Dear Reader,
I am extraordinarily pleased to present to you the Spring 2009 Issue of the Journal of Undergraduate International Studies. We received more submissions than ever before and in reviewing them, noticed that a few topics attracted more attention than others: China and its role as a world player; Islam and fundamentalist terror in the 21st century; and secessionist conflicts. We also received a large number of historical pieces and chose one in particular to be this issue’s featured essay.

Our featured essay appears on page 22 and is titled The Red Giant’s Shadow: How Diplomatic Pressure and Soviet Influence Affected CIA Coups. While most of the pieces we publish are more contemporary in their subject matter, this essay, written by Michael Spewak of Emory University, exemplifies the qualities we expect of a historical piece: well-written, engaging, and relevant. The rest of our selections showcase the diverse subject matters of pieces and were the favorites of our editorial board. We hope you enjoy reading them as much as we did.

Sincerely,

Maria D. Putzer
Editor-in-Chief
MARIA PUTZER, Editor-in-Chief
Maria Putzer is a senior majoring in International Studies and Political Science and will be graduating in May. She plans to attend law school and is contemplating becoming an extraordinarily vicious tort lawyer.

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Asad Asad is a sophomore majoring in Political Science and Spanish with a certificate in Global Cultures. His interests include traveling, debating, and foreign languages. He plans on spending the next academic year studying in Madrid and traveling Europe.

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As a second year student, Rashid Dar is working towards majors in Global Security and Economics, as well as Middle East Studies and South Asian Studies certificates. He’s interested in politics dealing with and of the Islamic World and the Islamic diaspora, foreign policy, and grand strategy. Rashid is a fervent supporter of the constant attainment of knowledge as a way to combat ignorance and bigotry. But most of all, he loves honest and engaged discussion, no matter the topic. He also loves you, despite what happened between us last Thursday.

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Ashley Dinauer is in her third year at UW-Madison, majoring in International Studies with an emphasis on the global environment. Following graduation, she is considering attending law or journalism school or earning a degree in media management. Her special interests include sustainable energy and environmental policy, mass media, sustainable development in the periphery, online marketing, and the Spanish language and culture.

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Eileen Herden is a senior at the University of Wisconsin Madison majoring in International Studies and Political Science. Eileen spent the past year in Berlin working on foreign policy and human rights issues for the Social Democratic Party in the German Bundestag. She has also spent time at the EU Committee of the Regions, as well as with the State Government of North-Rhine Westphalia and is the proud founder of Berlin’s first ever women’s bike polo team.

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JIAN LI ZHENG, Editor
Jian Li Zheng is a sophomore majoring in International Studies, with an interest in development economics. Her less academic interests include ballroom dancing, music from the motown era, and eating in large quantities. She'd love to have you join her in any of these. She will be studying abroad next year in Beijing, China to brush up her Chinese.
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LACK OF RESPECT FOR INTELLECTUAL property rights in various Chinese polities has been a common complaint of European and American diplomats and businesses for much of the past century. It is estimated that each year the United States alone loses billions of dollars in China as a result of copyright and intellectual property violations. When judged solely on the official laws of the country, however, China appears to be as strict on intellectual property violations as any other country in the world. Many of these violations are often explained by the particular characteristics of the Chinese intellectual property laws or by theories based on the stages of economic development. These accounts, however, fail to explain why even though successive Chinese governments have adopted model intellectual property laws citizens tend to continually ignore them. Additionally, Chinese polities, especially Hong Kong and Taiwan, have presently reached or surpassed the level of development at which the United States began respecting intellectual property rights, however, intellectual property continues to be disrespected.

Considering this lacuna in the standard explanations, we must consider foundational ethical and social thought to fill this gap. There is a significant divergence between the social and ethical thought of China and the West, which resulted in intellectual property institutions. Traditional Chinese legal thought can be traced back to the two contrasting and influential legal philosophies of Confucian and Legalist concepts of government. Legalism encouraged a system in which the rulers established law without the participation of the people, in order to guarantee proper social behavior of their citizens. The rule of Legalism was short-lived, however, and political and legal thought was clearly dominated by Confucianism. While the state-oriented nature of Legalism very likely influenced the Confucian scholars who followed, this influence will not be a focus within the scope of this paper.

This paper seeks to explain how the necessary conditions for intellectual property rights fit (or do not fit) within the Confucian framework. This notion of a “Confucian framework” raises the difficult question: which Confucian values should one appeal to? After all, over many centuries, Confucianism has had different meanings at different times, and the notion of “Confucianism”, does not have a corollary in Chinese. Generally, one can think of Confucianism as a scholarly tradition. The Analects of Confucius are considered as the integral text, and this paper will be limited primarily to this source. At times, the paper will depart from this concentration and suggest how Confucian values have manifested themselves in intellectual and societal traditions throughout Chinese history. I start by defining intellectual property rights as they appear in law. The discussion of Confucianism and intellectual property rights that follows pays particular attention to its definition and the relationship between each aspect and Confucian precepts.

JEFFREY GREENBERG is a senior at Tufts University majoring in International Relations with a focus on East Asia. In addition to enjoying studying Chinese language, politics, and culture, his interests include photography, moral philosophy, and economic policy. Next year, he will begin work on a Master of International Affairs at Columbia’s School of International and Public Affairs (SIPA).
THE ASSUMPTIONS OF INTELLECTUAL PROPERTY RIGHTS

Intellectual property is a legal field that refers to creations of the mind, such as literary, musical, and artist works, as well as symbols, names, images, and design, used in commerce. Depending on the type of work, such property is protected by trade secrets, patents, trademarks or copyright laws. The term “intellectual property” denotes the specific legal rights, i.e. exclusive rights, not the intellectual work itself. In the West, intellectual property is considered to be a right of the creator; moreover, it is believed that the protection of intellectual property rights creates incentives for innovation and leads to economic growth. While these provide benefits to the creators, they exclude benefits for those who have presumably not contributed to the development of the private property. For my discussion of intellectual property rights and Confucianism, I focus on the explicit formulation: Intellectual creations are private property, and thus the profit from them should be protected.

This formulation relies on many assumptions, and issue will be taken with each of them accordingly. First of all, the term “intellectual of private property. This analysis assesses whether Confucianism, which is a virtue-based rather than a rights-based system, provides a foundation for rights, in general, and property rights, in particular. The explicit formulation also provides a normative claim: “profit…should be protected.” This suggests that not only is profit allowed, but that it is also good and worthy of protection. §V considers Confucian perspectives on profit and business. Moving outside of the classical texts, the problematic notions of the “Confucian merchant/entrepreneur” (nushang) and “Confucian capitalism” (rujiao ziben zhuyi) are considered. This paper ultimately finds that many of the fundamental assumptions of intellectual property conflict with Confucian political and ethical thought.

KNOWLEDGE IS REVEALED, ART IS FOR THE SOCIAL GOOD

The definition of intellectual property begins with the concept of intellectual creation. If it is true that Confucianism rejects the very idea of intellectual creation, then we have identified an elemental conflict between one of the foundations of philosophical thought in China and the existing legal structure. It helps to think of how Confucius perceived his role. “The Master said, ‘I

The Analects were the result of revealing and organizing the principles that Confucius thought were valuable, not an act of creation. Knowledge was not something which was intended for advancement; instead, knowledge was the recovery of the way of the omniscient ancient sages. In this discussion of Confucius, Zhu Xi acknowledges that all of the meaningful creation had already occurred. The Analects were the result of revealing and organizing the principles that Confucius thought were valuable, not an act of creation. Knowledge was not something which was intended for advancement; instead, knowledge was the recovery of the way of the omniscient ancient sages.

While Confucius thought of himself as a transmitter, critics of this notion suggest that, in editing and representing the ancient texts Confucius actually “innovated” rather than transmitted. As Benjamin Schwartz suggests, “in his focus on the concept of [humaneness] Confucius is an innovator rather than a transmitter.” Similarly Fung Yu-lan says, “in transmitting he originated something new.” While this may be the case, it remains significant that Confucius thought of himself as a transmitter, and taught accordingly. Even though Confucius may have presented the Way of the ancients in an unprecedented form, he considered the values that he taught to be something far older and more fundamental than he had in his power to create. Moreover, as Karl Jasper’s expressed it, “in the philosophy of Confucius, the new expressed itself in the form of the old.” Whether the ideas of Confucius were original or not, he legitimized his teachings through the authority of citing ancient texts.” The Master said: ‘Both keeping past teachings alive and understanding the present—someone able to do this is worthy of being a teacher.’

The notion of looking into the past for justification likely existed long before Confucius, and definitely out-lived him. Chinese literature scholar Stephen Owen said that in the Chinese literary tradition, the experience of the past roughly corresponds to and carries the same force as the attention to meaning or truth in the Western tradition... the Confucian imperative insists in encountering the
ancients that we ourselves must be changed [.for] we discover in the ancients not mere means but the embodiment of values.”

Owen identifies the sanctity and authority of the past in Chinese civilization. He also illuminates a key distinction in the notion that while knowledge may be initially backward-looking, one’s knowledge about ancient values is what helps one change himself for the future. A critical response points out that what Confucius, Zhu Xi and even Stephen Owen are referring not to intellectual innovations, but more specifically to values. While this may be the fundamental focus, the authority of the past was ubiquitous in Chinese society.

“Proof” via historical forgery is one of the more striking aspects of the application of this principle (especially to Westerners.) Beyond Confucianism, there has been a tendency for new production to be attributed to ancient sages, and also for arguments to be settled on the basis of whose texts came earlier: Erik Zürcher explains that, in a notorious dispute between court Buddhists and Daoists during the Tang dynasty, the relative arguments for the different schools of thought were based entirely on the date and authenticity of a forged Daoist manuscript (the Huahu jing) “proving” that the founder of Daoism, Laozi, traveled to India during the Buddha’s lifetime. Another interesting example from the Tang dynasty is that of medical texts (e.g. the Yixin Fang) being attributed to the Yellow Emperor (circa 3000 BCE.) This appreciation of knowledge being recovered or rediscovered has devalued and discredited the role of innovation in improving society.

While the preoccupation with the past has drawn attention to Chinese literature and especially Chinese poetry for lacking originality due to its constant imagery, this property has allowed literary works to be accessible throughout time. Joseph Levenson commented, “to cite the Classics was the very method of universal speech” and that this was further-reaching and to a more enduring degree than even the Bible in the Judeo-Christian world or the Koran in Islam. This “universal speech” underscored the context in which originality arose and was expressed. Some people, such as the Ming author Li Mengyang argued for a return to antiquity:

“Poetry (wen) must be like that of the Qin or the Han, and poetry (sh) must be like that of the High Tang…This was justified because the rules used by the ancients were not invented by them, but really created by Nature…[so that] when we imitate the ancients, we are not imitating them but really the natural law of things.”

Relying on the past was not seen as disingenuous reproduction of earlier works, but, on the contrary, as a means of representing natural law. For this reason, it was essential for artists to address the past directly.

Poetry and literature, as well as Chinese painting and calligraphy, can be thought of much the same way as the lineage of Confucian scholars. From Confucius himself to Wang Yangming to Tu Wei-Ming, they advocate fairly literal adherence at least as a departure point. As Confucian painting and poet, Wu Li (1632-1718), expressed, “to paint without taking the Sung and Yuan masters as one’s basis is like playing chess on an empty chessboard, without pieces.” Wu Li expresses the idea that if one did not work from his predecessors, there would be nothing with which to work. Another Qing artist, Yuanji Shih T’ao (1642-1707), went further by writing:

“In the broadest sense, there is only a single method [of painting], and when one has attained that method, one no longer pursues false methods. Seizing on it, one can call it one’s own method.”

These commitments to a single method in painting mirror the Confucian commitment to knowledge. Confucius was a proponent of this outlook on knowledge, “The Master said, ‘Set your heart upon the Way of the ancients is the only way to live a proper human life. Even though the Way was a path forward, it relied heavily on the foundations of the ancients.” Confucius cherished the classics as records of ancient culture, to which he added value by editing and commenting. These customs and events of could be held up as a mirror of the present and serve to guide towards the future. The belief is that heavenly principles are revealed in the classics and by studying them the Way of Heaven will be revealed; by applying this to one’s human life one establishes the Way of humanity.

Also, important to our discussion of intellectual property rights is the function of the cultural arts in the Confucian tradition. “The Master said, ‘Set your heart upon the Way, rely upon Virtue, lean upon Goodness, and explore widely in your cultivation of the arts.” The Way is the first and essential step in Confucian self-cultivation; Wang Yaming offers an important passage on this page (Analects, VII.6):

If you set your will upon the Way then you will become a scholar of the Way and Virtue, whereas if you set your will upon the cultural arts, you will become merely a technically-skilled aesthete. Therefore, you cannot but be careful about the direction of your will. This is why, when it comes to learning, nothing is as important as focusing upon the correct goal. What the ancients referred to as the “cultural arts” were ritual, music, archery, charioteering, calligraphy, and arithmetic. These were all integral parts of their daily lives, but the ancients did not focus their will upon them—they felt that they must first establish the basics and then the rest could follow.

After one fosters a sincere commitment to the Way, the cultural arts contribute as a finishing touch on an already substantial moral foundation. Cultural arts are not a mode for the artist to express himself or to entertain people. Instead, they are a means of self-cultivation. The cultivation of one’s character in Confucianism is the method by which conflict is resolved, and harmony is extended from one person to another. Zilu asked about the gentleman.

The Master said, “He cultivates himself in order to achieve respectfulness.”
PRIVATE PROPERTY RIGHTS

The definition of intellectual property states, “intellectual creations are private property.” While the subject of this claim has been addressed in the previous section, the notion of private property remains to be analyzed. Because we are interested in private property rights, we start by evaluating whether there is a concept of rights in Confucian morality. This is a particularly difficult undertaking because the notion of “rights” did not exist in the virtue-based morality of Confucianism.

Confucianism is a virtue-based morality because it is concerned with a good common to all members of a community. Confucius replied, “A lord should employ his ministers with ritual, and ministers should serve their lord with dutifulness.”

This dialogue expresses both rights of lords and ministers, as well as their respective duties. An agreement follows that if a lord employs his ministers with ritual, then the ministers will serve the lord with dutifulness (and vice versa.) The lord has a claim on the ministers to be served with dutifulness, and the ministers have an obligation to do so (the reverse is also the case.) Reciprocal duties, such as these, are crucial in Confucianism to achieving social harmony.

Let us consider another example from Mencius that holds the underpinnings of a business contract:

Here is a man who is entrusted with the care of cattle and sheep of another man. Surely he is obliged to feed the animals. If he found that this could not be done, should he return his charge to the owner or should he stand by and watch the animals die?

On the one hand, the owner of the animals, the rights-bearer, has the power to have his animals given care, and also is entitled to have them returned when the promised action cannot be fulfilled. On the other hand, the animal-attendant has a duty to care for the animals, and is entitled to the compensation for his labor. The moral of the story is that there is a concept of rights in Confucianism. Alasdair MacIntyre and Henry Rosemont both claim that in a virtue-based system, in which a community of individuals align their primary interests with the good of the community, there is no room for the concept of rights. They also equate the notion that there was no expression for “a right” in ancient languages with the claim that there was no concept in ancient thought. Their perspectives on rights ignore the fact that one may have and use the concept of a right without having a specific word for it. Phrases or examples that embody the concept of a right can be found throughout Confucian thought. For instance, claim rights, which entail responsibilities, duties, or obligations, are central to the Confucian conception of governance.

Duke Ding asked, “How should a lord employ his ministers? How should a minister serve his lord?”

Confucianism is a virtue-based morality because it is concerned with a good common to all members of a community. Education is not only to transmit and nurture knowledge, but also to apply values, none of which entail withholding information. The notion that “exemplary persons eas[e] the lot of the common people” embodies a value that rejects the monopoly of information, and encourages those with power or knowledge to help those less fortunate. Additionally, the feature of intellectual property law that entitles gains for “those who contributed to [the intellectual creation]” is at odds with Confucianism. By conceiving knowledge as either always existing or being ancient, it is difficult to attribute an innovation to being originated by one party. Rather, one’s “original idea” can be thought of as the result of contributions of the past or of a whole society, thereby putting the claim that the intellectual property belongs to a single party in doubt.

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hand, the caretaker, or the duty-bearer, has an obligation to take care of the animals, and has a duty to turn them back to the owner. This example shows that even if the word “right” is not used, the concept is apparent in the moral dilemma proposed by Mencius. For our purposes, this seems to be enough to suggest the existence of a concept of rights.

If Confucianism allows for the concept of rights, what does it suggest for private property rights? The position of Daniel Bell states that two particular Confucian values place constraints on property rights: (1) the government’s first priority is to secure the basic means of subsistence for the people, and (2) the value of care for needy family members, including children and elderly parents. The implications of these values for intellectual property rights is in need of further consideration.

The Analects upholds the view that government has an obligation to secure the conditions for people’s basic means of subsistence and intellectual and moral development.

The Master traveled to Wei, with Ran Qiu as his carriage driver. [Upon arriving,] the Master remarked, “How numerous the people of this state are!”

Ran Qiu asked, “Being already numerous, what can be done to further improve them?”

