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Turkish Delight

Mitchell Belfer

Turkey learned the wrong lessons from the past years of war in the Middle East. Unmoored, Ankara is now more aggressive, more nationalist and more Islamist than at any other time in its modern history. Its foreign policy reflects this.

Under the spell of President Recep Tayyip Erdogan, double-speak is commonplace. Turkey professes multilateralism but pursues unilateral goals. It's officially secular but wastes no opportunity to empower conservative Islamic groups. It screams its adherence to the rule of law, freedom of the press and of worship and is comfortable making mass-arrests, silencing the free press and hunting-down minorities. Ankara declared war on ISIS but its operations are reserved for Kurds—particularly in Northern Syria. All in all, Turkish rhetoric does not match its reality.

Some depict Turkey as having an Ottoman Moment or experimenting with Neo-Ottomanism, but this is inaccurate. Instead of the bustling, ethno-cultural melting-pot of those imperial times, the Turkey of today is a hybrid state; founded with a Sultanic ruler who dangles between the internationalist creed of Islamism and the fervour of Turkic ethno-nationalism. But while its ideological twin-peaks might, on their own, misguide and infuse its leadership with inflated perceptions of national power and destiny, events have conspired to keep its military ambitions somewhat grounded. Ankara is learning its limitations and its opportunities—and how to respect the former and exploit the latter.

When war erupted in Syria (2011), the Erdogan clique was full of excitement. Its frayed relationship to Israel and its growing Islamic credentials helped unmoor it from its republican legacy. Rather than towing the US or European line, Turkey was ready to carve out its own strategic niche and Syria would provide it the legitimacy needed to

lead. Unfortunately for Erdogan — obsessed with legacy — Turkey's initial optimism was soon tempered. It would not be the only exogenous actor entering the fray. Iran — Turkey's enduring rival — was also quick to use the Syrian war as a springboard to consolidate some of its objectives: propping-up the Al Assad regime and, through it, establishing its northern flank through Iraq, Syria and Lebanon to the Mediterranean. Instead of providing Ankara an avenue to reemerge as a great Middle Eastern power, the Syria war is leading Ankara on the road to perdition and revealed — for all to see — the limitations of its power.

Turkey's involvement in the Syrian war was complicated from the very beginning. Having thrown its weight behind the anti-Assad-Iran-Hezbollah axis by training, equipping and deploying the Free Syrian Army (FSA), Ankara locked itself in a particular role—champion of a secular insurgency in an increasingly religion-fuelled, sectarian conflict. The FSA was stillborn. Founded in 2011, comprised of defectors from the Syrian Arab Army, the FSA was structured as an armed force but preformed poorly; lacking adequate command, control and communications capabilities and an overarching set of strategic objectives besides the removal of the Al Assad regime. The original FSA did not last a year before the bulk of its members drifted to the growing number of Sunni jihadi groups. Against the backdrop of Al Assad's and Iran's sectarian agenda, Syria's Sunnis — especially around the trade-hub of Aleppo — grew increasingly alarmed by the deployment of Iran's elite Islamic Revolutionary Guard Corps (IRGC) and Hezbollah to support Al Assad forces and sought to fight radicalism with radicalism. Turkey saw yet another opportunity and exploited it.

Turkey's strategy rapidly evolved from supporting secular forces against Al Assad to organising and unleashing an Islamist tidal wave that is now impossible to contain. With Doha's financial support, Ankara threw its weight behind a cocktail of extremists in Syria including: Hayat Tahrir Al Sham (aka HTS, aka Jabhet Al Nusra) — an Al Qaeda umbrella group composed of Jabhet Ansar Al Deen, Jaish Al Sunna, Liwa' Al Haq, Harakat Noor Al Deen Al Zanki and the Turkmen Kataeb Turkman Suria — and Muslim Brotherhood militias such as Jaish Al Islam and Ahrar Al Sham.

Ankara softened its borders to facilitate the ease of international jihadis streaming over its frontiers en route to Syria and Iraq. While these charges have been vehemently denied by Ankara, the evidence continues to mount as to Turkey's role in allowing the so-called 'ji-

hadi highway' to form, together with foreign fighters logistical centres in the Turkish towns and villages along the Syrian frontier between 2013-2014. By one account, in 2013, some '30,000 militants traversed Turkish soil.' 2014, showed only a slight reduction in the jihadi flow via Turkey. All in all, Turkey relied on radicalised jihadi groups to maintain its relevance in Syria—and the region. It facilitated their flow to conflict areas, allowed evacuations of fighters back to its national territory and had developed important communications lines with the upper echelons of ISIS, it knowingly purchased oil and antiquities from ISIS and cut side-deals with the terror-state to secure its (technical) enclave of 'Suleyman's Mausoleum.' Ankara even took up the mission of ISIS and launched a series of operations against Syrian, and Iraqi, Kurds. The enemy of the enemy slogan is certainly apt in this case.

Immense pressure — not least from its NATO allies — led to Turkey's 30 May 2017 decision to rebrand the defunct FSA as the Syrian National Army (SNA) and to grow distance between it and ISIS. But this was a fig leaf and the SNA were never provided enough support for them to be effective. Instead, they have become an organisation *sans* fighters, money, ideology and legitimacy while Turkey's prize fighters of Jaish Al Islam remain in control of Idlib and in partnership with Al Qaeda. It is worth noting — for the record — that neither the FSA or the SNA have ever fought ISIS. Turkey worked with and not against jihadis in Syria.

This is the context behind Turkey's latest adventurism. The opportunity to invade and hold positions inside Syria may have been made possible by the vacuum opened by the US redeployment out of the area but Turkey's ambitions are enduring. It is now waging comprehensive war against both Kurdish civilians and militias and will not stop until the Kurdish population is fully disarmed and subdued (in Syria). In the short term, Turkey seeks to achieve the double objectives of:

Returning Syrian refugees (re: three million) to its new-held territories in Syria—those traditionally populated by Kurds

Increasing the strategic buffer between the more entrepreneurial Iran which is, piecemeal, dissecting Syria and bringing it under the yoke of the Islamic Republic and Hezbollah.

