self-made traps.\textsuperscript{41}

Reporting of pirate incidents through the HRA is crucial and also is emphasized in the BMP report because the only way the community can battle piracy is through the sharing and studying of continuously updated existing knowledge on piracy. In 2004, IMO created the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against ships in Asia (RECAAP), which included 16 countries in Asia, and the Djibouti Code of Conduct, both of which were aimed at contributing to information sharing.\textsuperscript{42} Other organizations with similar aims, following UN’s 1851 Resolution of 2008 are the Contact Group off the Coast of Somalia, which includes more than 60 nations and international organizations\textsuperscript{43} and the Maritime Liaison Office (MARLO).\textsuperscript{44} Reports submitted to IMO are then issued, providing the name of the ship, a description of the incident, the time and date, location, and consequences of said pirate encounter to the international community. Critical details like experience with new strategies of attack and information on the advancement of pirate weaponry could potentially save ships from becoming pirate victims. This technique lessens knowledge gaps, as ship operators are able to share and learn from successful and unadvised tactics in preventing and battling piracy. The widespread availability of piracy statistics, including the innovative use of satellite imagery to track the growth of newly created infrastructure in Somalia from ransom money allows the international community to monitor and decide on new methods to counter piracy.\textsuperscript{45} However, many pirate incidents are still left unreported due to companies’ fear of damaging their reputation;\textsuperscript{46} many human costs are underreported as well.\textsuperscript{47}

In addition to following preventive measures and engaging in information sharing, vulnerable shipping vessels passing through the HRA tend to hire Military Vessel Protection Detachments (VPDs), which has also been noted as an option, though not highly recommended, in the Best Management Practices. The use of Private Maritime Security Contractors by cargo companies is an extra measure, taken in addition to other highly recommended precautionary measures in the BMP, which involves protection on board through specialized armed guards. The IMB, however, does not advocate the presence of weapons on board due to potential threats to flammable cargo.\textsuperscript{48} Furthermore, the high costs of contracted security are often unaffordable for smaller companies. For larger shipping vessels, convoys also delay the journey, which increases expenses even further.\textsuperscript{49}

To date, many Somali fishermen turn to piracy due to the high risks on sea created by other pirates and frustration with illegal foreign fishing. Therefore, security has to be provided to Somali fishermen as well. Even though the international navies have suppressed levels of piracy to some degree, reestablishing order in Somalia’s territorial sea is not part of their mandate. Consequently, the United Nations Office on Drugs and Crime has recently prioritized its new mandate of creating law in Somalia’s territorial waters, which would increase order at sea. To help begin some form of maritime law enforcement in Somalia’s territorial waters, the UNODC, in cooperation with IMO, FAO, EUCA NESTOR, and UNPOS began an initiative in 2013 in the coastal port of Berbera, to help repair and maintain vessels and equipment provided by the international community for maritime law enforcement.\textsuperscript{50} Since the mea-
sure has only recently been initiated, it is too early to analyze its progress. However, this action will eliminate the justification of Somali fishermen engaging in piracy due to frustration with foreign exploitation, and create regulation at sea.\(^{61}\)

**Domestic Measures – On Land**

The UN, AMISOM, and the U.S. helped Somalia with the creation, support, and funding of the interim TFG and the present FGS. Many Somalis, however, are unsupportive of the current government in Mogadishu because it has been fabricated by European standards and they therefore fear, as stated in the *International Crisis Group, Somalia: The Transitional Government on Life Support*, that the government intends to “marginalize and dominate the locals.”\(^{52}\) Also, the issue with western intervention fueling radical Islamic insurgency cannot be overlooked.\(^{53}\)

The African Union (AU), along with the EU, USAID, and other agencies all contribute to providing resource for the AMISOM, whose primary focus is to support the FGS in the stabilization of the nation (particularly through combating the Al-Shabaab) and securing conditions for reconstruction and development in Somalia.\(^{54}\) The United Nations Political Office in Somalia (UNPOS) has also been working closely with Somali leaders and civic organizations to create stability and reach agreements with opposition groups in the nation.\(^{55}\) Nonetheless, the representation of the FGS parliament is questionable, since it consists of clan representatives, not elected officials.\(^{56}\) However, the AMISOM has had insufficient influence so far on its counter-insurgency acts.\(^{57}\)

Though some gains against the Al-Shabaab have been made, as Lawrence Gitonga Mwongera notes, “The fact of the matter is that al-Shabaab is likely to survive in some form or another even after the taking of Kismayu and the change of government in Mogadishu.”\(^{58}\) After all, there have been issues with insufficient funds and ground troops.\(^{59}\)

In 1993 and 1995, the United Nations carried out a military intervention into Somalia under UNISOM I and UNISOM II. The primary objectives of both missions were to settle internal warfare and establish a safe delivery of humanitarian aid, primarily for the displaced Somalis, through the World Food Programme. Despite the good intentions, both missions were deemed to be unsuccessful. Conditions, after the military intervention of the UN, have actually worsened, and the locals are left disappointed and hopeless of any international intervention.\(^{61}\) To lessen violence in the region, the UN placed an arms embargo on Somalia in 1992.\(^{62}\) So far, however, the embargo has been ineffective due to the constant influx of weapons from Yemen, Eritrea, Ethiopia, private donors, and the U.S.\(^{64}\) to the TFG.\(^{65}\)

One of the greatest fears in the spread of Somali piracy is the recruitment of the young demographic due to the high rates of unemployment in the population. Former Somali pirates established anti-piracy advocacy and increase awareness through the radio, while Somali elders, use alternative employment opportunities, training on agriculture, and fishing advice.\(^{66}\) The 2012 United Nations Development Report sets one of its primary aims to prioritize the integration of Somali youth in human development and peace building strategies.\(^{67}\)

Finally, (and perhaps one of the greatest issues due to its international effects) is the existing jurisdictional issue of where to hold suspected pirates in custody, where to establish the tribunal, and what is to be done with them after they serve their sentence. Since the Somali government is already overwhelmed with problems, the international community is involved in the reconstruction of the prisons in Somalia, with an emphasis on human rights.