The Master replied, “Make them wealthy.”

“Once they are wealthy, what else can be done to improve them?”

“Instruct them.”

This does not mean that one should be constantly concerned with increasing wealth. Confucius said, “I have heard it said that the gentleman aids the needy but does not help the rich to become richer.” Taken from these quotes, the government’s role is to provide the basic means of subsistence, and after that, one is able to concern himself with moral behavior. Mencius objects to high taxes and commerce restrictions, but consistent with Confucius, argues that “the state can and should control the distribution of and use of land to secure people’s means of subsistence.”

The Confucian notion seems to give priority to providing citizens with the basic means of subsistence over political and civil rights where they conflict. This could affect intellectual property in the cases where protecting intellectual property right creates a situation in which basic needs are not met. How could this scenario exist? In contemporary China, we could imagine the case where a particular region had few areas of employment other than those founded on violating the intellectual property rights of others. If it were the case that policing this illegal activity would result in the inability to meet basic needs, the violation might be given priority over citizens’ (or companies’) intellectual property rights.

This example, however, is particularly fanciful because the region’s basic needs could be provided from another area within the state. Food, for example, could be diverted from more productive regions to meet the basic needs of the region (after being policed for intellectual property rights violations.) Therefore, it can be suggested that the value of government providing basic material needs is not fundamentally at odds with intellectual property rights.

The next constraint considers the argument that Confucian ownership rights are vested in the family, not the individual. Confucian morality revolves around family relationships, especially those between parents and children, between elder and younger brothers, and between husband and wife. The emphasis in these relationships is fulfilling obligations to one another with a sincere and conscientious heart. The obligation to family is considered “beyond choice.” As in the Analects, “Meng Yuzi asked about filial piety, The Master replied, Do not disobey.” One’s duty to his parents exceeds one’s self-interest, barring exceptional circumstances.

These duties suggest that joint family ownership, rather than the liberal emphasis on individual ownership of property, might make more sense for society constructed on Confucian thought.

Joint family ownership does not pose a threat to the foundation of intellectual property. The implications of this constraint would likely arise in the specifics of intellectual property law, e.g. how might inheritance of rights function? Where §3 left us skeptical of the possibility of “intellectual creation”, our evaluation of property rights—their existence and differing priorities—has not made us similarly skeptical of their relevance in Confucian tradition, but has merely put some constraints on them.

PROFIT IS FOR THE PETTY PERSON (xiaoren)

Our examination thus far has focused on whether “intellectual creations are private property.” Now, we must address the consequence of the precept, that “the profit from [intellectual creations] should be protected.” In the Analects, Confucius relentlessly outlines the necessary steps for one to become a gentleman (junzi). Meaning literally “son of a lord”, this ideal refers to a sort of “moral aristocrat” or one who is an exemplar of ritualistically-correct behavior, ethical courage, and noble sentiment. In short, the gentleman is a possessor of Goodness (ren). The Confucian gentleman’s pursuit of Goodness seems to eschew the pursuit of profit, “The Master said, ‘The gentle understands Goodness, whereas the petty person understands profit.’”

The pursuit of profit was viewed by Confucius as a characteristic of an “inferior person”, who acts out of self-interest instead of principle. Rather than obtaining wealth (which appears to have become the goal of education for many in the West), Confucius accepted the possibility of poverty when learning the Way was most important.

The Master said, “The gentleman is not motivated by the desire for a full belly or a comfortable abode. He is simply scrupulous in behavior and careful in speech, drawing near to those who possess the Way in
order to be set straight by them. Surely this and nothing else is what it means to love learning.”

If the Confucian principles are appreciated, as such, then the profits awarded from intellectual creation cannot function as a goal, but merely a byproduct.

While wealth ought not to be one’s goal, this question arises, is wealth acceptable as a secondary goal or as a result of fate? Confucius, himself, certainly does not pursue wealth in any way, or encourage its pursuit. The Master said, “If wealth were something worth pursuing, then I would pursue it, even if it meant serving as an officer holding a whip at the entrance to the marketplace. Since it is not worth pursuing, however, I prefer to follow that which I love.”

Confucius is interested in the pursuit of learning and the Way. He does concede that is natural for one to desire wealth, and that while a fundamental pursuit of wealth is unethical, if one were to acquire wealth in the pursuit of Goodness it does not pose a problem.

The Master said, “Wealth and social eminence are things that all people desire, and yet unless they are acquired in the proper way I will not abide them. Poverty and disgrace are things that all people hate, and yet unless they are avoided in the proper way I will not despise them.”

“If the gentleman abandons Goodness, how can he merit the name? The gentleman does not go against Goodness even for the amount of time required to finish a meal. Even in times of urgency or distress, he necessarily accords with it.”

The true gentleman is dedicated to the Way as an end in itself, and he does not pursue Goodness for the sake of external goods. Ideally, he begins to embody the Way unselfconsciously and effortlessly, and derives a constant joy that renders external goods unimportant.

Even if the “gentleman” should not be committed to pursuing profit, does it necessarily follow that he believes profits should go unprotected? In the gentleman’s goals of improving society by cultivating himself, perhaps it is the case that intellectual property should be protected because protection leads to more innovation and more innovation improves society. First, one would have to show conclusively that intellectual property rights (and their subsequent “innovation”) improve society more than freely-shared works. Next, the Confucian might have the interest of the social good and social harmony in mind, but would not suggest this be based on a principle of profit (as is the case in the intellectual property definition.)

Another conflict arises with the mechanism for enforcing protection of profit. Confucianism suggests rule by virtue and ethics over law and punishment.

The Master said, “If you try to guide the common people with coercive regulations and keep them in line with punishments, the common people will become evasive and will have no sense of shame. If, however, you guide them with virtue, and keep them in line by means of ritual, the people will have a sense of shame and will rectify themselves.”

Confucius encouraged ruling through Virtue (wu-wei) rather than through force. He concedes that you may be able to correct people’s outer behavior through law, but not what’s in their hearts. Zhu Xi comments, “Although they will probably not dare to do anything bad, the tendency to do bad will never leave them.” This suggests that it would be difficult for a Confucian scholar-official to endorse something that needed to be enforced by law, instead of leading by Virtue alone. Furthermore, the scholar is at odds with proposing and accepting a principle, such as intellectual property, that is at odds with proposing and accepting a principle, such as intellectual property rights (and their intellectual property definition.)

Whether the normative claim for profit in the current notion of the “Confucian entrepreneur” (rushing) In the 1980s, the Taiwan, South Korea, and Singapore governments gave official approval to Confucian values as a collective guide to economic practices. By the 1990s, the PRC authorities also endorsed historical Confucianism as a major intellectual tradition and source of economic progress. Likely the most influential of the explorations of the relationship between Confucian values and the development of Chinese commerce is lead by Yu Ying-shi. In sum, he suggests that the Neo-Confucianism of the Song dynasty formalized ideals of reforming society, and, by the Ming dynasty, Neo-Confucian ethics had penetrated all levels of society. Moreover, as competition in the examination system increased, there were ever more failed candidates who turned to commercial enterprises. He claims that “merchants, being the second best educated class of society” had the ability to translate knowledge of Confucian teachings into an ethical code. Yingshi argues that merchants had acquired a Way (dao) and attained a sense of Virtue (de) connoting a reliability and trustworthiness in conducting business.

When looking through the Confucian lens, however, it seems more fitting to assert that these qualities existed in spite of their pursuit of profit. There may in fact be a causal link between the Confucian emphasis on education and the success of “Confucian” East Asian states. Furthermore, business leaders may be commended for their humaneness (ren), trustfulness (xin), sincerity (cheng) and altruism. This, however, seems to bear little on one’s commercial pursuits and more on personal character.

The Master said, “The gentleman devotes his thoughts to attaining the Way, not to obtaining food. In the pursuit of agriculture, there is the possibility of starvation; in the pursuit of learning, there is the possibility of salary. The gentleman is concerned about the Way and not about poverty.”

Confucian economic morality disregards the conquest of material wealth. The gentleman is concerned primarily with the Way, and to say that one is both a Confucian gentleman and Confucian entrepreneur detracts from the priority of the gentleman’s objectives. Sure, it may be the case that one is both a Confucian gentleman and a businessperson, but attaching the terms conflates their relationship. Profit and commerce understood in this way show how the normative claim for profit in the intellectual property definition is at odds with Confucian morality. Since the pursuit of profit is unethical, the endorsing of a
principle where profit is the centerpiece is similarly unethical.

CONCLUSION

By analyzing the definition of intellectual property through the Confucian lens, we have touched upon many of its most important values: knowledge, Learning, filial piety, good governance, the Way, Virtue, Goodness, the gentleman, as well as many others. This paper has shown that the teachings of Confucius and the Chinese literati's view of knowledge conflict with the notion of "intellectual creation." Knowledge and academic inquiry are far more backward-looking than the Western preoccupation with innovation. It was also suggested that the Confucian view holds that knowledge should be used to first cultivate oneself, and then to benefit the social good.

While there is doubt about the existence of "intellectual creation" in Confucianism, the concept of rights does exist in Confucianism. Property rights similarly exist, but the principles of Confucianism put constraints on them. In particular, the Confucian valuing of providing basic material needs trumps other rights, such as intellectual property. Furthermore, the Confucian conception of rights is less individualistic than the Western counterpart and should take account of the Confucian commitment to joint family ownership.

In the final section, the claim was critiqued that profits should be protected. Confucian quotes, which instruct the gentleman to pursue Goodness over profit, help to illuminate the immorality of profit, and show the legal means for protecting profit to be in conflict with the Confucian principle of leading by Virtue. Lastly, the contemporary notion of the "Confucian entrepreneur" was touched upon. While it may be the case that there are lasting impressions from receiving a Confucian education or living in a society with Confucian influence, there seems to be little connection between Confucianism and commerce. Furthermore, the Confucian perspective on profit opposes the money-making attitude commonly attached to entrepreneurship. 72

Our final question remains, what can we glean from the incongruity of intellectual property and Confucianism? There is a genuine conflict when the oldest and most respected intellectual tradition of a country does not align with the laws of the country. If Western countries are interested in working with a China that fosters respect for intellectual property, they must realize the deep roots of Confucianism whose values are at odds with the fundamental principles of intellectual creation and profit. Understanding this leads to either seeking an intellectual tradition with tenets more suitable to intellectual property or proposing intellectual property on different grounds, such as improving the social good.

Either way, there are significant disconnects between the norms that countries and organizations are trying to promote and the Confucian tradition. This paper sought to demonstrate a careful examination of the divergence in the social and ethical thought of Confucianism with the underlying thought of intellectual property. The discussion also suggests proponents of intellectual property reconsider the depth of their commitment to monopolizing innovation as a means of securing profit. Likewise, any condemnatory account of China's intellectual property institutions must take into consideration the values of Confucianism, which are at odds with the values that are assumed in the definition of intellectual property.

Endnotes


2. “According to some reports, inadequate enforcement has resulted in infringement levels in China that have remained at 90 percent or above in 2004 for virtually every form of intellectual property, while estimated U.S. losses due to the piracy of copyrighted materials alone range between $2.5 billion and $3.8 billion annually,” stated 2005 National Trade Estimate Report on Foreign Trade Barriers P.K. Yu, 143.


4. They cite that during the 19th century the United States was notorious for its lack of respect for European intellectual property rights. Lehman, 1.


6. Ibid, 75.

7. I rely on Daniel Bell’s discussion of Confucianism and Property Rights and Peter Nosco’s paper on Confucianism and Civil Society to introduce my topic and how to apply the values of Confucianism to a particularly modern Western topic. I hope that I achieved in merely resembling the clarity with which they present their arguments.


8. Confucianism is an expression which is traceable to the Jesuits in late imperial China. Harriet T. Zurndorfer, “Confusing Confucianism with Capitalism: Culture...

9. Working from Bell, 2003, 1 n. 8, What matters about the Analects is that the Confucian texts has been transmitted for over two millennia and continues to command a great deal of moral and political authority in contemporary East Asian societies. I am not concerned with the debate over whether the Analects are really the quotations of Confucius, or the doubts that Confucius ever existed. (see, Charlotte Allen, “Confucius and the Scholars;” Atlantic Monthly; April 1999.)


14. Lehman, 5.


17. Quoted in Alford, 26.

18. Lehman, 5.


22. Ibid.


24. I consider myself to be doing the same. Ibid, 28.


26. Also quoted in Cahill, 155. Ibid.

27. Analects, VII.20.

28. Analects, VI.17.

29. Yao, 50.


31. Analects, p.66.

32. From the author’s commentary, Analects, 65-6.

33. Yao, p.179.

34. Analects, XIV.42.

35. Yao, 30.


37. While some suggest that the distinction Confucius makes between the gentleman and the petty person (xiaoren) should be understood in terms of social class, because xiaoren is often used in Han texts to indicate the “common people.” It seems clear that Confucius believed thought one from any social class could become a gentleman, and that social class did not correspond with moral worth. This quote still remains fairly ambiguous, as to whether the concern is over moral and material wealth. However, the distinction between these, make be equally unimportant—the message being simply “people in better situations help those in worse situations.” Some discussion from Slingerland’s notes, Analects, IV.16, 35.


39. There seems to be a dearth of academic discussion on the relationship between rights and Confucianism. There is a fair amount of research on human rights, but that is not central to our concern. Considering this deficit, this analysis relies primarily on the work of Seung-Hwan Lee, “Was There a Concept of Rights in Confucian Virtue-Based Morality?” Journal of Chinese Philosophy 19 (1992), 241-261.

40. Here I rely on the work of Daniel Bell, “Confucian Constraints on Property Rights;” (cited in n.7), 218-235.


42. Ibid.

43. Ibid, 243.

44. Analects, III.19.

45. Quoted in Lee, 246.


47. Analects, XIII.9.

49. Interestingly noted by Bell is the importance of food as a precondition for social harmony. He illustrates this by suggesting we consider the construction of the character for harmony. It has two parts: the left side meaning grain and the right meaning mouth. This suggests that a decent supply of food (grain in the mouth) underpins social harmony, and conversely the absence of food leads to conflict. Bell, 2003, 224 n.20.

50. Bell is quoted directly here, not Men-cius. Bell, 2003, 224.

51. Yao, 32-33.

52. Ibid.


54. The quotation continues: …Later, Fan Chi was driving the Master’s chariot. The Master said to him, “Just now Meng Yizi asked me about filial piety, and I answered, ‘Do not not disobey.’” Fan Chi said, “What did you mean by that?” The Master replied, “When your parents are alive, serve them in accordance with the rites; when they pass away, bury them in accordance with the rites and sacrifice to them in accordance with the rites.” Analects, II.5.

55. Bell, 2003, 231

56. The duty to share one’s property with one’s parents is still legally enshrined in some East Asian states. For more, see ibid.

57. Analects, 238.

58. Ibid, IV.16.

59. Lehman, 6.

60. Analects, VII.12.

61. Ibid, IV.5.

62. Ibid, II.3.

63. Author’s notes. Ibid, 8.

64. Ibid.


66. Ibid, 8.


68. “Part III: Modernization of the Confucian Regions.” (coursepack)

69. Yao, 276.

70. Analects, XV.32.

71. One could, however, imagine a type of entrepreneurship where money-making was not central, such as social activism entrepreneurship. However, when considering Confucianism and the economy, as we have been, “entre-preneur” is used nearly synonymously with “merchant”, so it serves to think of the entrepreneur’s primary goal as money-making.
A Comparative Analysis of the “Genocides” Committed By
Argentina’s Military Junta and Cambodia’s Khmer Rouge

by LYDIA BRANTLEY

Genocide, as defined by the U.N.’s Convention on the Prevention and Punishment of the Crime of Genocide, excludes state violence targeted at political groups, limiting usage of the term to violence “committed with intent to destroy in whole or in part, a national, ethnical, racial or religious group.” 1 Though the actions of the Khmer Rouge may not seem to fall under this definition, as the government’s main target group was bourgeois intellectuals, they qualify in part because “the Khmer people decimated by the government of Democratic Kampuchea [Pol Pot’s Communist regime] constitute a ‘national group’” in spite of their constituting the nation’s majority. 2 Unlike Cambodia, the Argentine government chose its victims solely based on their political affiliation, perpetuating violence in an effort “to eliminate once and for all what they called a Marxist subversive threat.” 3

In order for the “Dirty War” to be considered genocide, a title it merits considering its similarities to Cambodia under the Khmer Rouge in rationale, means, and history of denial, the definition must be expanded. To that end, political scientist R.J. Rummel created “democide,” a term that is “not bound to the killing component of genocide, nor to politicide, mass murder, massacre, or terror,” but rather “includes them all and also what they exclude, as long as the killing is a purposive act, policy, process or institution of the government,” as it was in Argentina. 4 Rummel’s “democide,” with its extended understanding of genocide, is a more apt term to describe the state-sponsored terror pursued in Cambodia under the Khmer Rouge and Argentina during the “Dirty War.”