1 See Ahmet S Yayla and Colin P Clarke, 'Turkey's Double ISIS Standard,' Foreign Policy, 12 April 2018. This work is available at: <https://foreignpolicy.com/2018/04/12/turkeys-double-isis-standard/>.

However, in the labyrinthine maze of levantine politics, it is more likely that Ankara's early gains will be met by a string of unpredictable events ranging from new state-to-state confrontations — Russia, Iran, Syria, Israel and most of the Arab world are loathe to allow Turkey to carve out a strategic niche in the porous borderlands — to a renewed wave of Kurdish violence within Turkey itself including a likely spate of terrorist activity. A rereading of Humpty Dumpty may be the most apt book on Erdogan's bookshelf as he dives into the Syrian fray headlong.

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Analysis*

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The Democratization Potential of the Middle Class in Russia

Jan Švec

The paper on the case study of the contemporary regime in Russia questions the classical theory of the positive influence of middle classes on democratization processes. The author introduces arguments for the following three hypotheses. (1) An essential part of the middle class in Russia is dependent on the state, predominantly in the form of employment in the state sector. (2) This dependence is the main reason why the middle class in Russia keeps preserving the status quo. (3) The middle class in contemporary Russia, therefore, does not serve as a support for the democratic transformation of the regime. The author employs a method of statistical data analysis and concludes that the Russian middle class prefers a strong state to individual freedom and expresses deeper support for the state institutions than the lower class. The author offers the explanation based on the strong relations between the middle class and the state in Russia, supported by the data showing that public sector employees are the fastest growing segment of the Russian middle class.

Keywords: Russia, middle class, democratization, transformation.

In 1959, S. M. Lipset highlighted the importance of a developed economy as a crucial factor for the spread of democracy.¹ B. Moore followed with emphasizing the significance of the existence of the bourgeois ('middle class') for the establishment of democratic regimes. One of

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his most cited quotation in the field of political science is 'no bourgeois – no democracy', which comes from his book *Social Origins of Dictatorship and Democracy*.² Moore argues that bourgeois revolutions were necessary for the establishment of democracy. Robert Dahl believes that economic development leads to the formation of the middle class, which subsequently naturally supports democratic ideas and institutions.³ When economic development and the rise of the middle class occur in non-democratic regimes, Dahl evaluates it as destructive rather than beneficial for these regimes.⁴ In 2009, the US non-profit organization Pew Research Center issued the results of a survey which, in line with the previously mentioned works, concludes that the middle class accepts democratic values and human rights more readily than citizens with lower incomes.⁵

However, there are also opposing views, which challenge these modernization theories and point out that the role of the middle class is always dependent on specific political, social, and economic conditions. Based on their analysis of the situation in China, Chen and Lu do not believe that the Chinese middle class is a guarantee of a democratization process. Their survey shows that the middle class in China supports antiestablishment protests less (23 percent) than the lower class (36 percent).⁶ Apart from that, fewer middle-class (25 percent) than lower-class (39 percent) respondents agree with the need for the competition of political parties.⁷ The authors state that there is a link between the individual's dependence on the state and their support of a regime change. In their survey, approximately 60 percent of middle-class respondents are employed in the state sector.⁸ In conclusion of their findings, the authors predict that, at least in the near future, it is highly unlikely that the Chinese middle class will serve as a catalyst for a democratic change in China.⁹ In accordance with these results, Gontmakher and Ross carried out an analysis of opinion polls conducted in Russia. The authors concluded that a significant part of the middle class is loyal to the regime. The reason for this might be a high number of state employees among middle-class members.¹⁰ Similarly, Rosenfeld states that the perception which considers the middle class as a motor of the democratization process in authoritarian regimes ignores the fact that in many contemporary authoritarian regimes, the middle class is the product of the regime and thrives precisely on the opportunities within state institutions and state-owned corporations.¹¹ Steven Fish believes that the contemporary Russian authoritar-

ian regime (Fish uses the term 'Putinism') does not wish to empower society, on the contrary it 'sustains a working class and stateservice bourgeoisie that depend on the ruler for jobs, income, and status'.¹²

The aim of the following paper is to support with further evidence the theories introduced by above-mentioned authors (primarily by Gontmakher, Ross and Rosenfeld) contradicting the classical modernization theory which assume that middle classes in authoritarian regimes serve as a basis for the democratization process. The author introduces arguments for the following three hypotheses: (1) An essential part of the middle class in Russia is dependent on the state, predominantly in the form of employment in the state sector; (2) This dependence is the main reason why the middle class in Russia keeps preserving the status quo; (3) The middle class in contemporary Russia therefore does not serve as a support for the democratic transformation of the regime. The author employs a method of statistical data analysis of several surveys realized in Russia during the last 8 years. Most of the analyzed data were collected by the institutions related to the Russian government: the Russian Academy of Sciences and the Russian Public Opinion Research Center. The reason for relying on these sources is the significantly limited availability of data provided by independent sources. Nevertheless, the author believes that the mentioned government-related sources are still acceptable for the purposes of this paper.