The UNODC is working on improving the conditions of the prisons in Puntland by training the staff on proper treatment
of convicts with consideration of human rights. Moreover, security and treatment has improved for Somali prisoners in Kepa.

The UNODC stresses the importance of the improvement in prison conditions as vital to the transformation of a pirate into a normal citizen. The UNODC has recognized that now is an important time to address the issue of “Somali maritime law enforcement capability.”

Many state vessels avoid the capturing of pirates because trials are costly, long, and complicated. Apart from the legal limitations, such as under which circumstances the navy can stop, question, and board a suspected pirate skiff, there remains another huge, unresolved issue: what to do with ‘stateless pirates.’

One pirate, who has been prosecuted and sentenced in the Netherlands, says that he plans to remain in the Netherlands and have his family move with him. His lawyer stated “He still finds life in the Netherlands greatly to his liking.” Hence, the issue with states’ reluctance of engaging in the prosecution of a suspected pirate, unless it directly impedes on their national interest. Trials are costly, time-consuming, and complicated. The final outcome is that although international suspected prisoner transfers have been largely approved, not all nations have made agreements to transfer sentenced persons, such as Russia and NATO.

Policy Recommendations

Piracy is ultimately the result of the internal instability in Somali, but it is only a symptom of the problem. This symptom has global repercussions; the international community must prioritize piracy as one of its top problems. It has been recognized and stated multiple times that as long as instability in Somalia persists, so will crime on the sea. Nonetheless, it will take years, if not decades, to correct the issue on land, whereas in the meantime quicker measures could be taken to extinguish piracy on the sea. This paper recognizes the complexity of the issue, and under such reasoning will provide three policy recommendations, two of which must be done on the sea and in the near future, while the other will be a long term development on land.

First and foremost, weapons must be permitted on merchant vessels if placed in a safe on the captain’s bridge, to which only a few authorities have access. It may be a radical proposal because it would defy the terms of the UNCLOS, which highlights peaceful navigation on seas. The use of Best Management Practices alone does not guarantee safety within the HRA. Powerful water hoses and spiked fencing are appropriate protection measures, but unfortunately cannot compete against machine guns and rocket launchers. If the pirates, on the other hand, sense that their targeted ship is armed, they will not attack, retreating and searching instead for more vulnerable vessels. In 2005, the crew of the Seabourn Spirit managed to scare off Somali pirates, who were about to attack by using a ‘sonic gun,’ an American navy-developed acoustic instrument. This method could be effective for a time, however, pirates will soon learn they have been deceived and ignore the signal, in some instances responding even more aggressively, as with the 2008 MV Biscaglia. Therefore, artificial weapons cannot stand against AK47’s. In addition, as has been mentioned above, the use of Private Maritime Security Contractors is highly effective, though not necessarily affordable. Consequently, the presence of arms on a vessel may be a more effective solution.

Possible challenges that can result from this measure are, as Henk Rengelink outlined, the lack of the crew’s will to undergo firearms training, the risk of increasing casualties on both the side of the attackers and the victims, and the fact that multiple states prohibit the carriage of firearms on merchant vessels (or else deny shipping companies the right to pass through a state’s territorial waters.) The threat weapons may have to flammable cargo has also been noted.

Second, emphasis should be placed on sentencing of Somali pirates in Somalia or any other nearby African states, such as Kenya. Under no circumstances should convicted pirates be sent to serve their sentence in a developed nation. The issue with aiding these unemployed ex-convicts after their release from prison in foreign nations is also a major problem. Because the FGS is currently weak and divided, it is unable to maintain and rehabilitate all convicts. Many Third States ignore acts of piracy on the sea since trials are time-consuming and costly. Therefore, after their prosecution, the international community should contribute capital and help maintain internationally funded detention
centers in Somalia. It is ultimately a beneficial situation both for Somalia and the international community.

Finally, the World Bank must prioritize the development of mining infrastructure in Somalia. Natural minerals such as uranium, iron ore, and even oil have been discovered, unexploited in the Somali soil. Since the TFG has attempted unsuccessfully to take advantage of its fishing industry through SHIFCO, they must seek alternative solutions to economic development. The creation of national and transnational companies would provide the Somali demographic with alternative forms of employment, fostering the economic growth of the nation. Within this proposition, it must be stressed that this project will not involve the support of private company development, due to the risk of capital leakage from Somalia. The WB will also have to keep a strict check of where each cent is put to use and the profit it creates, in order to prevent corruption.