The Cambodian and Argentinan governments share similar preconditions that shaped their respective rationales for instigating democide: crisis milieu, ideological imperative, and pathological leadership. Beset by crisis, both the Khmer Rouge and the Argentine military junta pursued genocide as a means of eliminating a burgeoning counterinsurgency, which in both countries

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was embodied in a political class.

Rising to power immediately following the Vietnam War, the Khmer Rouge promised to restore peace to war-torn Cambodia but instead continued violence through genocide. 1975, the year the Khmer Rouge rose to power, "was marked by substantial internal political conflict," a direct result of Vietnam and the civil war that followed Prime Minister Lon Nol’s uprising against Prince Sihanouk. In an attempt to restore political and social order, the Khmer Rouge initiated a Maoist-style peasant revolution intended “to transform Cambodia into an agrarian, communist state” where differences of class and, more importantly, politics would be mitigated. The restructuring of Cambodian society was the first step towards democide, as it sought to eliminate the bourgeois tendencies of the intellectual class, who were disproportionately affected by the state’s policy.

The 1976 coup that overthrew Isabel Peron, who ascended to the presidency following the death of her husband, Juan, two years earlier, signaled the end of Peronism and the beginning of democide in Argentina. Deeming leftist threats to his power intolerable, Videla proclaimed that “as many people as is necessary to bring peace to Argentina will have to die,” asserting a doctrine of hate that would result in the “disappearances” of up to 30,000 people over the next seven years. To facilitate democide, the government instituted the Proceso de Reorganizacion Nacional, “an Argentine variant of the national security doctrine” that “licensed the broad and continuous attacks against perceived ‘enemies of the state’ by claiming that the nation was embroiled in a state of permanent or total war.” The Proceso, as it was known, validated and formalized the government’s political and social control over every socio-economic sector of Argentine society.

Argentines with nothing in common other than their opposition to the junta’s conservative political and economic policies were victimized and murdered at the hands of a brutal military government...

Proceso, which the government had created as a result of its strong ideological imperative, facilitated the eradication of Marxist guerrilla forces and economic liberals as it explicitly “directed the armed forces to create a new societal model that would eliminate any interference with the agenda defined by the armed forces,” allowing the military government to act without constraint. Specific targets included the Montoneros and the Ejercito Revolucionario del Pueblo (ERP), guerrilla groups that rose to power in the final years of Peron’s presidency and "seriously challenged the military’s traditional monopoly" of violence. Just as the state attacked guerrilla groups threatening its political hegemony, it “systematically targeted members of unions perceived to be opposed to the achievement of governmental economic objectives,” and because “virtually every socio-economic sector of Argentine society […] opposed the government’s economic policies,” its breadth of victims was vast. Argentine military government attacked far more than those who rebelled against the government directly; in the words of one general, “First we will kill all the subversives, then we will kill their collaborators, then… their sympathizers, then… those who remain indifferent; and, finally, we kill the timid.” In both countries, though the regime’s choice of victims was initially limited to a strict political and social class, its range of victims grew proportionately with, revealing the similar pathologies motivating genocidal policy in Cambodia and Argentina.

In order to carry out their democidal policies, the governments of Cambodia and Argentina organized a bureaucratic apparatus to eliminate politically subversive groups. In Cambodia, democide took the form of forced deportation to the countryside where middle-class Cambodians “were worked to the point of life-endangering exhaustion” before being...
brutally massacred. In Argentina, democide involved the kidnapping, torture, and murder of insurgents. A key difference lies in the visibility of the horrors, which was greater in Cambodia. In both countries, democidal means were systematic and organized, a result of each government’s extensive desire to abolish counterinsurgency.

The Khmer Rouge pursued its democidal policy publicly through a mass restructuring of the state, beginning with the evacuation of Cambodian city centers. The countryside became a killing field, home to the state’s murder of three million people. Placed under the supervision of specialized cadres, “each of whom had absolute command over the life or death of each peasant,” the new peasantry worked itself towards a slow death through a combination of overexertion and deprivation. Others were murdered in a more direct manner, “simple and brutal,” that required a victim to kneel in front of a ditch as a guard hit him from behind until dead, he “fell into a mass grave.” In each case, the intent was to dehumanize the victim—working him until his form was near unrecognizable or killing him from behind—in order to justify his death. Similar to other cases of genocide, the state’s murder of its victims was both heartless and extensive, but what most distinguished the Khmer Rouge’s actions from those of the Argentine military junta was its scale and public nature.

Though similarly “directionlessness” in its terror, the Argentine government pursued democide through more furtive means than the Khmer Rouge. Rather than murdering en masse, Argentine cadres individually selected their victims, with “nearly seventy percent of the disappeared […] abducted in the privacy of their homes or while peacefully assembled at work.” Facilitated by the compliance of the media, which “simply did not report what was going on,” the state acted under a veil of secrecy, differentiating it from Cambodia, where violence was pursued openly. Yet within its clandestine detention centers, the state similarly employed means of violence characterized by their intent to dehumanize the victim, in this case through torture that “sought to destroy the prisoner’s identity,” as in Cambodia. Torture was brutal, including the use of cattle prods and electric shock, the breaking of eardrums, and the placement of rats in various orifices, and often ended in death or a state close to it. Though the death toll of the “Dirty War” was much lower than that in Cambodia under the Khmer Rouge, its exercise of similar means of violence justifies the use of the term democide.

Both governments considered the destruction of opposition groups a precondition for the success of their regime.

Despite the distinct arenas in which the Khmer Rouge and the Argentine military junta pursued their democidal policy—public versus private—ultimately the means were similar and both involved the dehumanization, torture, and eventual murder of ideological dissidents. For both, denial of the violence was the final stage in the debasement of victims and “a positive affirmation that the victims were, perceived as not worthy of existing in fact never did exist.”

Cambodia’s denial of genocide under the Khmer Rouge is extensive, in large part due to the regime’s pathological leadership and ideological imperative that instilled a deep hatred for the victimized insurgency. The denial of genocide in Cambodia until 1996 revealed the extent to which the Khmer Rouge accepted the dehumanization rationale for denial. Tight lipped among all its ranks, the Khmer Rouge demonstrated a “discipline of consistently denying the reality of massive slaughter they carried out in Cambodia with such black-hearted efficiency.” Even when faced with facts and figures regarding the genocide, the Khmer Rouge refused all accusations, in large part because they considered their actions justified.

The Argentine government denied genocide proactively and reactively. In the midst of the “Dirty War,” the government attempted to deny the presence of detention centers by referring to them as “Places for the Meeting of Detainees,” a name which concealed their real purpose, and housing them in seemingly innocuous locations, such as schools, soccer stadiums, and summer homes. Additionally, the government took extensive precautions to destroy evidence of violence, burning corpses “with old tires, erasing all traces of [of the body] and helping cover up the stench,” and releasing still-alive prisoners from airplanes and into the ocean in the infamous vuelos del muerte. After the war, the government feigned innocence, with Videla claiming he was unaware of the violence and rejecting published commission findings on the genocide that occurred under his regime. As in Cambodia, the government denied responsibility for its actions.

Based on the scale of violence, Argentina’s “Dirty War” pales in comparison with the Cambodian genocide under the Khmer Rouge. Though Argentina witnessed the “disappearance” of up to 30,000 people, Cambodia lost closer to three million. However, in spite of this difference, when considered on the basis of rationale, means, and history of denial, Argentina’s “Dirty War” is tantamount to Cambodia under the Khmer Rouge. Discounting the state-sponsored violence in Argentina simply because victims were chosen on political affiliations rather than national, ethnic, racial, or religious ones is unreasonable, demonstrating the need to extend the U.N.’s definition of genocide beyond its traditional understanding to that of Rummel’s “democide,” a more comprehensive and appropriate term for the violence in both cases.

Endnotes
4. Rummel, 36.


8. Osiel, 65.


10. Rummel, 179.

11. Rummel, 179.


15. Rummel 194, 185.


17. Rummel, 188.

18. Rummel, 178.

19. Laban Hinton, 94.

20. Osiel, 126.

21. Dion-Berlin, 64.


24. Andersen, 210-211.


27. Andersen, 205, 210.

28. Andersen, 205.
SINCE THE ATTACKS OF SEPTEMBER 11, 2001 and the subsequent invasions of Afghanistan and Iraq, much media attention has been focused on the activities of armed groups in both countries who continue to resist the mostly US occupiers and the governments established by them. Particularly in Iraq, these groups have caused large amounts of unrest and violence in many areas, not only fighting American and coalition forces, but between themselves, usually along sectarian or ethnic lines. American and coalition forces have had debatable degrees of success fighting these groups and their supporters. However, one area in which these forces are decidedly losing is the digital realm. Starting at the beginning of the conflict, armed groups and their supporters brought their struggle to the Internet, waging a war of opinion which the American and coalition forces have yet to join. An analysis of some of the materials related to two different groups, Ansar al-Sunna and the Mahdi Army, shows that they are using the Internet to promote their agenda not only within Iraq and other Arabic-speaking countries but worldwide. Furthermore, the Internet has become a domain of supporters of the armed groups, who take their material and disseminate it for them on other Internet sites. There is a fine line, however, between viewers of this material and “terrorists” who can be legally prosecuted for their online activities.

While many in the U.S. and other countries would term the Ansar al-Sunna and the Mahdi Army “terrorist organizations” or “insurgent groups,” I will avoid using these loaded terms. “Terrorist” and “terrorism” are extremely problematic terms; the United Nations has no agreed-upon definition of terrorism and news agencies such as the BBC encourage their journalists not to use terms like “terrorist” or “insurgent” because these words carry both emotional weight and moral judgment. Thus, I will use the term “jihadist groups” to refer to the organizations at the focus of this study, which is a term that would encompass both their agendas (and that they would undoubtedly call themselves). Ansar al-Sunna is identified with Sunnism but crosses ethnic lines. Because it was formed from three groups – Jund Al-Islam, Kurdish Hamas, and the Al-Tawhid Movement – in 2001, it is unlike the Mahdi Army in that it includes ethnic minorities such as Kurds. Ansar al-Sunna has been responsible for many attacks, particularly suicide missions, on foreign targets in Iraq such as the Turkish embassy in Baghdad (October 2003) as well as people seen as collaborating with the occupying forces, including Iraqi policemen (January 2004). In contrast, the Mahdi Army is identified with the cleric Muqtada al-Sadr and Shi’ism; it began as an armed militia in the Sadr City neighborhood of Baghdad in 2003 and has since increased dramatically. By 2004 it was estimated to consist of between 6,000 and 10,000 combatants. The Mahdi Army has been responsible for attacks on American and coalition forces in addition to Iraqis. The followers of Muqtada al-Sadr and the Mahdi Army committed much of
the sectarian violence that increased rapidly starting in 2005 targeted at Sunnis and other minority groups.\textsuperscript{3}

While Ansar al-Sunna and the Mahdi Army are far from the only jihadist groups in Iraq, they are two of the most active and well known and thus provide a vast amount of Internet material. The use of the Internet and other forms of digital media to promote various political agendas is not a new phenomenon. However, the Internet allows organizations to move many of their functions to the digital realm. Rather than existing in traditional “bricks and mortar” physical, centralized, and geographically locatable manifestations, groups such as the jihadist ones in Iraq can transmit their message to many people easily and, according to Daniel Kimmage and Kathleen Ridolfo\textsuperscript{3} “at the same time, the use of Internet technology allows insurgents freedom of movement and anonymity that other media platforms do not.”\textsuperscript{4} Use of the Internet also allows jihadist groups to communicate with each other much faster and more easily than in the pre-Internet era; Jonathan Matusitz notes that in antiquity, members of terrorist organizations had to rely on signals and word of mouth to communicate with each other.\textsuperscript{5} Communication is essential for any network to function properly, but the ease of communication provided by the Internet greatly facilitates operations undertaken by jihadist groups. Unlike in antiquity, the Internet allows jihadist groups to exist only in a decentralized form online, where anyone can design and promote a media product serving the aims of the jihadist group.\textsuperscript{6} Because of the Internet, it may be unnecessary to even meet other members of the group face to face or to utilize all members of the group to take action. This aspect of Internet use is important and completely benefits the jihadist group, allowing them to avoid capture because they have no physical representation. Furthermore, because their message is disseminated through a medium that is easily accessible and exists in a format that is easily copied, media products bearing their ideas such as videos can be taken by Internet users in any part of the world, who may not even be associated with the jihadist group, and exhibited on many other sites, dramatically increasing the number of viewers.

This phenomenon of external Internet users redistributing jihadist products online is exactly what is happening to the benefit of groups such as Ansar al-Sunna and the Mahdi Army. Websites dedicated to video exhibition such as YouTube and Dailymotion give scores of results when the search terms “Ansar al-Sunna” or “Mahdi Army” are pursued. While it is entirely possible (and extremely likely) that many of these videos were uploaded by the members of the jihadist organizations themselves, the presence of many duplicate videos and the use of non-Arabic languages shows that the content has been taken up by Internet users across the world and uploaded onto other sites. For example, a video entitled “Ansar al-Sunna in Iraq”\textsuperscript{7} undoubtedly produced by the jihadist group itself due to their production logo (matching the one identified by Kimmage and Ridolfo\textsuperscript{8}) in the corner of the video appears to be reposted by a supporter of theirs located in France. Unless the scope of Ansar al-Sunna extends into France, which is doubtful given their limited scope within Iraq itself, then the person who posted the video on the site Dailymotion.com found it elsewhere and posted it with a caption in French stating his or her support for the jihadist group.\textsuperscript{9} Similarly, another Ansar al-Sunna video, “Ansar al-Sunna,”\textsuperscript{10} appears to be posted by an Internet user in France and features a number of comments in French which appear to be in support of the video due to the number of “allah houakbar” (“God is great”) used in the comments. Similarly, while comments on Mahdi Army videos posted on YouTube are rife with condemnations of the group by mostly Americans and Britons they also feature a large degree of support for the video, for the Mahdi Army, or for their message. For example, on a video entitled “Our Brothers Fighting”\textsuperscript{11} which begins with a title (“Insurgent Slideshow”) in English, one viewer whose profile indicates that he or she is located in the Netherlands comments: “ALLAhukbar the united states of terror and its allies and slaves will be defeated. The terrorist nations the thieves and destroyers of mankind will be destroyed [sic] as they destroy mankind all over the world. The cancer United states of terror will collapse like the twintowers [sic]. Its a matter of time. ALLAhukbar.”

Use of the Internet also allows jihadist groups to communicate with each other much faster and more easily than in the pre-Internet era...
...mere users of digital materials that promote “terrorism” may be prosecuted as terrorists themselves under US law.

Furthermore, the US government could easily acquire this information by serving a subpoena. Internet control creates potential for further control of the Internet by more governments because of its use by jihadist groups to promote their own cause and recruit others. In addition, behavioral tracking makes it easy for governments to spy on their citizens’ Internet activity and determine who is viewing jihadist materials.

The ability of governments to control the Internet and track their citizens’ online activities can quite easily lead to legal consequences. Maura Conway relates the case of Babar Ahmad, a British citizen who published two jihadist websites and was extradited to the United States to face charges of “use of the Internet for terrorism-related purposes, which fall under the heading of conspiracy to provide material support to terrorists.” American anti-terrorism law dictates that it is illegal to provide support in the form of expert advice to terrorists, which includes IT support. These laws can be interpreted to include those hosting the materials promoting terrorism (domain hosts) as well as those who posted it (such as YouTube users). In this way, mere users of digital materials that promote “terrorism” may be prosecuted as terrorists themselves under US law. British law takes the issue one step further. As Melanie Newman notes in a July 2008 article in the Times Higher Education Supplement, researchers studying terrorism for academic purposes “have no ‘right’ to possess terrorist materials.” Researchers can “access” the materials legally, but may be prosecuted if they take any action to download or save the materials. Under British law, the line between viewer and terrorist becomes much more blurred.

It is clear that Iraqi jihadist groups such as Ansar al-Sunna and the Mahdi Army use the Internet to their benefit. But Internet users go beyond the efforts of the jihadist groups alone when they take online content from the jihadist groups and redistribute it on other sites or add their comments in support of it. Because of this viral effect in spreading jihadist groups’ message online, Internet users from Iraq to Europe to the United States can interact with the message of jihadist groups. The Internet has been appropriated by jihadist groups as well as their global supporters to promote their ideology online, a strategy which has at least spread their message to thousands of viewers and at the most earned them new converts. However, the use of digital media such as the Internet is not without consequences; average Internet users can quickly turn into “terrorists” in the eyes of the law and be prosecuted for their online activities. The global nature of the Internet is useful for jihadist and other opposition groups but also turns viewers of their materials into terrorists under state laws. In an environment such as this, it is important that governments do not let national security curtail freedom of speech or intellectual freedom.

Endnotes

Supporters Worldwide Are Using the Media,” (2007), http://www.rferl.org/content/article/1077316.html.34.


9. The entirety of the French caption reads: “By the will of God... that peace and glory may come back in Iraq for our fighting, resisting, campaigning brothers. The mujahedeen fight in the name of their religion against the American invader and are not terrorists, as the Westerners allege. They have asked nothing but to live in peace in their home(s).” Translation courtesy of Andrew Newman.