Characteristics of the middle class in Russia

Due to the different methodological approaches in defining the Russian middle class, the estimated size of the middle class varies from 3 percent to 50 percent of the Russian population.¹³ The Russian Academy of Sciences uses the following criteria when examining the Russian middle class: (1) level of education; (2) professional status; (3) income; and (4) selfidentification.¹⁴ In terms of the level of education, the Russian Academy of Sciences considers the middle class as those citizens who have attained at least secondary education. This condition was met by 76 percent of citizens in 2014. The middle-class professional status includes mainly non-manual job positions, such as officials, teachers, entrepreneurs, but also soldiers (61 percent of all employees). While in Western countries we often see that the level of education and professional status might be a sufficient criterion for the characteristics of the middle class, this approach is not transferable to the case of Russia owing to inadequate financial resources in spheres such as

education or health care. It is therefore necessary to take into account also the level of living standards. The Russian Academy of Sciences requires that the income of a middle-class member is not lower than the median in the relevant region, and at the same time, the availability of durable consumption goods is not below the median of the entire Russian population (this condition is met by 73 percent of citizens). The last criterion is selfidentification. To be included in the middle class, it is enough for the citizen to rank his or her social status with more than 4 points on a scale from 1 to 10. All the above-mentioned criteria are met by 42 percent of Russian citizens, who are therefore considered as middle class by the Russian Academy of Sciences.¹⁵ The Russian Academy of Sciences uses relatively mild criteria. For example, in terms of living standards, it relies only on a relative comparison with the entire Russian population. According to the Federal State Statistical Service, more than 63 percent of Russian citizens had a monthly income of less than RUB 30,000 or less than USD 500 in 2016.¹⁶ Hence, it would be probably more appropriate not to rely solely on relative criteria, but to set also an absolute minimum. Notwithstanding this fact, the present research relies significantly on this characteristic because of the wide availability of the data which are based on it.

The Russian middle class has been steadily growing since 2003, with certain fluctuations during the economic crisis. In 2003, a total of 29 percent of the population was categorized as middle-class, whereas it was already 33 percent in 2011.¹⁷ Most middle-class representatives are among younger people. Approximately 60 percent of the middle class consists of people aged between 18 and 40, while the same age group accounts only for 41 percent of the total Russian population.¹⁸ Middle-class representation is stronger in urban areas, although not significantly: 72 percent of middle-class citizens live in larger cities (at least district towns), compared with the 66 percent of the entire Russian population. In general, it can also be said that the further the city is from the regional center, the smaller middle-class representation it has.¹⁹ The structure of the middle class varies by region and depends on the level of social and economic development of the region. There are significant economic differences among Russian regions. For example, the national average monthly income in 2017 was RUB 31,477 (USD 514), but in Moscow it was RUB 61,357 (USD 1,002), in the Nenets Autonomous Okrug even RUB 70,587 (USD 1,152), while in the Tuva Republic, it was only RUB 13,800 (USD 225). The weakest middle class

is in the Far East Federal District, Siberian Federal District, and North Caucasus Federal District; the strongest in the Central Federal District, Volga Federal District, and Northwestern Federal District.²⁰

CEJISS **The democratization potential of protests?**

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Several antiestablishment protests have taken place during the last few years in Russia, with the largest protests in 2011 and 2012 in response to the parliamentary elections and the decision of Putin to stand again for the presidential post. Protests were perceived abroad as a democratization wave triggered by the Russian middle class.²¹ Even though from the “Western” point of view, it may seem that the protests in Russia were democratic, in fact, only a part of the protesters called for a democratic transformation of the regime. Overall, the protesters did not show any specific support for a democratic change.²² Chaisty and Whitefield conducted a survey of the values of protest supporters in 2011 and 2012.²³ They concluded that among those who supported antigovernment protests, there was a larger representation of people who held authoritarian and nationalist values rather than of those with democratic values. The results are similar also the other way around: those who considered democracy the best political system were not more likely to support the protests than others. Many protests were organized and supported by the official opposition, such as the Communist Party of RF, which does not actually threaten the current regime but only seeks changes within the current regime.²⁴

Rosenfeld draws two conclusions regarding the Russian middle-class representatives employed in the public sector: firstly, their protest potential is weaker than among the other members of the middle class; secondly, they have a lesser tendency to promote democratic values. Rosenfeld estimates that state dependence in Russia reduces the likelihood of middle-class protests by 25 percent, even after the statistical adjustment of age, gender, and ideological opinions. Rosenfeld analyzed data from a Russian questionnaire survey on protests in Russia from 2011 to 2013. Only 17 percent of public sector employees protested in September 2012, and a little less (15 percent) in January 2013.²⁵ Moreover, those who protested promoted a reform within the regime rather than a democratic transformation.²⁶ Lankina and Voznaya analyzed data from protests between 2007 and 2012, and their results show that in regions with a high financial dependency on the state, protests occur less frequently and with fewer participants joining them.²⁷ In addition,

according to a survey by the independent organization Levada-Center, the overall protest potential in Russia has fallen sharply. Currently, it is the lowest for the entire monitoring period since 2010. In March 2018, only 6 percent of respondents said they would join a political protest if there was one in their place of residence.²⁸

Jan Švec

Russian middle class and its dependence on the State

Ross draws attention to the fact that the Russian middle class is not monolithic but, on the contrary, very diverse. In relation to the regime support, the greatest difference is between those whose incomes are dependent on the state and those who are paid from private sources. The part of the middle class which is economically dependent on the state tends to support the authoritarian regime more.²⁹ The state prevents protests of this part of the middle class through the 'carrot and stick' method, using rewards and threats. State dependency includes not only payroll but also various other benefits, such as transport allowances, health insurance, access to networks of contacts, to information, as well as illegal enrichment, corruption, etc. These side benefits are not usually available in private sector jobs.³⁰ According to Gontmakher and Ross, more than 50 percent of the Russian middle class works in the state sector.³¹ If we examine the data of the Russian Academy of Sciences on middleclass employment in the state sector versus the private sector, we will find the proof of their statement. The share of the middle class employed in the state sector is significantly greater than that of the rest of the population. More than two-thirds of the core middle class (i.e., higher education, managers or specialists, with basic IT skills) are employed in the state sector (68 percent), while it is somewhat less among the peripheral middle class (43 percent), and not even a quarter among the other population (24 percent).³²