Conclusion & Future Considerations

According to the July 2012 ICC-IMB Report, the amount of actual and attempted pirate attacks recorded from January 2007 – June 2012 has decreased as a result of counter-piracy measures taken, such as naval deployments and Best Management Practices. However, this does not mean that the problem of piracy has been eradicated. Increasing aggression must be recognized, and even though pirate attacks are less successful, those encountered are not willing to give up as easily, due to the reward of high ransoms. Many policy recommendations suggested are easier said than done, although they are constructive ideas, they are often unfeasible. Further consideration must be given to the negative impact of the eradication of piracy on the Somali locals, who are dependent on wealth acquired from it. Greater focus should be placed on the creation of alternative forms of employment, through increasing education of young Somalis. Other considerations should be given to the management of corruption, possibly through strict multilateral international supervision of Somali capital flow in bureaucratic transactions. The leakage of merchant vessel information from pirate informers located in ports must be looked into as well. One of the greatest issues remains the problem with ‘stateless pirates,’ who lack forms of identification, rejected by their state governments, are then left for the international community to handle, becoming financial burdens. Since piracy is an issue with tremendous international repercussions, every state in the world must share the interest of eradicating this problem and helping Somalia. It might take eight years, it might take three decades, but through slow and meticulously planned measures, Somalia may see a more promising future.

Endnotes


19. Ibid., xi.

20. Ibid., xi.

21. Ibid., xi.


31. Ibid., pp. 7-8


36. See: Table 1: Location of Actual and Attempted Attacks, January-June, 2007-2012 of ICC-IMB 2012 Report


43. Contact Group on Piracy off the Coast of Somalia, http://www.theggocs.org/about.do?action=background


49. Ibid., pp. 8


60. See UN Security Council Resolutions against piracy at: http://www.geneva-academy.ch/RULAC/un_resolutions_and_reports.php?id_state=204


64. The United States has recently donated drones to the Kenyan and Ugandan military to combat insurgency in Somalia. Apart from such military aid, the U.S. also provides large financial support and expertise. Lawrence Gitonga Mwongera, Taking Stock in Somalia, Open Security, Aug. 30, 2012, http://www.opendemocracy.net/opensecurity/lawrence-gitonga-mwongera/taking-stock-in-somalia


67. Ibid., pp. 40. Most pirates are young and unemployed. Ibid., pp. 40


69. Ibid., pp. 5


73. Hanbook on the International Transfer of San-
Ships Report, Jan. 1 – 30 Jun. 2012. See also, “The fact that a good many of the attacks by Somali pirates were unsuccessful is due in large part to the anti-piracy measures taken by ship owners and crews. In 2007, 81% of the failed attempts were averted by preventive measures and 19% by naval intervention; in 2008 and 2009, preventive measures saved the day in 78% and 77% percent of cases, respectively, whereas 22% and 23% of the attacks were parried by naval forces.” as stated in Henk Rengelink, Tackling Somali Piracy, Jun. 2012, pp. 194.


Bibliography


International Maritime Organization. "Piracy and
Global Shipping and the War on Somali Piracy / Elizaveta Klimenko


since the early 20th century, no commodity has been more associated with the State than oil. Oil has been at the heart of numerous international conflicts, including World War I (the role of the internal combustion engine); World War II (Japanese efforts to capture petroleum reserves in the East Indies); the Cold War (disputes between international oil companies and developing states); and the first Gulf War (Iraq’s invasion of Kuwait). Moreover, state-owned companies, such as Petrobras of Brazil, Saudi Aramco of Saudi Arabia, and Gazprom of Russia have historically dominated the international petroleum industry. Indeed, by one estimate, as of 2008, state-owned companies held over 80 percent of world reserves, and fifteen of the world’s twenty largest oil companies were state-owned. It is no surprise that Daniel Yergin, in his seminal book on the history and global politics of oil, observed that “[oil is a commodity that is] intimately intertwined with national strategies and global politics and power.”

In recent years, however, oil has begun to break away from the State. As Alfredo de Jesus, Founding Director of the Transnational Petroleum Law Institute, has noted: [...] a large number of national or multinational companies are no longer national or multinational: they are now global companies. The core issue is that to a great extent, ‘national champions’ are progressively disappearing—all that is left is an illusion of nationality and maybe a little nostalgia [...] Nowadays most ‘national champions’ belong to ‘foreign’ capital [and] structure their investments and operations through third countries in order to benefit from being a ‘national’ of such a third country [...]”

As oil companies have become increasingly detached from the State, the international oil industry has followed suit. What was once an industry defined by competition is now an industry defined by cooperation. What was once an international industry centered around national interests is now a transnational industry centered around global interests. And what was once an industry governed exclusively by state laws has become one governed by state and non-state laws.

As interesting and significant as the transformation of the international oil industry has been, it is just one example of a broader phenomenon. Several other industries, including the international commercial industry, the international construction industry, and the international sports industry, have followed a similar pattern. In each case, cooperation has replaced competition, global interests have replaced national interests, and a network of state and non-state laws has replaced a hierarchy of state and interstate laws.

This phenomenon, which this article calls ‘transnationlization,’ raises a number of important questions. How does this transition occur? Why do some industries follow this pattern while others do not? For that matter, when has a particular industry crossed the threshold from ‘international’
to ‘transnational?’ Are there certain criteria that must be met and, if so, how can these be measured? Finally, looking to the future, will other, newer industries, such as alternative energy, follow this pattern?

This article does not attempt to answer all of these questions. Rather, its main objective is simply to lay the foundation for a new research agenda. Ideally, scholars and practitioners working at the intersection of international relations (IR) and international law (IL) will collaborate in an effort to answer these questions and others that may arise.