18. Ibid., 16.

How Diplomatic Pressure and Soviet Influence Affected CIA Coups

by MICHAEL SPEWAK

IN MODERN POLITICS, THE application of the Central Intelligence Agency often presents a point of divergence among scholarly opinions. As defined by the National Security Act of 1947, the agency has the legal authority only to gather, analyze, and present intelligence. However, the final responsibility enumerated in this legislation offers a vague directive: the CIA shall “perform such other functions and duties related to intelligence affecting the national security” of the United States. Historically, a loose interpretation of this directive has enabled some of the organization’s most prominent operations to transcend its more benign pretenses. CIA pressure has notably been involved in numerous coups and resistance movements across the globe: from the installation of the Shah of Iran to the support of Nicaraguan contras. In the 1954 Castillo Armas coup in Guatemala, CIA backing actually led to the successful deposing of President Jacobo Arbenz and the intended political restructuring. While the immediate consequences of this operation stand in stark contrast to the aftermath of the failed 1961 Bay of Pigs invasion, both incursions were predicated on similar rationale. In each instance, the CIA responded to government recognition of a growing threat—real or perceived—to American business and security interests. Each Caribbean nation’s increasingly significant ties to Eastern Bloc states helped lend credence to a US strategy focused on containment. Additionally, the CIA’s intervention in both states aimed to achieve similar political objectives via superficially identical methods. Ultimately, though, the Guatemala coup succeeded for the same reason the Bay of Pigs invasion met with catastrophe. Misguided intelligence assumptions about both Communist threats led to greater strategic miscalculations. In Guatemala, overestimation of Soviet influence and indoctrination manifested itself in the form of a more resilient tack towards the Arbenz government, ironically guaranteeing the success of the mission. Contrastingly, the United States intelligence apparatus grossly underestimated of the degree to which Soviet Union support strengthened the Cuban military and government. Combined with a relatively weak US propaganda and public relations campaign, this error in judgment doomed the operation.

Leading up to the populist uprising in 1944, tyrannical right-wing governments dictated the course of Guatemala’s political and socioeconomic history. This succession of autocracies favored the landed elite at the expense of rural peasants and the middle class. Corrupt and often greedy, Guatemalan dictators in the first half of the 20th century also showed a strong inclination towards the interests of foreign corporations, specifically the United Fruit Company, which was granted tax-free status, protection from import tariffs, and wage controls. Over a period of roughly forty years, this company deftly exploited the concessions offered it by the Guatemalan government, effectively consolidating control of all major railways in the country. In concert with its ubiquitous

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control of the nation’s largest seaport, Puerto Barrios, United Fruit managed to maximize its profits, gaining critical wealth and influence at home. After the revolution, the democratically-elected Arevalo and Arbenz regimes subsequently rose to power. Decree 900, passed by the United States Congress in June 1952, instituted a serious land reform program which galvanized United Fruit opposition to Arbenz and drew the attention of the American intelligence apparatus. With US business interests threatened and concern over a Communist Party foothold in the Western Hemisphere growing, the CIA began to plan for an overthrow. On June 18, 1954, a small group of exiles and foreign mercenaries led by General Armas invaded Guatemala via Nicaragua, beginning an invasion codenamed PBSUCCESS. In the ensuing days and hours, as the invasion slowly and sloppily pressed towards the nation’s capital, the CIA and State Department worked to manipulate public opinion at home and abroad, creating both international and domestic pressure for President Arbenz’s resignation. Eventually the stress of physical and psychological warfare convinced the Guatemalan military of the necessity of Arbenz’s departure, a conclusion which led shortly thereafter to the transfer of power to a top military official and the eventual establishment of a decidedly right-wing Armas dictatorship.

In contrast, peasant and proletarian resentment in Cuba focused on the Batista regime’s unabashedly pro-American policies, which were often perpetrated at the expense of the least affluent Cubans. Moreover, the nation’s conflicted view of the United States was borne of the legacy of the Platt Amendment, which restricted the sovereignty of the Cuban republic. The great flexibility offered American corporations and government agencies by the post-independence Cuban constitution created an economic situation not unlike Guatemala’s. The US-controlled Cuba Company dominated the nation’s railroad system, accruing land holdings in excess of 200,000 acres and operating on nearly 1000 miles of track. Massive US sugar and technology interests were invested in prerevolutionary Cuba, as well. In fact, a 1956 US Department of Commerce report noted that “90 per cent of telephone and electric services, about 50 per cent in public service railways, and roughly 40 per cent in raw sugar production” were owned by US groups. As Castro’s revolution veered to the ideological left, his administration began to focus on radical land expropriations and industrial nationalization. Public attitudes and US government concern over the spread of communism prompted a CIA response in much the same manner as in Guatemala nearly a decade earlier: On December 11, 1959, the CIA’s Western Division director J.C. King confirmed this assertion, issuing a memorandum warning of the impending socialist nationalizations and broaching the specter of “violent action” in preventing the emergence of a Soviet satellite state. The ensuing CIA invasion of Cuba, formulated and prepared for in the waning years of the Eisenhower administration, officially commenced on April 17, 1961 with President John F. Kennedy’s explicit approval. A large coalition of centrist Cuban exiles landed at the Bay of Pigs without sufficient air support, and despite initial military success, Operation Zapata was quickly overwhelmed by Cuban militia and professional forces. This swift defeat failed to incite a sweeping revolution, and Castro used the events to further solidify his position of political power.

Although the rhetoric of US media, corporations, and government agencies suggested serious levels of Soviet support in Guatemala and Cuba, these accusations often belied the true and contrasting motivations of President Arbenz and Prime Minister Castro. Even considering the modicum of government access afforded them by Arbenz, Guatemalan Communists harbored an entirely domestic agenda and no significant link between the USSR and Arbenz has ever been established. Even a CIA operation after the coup, PBHISTORY, which aimed to elucidate the level of Communist penetration in Guatemala, was unable to produce definitive evidence of the alleged hand of international Communism. This operation succeeded in convincing many Guatemalans of the Communist nature of the recently deposed Arbenz administration, but the concluding report admits that “internationally, the job was more difficult since few top secret documents were found, few stories were worthy of honest world news coverage.” Nevertheless, this fact never deterred the pre-coup American intelligence community. Most CIA speculation about the Communist underpinnings of the Arbenz administration centered on his liberal agrarian reform law, his public works program, and his trade relationships. Interestingly, the land redistribution program spurred suspicion not for its effects, but for its symbolic value. Elements within the CIA initially fretted over an economic recession in Guatemala and decreased agricultural production. Yet, even the US Embassy in Guatemala City confirmed an immediate 15% increase in corn production by August of 1953, and by the following autumn, rice and wheat harvests “increased by 74 and 21% respectively over 1952.”

With its original criticism effectively carried by tangible evidence, the CIA tried to use the success of Decree 900 to indicate public support for Communism. Again, though, this logic is founded on the false assumption that Arbenz was a Communist. While it is no secret that the Communist Partido Guatemalteco del Trabajo (PGT) contributed greatly to the formulation of the agrarian reform bill, in this instance, the CIA misinterpreted its own analysis. Declassified CIA documents provide insight into the agency’s dogmatic view of Decree 900. For example, one such period publication

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During the days directly preceding Armas’s domestic Communist influence, the CIA exercised disproportionately strong control of the Arbenz administration, but in reality, only four of the 56 government deputies were members of the party.17 Arbenz never “appointed a single Communist to his cabinet...[and] the total membership of the party never exceeded 4,000 in a nation of almost 3 million people.”18 Actually, using the number of Congressional deputies as an indictment of Arbenz’s political orientation might suggest that he was a tool of the Catholic Church or the landed gentry, not the PGT.19 Additionally, the CIA underestimated Arbenz’s ability to utilize the Communists for his own purposes. One lone dissenting 1952 memorandum objectively realizes Arbenz’s true motives; rather than privately praising Premier Khrushchev’s socialism, he idolized President Franklin D. Roosevelt and his New Deal. Importantly, this document characterizes Arbenz as one who “subordinates as individuals rather than thinking of them as members of organized groups.”20 Historian Piero Gleijeses suggests that this perspective enabled the president to rely on the expertise of PGT individuals without becoming a foil of the party:

Arbenz appreciated the honesty and discipline of a small group of friends—the leaders of the clandestine Communist Party of Guatemala...Arbenz was increasingly attracted to this [group] as the best hope for the Guatemalan people and nation, but he had no plan to turn Guatemala into a communist nation.21

Further evidence contradicting Arbenz’s alleged Communist tilt appears in the principles of his infrastructure building plan. Even though the program adhered to objectives dictated by the World Bank and planned to displace US public works corporations via competition instead of nationalization,22 Arbenz still drew ire since his plan to build nationwide rail and road networks conflicted with the interests of United Fruit. Effectively, it seems that the CIA either disregarded or failed to recognize the bountiful evidence discrediting the PGT’s influence inside Guatemala.

In addition to an incorrect assessment of domestic Communist influence, the CIA misread the Soviet support for Arbenz. During the days directly preceding Armas’s invasion, the CIA pointed to an arms shipment from Czechoslovakia as proof of Eastern Bloc backing in Guatemala. Undeniably, as the CIA reports, a Swedish vessel, the Alfhem, docked at Puerto Barrios and unloaded roughly 125 railroad cars worth of Czech weaponry and various other war matériel. Relying on commonly exaggerated firsthand accounts, the CIA compiled a list of ammunition, tanks, aircraft, hand grenades, radar equipment, artillery, rifles, and anti-vehicle guns which arrived with the Alfhem.23 President Dwight Eisenhower appealed to public fears of a purported domino effect, proclaiming that this shipment could allow Arbenz to establish a “Communist dictatorship...on this continent.” Shortly thereafter, Secretary of State John Foster Dulles echoed this sentiment and expanded upon the danger the Alfhem arms posed. Along with helping to create an international consensus opposing Arbenz, these statements also reflect the seriousness with which the United States viewed the Guatemalan situation. Ironically, the small cache of weapons imported onboard the Alfhem eventually aided Arbenz’s demise; many of the guns were outdated and malfunctioned during battle.24

Even though covert reports from the field are notoriously unreliable, the CIA’s collection and dissemination of this type of intelligence is quite telling of the agency’s greater position. One US “president of a small import/export company” informed an agent in Guatemala of 24 tanks being used by Arbenz’s army in maneuvers. Although this informant openly professed to a lack of tank expertise—in addition to an unmentioned personal bias, as a member of the military-industrial complex—the responsible CIA agent trusted the anonymous man’s description of Czechoslovakian manufacturing plates.25 This possibly fallible evidence is just a single example, but it surely represents another potential exaggeration in an already hyperbolized case against Arbenz. The CIA’s fallacious convictions about the nature of the Communist threat ran so deep that the agency even arranged to manufacture a proverbial ‘smoking gun’ to induce US and Organization of American States (OAS) support for a coup. Preparing for a contingency in which the Alfhem never delivered its cargo, the CIA had actually begun implementing plans to surreptitiously scatter fake Soviet armaments along the Nicaraguan coastline. Unconfirmed ‘sightings’ of Soviet submarines off the coast would have been leaked to the press; Operation KUGOWN theoretically would have stimulated media reports of a Soviet-Guatemalan relationship.26 Obviously, in retrospect, the mere possibility that the CIA considered planting a connection between Guatemala and the global Communist movement indicates the profound absence of this collaboration. In terms of the operation, though, these mistaken assumptions actually contributed to the success of Armas’s coup. Due to concerns of Communism, the US prepared a coup operation designed to devastate a powerful Soviet-backed leader. Clearly, Arbenz was militarily weak and without the political support of the USSR, his regime lacked the international influence to counter the actions of the United States. Consequently, the political and paramilitary pressure applied to the Arbenz administration crippled its legitimacy to rule, creating an environment whereby Arbenz’s resignation was not only likely, but necessary for the survival of the state.

Conversely, Soviet-Cuban relations were well-documented by 1961, and today, there remains little doubt of Castro’s intentions. Unlike Arbenz, Castro was motivated primarily by Communist aims, and his actions with regards to both domestic events and foreign nations confirm this claim. Quite visibly and perhaps to rebut Arbenz’s mistakes, Castro openly banned events and foreign nations confirm this claim. Quite visibly and perhaps to rebut Arbenz’s mistakes, Castro openly banned opposition political parties and embraced the Communist name. As early as November 1959, only months after assuming power, CIA memorandums began noting concerns over increasingly radical political maneuvers. Castro prioritized mining reform and the seizure of foreign oil corporation documents. When framed against the official visit of Soviet and East German leaders to the island, the CIA readily formed an opinion that these actions might constitute a precursor to full nationalization of key industries.27 The Cuban government confirmed these fears on September 17, 1960, when a resolution nationalized all banks in the country, claiming that foreign—specifically American—
banking represented an “obstacle to national liberation.” Only several months prior, the convening of the Fourth National Congress of the Youth Section of the Cuban Communist Party brought foreign Communist dignitaries to Havana. Yet, this meeting of representatives from the USSR, China, and the Eastern Bloc only provided a diversion from the more nefarious dealings on Castro’s behalf. CIA analysis published before the invasion reveals significant arms and industrial trade contracts with Poland, the USSR, East Germany, and Hungary. 

Tens of millions of dollars worth of matériel was shipped to Cuba alongside Russian crude oil, offering the Cubans an economic and military insurance policy against US embargo efforts.

Purely military shipments arrived in Cuba, as well. In contrast to the unconfirmed intelligence stemming from Guatemalan insiders, evidence of Cuban Communism was extensive. Reliable photographs, not first-person hearsay, indicated that by August 1960, Czech semiautomatic rifles had been successfully imported and distributed by Cuban officials. Information released by the State Department shows that by December 1960, Cuban armaments had been further fortified by an additional 48,000 automatic rifles, 7 flamethrowers, 11,000 submachine guns, 104 mortars, 55 tanks, 71 Howitzers, 8 MIG fighter planes, and over 12 million pounds of ammunition. The vast majority of these shipments originated in the Soviet bloc, which contributed at least 28,000 tons of armaments to the Cuban cause. Multiple reports also claim that Cuba began exchanging professionals with Bloc nations for indoctrination and training. In hindsight, Castro probably recognized the need for a well-trained workforce and military in order to avoid the massive failures of loyalty endured by Arbenz.

Moreover, the Castro regime continued to tighten its control over the Cuban populace, stifling dissent, encouraging social cohesion, and exiling or executing alleged conspirators. This government crackdown was precipitated by the state’s strident expressions of Communism, which galvanized the population around the tenets of anti-imperialism and anti-Americanism. Castro’s strategic brilliance was that he managed to prepare for battle by indoctrinating his nation, while simultaneously strengthening ties to the USSR in order to deter overt US involvement. Never was this genius as readily observable as May 1, 1960, when Castro addressed his nation on May Day, a traditional Communist holiday celebrating the proletarian worker. The CIA noted that 73 Soviet officials were invited to attend the rally during which Castro lambasted US racist hypocrisy, criticized the hegemony of United Fruit, and expressed solidarity with resistance movements—presumably with the USSR in mind—throughout the Americas and the world.

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Regardless, the CIA largely ignored this mainly exterior ideological influence in Cuba and planned its operations using a template derived primarily from PBSUCCESS. Thus, CIA mistakes which proved inconsequential in Guatemala because of the weakness of President Arbenz’s regime were magnified in Cuba, where Soviet Union support and Communist intentions actually materialized. Most prominently, the CIA’s psychological warfare operation in Cuba failed to achieve the pervasive social impact observed in Guatemala. This failure occurred mainly because of the tighter cultural control Castro exerted over his citizens. As described above, the radical and overtly Communist agenda he pursued was quite successful in training Cubans to resist US propaganda. CIA records report that in universities, Castro-supported elements aggressively prosecuted dissident students, and nationwide, arrests of “counterrevolutionaries” increased daily. While CIA records cannot always be trusted due to the agency’s internal propaganda efforts, classified files such as those presented to the National Security Council offer a more objective take on international events, and there is no particular reason to question the validity of these specific claims. Irrespective of these reports, Castro’s cause was also unintentionally aided by America’s willingness to accept Cuban immigrants. Due to the proximity of the United States and by its liberal refugee policy, tens of thousands of Cubans reached asylum, and due to the character of these escapees, domestic Cuban society was further homogenized. As the society coalesced demographically, its ideological spectrum narrowed as well. The revolution spurred new political dissidents and former Batista supporters to migrate north disproportionate skewing the political and economic composition of Cuba more leftist and poorer. According to J.C. King, Castro’s approval rating was “60 to 70 percent.” To compare, geographic and fiscal considerations prevented most Guatemalans from emigrating, leaving a powerful anti-Arbenz voice present in the country. Eventually, CIA manipulation of these internal dissenters provided the requisite pressure to depose Arbenz.

To compound the Cuban demographic advantage, the CIA simply did not match the prowess of the psychological component of PBSUCCESS. Some of the blame rests with the Eisenhower administration, which severed formal diplomatic relations and closed its Cuban embassy on January 3, 1961 in response to Cuban pressure. The embassy had previously been useful in processing “a good deal of intelligence from Cuba,” and this withdrawal posed serious problems for the CIA psychological warfare plan. In Guatemala, the US embassy was utilized to interfere with state radio broadcasts and to project fake noises of bombing destruction. Along with other foreign propaganda forces, the embassy proved crucial in confusing the Guatemalan populace and disorienting the military leadership.