Furthermore, Gontmakher and Ross present data demonstrating that the share of state sector employees in the Russian middle class is growing rapidly. In 2011, almost 77 percent of all managers in the state sector ranked among the middle class, compared to only 33 percent in 2007; while only 39 percent of managers in the private sector were considered as the middle class in 2011, which is a share approximately 4 percent lower than in 2007. The number of civil servants in Russia has been rising steadily since 2012.³³ In 2016, the number of civil servants dropped slightly, but this affected only low-ranking positions; in contrast, the number of senior officials (who are more likely to be

considered middle-class) was rising – for example, the positions of department directors increased by 21 percent.³⁴ The size of Russian bureaucracy has increased significantly in comparison with the period of the Soviet Union. According to the data presented by Chaim Shimar, there were never more than 700,000 state employees in the whole Soviet Union during 1970s and 1980s, while in 2006 the Russian state had about 1.6 million employees, even though contemporary Russia has significantly fewer citizens than the Soviet Union had.³⁵ Moreover, in the case of Russia, not only civil servants but also employees of large corporations, typically in mining and energy companies (which are often state-owned), are financially dependent on the state. At the same time, the influence of the state on the economy has been growing in Russia, and according to some estimates, the state contributes up to 70 percent of the gross domestic product.³⁶

The independent Russian non-profit organization Levada-Center conducted a questionnaire survey in 2011 on the views and preferences of voters of various Russian political parties.³⁷ Let us now compare some answers to the question as to interests of which social class, according to the respondents, are being represented by the strongest Russian political parties (United Russia; Communist Party; Liberal Democratic Party; Just Russia). Approximately onethird of the respondents believe that the ruling United Russia represents federal and regional officials; a similar number of people think that it represents security staff, including the army and the police. In both cases, it is a far greater proportion than for the other political parties. For instance, as for the Communist party or social democratic party Just Russia, only 3 percent of respondents believe that these parties represent security staff. A relatively small number of people (16 percent) consider United Russia to represent the interests of the middle class, yet it is still the highest number when compared with the all remaining political parties. On the other hand, the respondents believe that of the four major political parties included in the survey, United Russia represents the lower class the least – the lower class comprises employees in services, assistants, laborers, poor people, and the unemployed. These data correspond to the fact that the Russian ruling regime relies to a large extent on well-to-do state employees rather than on the lower classes. Statistics from 2011 about the Russian electorate show that 73 percent of the United Russia voters live in cities and 65 percent have at least secondary education.³⁸

The Russian middle class and its views on the authoritarian regime

Let us now compare the results of several surveys conducted by the Russian Academy of Sciences in 2014, which were focused on identifying the values accepted by the Russian middle class. In one survey, the respondents were asked about their preference for 'society of individual freedom' and 'society of social equality'.³⁹ Compared with the other segments of Russian population, the middle class has stronger preference for a 'society of individual freedom'. Nevertheless, this view is held by still less than half of the middle class. Most middle-class members (56 percent) prefer social equality to individual freedom. Another survey shows that the Russian middle class considers freedom more valuable than other segments of the population. Freedom is regarded as something without which 'life does not make sense' by 70 percent of the middle class (56 percent of the other population). Interestingly, almost a third of the middle class (30 percent of the middle class, 44 percent of the other population) believes that material security is the most important concern in life, whereas freedom is secondary.⁴⁰

An overwhelming majority of the middle class prefers collective interests over individual interests.⁴¹ Nine out of ten middle-class representatives state that they partly or completely agree that the government should always prioritize the nation's interests over the individual's interests. With respect to understanding the potential of the middle class for democratic opposition, it is essential to point out that 92 percent of middle-class respondents maintain that the role of the opposition is to assist the government, not to criticize it. Apart from that, more than half of the middle class (51 percent) agrees totally or partially that some conflicts can be resolved only by the use of violence. When the respondents were asked which direction in the development of the country they consider to be desirable, most of them cited 'social justice, equal rights for all, a strong government that takes care of its citizens' (49 percent of the middle class, 56 percent of the other population). More than a third of the respondents (35 percent) wishes for Russia to regain the status of superpower, which is even more than the rest of the population (31 percent). A similar number of people want a 'return to national traditions and to moral values which are already time-tested' (34 percent of the middle class, 32 percent of the other population).⁴² Only one-third of the middle class wishes to focus on human rights and democracy; moreover, only one-tenth of the middle

*Democratization
of the Russian
Middle Class*

class wants to bring Russia closer to the Western countries and towards an integration into the European community. In another survey by the Russian Academy of Sciences, only 32 percent of the middle-class representatives agreed with the 'Western way' of Russia's development. It is more than the rest of the population (24 percent), but still less than a third of the middle class. When compared with 2003, the number has fallen slightly (37 percent of the middle class for the 'Western way' in 2003). The 'Western way' of development is most often supported by young people. The strongest support is among middle-class members younger than 30 years (42 percent).⁴³

The middle class appreciated the changes in some spheres during the previous presidency of Vladimir V. Putin more than the rest of the population. A total of 14 percent of the middle class contended that the economic situation had improved during the previous presidential term of V. Putin, while only 9 percent of the rest of the population held the same view. Most of the respondents stated that the situation remained unchanged (46 percent of the middle class, 42 percent of the other population).⁴⁴ Slightly fewer respondents from the middle class than from the rest of the population believed that the economic situation had worsened. In other spheres, data are only available in relation to the entire population (which includes the middle class). The middle class assessed national standards of living somewhat more favorably than the entire population, 22 percent of the middle class stated that standards of living have improved, while the same stated 18 percent of the entire population. A logical explanation for the more positive evaluation of the economic situation on the part of the middle class might be that the middle-class members are themselves in a better economic position than the entire Russian population. However, when we look at the other data of the same survey, we can see that the middle class is to some degree also more lenient than the other population in the evaluation of the level of democracy and political freedoms in Russia as well as in the assessment of Russia's international position. Only 26 percent of the middle-class representatives believed that democracy and the political freedoms of citizens had deteriorated, while 33 percent of the entire population believed the same. The same numbers are for the assessment of the international position of Russia.⁴⁵ According to the statistics by Petukhov, 34 percent of the entire population believe that there is a contradiction between the ruling power and the citizens, which is a slightly higher number than that for the middle class (32 percent). The respondents

were also prompted to choose from two options: first, 'the current ruling power deserves support despite all its deficits', and second, 'the current ruling power must be changed at all costs'. The results were similar for the middle class and for the total population – both groups favored the first option. The first option was chosen by 73 percent of the entire population and by 75 percent of the middle class. Thus, the middle class showed slightly more support for the current power.⁴⁶