As a starting point, this article addresses the first question: how does a particular industry transition from ‘international’ to ‘transnational?’ This article approaches this question through the lens of IR and IL theory. There is, thankfully, no need to reinvent the wheel: IR and IL scholars have already designed a number of sophisticated theories that provide a helpful analytical road map. The challenge is getting them to speak the same language. As Abbott and Snidal (2012) have noted: IR scholars should “[…] engage more concretely with the practice of international law.” IL scholars and practitioners, for their part, should have a basic understanding of the major IR theories, which give a sense of order and logic to an often confusing world.

As a first step toward creating this common language, Section 2 of this article develops a unified typology of major theories from IR and IL. These theories are placed in two broad categories: (1) economistic theories that view actors’ identities and interests as independent variables and (2) sociological theories that view actors’ identities and interests as dependent variables.

Applying this typology, Section 3 draws on two sociological theories—constructivism and legal pluralism—to develop a model of transnationalization that explains how and why certain international industries have become transnational, autonomous legal orders.

Section 4 illustrates the model developed in Section 3 through a case study of the global petroleum industry, focusing on how this industry, which was once dominated by the State, has been at the vanguard of the transnational movement.

Finally, Section 5 revisits the questions posed in Section 1 and makes suggestions for future research.

1. A Unified Typology

Scholars and practitioners working at the intersection of IR and IL need to develop a shared vocabulary. How should they go about doing this? The first step is to reduce the major theories from IR and IL to their core components. The second step is to identify common features among these components. This simple exercise reveals that major theories from IR and IL fall under two categories: (1) those deriving from Economics and (2) those deriving from Sociology. The fundamental distinction between the two categories involves how they view actors’ identities and interests. In short, economistic theories view them as independent variables, whereas sociological theories view them as dependent variables.

Figure One shows the results of this intellectual exercise. Major theories from IR and IL are categorized based on whether they view identities and interests as independent variables (economistic) or dependent variables (sociological). To be sure, this discussion is not meant to provide an exhaustive theoretical treatment. Rather, the goal is simply to identify common features and provide conceptual clarity that may serve as the basis for a future research agenda. With this narrow goal in mind, the remainder of this section discusses the defining features of each category and provides a brief overview of major theories from IR and IL.

Economistic Theories

Economistic theories are rooted in a rational choice model of behavior in which identities and interests are exogenously given. In other words, identities and interests are independent variables, whose characteristics are assumed a priori instead of being created over time. Specifically, the economistic approach starts with the basic assumption that identities and interests are defined by the anarchic nature of world--actors that are rational, self-interested, and utility-maximizing. Furthermore, ideas are judged by their “usefulness” in achieving efficiency gains, which are measured in material terms.

The economistic theory of Neo-realism, for instance, attaches great importance to the global distribution of power. States are primarily interested in maximizing their power (usually defined in military terms) relative to others’.
role for international law is small, and it is mainly seen as a tool used by major powers to reach goals. Similarly, international institutions and cooperation can do little to alter fundamental identities and interests of states.  

Neo-liberalism shares neo-realism’s assumptions of anarchy and self-interested actors. It differs, however, in its belief that the negative aspects of anarchy, for example arms races and the security dilemma, can be mitigated through international institutions, international law, and cooperation. Neo-liberalism draws extensively on economic theory to explain how institutions and cooperation can be used to solve collective action problems, reduce transaction costs, and mitigate problems associated with incomplete information and sunk costs. It also places greater emphasis on domestic politics and economic power.

Some IL scholars have made similar arguments. Goldsmith and Posner (2005), for instance, develop a rational choice model of international law, which posits, “[…] international law emerges from states acting rationally to maximize their interests, given their perceptions of the interests of other states and the distribution of power.” In their view, states comply with international law primarily because they fear retaliation if they do not. To a lesser extent, they comply to preserve their reputation as reliable negotiating partners.

Traditional accounts of private international law have relied on a similar state-centric model. Legal state positivism, for instance, argues that states, and, to an extent, inter-state entities, are the only legitimate source of international law. Adherents of this view tend to dismiss laws created by non-state entities as “soft law.”

These theoretical approaches, though different in many ways, share the fundamental assumption that actors are rational and self-interested. Decisions and outcomes are explained in instrumental terms, through a cost-benefit analysis, and an attempt is not made to explain how actors develop their identities and interests in the first place.

Sociological Theories

In stark contrast, theories derived from sociology assume that identities and interests are endogenously created, dependent variables. Instead of being defined by the underlying structure of the international system, they are socially constructed over time through interaction and what Max Weber called “intersubjective understanding.”
Constructivism, for instance, provides an important alternative to neo-realism and neo-liberalism. In the constructivist worldview, structure and process are mutually constituted: anarchy exists, but its meaning is defined by interaction and perception; actions are constrained, but not dictated by, the anarchic structure of the world. Unlike neo-realism and neo-liberalism, constructivism views ideas as independently important, not just a means of achieving material ends.

IL scholars working in the constructivist tradition have explained how actors comply with international law out of a sense of obligation. For instance, the Chayes and Chayes (1995) ‘managerial account’ emphasizes the "[…] continuous processes of argument and persuasion—"justificatory discourse" that ultimately "jawbones" states into compliance." Similarly, Koh (1997) explains how states ‘internalize’ international norms into the domestic sphere, and Goodman and Jinks (2003) argue that ‘acculturation’ is a key third mechanism (along with coercion and persuasion) for bringing about compliance with international norms.