In conjunction with inadequate propaganda, CIA planners overvalued the strength and readiness of guerrilla groups inside Cuba. By D-Day, the major component of Operation Zapata was organized guerrilla action that the exile invasion would theoretically spark. In order to establish these powerful nontraditional forces in the countryside, plans called for constant airdrops and maritime supply runs. Unfortunately, of thirty clandestine drop missions flown,
only four were successful, and the rest were captured by the Cuban military or lost to the wilderness. On the contrary, supply routes by water were considerably more effective and conceivably might have even mimicked the usefulness of United Fruit’s Guatemalan railroads. Still, delivery via ports produced an unequal division of resources, and the geographic constraints of the Bay of Pigs only intensified the severity of this problem. Hypothetically, the CIA’s Cuban plan followed the same trajectory of Guatemala, which envisioned Armas’s army gaining support and soldiers as it marched towards the capital city. Here, however, the CIA exhibited a critical misunderstanding of the goals and methods of PBSUCCESS. In the 1954 operation, the true plan was only to produce the impression of an advancing rebel army. In reality, Armas and his invasion force were quickly halted by CIA order; just miles inside Guatemalan territory. In subsequent days, the rebels captured several small frontier villages, but made little progress toward Guatemala City. Even though the press reported a peasant uprising, no substantial number of guerrillas joined Armas’s band of soldiers. Nonetheless, at the same time, as historians Stephen Schlesinger and Stephen Kinzer explain, the CIA propaganda machine was fully activated:

“Voice of Liberation” radio operators, whose transmissions cleverly “snuggled up” to the frequencies of Guatemalan radio stations and “spoofed” Guatemalan military signals, skillfully painted a picture of war and upheaval. Fabricated reports of large troop movements, fearsome battles, major Guatemalan defeats, and growing rebel strength frightened an already confused and disheartened populace. Actually, Castillo Armas never had more than 400 men under his command. In contrast, during and leading up to the Bay of Pigs invasion, the CIA propaganda machine took the opposite approach. Since the anti-Castro newspaper Avance had been visibly banned in Cuba, the CIA’s dissemination efforts might have been hindered by Cuban perceptions of foreign intervention, a problem which the false claims of domestic broadcasting of “Voice of Liberation” worked to counter in Guatemala. Additionally, CIA incompetence in addressing the necessities of a covert operation in Latin America hampered the propaganda drive. For instance, because the CIA “failed to find any bilingual Agency employee suitable as a Radio Swan announcer,” circumstances dictated that the station had to use traditionally unreliable third parties like the Frente Revolucionario Democratico (FRD). Although the FRD was officially recognized by the CIA as the sole legitimate representative of the Cuban government-in-exile, it was composed of multiple and often uncooperative factions—similar to Armas’s coalition—that competed for the political direction of the overall message. Indeed, the internal conflicts were so great that “the FRD coordinator had his own radio boat which made unauthorized broadcasts.”

Thus, the absence of a CIA representative at Radio Swan meant that a loosely unified group of gregarious exiles were charged with maintaining discipline. In the face of an already antagonist Cuban society, this imperfect propaganda machine simply could never hope to outcompete Castro’s own indoctrination efforts and succeed in bringing down the regime with public pressure.

Without an overwhelming psychological war, military success became critical for the overall success of the Bay of Pigs invasion. CIA planners hoped that a triumphant invasion would “shock” Cubans into a general uprising against Castro. Already weakened and demoralized by inadequate supply lines, guerrillas were ultimately physically precluded from reaching the landing zone. In response to directives from President Kennedy himself, the CIA was only given three days to move its original planned landing site to a less conspicuous area. As Colonel Jack Hawkins explains, the Bay of Pigs was determined to be the only suitable beach that the exiles “could seize and hold for a limited time and that had...an airfield capable of supporting B-26 operations.” Regrettably, the landing beaches were bordered by dense swampland only traversed by three roads, naturally creating strategic bottlenecks. As the chief paramilitary specialist commanding the landings, Col. Hawkins remains uniquely positioned to analyze the operation; his estimation gave “the brigade no chance whatever of breaking out of [the beaches].”

What’s more, Cuban Task Force Chief Jacob Esterline notes that the sparsely populated area posed a problem to the recruitment of the admitted already poorly-motivated guerrillas. In Esterline’s own words, “there [was] nobody there except alligators and ducks.” Per these predictions, Castro’s overwhelming force quickly pinned down the invading forces; and because this new landing site lacked close access to mountainous terrain, no devolution into guerrilla warfare could occur. More shockingly, even if the terrain had allowed for guerrilla infiltration, Richard Bissell openly admitted that no spontaneous rebellion would emerge since
“no advance warning was given to internal resistance, as a security precaution.”

In any case, CIA reports maintain that President Kennedy’s cancellation of the second round of pre-invasion bombing signaled the Cuban campaign’s death knell. Perhaps mistakenly, the entire Cuban operation depended on CIA air superiority. In order to downplay US involvement in the attempted coup, Kennedy ordered alterations to the plans approved by President Eisenhower. In the opinion of Bissell and other CIA leaders, Kennedy’s most drastic change was the April 17th order not to bomb Cuban airbases. Soviet-provided T-33s proved more formidable opponents than the CIA expected and without air cover, the exile landing forces were unable to receive new shipments of arms and ammunition. Without resupply and under increasing Cuban military pressure, the exile brigade was forced to disperse into the swamps, where the vast majority where captured or killed. Compared to its Soviet-supplied Cuban counterpart, the Guatemalan army relied on inadequate training and armaments.” Designed to scare" but not necessarily to destroy, most PBSUCCESS air assaults by CIA pilots met with failure, as well. Interestingly, if placed against the 1961 Cuban foe, Armas’s coup might conceivably have been as ineffective as the FRD troops; even so, the end result probably would not have deviated much from reality. Once again, since PBSUCCESS was predicated upon the use of psychological combat to achieve a political outcome, purely military concerns and total operational success were not mutually exclusive.

With weak domestic dissent and the looming failure of military pressure, the CIA’s final hope for success in Cuba depended on the intervention of the international community. Years earlier, the Arbenz administration had made limited overtures to the U.N. Security Council to plead for aid, but the scale and skill of US diplomatic efforts was insurmountable. Paramount to the American political strategy was the construction of a hemispheric and global unanimity for Arbenz’s removal. This task began first amongst lobbyists for United Fruit, whose interests in the region were critical to the company’s fiscal health. Before Arbenz was even elected president, United Fruit stockholder and US Senator Henry Cabot Lodge was persuaded to denounce new labor laws in Guatemala. After his ascension to the position of U.N. ambassador, Lodge continued his lobbying on behalf of the corporation, giving a memorable speech in 1954 condemning Arbenz. Seizing upon this preset opportunity, the US government continued the legacy of United Fruit’s diplomatic attacks on the Arbenz administration. In 1953, Assistant Secretary for Inter-American Affairs John M. Cabot mercilessly attacked Guatemalan policies in a series of presentations to private and public groups. Cabot cautioned against a Communist influx into Latin America, using pro-business arguments to wedge mainstream Americans to the idea that Arbenz was a threat to the US. Tellingly, he occasionally singled out Guatemala as the lone Caribbean

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nation to oppose trade and security agreements, further portraying the state as contentious. Additionally, Secretary of State Dulles smartly used the OAS as a tool to sway neighboring countries to support the US position on Guatemala. In March 1954, Dulles used the threat of stopping US aid as leverage to secure the passage of an OAS resolution that essentially supported military intervention in Guatemala. These efforts worked in concert with numerous other related actions to isolate Guatemala from the international community.

Certainly, part of Cuba’s military and diplomatic success in repelling the CIA invasion arises from Castro’s superior intelligence in comparison to Arbenz’s nonexistent program. Castro and Arbenz likely became aware of threats against their regimes at about the same time, as each attempted coup occurred roughly two years into the leaders’ respective terms of office. Revelations about both operations were publicly reported late in their planning cycles, but unofficial leaks occurred at different times. In Guatemala, Arbenz first learned of the progression of Armas’s plot in January 1954, less than half a year before the invasion would begin. Even with these betrayed documents, there remains strong evidence that Arbenz did not receive enough information to act; when the June invasion actually began, it caught Arbenz unaware. The president had to quickly and unexpectedly mobilize his troops, and as described above, Guatemala did not make a serious use of the United Nations until the coup physically started. On the contrary, Castro was well-prepared for the CIA assault. Both his militia and army regulars had been intercepting air and sea shipments from US sources since September 1960. Even though this time period coincides with Arbenz’s first notification of plans against his regime, the effective capture of these supplies suggests that the Cubans were engaged in a large-scale intelligence effort unlike the Guatemalans. Lastly, as the subsequent paragraph will explain, the early policy of antagonism of the US in international relations also indicates that Castro and his intelligence officials might have been suspicious of US intentions in the region. If Castro’s intelligence was as efficient as these examples imply, his administration undoubtedly gained an advantage in preparation that Arbenz never achieved.

Castro capitalized on his strong intelligence network and the aforementioned social restructuring due to immigration. In conjunction with strong Cuban advances towards the international community, he managed to effectively blunt any American pressure on his regime. Starting in November 1959 with preliminary attacks on the United States for B-25 overflights of Cuba, the Castro administration worked actively to bring perceived imperialist transgressions into the world consciousness. Cuban Foreign Minister Raul Roa continued this trend into 1960, charging the US with dangerously aggressive intentions before the United Nations. As the high-profile accusations against the US accumulated, international favor increasingly turned
towards the Cubans. Nowhere was this shift more evident than within Latin America itself. In the spring of 1960, elements within traditionally anti-Communist Brazil began to praise Castro’s authenticity,25 and Chilean students sent American Ambassador Walter Howe an official letter protesting US statements demonizing the new Cuban regime.26 Echoing these sentiments, several months later, an inter-American conference in Lima brought together many Latin American center-left parties to express solidarity with the Cuban revolution.76

Finally, international attention on US-Cuban relations peaked with Dr. Roa’s April 5, 1961 assertion that the US was actively training an army of several thousand counterrevolutionaries. The fact that this story appeared on the front page of The New York Times, overshadowing a US report on Cuban torture of political prisoners, epitomizes the degree to which the public was primed to accept and believe this information.79 The following morning, the same newspaper printed a lead story confirming the claims of the Cuban foreign minister; in fact, this report suggested that the number of trained forces was one to two thousand soldiers higher than the Cuban statement.79 In comparison, public mood was such that when similar documents linking the CIA to the training of Armas’s army were exposed, Americans did not latch onto the story, taking the State Department’s categorical denial at face value.80 Likewise, Dr. Roa’s bold proclamations of US complicity in the April 15, 1961 bombings of Cuban airfields began to undermine the US’s deniability at home and abroad.81 On April 17th, the first day of the invasion, The New York Times ran a harshly suspicious story of the US role in the April 15th attacks in a more prominent position than was given to the news of the landings.82

Unquestionably, the world community took notice of this development. Secretly, President Kennedy reacted to these public accusations by canceling the final bombing runs,83 a move which the Cubans likely preferred. While the quality of his advising on the matter is very much still under debate, the purpose of his decision is undeniable: Kennedy could not hazard proving Cuban claims of US involvement. By the time the invasion was trapped on the beaches, Kennedy’s options were already constrained by considerations for America’s international reputation and his own electoral vitality. Once Cuba involved the U.N. in this matter, Kennedy and his representative Adlai Stevenson had no viable alternative to professing the US’s open policy to avoid interfering militarily in Cuba.84 Assuredly, Khrushchev’s pledge to “extend to the Cuban people and its Government all the necessary aid for the repulse of the armed attack”85 helped deter US military intervention. In all likelihood, the mid-April 1961 exchange of letters between Kennedy and Khrushchev impressed upon the new American administration the potential of igniting a global conflagration. Then, when Operation Zapata failed, Kennedy did not wish to embarrass the nation he had only led for several months by reneging on his promise of nonintervention, nor could he risk taking steps towards initiating a nuclear holocaust.

Meanwhile, the lack of an international Communist threat in Guatemala meant that no true obstacle would have warded off a full US invasion, and the CIA exploited this advantage, utilizing the State Department and private media organizations to sway world opinion. Unlike Kennedy’s denials of potential US military involvement in Cuba, CIA agent Albert Haney expressed an opinion often implied by his superiors: “as a last resort, the United States might have to send in Marines under the pretext of protecting the safety of American citizens.” The potency of this quote was further enhanced by America’s historical involvement in Guatemala. When civil disorder broke out in 1920, the US sent a military contingent to protect American diplomats in the country.86 Furthermore, the implications of these US government statements were bolstered by the prevailing sentiments of the American public, as projected by the mainstream media. Since the state of public opinion is in many ways a direct consequence of the effectiveness of domestic CIA and State Department propaganda efforts, the relatively stronger American consensus for war against Guatemala is wholly unsurprising. To illustrate, even the language used with reference to Arbenz implies guilt. Several days before the 1954 invasion commenced, The New York Times detailed an unconfirmed attempt to push Arbenz to make a “firm decision on [a] policy toward Reds” in his ruling circle.87 The substitution of “Reds” for “Communists” seems quite indicting, especially when coupled with phrases that indicate that Arbenz had wavered on Communism until the present situation. Considering that the June 17, 1961 article announcing the commencement of the Bay of Pigs does not use the word “Communism” or a derivative for its entirety, the Arbenz story might be perceived as somewhat presumptuous.88 Obviously, it is ironic that a major US newspaper, probably acting in accordance with popular opinion, would label Arbenz’s regime as Communist, without accusing Castro of the same motivations. Due to the inherently negative connotations of the Communist label in middle of the 20th century, casting Arbenz in such terms naturally diminished his stature and made it far easier for the public to imagine a scenario where the United States—in its valiant opposition to Communism—might be forced to depose him. However, the character of Castro, who is painted only as a revolutionary, invokes more sympathy. Since it seemed that the American public did not yet vehemently object to his rule in 1961, the odds that the US government would overtly intervene were decreased. Consequently, the varying levels of public acceptance of the necessity of war lent an added tinge of seriousness to US statements against Arbenz, while simultaneously further reinforcing Castro’s belief that no American troops would be committed to Cuba.

Public support notwithstanding, the deciding factor in the success of PBSUCCESS and the failure of Zapata can be directly traced to the actual level of international Communist involvement and domestic penetration. In Guatemala, President Arbenz was driven to Communist means not by personal sympathies but by pragmatism. When he required Fortuny’s expertise on land reform, Arbenz did not hesitate to enlist his help; when the US stopped arms shipments to his country, Arbenz sought assistance from its opposition, the Eastern Bloc. These actions deceived a CIA predisposed to Guatemalan
‘treachery’ by United Fruit propaganda, and the subsequent invasion was designed to quell an enemy far stronger than the Arbenz regime.

Ultimately, however, the immediate achievements of the Armas coup bred overconfidence in American foreign policy structures. The CIA and the Executive Branch consistently ignored valuable intelligence which demonstrated the international support for Castro in both diplomatic and military spheres. Even though Bissell claims that Kennedy’s decision to withhold air support during the landing doomed the operation, air support would not have been required if the Cuban threat was in any way comparable to the 1950s Guatemalan version. Truthfully, the great failure of the Bay of Pigs invasion was its mistaken sense of scope. Against any traditional enemy, which Cuba proved itself to be, relying on a small band of less than 2,000 covertly trained exiles to initiate a full revolution would simply be irrational. Yet, this logic should not be interpreted as an endorsement of any overt, US military strike against Cuba—or any other nation. For in the triumphant aftermath of PBSUCCESS, even though US-supported forces removed Arbenz from office, the country still disintegrated into a decades-long civil war, and while Cuba never quite reached the depths of anarchy, its economy was stabilized only by a massive influx of Soviet aid. With the decline of the USSR and the end of the Cold War, Cuba too has experienced myriad hardships. Indeed, the ongoing tragedies in Guatemala and Cuba raise interesting questions about the longterm benefits of foreign intervention into domestic affairs. Can any one nation truly presume to know the best solution for another sovereign state? Perhaps the great modern powers should first seek to humanize and understand their enemies before they seek to destroy them.