Jan Švec

The state-owned organization Russian Public Opinion Research Center (VCIOM) regularly conducts a survey of public popularity of the state institutions. Respondents indicate, inter alia, in which of the three groups based on their financial situation they would place themselves, the options being: 1) good / very good, 2) average, 3) bad / very bad. From the data of the survey conducted in 2017 it is apparent that respondents who rate their financial situation better often rate the state institutions more positively.⁴⁷ The level of popularity among the three groups varies considerably, in tens of percent. President V. Putin enjoys the highest support and is appreciated by the majority of the representatives of all the three groups. Those in a good / very good financial situation show almost an absolute support for Mr. Putin (93 percent) and the vast majority of those in an average financial situation support Mr. Putin (87 percent). However, 'only' two-thirds (67 percent) of those less satisfied with their financial situation express support for the current president. As to the Russian government, the difference between support of the first group of respondents (75 percent) and the third group (41 percent) is even more pronounced. Similar data are in the relation to the support for the Parliament (Duma). More than half of the first and the second groups show support for the Parliament (66 percent and 54 percent respectively), while slightly more than the one-third of the respondents from the third group (37 percent) declare support for the Parliament. By and large, the group of the respondents who assess their financial situation as average shows a significantly higher support for the state institutions than the last group.⁴⁸ For the sake of clarity, we can add that the middle class would comprise respondents from the second and partly from the first group. The data show that people with a better financial background are more likely to be in favor of the regime, and the support increases in a direct proportion with the better financial situation. According to these data, the biggest threat to the regime seems to be the group that assesses its financial situation as a bad or very bad, that is, the lower class.

Conclusion

According to the results of data analysis, the Russian middle class prefers a strong state to individual freedom; for the members of the middle class, the interests of the individual are less important than the interests of the society. The majority of the middle class regard a strong government and social justice as more important than democracy and freedom. Most middle-class representatives prefer cooperation with former Soviet countries rather than with Western liberal democratic countries. The middle class perceives recent developments in the country more favorably than the rest of the Russian population. Compared to the lower class, a higher number of the middleclass representatives evaluate the Russian state institution in positive terms. These results are related to the fact that a substantial part of the middle class is dependent on the state. Dependence on the state reduces the protest potential of the middle class. The ratio of state employees is significantly higher among the middle class than among the other social layers of the population. Public sector employees belong to the fastest growing segment of the Russian middle class. The results of data analysis of several surveys confirm the arguments introduced at the beginning of this article. The middle class should not be automatically considered as a guarantee of a democratization process in authoritarian regimes. The role of the middle class is always dependent on specific conditions. Where the middle class is substantially linked to the state, it will not seek a change of the regime but will prefer to maintain the status quo. Notwithstanding these results, it can be assumed, in keeping with Rosenfeld's argument that should the state fail to provide stable and secure financial and social conditions for the members of the middle class who are dependent on it, the preferences of this part of the middle class might turn against the regime. Moreover, it should be stated that because of the limited availability of sources, this article relied heavily on the surveys conducted by the institutions related to the Russian government. Hence, the author acknowledges the fact that the reliability of the results might be disputed. For this reason, it would be desirable to conduct further research preferably with the analysis of data from various sources which are independent of the government.



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*Democratization
of the Russian
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From Negative to Positive Peace in Western Balkans

A Case for Eclectic Theory

Miroslava Kulkova

This article analyses a qualitative transformation of relations between the Balkan states since the dissolution of the SFR Yugoslavia in the 90's until 2008. It argues that military presence and interventions of external powers were enough to make the belligerents fold weapons and thus spread the negative peace but did not substantially aid the qualitative transformation of their relations. Evolving cooperation, mutual restraint, and resolution of conflicts by non-military means that we have perceived in the Balkans since 2003 are results of liberal strategies. It argues for the usefulness of eclectic explanations.

Keywords: negative peace, positive peace, transformation, Western Balkans.

As Buzan wrote, all regions started as Hobbesian conflict formation, characterized by instability and violent conflicts.¹ Yet some of them evolved into more cooperative territorial units, with relations among states characterized more by mutual restraint, or even by friendliness with no short-term expectation of use of force.

One of the regions that went through such a qualitative change in the relations among its members is the Western Balkans. In 1991 the Western Balkans was torn with the full-scale war, where the main drivers of security interdependence between states were fear and rivalry. Since the Stabilization and Association Process (1999), we can observe:



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a) increase in effective regional initiatives, some even initiated by the Western Balkan states themselves – like Brdo process, the Migration, Asylum, Refugees Regional Initiative (MARRI) regional forum, or regional commission (RECOM) initiative; b) decrease in the securitization – the declaration of independence was in the case of Croatia in 1991 treated with armed forces, the declaration of independence of Montenegro in 2006 had a peaceful course. Even a controversial unilateral declaration of independence of Kosovo in 2008, though causing serious deterioration of relations in the region, did not end in the violent clashes. Instead, Serbia initiated in the UN General Assembly a resolution that requested non-legally binding advisory opinion of the International Court of Justice (ICJ) on whether the unilateral declaration breached the international law.² These are indicators that states have made arrangements to reduce insecurities among them, they seek security through cooperative means and work on the resolution of mutual conflicts.