Finally, the school of ‘legal pluralism’ may be considered the sociological counterpart to traditional legal state positivism. While legal positivists view international law as a rigid hierarchy, ranging from state and inter-state law at the top (‘hard law’) to various incarnations of non-state law (‘soft law’) at the bottom, legal pluralists make no clear distinction between hard law and soft law, and view international law as a series of overlapping networks derived from multiple legitimate sources, both state and non-state. This ‘network’ of laws reflects the social construction and evolution of norms, which have gradually acquired the status of legal obligations.

2. A Sociological Model of Transnationalization

Transnationalization, the process by which an international industry becomes a transnational industry, presents a major challenge to economic theories. As discussed in Section 1, transnational industries have undergone three paradigm shifts: competition has been replaced by cooperation, national interests have been replaced by global interests, and a hierarchy of state and inter-state laws has been replaced by a network of state and non-state laws.

To understand transnationalization, then, it is essential to know how and why these paradigm shifts have occurred in certain industries. This, in turn, requires a basic understanding of how actors develop identities and interests in the first place and how these evolve over time. Because economistic theories take identities and interests for granted, it is no surprise that they have difficulty explaining this. This problem is compounded by their strict adherence to an obsolete, state-centric model that does not recognize the crucial role played by non-state actors in these industries. Similarly, because they tend to view law-making as a ‘top-down’ venture, in which laws originate with state entities, they largely ignore the ‘bottom-up’ process by which laws are also made.

Not surprisingly, sociological theories are better equipped to meet these challenges. Two theories in particular—constructivism and legal pluralism—provide the theoretical underpinnings for the model of transnationalization developed in this section. As discussed in Section 1, a core tenet of constructivism is that identities and interests evolve over time and are ultimately the product of interaction and communication. The first two paradigm shifts illustrate this principle: rivals become allies and national interests lose their resonance as actors reconsider who they are and where their interests lie. The third paradigm shift, which describes the increasing importance of non-state sources of law and ‘bottom-up’ law-making, finds theoretical support in legal pluralism. Unlike legal state positivism, legal pluralism helps explain how non-state actors develop social norms, and how these norms ultimately become binding legal obligations.

Figure 2 demonstrates how these paradigm shifts occur over two phases. First, actors in an international industry create a social community. Second, this social community evolves into a transnational legal order. The remainder of this section examines each of these phases.

Phase One: From Self-Interested Actors to Social Community

Consider a hypothetical international industry. The actors who make up this industry—an assortment of companies, individuals, and trade groups, among others—do not see themselves as part of a community. Instead, they identify as com-
petitors who happen to have one thing in common—they provide similar goods or services.

They only work together to further their own interests, and they do so primarily through a series of ‘exchange contracts.’ These are short-term, discreet contracts which parties enter into for the sole purpose of completing a specific transaction.²¹ If, for instance, Company A from State X wants to sell widgets to Company B from State Y, the two companies will execute a sales contract that defines the key terms of the deal—price, quantity, date of delivery, method of payment, and so forth. They each view the contract as an instrument that provides short-term economic gain; it does not create a relationship or establish long-term goals or interests.

So far, this story is consistent with economistic theories. These actors are rational, self-interested, and utility-maximizing. At times, they do cooperate—but only to further their own self-interest. In this sense, the role played by exchange contracts is analogous to the role of international institutions and law that neorealists and neo-liberals describe.

This story, however, is incomplete. What if Company A and Company B begin to see themselves not as rival businesses with competing interests, but as members of a common enterprise with shared interests? Cooperation will no longer be seen as a mere instrument to further self-interest. Instead, it will be seen as a goal in and of itself—the defining feature of a common project.

The fundamental building block of this common project is the ‘relational contract,’ which establishes long-term social and business relationships among parties. The goal is no longer to simply complete a particular transaction—parties now seek to establish and maintain cooperative, long-term relationships that will be mutually beneficial for many years to come:

[These relational contracts no longer approach] the contract exclusively as a confrontation of individual interests but rather as the union of two different types of interests creating a new mutual interest: making the contractual project work.²²

In constructivist terms, the parties’ identities and interests—the way they view themselves and the society in which they operate—have fundamentally changed.

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In the beginning, they saw themselves as competitors who occasionally worked together only out of necessity and for fundamentally selfish reasons. Exchange contracts were the result of negotiations that balanced competing interests. Now, the parties see themselves as partners in a joint enterprise. The relational contract, then, can be seen as a blueprint to which parties agree—a roadmap for achieving a common goal.

To this point, the discussion of this hypothetical industry has focused on the micro level—the evolution of ideas and in-
interests among a select group of parties. But what happens at the macro, or industry-wide, level? If other actors follow a similar pattern, the same paradigm shift—from competition to cooperation—will occur at the macro level through the development of a series of long-term, relational contracts. Taken together, these relational contracts form the main building block of a new, autonomous social community. Actors now consciously view themselves as members of this community who have common interests and goals.

Phase Two: From Social Community to Legal Order

But this is only half the story. A true transnational industry must be capable of self-regulation. It needs efficient, reliable mechanisms to enforce contracts and resolve disputes.

In the past, these mechanisms were exclusively provided by the State. International industries were firmly rooted in the inter-state, Westphalian system. When negotiating exchange contracts, one of the major challenges was deciding which state's law would govern the substance of the agreement in the event of a dispute. A well-drafted contract would generally include an express choice of law clause stating, for instance, that any dispute would be resolved in accordance with the law of State X.