Endnotes

19. Schlesinger and Kinzer; Bitter Fruit, 60.
24. Schlesinger and Kinzer; Bitter Fruit, 152.
41. Kornbluh, Bay of Pigs Declassified, 63.
42. Schlesinger and Kinzer; Bitter Fruit, 139.
43. Kornbluh, Bay of Pigs Declassified, p82-84.
44. Schlesinger and Kinzer; Bitter Fruit, 17.
45. Schlesinger and Kinzer; Bitter Fruit, 185.
46. Schlesinger and Kinzer; Bitter Fruit, 185.
47. Kornbluh, Bay of Pigs Declassified, 152.
49. Kornbluh, Bay of Pigs Declassified, 38.
50. Schlesinger and Kinzer; Bitter Fruit, 176.
51. Schlesinger and Kinzer; Bitter Fruit, 170.
52. Schlesinger and Kinzer; Bitter Fruit, 187.
53. Kornbluh, Bay of Pigs Declassified, 27.
55. Schlesinger and Kinzer; Bitter Fruit, 127.
56. Kornbluh, Bay of Pigs Declassified, p 69-71
57. Kornbluh, Bay of Pigs Declassified, 33.
58. Kornbluh, Bay of Pigs Declassified, 262.
59. Kornbluh, Bay of Pigs Declassified, 39.
60. Kornbluh, Bay of Pigs Declassified, 263.
61. Kornbluh, Bay of Pigs Declassified, 173.
62. Kornbluh, Bay of Pigs Declassified, p136-139.
63. Schlesinger and Kinzer; Bitter Fruit, 116.
64. Schlesinger and Kinzer; Bitter Fruit, p171-172.
65. Schlesinger and Kinzer; Bitter Fruit, p83-84.
68. Schlesinger and Kinzer; Bitter Fruit, p142-144.
69. Schlesinger and Kinzer; Bitter Fruit, 128.
70. Schlesinger and Kinzer; Bitter Fruit, 10.
72. Kornbluh, Bay of Pigs Declassified, 77.
80. Schlesinger and Kinzer; Bitter Fruit, 129.
81. Kornbluh, Bay of Pigs Declassified, p304-305.
83. Kornbluh, Bay of Pigs Declassified, 136.
86. Schlesinger and Kinzer; Bitter Fruit, 111.
AS THE WORLD’S DOMINANT POWER, the United States faces a multiplicity of threats, both short- and long-term. Of these diverse threats the greatest threat is the military modernization of China (PRC). This is not because the Chinese are a more pressing problem in 2009 than Al-Qaeda but because, if the PRC’s military transformation is not addressed, it will emerge as America’s greatest long-term threat, surpassing Islamist terrorism, oil dependence, or even nuclear proliferation. An unchecked China would challenge U.S. power and power projection in East Asia in a way unmatched by North Korea, Iraq, or Russia. Endowed with a large population, a vast amount of money, and strong nationalism, the Chinese have begun to modernize their fighting forces to challenge America’s dominance in East Asia. Beijing realizes that it cannot challenge the United States globally. They can, however, develop capacities to challenge the United States in the traditional Chinese sphere of influence in East Asia. Beijing’s goal is to establish two defensive perimeters in the Western Pacific. The inner perimeter starts at the Japanese island of Kyushu, runs between Taiwan and the Philippines, and forms the shape of a “J” by going around the eastern and southern extent of the South China Sea.

THE EMERGING THREAT

Since the advent of the international system in the sixteenth century, the world’s single most dominant state has always held a preponderance of sea power. The United States enjoys that position today. Sea power, aside from increasing the chances of victory in a naval war, also ensures the security of commerce and trade across the oceans, keeping the sea lines of communication open. The increasingly globalized world today depends upon U.S. naval magnanimity to keep waterways open for all ships. In East Asia, sea power’s importance is magnified by geography, as the region’s states cluster around the East China Sea. This body of water is China’s only separation from Japan while the Taiwan Strait divides China and Taiwan. In short, regional hegemony belongs to the state that can project and maintain power in these two bodies of water.

The Chinese know that they cannot yet challenge the United States globally. They can, however, develop capacities to challenge the United States in the traditional Chinese sphere of influence in East Asia. Beijing’s goal is to establish two defensive perimeters in the Western Pacific. The inner perimeter starts at the Japanese island of Kyushu, runs between Taiwan and the Philippines, and forms the shape of a “J” by going around the eastern and southern extent of the South China Sea.

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China Sea. China expects to have sufficient power projection to this perimeter by 2025. This means that U.S. forces in South Korea and Okinawa, Japan, are within China’s self-defined inner defensive perimeter. The outer perimeter extends from Tokyo in the north to New Guinea in the south. Non-Okinawa-based U.S. forces in Japan are within this outer perimeter; while Guam sits at the edge of the perimeter. It is quite clear, then, that China considers the East China Sea its rightful sphere of influence.

The People’s Liberation Army (PLA) Navy is pursuing modernization through two primary means: missiles and submarines. The acquisition of anti-ship missiles means that Beijing can now hit both Taiwan and U.S. Navy vessels in the region, increasing the risk to surface ships in and around the Taiwan Strait. The submarine service, with twelve *Kilo*-class submarines purchased from Russia, saw a net increase of three in 2008 to sixty-five vessels. Further increases seem likely, as evidenced by the Sanya naval base’s newly-revealed caverns, each with an estimated capacity of twenty nuclear submarines. Submarines complement ballistic missiles in furthering the PLA Navy’s anti-access/area denial capabilities, improving its ability to deter U.S. forces from injecting themselves into any regional conflict. In a worrying development, a Chinese submarine surfaced within torpedo range of the U.S. Navy’s forward-deployed aircraft carrier, the USS **Kitty Hawk**, near Okinawa in 2006 without prior detection.

Why is this submarine buildup the central focus of PLA Navy development? How is a submarine buildup aimed at regional dominance? Peter Howarth writes that the answer lies in East Asia’s geography. Factors that man cannot control in the East China Sea bolster submarine performance, especially that of diesel-powered submarines such as the *Kilo*-class. First, the East China Sea is warmer than most waters. Secondly, the water itself is frequently the depository of sand, mud, and silt brought by the Yangtze and other rivers draining into the ocean. Together, the “surface layer of warm water can trap the signals of hull-mounted sonars, reducing their capability to negligible range against a submarine even at modest depth,” while the silt, sand, and fresh water mix with the salt water to create “varying layers of salinity” that “reflect or refract the sonar beams.” The East China Sea’s warmer climate and marine sediment combine to distort sonar beams, preventing other vessels from making accurate readings. This makes an already-difficult task – the detection of sub-surface vessels – even harder in such warm, murky waters.

Another PLA Navy advantage is that antisubmarine warfare (ASW) still relies on acoustic detection methods, which means that diesel-powered submarines can operate “in virtual silence over the full band of sonic frequencies.” A naval scholar who has partaken in diesel submarine detection exercises notes that one might very well be on top of a diesel submarine before detecting it. Diesel-powered submarines can rest on a seafloor less than four hundred yards below sea level, turn off all machinery, and emit no sounds for detection. Nuclear-powered submarines cannot take similar maneuvers, for they cannot turn off all onboard machinery and settling on the East China Sea’s muddy seabed would clog vital condenser inlets. The overwhelming majority of Chinese submarines are diesel-powered, giving them a comparative advantage.

Another reason why the Chinese have focused on submarines is their versatility in a conflict over the Free Area. The U.S. Department of Defense, in its annual report to Congress on Chinese military power, notes that a “potential military confrontation with Taiwan, and the prospect of U.S. military intervention, remain the PLA’s most immediate military concerns.” The Pentagon believes that the Chinese are “focused on assuring the capability to prevent Taiwan[ese] independence” and directly links missile acquisition and submarine expansion to the ability to deter the United States in a cross-strait conflict.

Richard C. Bush and Michael E. O’Hanlon note the key role that submarines would play in a Taipei-Beijing war: “China’s most promising way to threaten Taiwan militarily over the next decade is with a blockade, primarily using its submarine force, and perhaps complemented by a modest number of missile strikes.” Whether Washington would actually defend Taipei is beside the point; if Washington were to have to make that decision, the U.S. Navy’s regional superiority should be great enough to ensure that the United States would have the option of intervention. Every Chinese naval improvement that goes unchecked raises the cost of U.S. intervention.

Lyle Goldstein agrees with Bush and O’Hanlon, noting that “undersea warfare has formed the core of Chinese naval development.” Goldstein says that Beijing’s focus on submarines may also result from its intense study of the Falklands War: “The key enabler for almost all other types of operation in the Falklands was undersea warfare, a fact not lost on Chinese observers. The importance of undersea warfare is the primary principle emphasised in Chinese analyses of sea combat in the Falklands.”

The Falklands presents an interesting parallel to a possible Chinese war with Taiwan: a geographically proximate continental state tries to utilize air, sea, and amphibious forces to take an island that is backed by a distant yet more powerful state. The Chinese study of the Falklands War, however, has also given a boost to the mainland’s nuclear submarine advocates. Should nuclear advocates succeed, Beijing would gradually replace its diesel submarines, losing its geographic advantages. This debate over regionally-suited diesel submarines and globally-capable nuclear submarines shows that the possibility of a truly blue-water PLA Navy still exists and that the current focus on Taiwan and regional sea power could change.

For now, Beijing’s naval developments suggest a concentration on regional power...
projection, with the intention of deterring U.S. naval power in the most likely event of a Washington-Beijing war over Taipei. The Chinese objective is to make naval warfare in general and a Taiwan conflict in particular as costly as possible to the United States. This is a direct threat to U.S. power; its projection in the region, and its credibility in defending allies and maintaining a peace conducive to its interests.

THE U.S. RESPONSE

A successful strategist is, in the words of Rear Adm. Joseph C. Wylie Jr., USN, “the one who controls the nature of the place and the timing of the weight of the centers of gravity of war, and who exploits the resulting control of the pattern of war toward his own ends.”18 The United States must maintain control of the strategic nature of the region: “The primary U.S. objective in Asia must be to prevent China’s size, power, and ambition from making it a regional hegemon.”19 The U.S. Navy must respond to the competition in East Asia. In this section, I lay out the adjustments that the U.S. Pacific Fleet in general and the Seventh Fleet in particular need to make to counter the emerging Chinese posture.

An actual increase in matériel must occur. The Fleet is overstretched; Secretary of the Navy Donald C. Winter, testifying before Congress in 2007, stated that the Fleet will grow from 280 ships to 315, but in thirty years.20 The Pentagon’s plan for a naval buildup is too gradual to adequately address every Chinese naval improvement that goes unchecked raises the cost of U.S. intervention.

A problem that has been lingering for some time. During the Kosovo intervention, the sole carrier deployed to East Asia was transferred closer to Southeastern Europe, leaving the United States highly vulnerable in the Far East.21 A multinational anti-piracy task force has been created in East Africa, but its twenty ships are doing the job of sixty.22 Lingering gaps in U.S. global naval posture must be filled.

Increasing the size of the Fleet leads to the obvious question: what would the Fleet look like? How many surface ships should be built? How many submarines? Where should they be placed? Fleets need to be tailored to their operating environments and likely threats. The Chinese have tailored their naval development to suit East Asia and the United States should do the same. In East Asia, aircraft carriers are of enormous symbolic importance. However, carriers are by no means the only or even the best ships for every situation. In East Asia, smaller, more agile ships with specific ASW and anti-missile capabilities are necessary to combat emerging Chinese strengths. Although the U.S. Navy is building littoral combat ships and Zumwalt-class multi-mission destroyers that can attack targets along shorelines and farther inland, the Fleet’s composition as a whole remains little changed.23

The Navy must rebalance its fleets. In East Asia in particular, the Seventh Fleet needs to concentrate on submarine warfare and more agile ships. If the Zumwalt’s cost cannot be controlled, other vessels such as patrol missile hydrofoil craft (PHMs) should be considered. PHMs provide U.S. power projection much closer to coastlines and, when operating in groups, are highly effective in detecting submarines operating in littoral waters.24 Littoral combat ships (LCSs), whose costs have also risen, are another alternative.25 Their flexibility as both blue-water and littoral craft, coupled with “affordability, size/accessibility, open architecture, interoperability, modularity, and ... unmanned vehicle-friendliness” make LCSs ideal for adapting to regional naval requirements.26

The Navy needs to tailor each fleet to focus on regional primacy, not provide a generic plan for each numbered fleet. This is more difficult for the Seventh Fleet, as it has the largest area of responsibility. However, fleet composition need not be so heavily weighted toward the largest ships; the mentality that bigger (i.e., aircraft carriers) is necessarily better needs to be deflated.27 While simply increasing the number of aircraft carriers would mean a greater increase in the number of smaller ships as well, those smaller vessels would form the carrier battle groups and would not operate independently. The Navy should increase the complement of destroyers, frigates, and amphibious ships that are not attached to a carrier.

For the successful prosecution of ASW, the United States should take a multi-tool approach, using sonar, helicopters, and its 224 Orion and Viking ASW aircraft, all flown by the Navy.28 Strikingly, the United States has only fifteen mine countermeasures (MCM) ships and no minelayers at all.29 MCM and mine-laying are both elements of ASW, despite their contradictory names. The former is a defensive tool that searches for and destroys any mines threatening U.S. vessels; the latter is the offensive counterpart that lays mines against enemy vessels. Cluster bomb units (CBUs), first used in World War II, are another tool. As their name suggests, CBUs are dropped into the water en masse, and are designed to explode at certain depths and in unique ways upon contact with different surfaces. They can cause enough damage to diesel submarines in littoral waters to allow more advanced weaponry to home in on the crippled vessels.30 The U.S. Navy no longer uses diesel-powered submarines, so it cannot exploit the natural advantages that geography offers in the region.31 Nevertheless, its nuclear submarines are still technically superior to diesel-powered ones and have a role to play in counteracting anti-access strategies.32 To combat ballistic missiles, the United States should deploy its own Patriot surface-to-air missiles, as well as continue research on stealth ships and other technologies.

This focus on destroyers, submarines, and other smaller craft calls into the question the role of the aircraft carrier. Some naval scholars have questioned whether the U.S. Navy ought to build more aircraft carriers.33 They point out that aircraft carriers are becoming prohibitively expensive and their utility no longer justifies the cost. Furthermore, constructing new carriers now is presumptuous, as they are built to last fifty years, but no one predict the ships that the U.S. Navy will need. Advances in technology are also rendering the aircraft
carrier ineffective, both in executing its missions and avoiding enemy attack. They note the development of unmanned aerial vehicles (UAVs), which require less space; as UAVs start to play a larger role in the U.S. Navy, the need for carriers as large as they currently are will decrease. In addition, development of anti-ship missiles and other carrier countermeasures will begin to severely restrict the aircraft carrier’s movements and capabilities in certain operations.

Where would additional naval vessels be stationed? From where would additional U.S. power project? There is the Seventh Fleet’s headquarters at Yokosuka, Japan, with an additional base at Sasebo. Facilities also exist at Guam, which includes Andersen Air Force Base and a Marine prepositioning squadron, and at Okinawa. In truth, there are not many basing options. The lack of bases is in itself a conundrum, but it also highlights outdated thinking.

America’s defense posture in East Asia today is a holdover from the Cold War. South Korea, occupying the end of a peninsula strategically facing the Yellow Sea, hosts no naval bases and only 254 Navy personnel. By contrast, it hosts over 17,000 soldiers and almost 8,000 airmen. These soldiers and airmen are there to defend against North Korea, but given the geopolitical situation today, it has become clear to U.S. military planners that South Korea could defeat the North on its own. A campaign analysis finds that South Korean soldiers would fare well against a North Korean invasion: “Facing dense defenses, difficult terrain, and a technologically superior foe, the North is extremely unlikely to repeat its dramatic successes of June 1950. Results . . . show North Korean forces unable to capture Seoul.” Whatever resources South Korea lacks could be quickly procured through its national wealth: “If American aircraft, which now supply the bulk of the air cover for South Korea’s defense, were withdrawn from the region, South Korea probably would replace them with a beefed up air force of its own.”

The overall U.S. force posture in East Asia is weighted too heavily toward ground troops. It is highly unlikely that large numbers of U.S. ground forces would ever be used against nuclear-armed China. The United States has begun a transition of its South Korean force by reducing ground-troop strength and placing greater emphasis on naval and air support for the South Korean military. Naval bases will further decrease U.S. visibility, if not the outright footprint, on South Korean soil. This force adjustment will complement U.S. positions in Japan, aligning U.S. force posture with U.S. interests.

An expansion of naval installations in Japan would be very sensitive. Illegal behavior on the part of U.S. servicemen in Okinawa in recent years has unnecessarily and foolishly worsened U.S.-Japanese civilian-military relations. Whether the Japanese government would allow an expansion of forces is questionable in such an atmosphere. Of the other East Asian actors, Taiwan is not a formally recognized state, North Korea is an adversary, the Philippines has ended its cooperation with a permanent U.S. presence, and Mongolia is irrelevant to naval matters.

A partial answer may be found in mobile sea bases, which the Navy has been researching with interest. This would entail the transfer, when possible, of land-based operations to sea platforms such as carrier strike groups. Prepositioned ships would allow other vessels to take on cargo and fuel, undertake repairs, and change personnel without having to put into port. There is already a Marine prepositioning squadron in place at Guam. With ships being able to stay away from port longer, it would be more difficult for the PLA Navy to track U.S. naval vessels and target them. Along with actual stealth ships, this logistical redeployment would increase U.S. ships and submarines’ level of security, allowing them a greater range of actions in operations.

The United States’ forward-deployed forces belie a defensive-minded posture. The presence of airborne early warning aircraft and mine countermeasures ships, coupled with the absence of bomber aircraft and minelayers, shows that the United States is prepared to react to hostile action, but is not aggressive. This defensive posture, in the case of South Korea, should be maintained, given Seoul’s proximity to China. Japan’s and Guam’s geographic distances would be more suitable to offensive or potentially offensive-oriented matériel, such as minelayers.