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This evolution in the Western Balkans makes it an ideal case to critically evaluate the reach of an eclectic theory of Norrin Ripsman that combines realist and liberal factors to comprehensively describe a regional transformation in two phases.³ Ripsman claimed that factors stemming from realism are crucial to initially pacify the region; however, liberal mechanisms are more important in the second phase to solidify that peace. This article argues that the mechanism that brought about peaceful change in the Western Balkans was inherently liberal. Presence of NATO and the EU troops, although important in the initial phase, did not contribute to the peaceful transformation as much as the offer of future in the EU. It proves on the case study of the Balkan region what Thies claimed in his quantitative analysis of West Africa – that realist factors are the most important for reaching the negative peace.⁴ However, they do not contribute significantly to the qualitative change in the relations among states that characterizes the positive peace. Contrary to the popular opinion that the EU failed in the Balkans it argues that the liberal mechanisms promoted by the EU in the Balkans were crucial for moving from the negative to the positive peace.

The objective of this article is thus twofold – to apply Ripsman's theory to a new case and by that critically evaluate its reach, and to provide a new reading of peaceful transformation of relations in the Balkans in the last decade. This article is divided into two main

parts. In the first part, a theoretical framework is introduced. Peaceful transition is conceptualized and Ripsman's theory is critically evaluated. In the second part, events of the last three decades in the Balkans are analysed in two phases.

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Theoretical framework

Peaceful transition – negative vs. positive peace

There have been numerous attempts in literature to conceptualize a peaceful change in international relations. Various scholars have noticed that mere absence of violence is qualitatively a very different condition than interstate relations characterised by dependable expectation of peaceful resolution of conflicts. Thinking about peace was significantly revolutionized by Johan Galtung, who coined the term *negative peace* and thus created a concept capable of capturing this important qualitative distinction.⁵

Negative peace is conceived as the absence of systematic, large-scale collective violence between political communities (because of lack of resources to continue, restored balance of power or temporary satisfaction with status quo, etc.).⁶ This type of peace is very delicate, and violence can be resumed at any point.

On the other hand, positive peace is a situation, where peace is maintained on a reciprocal and consensual basis.⁷ Conflicts between actors are not yet resolved; however, actors are in the process of their resolution by peaceful means. It is characterized by increased cooperation on common problems. The term positive peace is favoured over stable peace in this research, because the term positive peace better reflects its nature, characterized by cooperation and endeavours towards a positive change in interstate relations. It is not stable, as it can always deteriorate.

Positive peace should not be confused with the (pluralistic) security community. Security community is the most peaceful international order states can achieve. There is a dependable expectation of peaceful resolution of any conflicts between members; they share common norms, values, and political institutions; and they are deeply interdependent.⁸ Last decades have seen a creation of a few security communities – namely the European Union, North America and arguably also the Southern Cone of South America.

This is, however, not yet true for positive peace. Contrary to Kacowicz, who blurs the line between positive peace and security com-

munity, this article clearly distinguishes between these two orders. Positive peace does not mean that the states no longer have conflicts. Rather, they decide to resolve them by cooperative means. Increased cooperation is observable in the growing number of regional initiatives and organizations and in the increased socialization of elites. Neither negative nor positive peace are permanent. Relations can always deteriorate – a region can be characterized by positive peace one decade and negative peace the next decade.

This distinction between the levels of peace has direct consequences for the research. If scholars examine the conditions of peaceful transformation – like Volgy et al.,⁹ Merom,¹⁰ or Ripsman – and do not conceptualize peace in their analyses, it is more problematic to assess when their results are valid. For example, Merom assigns a pacifying role to a major power intervening in the region. But is an intervention of a major power enough to force the belligerents to fold weapons or can it also foster cooperation and trust between former belligerents?

In case of the negative peace, to ascertain its birth is much more straightforward. The negative peace is usually born out of a truce, an armistice, an international military intervention or a similar threshold that marks the end of an armed conflict. In case of a positive peace, it is born more out of a zone of transition instead of a narrow threshold. Deutsch spoke about turbulent zones of transition regarding his security communities.¹¹ This article argues that the same logic also applies to a positive peace.

In 1991 the Balkans was torn with the full-scale war, where the main drivers of security interdependence between the states there were fear and rivalry. Since the end of Kosovo War in 1999 it is possible to speak about a negative peace. This article argues that since 1999 the Balkans has transformed into a positive peace. A clear indicator of this transformation was the declaration of independence of Kosovo in 2008. Even though this highly controversial event caused a serious deterioration of relations in the region, it did not end in the violent clashes. Instead, Serbia initiated a resolution in the UN General Assembly that requested a non-legally binding advisory opinion of the International Court of Justice (ICJ) on whether the unilateral declaration breached the international law. An increase in the number of regional initiatives is also unprecedented in the Balkans. Since 1999 the Balkan countries have cooperated on regional issues via MARRI, RECOM, Brdo process, Adriatic Charter Process, Adriatic-Ionian Initiative, Sava Commission,

etc. They work on the resolution of their conflicts via bilateral talks, like Brussels dialogue between Kosovo and Serbia. Six core Balkan states (minus Croatia, which is already an EU member) meet annually on the Western Balkan Summit, where heads of governments and Foreign Ministers of the six countries are supposed to revitalize multilateral and bilateral ties and work on their accession to the EU. This suggests that between 1999 and 2008, the Balkans transformed into a positive peace.