Even if the parties failed to include such a clause (which was surprisingly common), it was still assumed that the law of a particular state would govern the substance of the contract. If the parties went to litigation in a state court, that court would have to determine which state's law applied under its “conflict of laws” approach. The merits of the case typically turned on this one question.

But what if the parties expressly agree that non-state law will govern the contract? For that matter, what if they choose a specific non-state law to govern the contract? Returning to the example from the previous section, suppose that Companies A and B are negotiating a relational, as opposed to an exchange, contract. They are having difficulty deciding which law should govern the substance of the agreement. Company A, not surprisingly, prefers the law of its state (X), and company B prefers the law of its state (Y). In the past, this might have led to an impasse, forcing the parties to leave out a choice of law clause or, worse, cancel the transaction altogether.

The parties, however, now consider themselves part of a social community. They approach the contract with a spirit of cooperation and a common goal. There is nothing about these interests or goals that is linked with a particular state—as members of a social community with common interests and goals, it simply does not matter where the parties come from or where they are based. In other words, the law of a party's home state no longer matters. Accordingly, it makes no sense for them to waste time and resources—not to mention risk destroying the entire enterprise—debating which state's law should apply. A better approach would be to identify a source of law that is both neutral and tailored to the parties’ interests and goals. The logical place to start is with the social community itself. Members of this community have defined their interests through a series of relational contracts. Over time, these interests have taken on the role of social norms that govern relations among actors, but are not legally binding.

To complete the process of transnationalization, then, these non-binding social norms must become binding legal obligations. This occurs through two primary mechanisms: (1) model contracts and (2) transnational arbitration.

Model Contracts

The terms ‘standard-form contract’ and ‘model contract’ are sometimes used interchangeably. There is, however, an important distinction between them.

A ‘standard-form contract’ is "a pre-printed contract containing set clauses, used repeatedly by a business or within a particular industry to meet the specific situation." These contracts, which are sometimes called ‘contracts of adhesion,’ tend to be one-sided because they are written by organizations representing parties with similar interests. For instance, an association of professional landlords might draft a standard-form ‘Landlord-Tenant Agreement’ that, not surprisingly, favors landlords.

A ‘model contract,’ on the other hand, is—at least in theory—an objective contract drafted by a neutral third party. This third party is typically comprised of
leading scholars and practitioners in the industry. The parties to the contract are free to select which parts of the model they would like to adopt.

Parties to international transactions have historically relied on standard-form contracts. This is not surprising, given the traditional view of contracts as a confrontation of individual interests. To save time and money, similarly situated parties developed standard form contracts that protected their interests. This led to two major problems. First, due to asymmetrical information and bargaining power, wealthier, more sophisticated parties with access to expensive attorneys and accountants would often impose their terms on weaker parties (hence the term ‘contract of adhesion’). Second, even where both parties were highly sophisticated, they would each attempt to impose their own forms (with corresponding self-serving terms) on the other. This often led to the so-called ‘battle of the forms,’ where the parties would waste time and money fighting over whose form would prevail.

As relational contracts replace exchange contracts and parties begin to see themselves as members of a community with shared interests and goals, the standard-form approach to negotiation is gradually being replaced by the model contract approach. This new approach begins with the premise that the parties are not rivals playing a zero-sum game. Instead, they are partners developing a blueprint to achieve a common goal. Model contracts, then, are specifically designed to achieve common goals and are defined by a spirit of cooperation. These model contracts serve to codify the social norms that parties have created through relational contracts.

By themselves, model contracts have no legal power. As the name suggests, they are simply ‘models’ that parties may use or ignore as they see fit. But once a model contract becomes the basis of an actual, signed contract, its provisions become legally binding and enforceable. On an industry-wide scale, as more and more parties rely on model contracts, these provisions take on the role of an autonomous, industry-specific body of substantive law. In the above hypothetical, Parties A and B may now insert language stating that the substance of the contract is governed by the law of the industry in which they operate. Because this law is neither state-created nor dependent on states, it is a truly transnational body of substantive law.

Transnational Arbitration

Having agreed on the applicable substantive law, the parties have one more major decision to make: how will potential disputes be resolved? In the past, the answer was relatively straightforward: disputes would be resolved by the competent state court under its procedural and evidentiary rules. Determining which state had jurisdiction was often difficult, but it was always clear that a state court would ultimately render a decision.

This is another area where the traditional dominance of the State has been cast into doubt. Party A, for instance, may be concerned that a potential dispute will be litigated in Party B’s home state, and vice-versa—the assumption being that state courts will favor their own citizens. Another concern is that state courts, in general, are simply not the best forum in which to resolve these types of disputes. These courts are not members of the community, and judges cannot be expected to understand the specific interests and goals the parties share.

This is where transnational arbitration comes in. As a private, contractual form of dispute settlement, it can be fully tailored to a particular dispute. Parties may insert an arbitration clause stating that any dispute between them will be resolved by arbitration. The decision to include an arbitration clause reflects a fundamental desire to preserve relationships by efficiently and confidentially resolving disputes in a manner that tends to be more civilized and amicable than litigation in a state court.

Arbitration, then, is the glue that holds a legal order together. It provides an efficient, privatized way to maintain and strengthen this system in the face of disputes. It is also highly customizable—parties choose arbitrators who are experts in the subject matter of the dispute and are active, respected members of the community. In addition to its role in resolving disputes and holding legal orders together, arbitration itself is another source of transnational law. The awards rendered by tribunals comprise a transnational body of substantive and procedural law.