In this section, I have addressed the nature and placement of the weights which Wylie spoke of at this section’s beginning. The weight must be larger, with more ships, and must also reformulate its composition, with a greater emphasis on lighter vessels that are harder to detect. In the case of South Korea, the weight must be transformed from a land base to a sea focus. It must counter other weights, adjusting to Chinese asymmetric warfare and regional geography. The Navy must be more agile and maneuverable, allowing vessels to refuel and restock supplies without steaming into port. The U.S. Navy has a two-part task: to specifically counter the emerging Chinese naval threat and to maintain its primacy at sea. It can do so by undertaking comprehensive reform in force composition, force size, and force regionalization. Then, the United States will remain the weight that no state can balance.

**CONCLUSION**

The emerging threat from a rising China has long-term implications for U.S. military capabilities and for U.S. East Asia policy. As Beijing continues its rise on the international stage, the United States has the opportunity to reexamine its own military posture in the Western Pacific. China has been focusing on regional power projection, modernizing with the specific goal of preventing U.S. involvement in a Taiwan war and with the general goal of establishing sea power in what was historically its sphere of influence. The slow nature of naval development means that the United States has some time to respond and adjust, but it must use that time wisely. It needs a larger navy, it needs
a navy with greater diversity in ships to suit the geographic reality in which it operates, it needs to rethink its basing procedures in East Asia; and finally it needs to leave behind a twentieth-century naval posture and the Cold War mentality that inspired it, and prepare for an uncertain future.

A logical question arising from this paper is: ‘‘How much will the American people be willing to sacrifice financially to maintain their state’s military posture in East Asia?’’ Indeed, economics deserve great examination, as military might rests on economic strength. Other military issues that also deserve further exploration include space and cyber warfare, Chinese command, control, communications, computers, intelligence, surveillance, and reconnaissance capabilities, regional security issues like Taiwan and North Korea, and issues involving alliances, credibility, and reputation. A holistic examination of China’s rise would also be useful, as the country faces many challenges including political stability, socioeconomic instability, and environmental degradation.

Thoughtful companion pieces on East Asia naval postures would analyze the utility and purpose of a Chinese aircraft carrier program, submarine-launched ballistic missiles, the actors and bureaucratic process necessary to effect U.S. naval transformation, U.S. East Asia policy, and alternative grand strategies such as offshore balancing. What this paper has sought to do is to serve as a starting point for a discussion on the naval component of China’s rise, how U.S. naval primacy would be threatened by it, and how the United States should respond. The Duke of Wellington once said, “There is no such thing as a little war for a great Nation.” Due to their disruption, the lives they end, and the impact they have on history, wars are to be avoided at all costs. In the case of East Asia, the United States can avoid war by preparing for it.

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Endnotes

2. Ibid., 190.
9. Howarth, 93.
11. Ibid., 15.
12. Ibid., 15-18, 22.
15. Ibid., 72.
16. Ibid., 66.
17. Ibid., 72-73.

27. Skinner, 91.

28. IISS, 45.

29. Ibid., 35.


31. IISS, 33.


33. Murray; Joseph E. Skinner; interview by author; Arlington Co., VA, November 26, 2008; Bernard D. Cole, interview by author; Washington, DC, January 27, 2009. The substance of this paragraph represents the concurring opinions of these three gentlemen.

34. IISS, 43.


37. Howarth, 63-64.


39. IISS, 42.


42. Quoted in Strachan, 32.
ISLAMIC FINANCE, IN THE MOST BASIC sense, uses financial law and practices to reconcile the workings of the economy as well as financial activity such as trade, loans, various forms of capital accumulation, and other business- and financially-inclined ventures, with the laws and customs of Islam. These laws can be derived from a number of different authoritative texts such as the Qur’an and the hadith, and these customs develop through the consensus (ijm’a) or analogical reasoning (qiyas) of Muslim scholars. The fields of finance and economics have co-existed for far longer than the religion of Islam: there is evidence of receipts and contracts based on financial transactions as early as the 2nd century Sumerian empire, remnants of law codes and regulations on transactions created by Hammurabi only a few hundred years later, and records of an institution resembling a savings bank dating back to Babylon in 575 B.C. Therefore, we understand that the Prophet Muhammad communicated the various prohibitions regarding business transactions through his teachings within the context of commerce in that era. However, when we consider the immense changes in economics and financial markets over the more recent centuries in the past 1300 years, we find the need for greater clarification of exactly what is permitted, discouraged, and outright prohibited by Islam to understand the rapidly growing field of Islamic finance. Through the study of scholarly writings, learned consensus, the teachings and sayings of the Prophet, and the Islamic holy texts themselves, we find the basis for Islamic finance and the institution of the Shari’a-compliant Islamic bank. By looking at the religious and legal rationale behind an interest-free financial system, past attempts at interest-free savings banks, and recent implementations of fully Shari’a-compliant Islamic banks, this paper will examine the justifications for Islamic banking and assess the feasibility of interest-free banking for present and future financial markets.

Islam is not just a religion, nor is it simply a code of laws. It is, as stated by Sayyid Qutb, a well-regarded albeit very radical Islamic thinker, “its own unique and distinctive path [which] presents to humanity a complete cure for all its problems.” Essentially, Islam is an all encompassing way of life, in which its financial sector plays an integral part. Islamic finance, as opposed to secular, “westernized”, or conventional finance, seeks not to encourage economic development and growth at any cost, but rather serves to take into consideration the issues of the greater social welfare and the potential negative social impact that any given financial endeavor might incur. Questions of social welfare exist in an enormous range of economic and financial situations. In one example, a loan made to someone who would have significant trouble paying it back would sustain added fees, putting that person even further into debt. Rather than allow that person to unwisely borrow when he would have little chance of paying back his debt, scholars of Islamic finance might question whether or not that person should

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be allowed to borrow in the first place. Scholars might also ask whether or not the lender should be required to reduce or even waive his lending fees in order to allow the borrower to use the loan for productive purposes without being burdened by said debt. These questions of morality arise in larger situations as well – consider a large mutual fund that chooses to invest in a multinational corporation that provides slot machines to casinos, thus explicitly supporting gambling institutions that provide opportunities for people to engage in games of chance, even though gambling is strictly forbidden in the Qur’an. Should the fund be allowed to invest and implicitly endorse such behavior, even though it is considered immoral and does nothing particular to improve society? While conventional finance leaves these questions to the investor and, in extreme cases, governmental regulation, such questions of moral hazard are regularly explored and widely debated in the field of Islamic finance.

Islam is not just a religion, not is it simply a code of laws. Is is... ‘its own unique and distinctive path [which] presents to humanity a complete cure for all its problems’.

The practice of Islamic finance aims to answer these questions and “recognizes the possible adverse impact of totally unregulated businesses on the various sections of society, particularly the poor and the disadvantaged,” attempting to correct these issues through different forms of regulation like any country might, except that it does so in accordance with Islam and the teachings of the Qur’an. This sentiment of moral bankruptcy, however, is certainly not specific to Muslims alone. Jonathan Knee, a former Managing Director at Morgan Stanley, in the preface to his book The Accidental Investment Banker, discusses a “widespread cultural malaise” in the world of business and finance, possibly resulting from “[our] society’s increasing emphasis on celebrity, self-realization and personal wealth over more communal concerns.”

Knee laments the departure from actual value-added and constructive relationships between banks and investors, bankers and corporations, and other institutions caused by the uninhibited pursuit of wealth. It is this single-minded approach to business and finance, with little regard for the wellbeing of others, that was often practiced at the time of the founding of Islam. However, the Qur’an recognizes and seeks to eliminate this style of commercial interaction. In the Islamic banking model, profit is “important but not the only determining factor in choosing products and services,” with such concerns as positive social impact, the development of communities, as well as other humanitarian concerns that all play an important role.

As a religion Islam is focused on providing services and care for the poor and others who in some way require outside aid, such as widows and orphans. One of the five pillars of Islam is “zakot,” or alms giving, which is paid to care for those who do not have the means to do so themselves. The Qur’an itself stresses the “notion of property circulated and purified, in part, through charity,” a notion that wealth only exists for the uninhibited pursuit of wealth. It is this single-minded approach to business and finance, with little regard for the wellbeing of others, that was often practiced at the time of the founding of Islam. However, the Qur’an recognizes and seeks to eliminate this style of commercial interaction. In the Islamic banking model, profit is “important but not the only determining factor in choosing products and services,” with such concerns as positive social impact, the development of communities, as well as other humanitarian concerns that all play an important role.

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Islam is not just a religion, not is it simply a code of laws. Is is... ‘its own unique and distinctive path [which] presents to humanity a complete cure for all its problems’.
trade things like commodities futures and traditional bonds, it is not difficult to envision this alternative viewpoint.

Another driving principle behind Islamic finance is the idea of supporting equality and fair financial practices by eliminating “zulm” from financial transactions. Zulm is translated to mean unfairness or injustice. Islamic finance works to correct areas of finance where zulm might occur, such as in instances of exploitative lending. That being said, however; “it does not mean that prohibition will not be applicable if the element of zulm appears to be missing in a particular case,” the Qur’an insists that “the prohibition will follow regardless of whether the philosophy of the law is or is not visible in a particular transaction” that makes riba impermissible in all cases. For example, an agreement made ahead of time which outlines a loan made from one high net worth party to another with similar wealth in order to finance a business endeavor might seem like a perfectly reasonable and fair agreement. Scholars argue that the question of which financial situations may or may not incur injustice is not for people to decide. Rather, it is Muslim duty to follow the message set out by the Qur’an in its ruling on riba. There are numerous authoritative texts that demonstrate this message upon which scholars have based their opinions, and this evidence will be discussed in the following analysis.

RELIigious OPINION ON Riba

The field of Islamic finance is still relatively new and evolving constantly – thus, it is unremarkable that situations exist in which scholarly opinions conflict. The greatest conflict of opinions, however, lies in the debate over the definition of the term “riba”. Riba, according to The Hans Wehr Dictionary of Modern Written Arabic, can mean any of the following words: “interest, usurious interest, or usury.” Scholars have argued over this point for centuries to no avail. While there has been some consensus among more conservative Muslim scholars and governments for the purposes of establishing financial systems in strict accordance with Shari’a law, the issue is still, to an extent, up for discussion. Islam itself is based on the principle of ibahah (or, permissibility) – in other words, everything is permitted unless there is clear indication from Allah that a certain thing or act is undesirable and prohibited. We will see from the Qur’anic verses below that “riba” is certainly prohibited, but the verses fail to precisely define the scope of riba and what it entails. While it would be nearly impossible to cover the entire debate over riba, as it has existed for as long as Islam has been around, the basic framework for the rationale behind an interest-free financial system is readily accessible, opening the way for analysis.

The Qur’an addresses the concept of riba in a number of different verses. The following five are the primary verses brought up in discussions over the impermissibility of riba:

“Those who devour riba will not stand except as stands one whom Satan by his touch hath driven to madness. That is because they say: ‘Trade is like riba;’ but Allah hath permitted trade and forbidden riba. Those who after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for Allah (to judge); but those who repeat (the offence) are companions of the Fire: they will abide therein (for ever).” (Qur’an – 2:275)

“Allah will deprive riba of all blessing, but give increase for deeds of charity: for He loveth not creatures ungrateful and wicked. O ye who believe! Fear Allah, and he shall not, take notice of war from Allah and His Messenger. But if ye turn back, ye shall have your capital sums: deal not unjustly, and ye shall not be dealt with unjustly. If the debtor is in a difficulty, grant him time till it is easy for him to repay. But if ye remit it be way of charity, that is best for you if ye only know.” (Qur’an – 2:276-280)

“O ye who believe! Devour not riba, doubled and multiplied; but fear Allah, that ye may (really) prosper.” (Qur’an – 3:130)

“That they took riba, though they were forbidden; and that they devoured men’s substance wrongfully – We have prepared for those among them who reject (faith a grievous punishment).” (Qur’an – 4:161)

“That which ye lay out for riba through the property of (other) people, will have no increase in Allah, but that which ye lay out for charity, seeking the countenance of Allah, (will increase): it is these who will get a recompense multiplied.” (Qur’an - 30:39).

In these verses, it is quite obvious that the convention of “riba” is not only looked down upon, but entirely forbidden, regardless of its exact definition and scope. If we examine the last of these verses, we see that riba will give “no increase in Allah.” While this phrase certainly maintains that riba is not a favored or appreciated practice, it gives “no specific prohibition against it in the verse.” The fourth verse establishes that a punishment has been set out for those who in the past have broken the laws and taken riba. The first and second verses (which appear one after another in the Qur’an) clearly establish that those who take riba are unbelievers and will be punished, even if they believe that riba is equivalent to trade and, thus, one should not be permitted while the other is forbidden. It does, however, make clear that, while those who have engaged in riba in the past have sinned, if these sinners end their practices they are likely to avoid being “companions of the Fire” (which can be interpreted to mean condemned to Hell).

It is the third of these verses, Qur’an 3:130, that conjures a note of uncertainty in our understanding of riba. While it does state that believers should avoid riba in order to prosper; the phrase “doubled and redoubled” evokes the idea that to qualify as riba, the creditor must practice a type of lending that involves adjusting interest rates after certain periods of time so that they might be double (or more) what they had initially been, thereby putting the debtor in crushing amounts of debt. This style of predatory lending is what is generally considered usury. Usury, as defined by the Oxford English Dictionary, is “the practice of charging, taking, or contracting to receive, excessive or illegal rates of interest for money on loan.” How are we to know if interest charged, however, would be unjust? What if this rate was mutually agreed upon by the creditor and debtor beforehand? The fact that an excessive rate of interest might be charged, however, is what qualifies riba as unjust.
The philosophy of the law is that interest is often unjust just because a certain situation involves an arguably just loan does not mean that the law can be altered or disobeyed.

We can clearly see from the above Qur’anic verses that Allah has strongly condemned the practice of taking riba on the side of the debtor, the creditor, and all parties involved. Although the Quran makes specific mention of the word “riba” in the above texts repeatedly, it is impossible to derive a concrete and generally accepted definition for the word “riba” from such passages. Some, though often more conservative, scholars might argue that riba means, in the most general sense, “interest.” Others infer the more specific definition of “usury.” As a result of this incongruity and the lack of a concrete definition for this term in the Qur’an, we must look to other authoritative texts for clarification.

This prohibition of riba, defined as either interest or usury, is supported by a large number of hadiths and Sunnah of the Prophet Muhammad. One specific story from the hadith that deals with riba is of the Prophet’s final sermon. While giving this sermon, the Prophet decrees “the usury of the Era of Ignorance has been laid aside forever” and, in order to show both his goodwill and the seriousness of his decree, he declares that “the first usury I begin with is that which is due to my father’s brother ‘Abbas ibn ‘Abd al-Muttalib.”

His reference to this type of debt-cancellation can be seen as a way to win favor from his followers and those whose debts were removed, thereby strengthening his point of equality promoted in Islam while giving people a tangible benefit. The act of debt-cancellation had been practiced for millennia before Muhammad’s final sermon, having been implemented by ancient Near Eastern leaders in order to ease financial woes of their people and gain popular support for themselves. Regardless, this instance, as well as a wealth of other hadiths, provides us with the basis for a greater understanding that the Prophet may have intended riba to mean any sort of interest.

In addition to this hadith, both Judaism and Christianity have made similar proclamations banning the practice of usury as well as any type of money lending with interest. While the Bible is not considered the literal word of God and, thus, is perceived by the general community of Christians as a more flexible document than Muslims might view the Qur’an, we see verses in the Bible which also prohibit riba. The book of Proverbs in the New Testament of the Holy Bible (King James Version) states: “He that by usury and unjust gain increaseth his substance, he shall gather it for him who will pity the poor.”

The fifth book of the Jewish Holy writing, the book of Deuteronomy, states that:

“You shalt not lend upon usury to thy brother; usury of money, usury of victuals, usury of any thing that is lent upon usury: Unto a stranger thou mayest lend upon usury; but unto thy brother thou shalt not lend upon usury: that the LORD thy God may bless thee in all that thou settest thine hand to in the land whither thou goest to possess it.”

We can see that the passage from Deuteronomy echoes the sentiments of the above Qur’anic verses, with the notable exception that the Jews were permitted to engage in usury with strangers (presumably, those not of the Jewish faith). The Bible verse from the book of Proverbs not only reflects the attitudes of the Qur’an, but in fact is almost identical to the above verses of Qur’an 2:276-280 in its display of God’s disdain for riba (called usury) and His desire for those who have gained from usury in the past to distribute these unjust gains to the poor and needy. Other verses, such as Exodus 22:25 and Leviticus 25:35-37, stress again that usury is forbidden. The fact that these three major Abrahamic religions have all expressed dislike and prohibition of usury (or interest-bearing loans) lends even more legitimacy to Muslim scholars’ claims that the Qur’an forbids usury and money-lending and gives greater insight into sentiments toward the practice of money-lending at the time of the foundation of Islam.