Ripsman's eclectic explanation of transition to a region of peace

The main IR paradigms all have comparative advantages in explaining certain stages of peaceful transition, yet they are incapable of explaining this complex process in its entirety alone. The main factor in realist theories, power, seems as not an effective tool for pacifying regions.¹² Realists see international order as anarchical with states being generally hostile to each other. Peace is only short-lived. Explanation of a regional change is found in global power politics – like in Mearsheimer,¹³ Merom,¹⁴ and Miller;¹⁵ in the regional balance of power as in Copeland;¹⁶ or in a relative distribution of power as in Taliaferro.¹⁷

Liberal theories seem better equipped to explain a deepening of the cooperation. No wonder, when many such theories were developed on the successful case of a creation of the European Union. The liberal view of regional transition essentially stands on the legs of Kantian tripod – democracy, economic interdependence and institutions.¹⁸ However, each of the legs has already been questioned. Institutions not only create space for states to link issues and solve problems of coordination, but also create rigidities that can become a source of conflict.¹⁹ According to commercial liberal theories, interdependent states are less likely to resort to force to resolve disputes, due to the opportunity costs of force in terms of lost trade and investment. However, an assumption of a pacifying effect of trade is not always found in an empirical world without preconditions. Kupchan's analysis has shown that political reconciliation precedes and clears the way for growing economic interdependence, not vice versa.²⁰ Lastly, democratic peace theory (DPT) has also been questioned numerous times. According to DPT, democratic states are unlikely to wage war against other democracies for institutional and normative reasons.²¹ People perceive democratic states as less threatening than non-democracies and since they bear the costs of war, they are reluctant to use force against them.

Moreover, citizens of democracies perceive other democracies as legitimate and do not support violence against them.²² A pacifying effect of democratization was famously questioned by Mansfield and Snyder.²³ According to their research, democratization is enhancing peace in the long run, but the transition is chaotic and unstable. Bayer also argued in his quantitative analysis that the thesis of democratic peace does not work for the 'lowest level of peace'.²⁴

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Constructivist theories in general stress the role of intersubjective ideas about peace or conflict that regional elites hold over material/structural conditions or distribution of power. The agency, by way of ideas, norms and practices is given considerable significance in the formation and persistence of a given regional order.²⁵ Some authors value a diplomatic practice – common interests are socially constructed through interaction and the social construction of identities.²⁶ Others stress the role of communication and transactions that enable the creation of a common identity.²⁷ Some see regional cooperation, especially in Southeast Europe, as driven by identity politics.²⁸ Yet, constructivists lack a comprehensive theory of regional transition. Apart from Deutsch and Adler and Barnett, who later developed his theory, there is no significant constructivist theory of peaceful transition.

Efforts to explain a regional, or even dyadic transition from conflict to peace via the lenses of realism, liberalism or constructivism did not enable a researcher to see the whole picture. Some scholars tried to combine the strengths of these paradigms to better explain the phenomenon of peaceful change – like Gerges²⁹; Thies³⁰ or Ripsman. Thies showed in his quantitative analysis that the realist path is the most salient for explaining a negative peace.³¹ Liberal and constructivist paths seem to be more important for higher levels of peace and cooperation.

Norrin Ripsman arrived at a similar conclusion in his theory of a two-phase transformation. He argued that a regional peaceful transformation occurs in two phases – first, a realist one (or a phase where factors stemming from realism are more important) and then a liberal phase (where liberal mechanisms play a greater role).

In the first phase, liberal mechanisms are likely to be ineffective absent a determined great power involvement and power relations that compel regional rivals to cooperate. Thus, realist strategies should be employed in the initial period to make stability possible. At a minimum, this entails the active participation

of great powers both to restrain regional actors and to assure them that their regional rivals will not take advantage of them. In the second phase, the post-transition phase, realist factors are less relevant. Instead, democratization and liberal international institutions should be entrenched to help stability endure. This may be a slow process and will require a concerted effort by all those in the region to commit to liberal institutions. Moreover, great power involvement cannot cease until this entrenchment occurs and instrumental trust develops in the region.³²

Ripsman developed his theory on the case of Western Europe, where according to him the phase of realist pacification lasted from 1945 to 1954 and the phase of liberal endurance continued after 1954. Ripsman's theory is clearly formulated but was only scrutinised by John A. Hall.³³ However, he mostly agreed with Ripsman's conclusions and tested it again on the same case – Western Europe. Ripsman's theory is parsimonious and attempts to explain a regional peaceful transformation in an eclectic and comprehensive way. It is worth testing on other cases to critically evaluate its reach and explanatory power.

Although Ripsman's inductive conclusions are innovative, they are not unproblematic. A problem is not the eclectic approach, combining factors and mechanisms from different paradigms, *per se*. Analytical eclecticism, stemming from epistemology of scientific realism, enables that. As Sil and Katzenstein wrote, an eclectic perspective might help to explain a complex phenomenon and even aid in the creation of a mid-range theory.³⁴ Ripsman's theory suffers mainly from a lack of clarity, case selection and missing conceptualization of peace. Although he stated that the realist factors – active participation of great powers in the region – are more important in the first phase, he is not so explicit about their concrete form. What Thies noticed, Ripsman found it difficult to distinguish between liberal and constructivist factors in his analysis.³⁵ Ripsman stated that in the second phase, liberal and constructivist mechanisms are more important for maintenance of that peace. However, as the only constructivist factor, he mentioned altruistic trust, which he himself concluded was not present in the case of Western Europe in the analysed period. Regarding the case selection, he built his theory on one very special case. The integration process of Western Europe is widely considered unique and not easily replicated anywhere in the world. This makes external validity of his outcomes

limited. Lastly, Ripsman did not conceptualize peace in his theory. Did he mean peace of arms or structural integration? This article argues that his two phases are better understood as transition phases to two different levels of peace – the realist phase as a transition to a negative peace and the liberal phase as a transition to a positive peace.