This marks the end of the second—and final—phase of transnationalization. The result is an autonomous, transnational
legal order that is both self-created and self-sustaining. It produces its own rules by converting social norms into binding legal obligations through model contracts and transnational arbitration. It regulates itself through the use of customized, contractual dispute resolution that does not rely on state courts.

To this point, the discussion of transnationalization has been quite abstract, focusing on hypothetical industries. The next section illustrates these abstract principles through an in-depth examination of the global petroleum industry.

3. Case Study: the Global Oil Industry
A Contentious Past

In The Prize, Daniel Yergin tells the story of the global petroleum industry from the mid-19th century through the early 20th century. During this time, pioneering private companies took advantage of economies of scale and integrated production models to stifle competition and capture a dominant market position. This was followed by the age of empire, in which oil became a proxy for power, and states sought to aggrandize this power through military dominance and expansion. Finally, the second half of the twentieth century was marked by the age of nationalization, during which states exerted direct control over their own natural resources through the development and expansion of state-owned companies.

Is a fourth age on the horizon? According to some, it has already begun. As early as the 1970s, a group of scholars began discussing the existence of an autonomous, transnational petroleum order, known as the lex petrolea. In their view, this order is autonomous because it makes and implements its own rules. It is a legal order that is both self-created and self-sustaining. It produces its own rules by converting social norms into binding legal obligations through model contracts and transnational arbitration. It regulates itself through the use of customized, contractual dispute resolution that does not rely on state courts.

In time, these exchange contracts and standard-form contracts were replaced by ‘relational contracts’ and ‘model contracts.’ These contracts are premised on the belief that ‘… parties to long-term contracts do not enter contracts just for a particular business but also to create or preserve a relationship that will allow them to benefit from, and preserve over time, current business transactions at the same time it allows them to develop new ones.’

Furthermore, they reflected the principle that ‘… parts to long-term contracts do not enter contracts just for a particular business but also to create or preserve a relationship that will allow them to benefit from, and preserve over time, current business transactions at the same time it allows them to develop new ones.’

At heart, these contracts have one thing in common: they seek to make oil and gas exploration and production possible and profitable.

Broadly speaking, there are three
main types of relational contracts in the modern, global petroleum industry: (1) modern concession agreements; (2) joint venture agreements; and (3) production-sharing agreements:

1. Modern Concession Agreements are entered into between a host state and a foreign company. The typical agreement grants a licence (a contractual right, not a property interest), to the foreign company that allows it to “explore, develop, sell, and export oil or minerals extracted from a specified area for a fixed period of time. Companies compete by offering bids, often coupled with signing bonuses, for the license to such rights.”

2. Joint Venture Agreements are entered into between National Oil Companies (NOCs) and International Oil Companies (IOCs). These agreements allocate risks and costs between NOCs and IOCs and the host state to share in profits, royalties, and taxes.

3. Production Sharing Agreements are entered into between foreign companies and host states. Under these agreements, “the state retains ownership of its natural resources and negotiates a profit-sharing system with the foreign company; the PSA recognizes that the ownership of the natural resources rests in the state, but at the same time permits foreign corporations the right to manage and operate the development of the oil field.”

Taken together, these relational contracts form the heart of an autonomous, transnational petroleum community. They signal the importance of shared goals, cooperation, and long-term business relationships. The various actors involved in this industry begin to see themselves as active members of a community with common goals and interests. Not only do they identify as members of this community, but they also know who else is a member and, equally important, who is not.

There are three main groups of actors that comprise this community: (1) oil producers; (2) oil companies (NOCs and IOCs), and (3) corporations engaging in parapetroleum activities. Other members include, but are not limited to: professional organizations (individuals who deal with common professional problems); trade organizations (corporate members representing a particular business group); think tanks, and members of the arbitration community (lawyers, arbitrators, and arbitration institutions).

New Legal Order

This community forms the basis of the lex petrolea. As the model developed in Section 3 demonstrates, the development of an autonomous community is only the first phase of transnationalization. Once actors have formed a community built on a series of long-term relational contracts, and developed a body of social norms based on their common goals and interests, these norms must become legally binding and enforceable.

This occurs through two primary mechanisms: (1) model contracts and (2) transnational arbitration.

Petroleum Industry Model Contracts

Traditionally, international petroleum transactions were bogged down by what lawyers call the ‘battle of the forms.’ Parties negotiating a contract regularly relied on their own standard forms of agreement. When these provisions conflicted, each party would insist on the adoption of its own, self-serving terms. This could lead to protracted, costly battles that would often leave both parties unsatisfied.

Model contracts act as an alternative to this inefficient and costly battle of the forms:

the [international petroleum] industry has [...] worked on a cooperative basis to develop and use various types of petroleum contracts to gain the benefits of standardization and efficiency.

By one estimate, at least 80 percent of the contents of modern international petroleum contracts include the same clauses. Model contracts provide a number of benefits. By expediting the negotiating process, they lower transaction costs and facilitate greater petroleum exploration and production. By relying on standard provisions, they promote uniformity, standardization, and predictability. Finally, because they are industry-specific and drafted by experienced professionals, they are ideally suited to international petroleum transactions.

Most model contracts are drafted by professional organizations.