Although there will probably never be unanimous consent on the meaning of riba, we can observe that, for the most part, Islamic banking institutions have acknowledged the prohibition of riba and have found ways in which to practice modern banking without violating the injunctions outlined by Shari’a law. Islamic banks seek to emulate and, in cases where it is not prohibited, perform the functions of conventional commercial and investment banks while still maintaining this and other essential Islamic principles. It is these principles, as well as growing pools of capital in the Middle East, especially in the Gulf States, that have sparked newfound interest in Islamic banking in recent decades. These banks have faced numerous problems over the years, and the future of Islamic banking is still unsure, but, as a result of recent successes, governments and private parties have become more interested in investing in the future of Islamic banking.

**THE FUNCTIONS OF THE ISLAMIC BANK**

As with the field of Islamic finance, Islamic banks function in order to allow Muslims to deposit and invest their money in accordance with Shari’a law. These banks must be prudent with their money, more so than conventional banks because they are obligated to avoid investments in fields considered haram (translated to mean forbidden). One example of such a forbidden instrument is backing companies that violate fundamental Islamic principles or companies that have significant debts receivable on their balance sheets, due to the prohibited nature of interest on debts. The greatest challenge in modern Islamic banking, however, has been developing for approximately the last thirty years, with limited, although growing, success: operating an Islamic bank that can sustain itself, attract investors, and perform the functions required of a bank while avoiding riba. In an effort to integrate riba-free banking services or fully convert a country’s financial system to one without interest, some banks have received partial state support; others have been funded entirely by the government, while still others have been founded solely with private financial backing. Regardless of how or why these banks were founded, they have all contributed to the development of a reliable system of riba-free Islamic banking.

Modern Islamic banking is a growing field. As of September 2008, Islamic banks held approximately $700 billion assets under
management, according to the Islamic Financial Services Board. However, such an enormous amount of capital managed in accordance with Shari’a principles, would have hardly been imaginable a mere forty years ago. The first significant attempt at a modern Islamic bank was undertaken in Mit Ghamar, Egypt in the early 1960s. Before that time, the establishment of “credit societies and cooperatives (working on an interest-free basis)” had been attempted in the Middle East and in other Muslim countries, but no formal savings bank had been successfully instituted. In 1963, Ahmed al Najjar founded a number of “saving/investment houses” in rural Egypt, which accepted deposits but did not pay out any form of interest on these savings as conventional banks would do. In return for depositing their money, however, clients were permitted to take out small interest-free, and thus, in accordance with Shari’a law, loans in order to undergo productive development projects in the region. While all of the bank’s branches were closed down in 1967 due to the changing political situation in Egypt, the experiment at Mit Ghamar (named after one of the small rural towns in which the bank was founded) showed that the theory of an Islamic bank is not unreasonable. Instead, it showed that the practice of operating one needed refinement in order to provide a sustainable and dependable institution to hold and invest deposits.

The 1970s and 1980s brought about a number of new developments in the Islamic banking world. Among these changes, the Islamic Development Bank, an institution of great historical significance, was born. The bank was conceived in 1973 at the Conference of Finance Ministers of Muslim Countries and formally began operations in October 1975 in Jeddah, Saudi Arabia. The IDB describes its purpose as “to foster the economic development and social progress of member countries and Muslim communities individually as well as jointly in accordance with the principles of Shari’ah,” and the vast majority of its fifty-six members are Middle Eastern, Asian, and African countries. While not a typical savings bank, the IDB operates on a model similar to the World Bank for countries with significant Muslim populations. It allows these countries to deposit capital for lending and, as the name suggests, for the improvement of poorer and less developed Muslim countries. In addition, it can be argued that the IDB was founded to rival the economic power that conventional Western banks wielded and still wield in the international economy, which poses as a concern for many of the wealthy but smaller Middle Eastern nations. At present, the bank focuses on developing the Islamic world, in the public and private spheres, and in doing so functions as a conduit for innovation and construction in order to help otherwise underdeveloped nations. Whereas a modern day commercial bank might attempt to generate returns on its capital by investment and lending, the IDB focuses on investing in services which streamline trade, help develop infrastructure and financial services, and assist with other problems experienced by member countries. The bank has “proved to be a model emulated by other Islamic banks” and operates a significant number of financial services. Some of these services include equity investing, interest-free loans for development projects in member countries, and other endeavors where needs arise among members. Although the IDB resembles a humanitarian organization more so than a conventional commercial bank, the fact that it has continuously operated for the past thirty-three years while maintaining compliance with Shari’a law gives us faith in the model of the Islamic bank and its ability to operate without the use of interest.

The modern Islamic savings bank owes its existence to the crucial founding of both the Mit Ghamar Savings Bank in Egypt and the Islamic Development Bank in Saudi Arabia. This Islamic savings bank operates on the principles of Shari’a and, as a result, engages in a system of sharing both profits and losses with its depositors in order to exist and grow without the use of interest. While the IDB operates on similar principles, it functions on a far larger scale and is more of a catalyst for development in the Muslim world rather than a commercial savings bank. The most common functions of this type of Islamic commercial bank are holding deposits, lending for productive purposes, and investing capital, all of which must operate differently than in conventional banking in order to ensure Shari’a-compliance.

Unlike conventional commercial banks, Islamic commercial banks are prohibited from paying fixed-interest, as this would equate to taking riba, on savings accounts. In order to attract depositors who might be less inclined to keep their money in an account that would generate 0% returns, the bank instead uses a method of profit and loss sharing as a way both to stay compliant with Shari’a but also to generate returns for its depositors. Through profit-loss sharing, known as mudharabah, the depositor and the bank set a mutually agreed upon rate at which any profits or losses incurred by the bank, through any of its various financial endeavors, are shared among depositors according to the amount of capital they have deposited as well as their agreed upon rate. As this rate is not fixed and instead reflects the performance of the bank, it is considered a form of investing for productive purposes, which is encouraged by the Qur’an, rather than a fixed-rate loan, which would be tantamount to riba. Because the responsibility for profit or loss is shared among all parties, and is not placed solely on the debtor; the injustice (or zulm) that is the primary reason for the prohibition of riba is eliminated.

Islamic commercial banks also engage in a form of lending that operates on the principle of musharakah. Because loans cannot be issued with a set rate of interest under Shari’a law, there are a number of different methods with which to invest capital in order to receive returns to compensate the lost time-value of said capital. In one of the most basic methods of effectively loaning money but avoiding interest, two or more parties can enter into what is called a shirkah contract under the principle of musharakah (or joint venture) in which “two or more persons... combine their assets, labour or liabilities for the purpose
of making a profit.” In this situation, all parties come to an agreement which sets the percentages of profit, liabilities, and level of management allocated to each member. This form of a “loan” resembles equity investing (if a low level of management is decided upon by one party) or a business partnership (if all parties share similar active levels of management) far more than it does a traditional fixed-interest rate loan. The aforementioned shirkah contract can effectively act as a loan but manage to avoid taking riba altogether.

Another type of loan which is comparable to a fixed-interest rate loan involves a creditor buying a good (such as a home) in full and then “leasing” by a practice known as ijarah, this good to the party that initially took out the loan, presumably at a rate that would compensate the creditor both for the initial amount paid as well as an added transaction fee. While this loan technically avoids the practice of riba, it bypasses the need for interest by charging this added fee. A third type of basic loan involves a no-interest loan in which the debtor must pay the full amount lent by the creditor within a given time frame, but must under no circumstances pay any more, as the Qur’an forbids the paying of increase over the amount of money borrowed in any situation. This type of loan is known as qard al-hasan, meaning benevolent loan. While qard al-hasan is not used for funding for private citizens or traditional businesses, it is often given out by Islamic banks to initiatives in parts of the Muslim world which are underdeveloped, suffering from social or medical problems, or in need of assistance but are not in a position to pay any sort of debt down, in order to establish humanitarian efforts or improve the general social welfare of places.

As the field of finance grows, more and more methods of financing and types of financial products are entering the market. The above three are only the most basic functions of an Islamic bank. The bank interacts with depositors and those who borrow money from them in numerous other ways, such as through home mortgages and issuance of Islamic bonds (sukuk), as well as through mutual funds, venture capital, and other forms of Shari’a-compliant investing. The growth of Islamic finance has attracted numerous opinions over whether or not certain financial products or new investment methods should be considered halal (permitted) or haram. Hedge funds, for example, often use a number of speculative trading methods in order to generate exceptionally high returns for their investors. Complex financial products like derivatives, which are financial contracts that base their value on an underlying asset, short selling, which involves betting that a stock price will decrease, and leverage, which consists of borrowing money to multiply one’s potential for increased (but, unfortunately, also decreased) returns based on a stock’s performance, are employed in order to outperform the market. Some critics describe these practices (most specifically short-selling and the use of leverage) as “speculative bets on currency and stock movements;” however, characterizing them as harama and equivalent to gambling, which is strictly forbidden in the Qur’an.

These are only a few of many examples of the increasingly complicated instruments and strategies employed in today’s financial markets. Recent advances like these demonstrate a clear need for widely-accepted guidelines, rules, and regulations in order for Islamic finance to be a widely-accepted source of investment for international capital. While Islamic scholars and business people alike may deem such strategies and instruments as not compliant with Shari’a laws, it is necessary that they address their existence and either provide attractive alternatives for investors, in a similar way that banks have dealt with the prohibition of interest by providing other ways to generate returns, or find ways for the aforementioned strategies to fit within the confines of Islamic law.

THE FUTURE OF THE INTEREST-FREE MODEL IN ISLAMIC BANKING

Although the modern field of Islamic finance began merely a few decades ago, trade and business in the Islamic world have been developing for centuries. The number of banks as well as the level of assets under management have been estimated at growth rates of between 10-15% per year according to the Economist magazine (as of September 2008) and 15-20% a year according to HSBC. Given these past statistics, the future of Islamic banking certainly looks bright.

This positive outlook is appropriate, as commercial banks, investment banks, and various types of funds that operate under Islamic financial law provide what can be an excellent opportunity both for investors and entrepreneurs. Investment in these banks can provide a generous rate of return without exposing oneself to speculative measures such as short-selling, thereby (at least theoretically) ensuring more stable gains that minimize one’s exposure to short-term market swings. In addition, because depositors are compensated for the capital they place in the bank by what is in effect a floating rate of interest (through the system of profit-loss sharing), banks are more inclined to perform well but still ensure a steady rate of return as, if they wish to attract investors and depositors who are motivated for reasons other than religious obligation, they must remain competitive by providing comparable returns to the more prominent conventional commercial banking sector. Islamic financial institutions might also find a niche with ethical investors who wish to deposit their money in banks and invest their money in funds that take into consideration aspects like the level of positive social impact a company or project might have before agreeing to support them financially. As Shari’a-compliant funds are banned from investing in projects which might involve potential immorality or might have a negative effect on society (although the scope of this immorality must include prohibitions explicitly mentioned in the Qur’an, it is otherwise open for interpretation based on Shari’a guidelines), these funds might be preferred by those who look for positive social gains as well as positive returns on their invested capital.

While Islamic finance certainly provides a number of benefits, it is necessary to also examine potential drawbacks and problems that may arise in the future that the industry as a whole will be forced to contend with. One such issue is the increased responsibility placed on creditors to ensure...
that their debtors maintain both profitability and solvency, thus allowing these debtors to pay back their loans in full. Taking into account the fact that, in recent months, the market for credit has been severely encumbered to the point of international crisis, the added risk of loss-sharing might make creditors even less likely to lend out their money, instead seeking out less risky ways of allocating their capital. Also, funds that maintain Shari’a-compliance would likely have to charge higher management fees as a result of the added due diligence work required to ensure that none of the fund’s investments are considered haram. In addition, funds and banks that are not able to take advantage of some of the more sophisticated financial products such as leverage, derivatives, and short-selling might be less attractive to investors who are neutral about the ethical or religious nature of the fund but are interested solely in seeking greater risk in order to generate potentially higher returns. While these investors are not necessarily important to the core market for Islamic financial services (as its primary clientele is presumably the Muslim community), it would nonetheless restrict the possibility for growth in potential investors. Only those who would be willing to pay higher fees for the sole purpose of maintaining Shari’a-compliance with no promised higher returns on capital would have any financial motivation to invest. On top of these issues with the financial products themselves, lack of standardized and internationally-recognized regulations (a problem exacerbated by the fact that Shari’a law, which stems from interpretation of the Qur’an, has been a point of debate for centuries) pose severe logistical issues for funds and banks that seek to operate outside of their home country in financial markets worldwide. While one could argue that this lack of standardization is simply a product of the relative immaturity of Islamic financial markets and will evolve over time, it is necessary that progress be made quickly in order to keep Islamic banks and funds competitive with their conventional counterparts.

In addition to the investor, one must consider the consequences of the Islamic financial system for the entrepreneur and debtor. The aforementioned system of profit-loss returns (rather than a fixed rate of income) provides both an upside and downside for the debtor. Although they are required by law to repay the principle amount they borrowed, any additional fees that they may also pay would be judged from and funded by the profits from their venture. Thus, they might be encouraged to take greater risks, as the responsibility for the losses is shared between the creditor and the debtor; whereas in fixed-rate non-Shari’a-compliant loans, the responsibility falls far more greatly on the debtor rather than the creditor, thus providing the debtor with some incentive to use the lent money carefully. In addition, parties may agree on the rate of profit and loss shared between creditors and debtors, or “as agreed” (the traditional practice of ijarah, for example, is used to fulfill the same need one might with an interest-bearing loan. In fact, it is effectively the same thing as an interest bearing loan because the debtor pays back the principle plus an added fee by “leasing” the item back from the creditor. Other than prohibitions against potentially speculative strategies and morally hazardous equities, the general functions and practices of equity investing under the Islamic financial system are almost identical to those under the conventional system of finance.

The essential point to understand then is this: the primary differences between conventional and Islamic banking are merely technical, as both fill almost the exact same roles in their respective societies by offering if not the exact same products, then products with negligible differences. Both systems perform similar services, as modern Islamic banks have found ways to avoid *riba* but still achieve the same end results as conventional banks. It is for this reason that, in the future, Islamic banking may either achieve a status as a serious competitor to conventional banking or may become a niche market, unimportant in the international financial market. If Shari’a-compliance proves to be enough to consistently attract investors to pay higher fees for more active management (to ensure this compliance), then there is reason to believe that the system of Islamic banking will continue to grow and develop. If this Shari’a-compliance becomes irrelevant, either because of the liberalization of Islamic belief or because the definition of *riba* becomes more specific (only encompassing usury rather than any and all forms of interest, for example), then there will cease to be any significant need for a separate Islamic form of finance.

Although at present “less competition helps keep margins higher than in conventional finance,” this market inefficiency is likely to correct itself over time. Heightened political tensions between East and West makes the marketing of a Muslim-friendly and self-proclaimed ethical financial system valuable.

**Heightened political tensions between East and West makes the marketing of a Muslim-friendly and self-proclaimed ethical financial system valuable.**
proclaimed ethical financial system valuable. The actual differences between the two systems, however, are “a trifle contrived.” That being said, given that all else is equal, it is likely that Muslims will choose Shari’a-compliance just in the way that, given that all else is equal, an investor might choose to allocate his capital to an “ethical” fund. It is when the investor has to pay a premium solely for these added services, without the guarantee or even the promise of higher returns than a conventional fund, that the future of Islamic banking comes into question. While Shari’a-compliant funds have performed well in recent years and Shari’a-compliant banks have attracted large sums of capital due to both their ethical nature and compliance with religious law, it will be their ability to distinguish themselves in generating consistent and sustained returns at the same level or higher than conventional funds and banks that will mean continued growth and a promising future for the system of Islamic finance.

Endnotes

4. As we will see in the next section, interest-bearing loans are prohibited by the Qur’an, so this question is merely hypothetical.
5. Ayub, 15.
11. Ayub, 15.
13. Ibid, 80. NOTE: Italicized to clarify a word’s meaning.
18. Note: Where the term “interest” or “usury” was written, I instead substituted the word riba (italicized) in order to ensure the translation’s neutrality in the debate over what constitutes riba.
20. Ibid, 36.
22. Ibid, 79.
27. Prov. 28:8.
29. “If thou lend money to any of my people that is poor by thee, thou shalt not be to him as an usurer; neither shalt thou lay upon him usury.”
30. “And if thy brother be waxen poor, and fallen in decay with thee; then thou shalt relieve him: yea, though he be a stranger, or a sojourner; that he may live with thee. Take thou no usury of him, or increase: but fear thy God; that thy brother may live with thee. Thou shalt not give him thy money upon usury, nor lend him thy victuals for increase.”
32. Iqbal and Molyneux, 36.
35. Iqbal and Molyneux, 60.


41. Ayub, 317.

42. Excluding a few minor differences, such as the role of the bank as the provider of selected qard al-hasan.


44. Ibid.
The Journal of Undergraduate International Studies, published at the University of Wisconsin-Madison, presents a compilation of essays and photos from undergraduate and postgraduate students from around the world. Publications document a wide variety of socio-political issues ranging from international conflict and diplomacy to environmental issues to international economics. Most importantly, the Journal of Undergraduate International Studies is intended to serve as a platform for global discussion and the open exchange of ideas, in effect, expanding our understanding of global interactions.