Other model contracts include: the Canadian Association of Petroleum Landmen’s ‘Operating Agreement;’ the Petro-
leum Joint Venture Association’s ‘Model Unit Agreement;’ the United Kingdom Offshore Operators Association’s ‘Sale and Purchase Agreement;’ and the American Petroleum Institute’s ‘Model Unit Agreements.’

Finally, model contracts fall under two broad categories: (1) upstream agreements and (2) midstream agreements:

1. In the petroleum industry, ‘upstream’ refers to the exploration, development, and production phase of the business. Professional organizations have developed a number of model contracts designed to standardize and facilitate upstream transactions. Examples of upstream model contracts include: Study and Bid Agreements, Farmout Agreements, Joint Operating Agreements, and Unit Agreements.

2. ‘Midstream,’ on the other hand, refers to the gathering, processing, transport, and sale of crude oil resources. Examples of midstream model contracts include: Gas Sales Agreements, Crude Oil Lifting Agreements, Crude Oil Sales Agreements, Gas Processing Agreements, and Gas Transfer Agreements.

Transnational Arbitration of Petroleum Disputes

Through these model contracts, the global petroleum industry has created an autonomous body of substantive law that governs petroleum agreements. In this way, as predicted by sociological accounts of international law, non-binding social norms have evolved into binding legal obligations.

But one final step remains. In order to be a truly autonomous legal order, this community must be able to regulate itself—that is, it needs a way to resolve disputes and enforce obligations without relying on outside mechanisms.

This is accomplished through the use of transnational arbitration. Members of the community—NOCs, IOCs, and others—have made a strategic choice to refer disputes to independent transnational bodies that are created by the model contracts themselves. The arbitrators are often members of the community who are chosen for their expertise and experience with transnational petroleum disputes.

In addition to serving as an efficient and confidential means of resolving disputes, transnational arbitration provides another source of autonomous law. As tribunals resolve certain ambiguous points of law, their decisions become established principles that parties incorporate in future agreements.

The petroleum industry depicted in The Prize is rapidly becoming obsolete. It is being replaced by a genuinely transnational, autonomous legal order—the lex petrolea—that reflects the increasing importance of non-state sources of law and is leaving its contentious past behind.

Conclusion

The trend is clear: a number of international industries have become increasingly transnational, as the State has lost its dominance, competition has given way to cooperation, and a state-centric legal model has gradually been replaced by an overlapping network of state and non-state law.

It is less clear why and how this has happened and whether this trend will continue. This article has attempted to answer one question in particular: how have certain industries transitioned from ‘international’ to ‘transnational?’

In tackling this question, this article has relied extensively on two sociological theories—constructivism from IR and legal pluralism from IL—to explain how certain industries have evolved into transnational, autonomous legal orders through the social construction of identities and interests. Specifically, these industries are rooted in social communities that have established an autonomous body of law through model laws and transnational arbitration. In this way, they are both self-created and self-sustaining.

To illustrate how these concepts work in practice, this article examined the global petroleum industry. The evolution of this industry began with the development of an autonomous transnational petroleum community (the Societas Petroleatorum). This community channelled and solidified its interests through the development of model contracts designed to facilitate oil exploration and production. Over time, these interests evolved into a set of general principles, which have been further refined and developed through transnational arbitration.

As discussed in Section I, the main goal of this article has been to introduce the concept of transnationalization and lay
the foundation for a new research agenda. Many questions remain to be answered. Foremost among these is why certain industries have followed this path while others have not. Hopefully, the model developed here will assist researchers as they tackle this question. Another intriguing question looks to the future: will other, newer industries follow this pattern? The alternative energy industry, for instance, is still in its relative infancy. Can the world look forward to an autonomous, transnational alternative energy industry? What would such an industry look like? Would this facilitate the development of renewable energy resources, or might it be an obstacle to further growth?

These are all important and challenging questions that might not have satisfactory answers. Hopefully, the conceptual framework established here will assist scholars and practitioners in their quest to answer them.

Endnotes
2. Id. at p. 770.
3. Id. at p. xv.
5. Id. at p. 20.
11. Id. at pp. 100-101.
15. Brunnee and Trope at p. 4.
19. For an excellent overview of sociological theories of international law, see Brunnee and Trope.
21. Id. at pp. 29-30.
22. Id. at pp. 33-34.
25. Formed in 1870, Standard Oil was one of the first major companies to adopt an “integrated” business model that combined supply and distribution functions within one organization. It was also one of the first to take advantage of the “trust,” a legal mechanism that allowed it to comply with federal laws that prohibited direct ownership of other companies. The Trust allowed Standard Oil to propagate the legal fiction that it did not actually own shares in other companies—these shares were merely held “in trust” for the benefit of Standard Oil’s shareholders. In this way, Standard Oil was able to maintain fourteen wholly-owned and twenty-six party-owned subsidiaries.
26. “Before the 1970s there were only two major incidents of successful oil nationalization—the first following the Bolshevik Revolution of 1917 in Russia and the second in 1938 in Mexico. During the 1970s, however, virtually all of the oil resources outside of North America passed from international petroleum companies to the government of oil producers.”
27. De Jesus at p. 39.
28. Id. at p. 31.
29. Id. at p. 31.
30. Id. at p. 35.

32. Id. at p. 2.

33. De Jesus at p. 23.

34. Martin at pp. 3-5.

35. Id.

36. Id. at pp. 7-50. Martin notes that he is not aware of any model contracts that are used in the ‘Downstream’ (Refining, processing, marketing, and distribution) business.

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