This article looks at the two phases of peaceful transformation observable in the Western Balkans. From 1991-1999, great powers intervened militarily in the Balkans twice and NATO stationed troops in the region. This external intervention suppressed the armed conflict and led to a negative peace in the region, characterized by absence of large-scale political violence. Regional organizations established in the 90's were mostly ineffective in conflict prevention. After 1999 an increase in effective regional organizations and resolution of conflicts by cooperative means is observable. If Ripsman's theory is correct, we should observe realist mechanisms – external intervention by global powers, security guarantees to the Western Balkan states – as having a pacifying effect. Regional institutions, if present, should not have a major impact on the member states. The Western Balkan states should either not be democratic, or their liberal democratic regime should not have a major impact on their trustworthiness for other Western Balkan states. Economic interdependence should not be present. From 1999 to 2008, in the second phase, liberal and constructivist mechanisms should play a greater, more influential role. Democratization, economic interdependence, liberal institutions and trust generated by common identity should transform relations between the Western Balkan states. It doesn't mean the realist factors – like external presence (UNMIK in Kosovo) – are not present. However, these factors should be less relevant, or not having the transformative power. The Western Balkan states are, as demarcated by the EU – Albania, Bosnia and Herzegovina, Croatia, FYROM, Kosovo, Montenegro, and Serbia.

First phase: Making of negative peace in the Balkan Region (1991-1999)

Realist explanation

There were three major powers with interest in the Balkan region that intervened in its affairs since 1991 – Russia, the EU, and the USA. However, these powers differ substantially in the extent of their involvement. Although there have been some elements of concerted great power di-

plomacy vis-à-vis the conflict in former Yugoslavia since 1991, the dominant strategy of the great powers, until summer 1995, was disengagement (or, at most, a relatively low level of involvement which included sending some limited peacekeeping forces, especially from Europe, imposing U.N. economic sanctions on Serbia, the U.N.-declared 'no-fly zone' over Bosnia, and an arms embargo on former Yugoslavia).³⁶ As a result, the conflict continued uninterrupted. European powers seem to have had a high interest in ending the war in Bosnia, at the very least because of their proximity to the conflict, however, it seemed that they still needed the U.S. leadership for carrying out a major military or diplomatic engagement. Yet, the U.S. did not have an intrinsic geopolitical or economic interest in the Balkans. The decisive shift in the pattern of great power involvement in the Bosnian conflict took place in the late August-September 1995, with the U.S. assuming an active dominant role regarding the conflict, mainly because of the growing fear of destabilization at the borders of America's biggest ally and the spreading of vivid images of escalating casualties broadcasted on TVs around the globe.³⁷ Russia at that time was dealing with its own weakness after the breakup of the Soviet Union and Gorbachev's influence over his 'fellow Slavs in Serbia and Bosnia' was strictly limited.³⁸ Nevertheless, Moscow deserves some credit for the diplomacy in Belgrade, which encouraged the transformation of Slobodan Milosevic from warmonger to peacemaker. The USA, Russia, and the EU unified their attitude and ended the Bosnian war with the Dayton Agreement in 1995, thus creating a fragile federal republic of Bosnia and Herzegovina.

Presence of the NATO forces was established with the Security Council Resolution 1088 in 1996, when SFOR mission was deployed to Bosnia and Herzegovina. It was replaced by EUFOR Althea mission in 2004 and multinational troops (mostly from the EU countries) are still present in Bosnia and Herzegovina.

The Kosovo War in 1998-1999 proved that patterns of great power dynamics hinted in the Bosnian War were becoming even more pronounced. The EU once again needed an active American role to intervene although the EU in the 90's carried much of the load regarding a military and economic contribution to the Balkans.³⁹ The USA was reluctant to deploy ground forces and settled for the bombardment of Serbia. NATO bombarded the country without a UN resolution and even outside the framework of consultation with Russia that had been established since 1997. The United Nations Security Council Resolu-

tion 1244 that gave a mandate to NATO-led Kosovo Force (KFOR) and created a United Nations Mission in Kosovo (UNMIK) was adopted on 10 June 1999, on the day the bombardment of Serbia had ended. UNMIK still exists today, but its day-to-day functions are relatively minor since Kosovo declared independence in 2008 and adopted a new constitution.

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The U.S. gradually diminished its involvement in the Balkans, save the humanitarian and economic aid. Regarding the EU, its attitude towards the Balkans until 1999 was irresolute. However, after the conflicts over Kosovo at the end of 1990s, the European Union policies regarding the Western Balkans changed – with the new Stabilisation and Association Process (SAP) that introduced an aim of eventual EU membership for the Western Balkan countries, however ambiguous. After the lukewarm American interest in the region generally supporting the EU position and Russian position in Balkans had weakened, the EU took a more decisive stance and became a major influencer in the region.

Ripsman claimed that the Soviet threat and extended American security guarantees to France were both nearly necessary conditions for the pacification of Western Europe. The Balkans did not face such a highly salient external threat that would catalyse regional cooperation to balance against it. The Balkan nations always feared mainly each other. However, external interventions clearly stopped violent conflicts. Unrelenting western engagement in the region had an undeniable pacifying effect. The NATO and EU security guarantees enabled former enemies to fold weapons and start to cooperate. A European Police Mission EUPOL Proxima in FYROM is a good example of how important the great power's presence was. When EUFOR Concordia mandate was coming to an end in 2003, it was replaced by EUPOL Proxima upon the special request of ethnic Albanian minority in FYROM, that wanted a visible security presence.⁴⁰

Liberal explanation

As Stanev et al. claimed researching the railway development and integration of the Balkans since the 19th century, the economic integration of the Balkans improved most during the periods of strong external influence but stagnated, or even declined, during the periods when the Balkan states enjoyed more autonomy.⁴¹ This suggests that cooperation between Balkan states was not extensive before a new millennium. Looking at the trade figures it is absolutely clear there

was no economic interdependence among the Balkan states in the 90's. There were bilateral connections between geographically adjacent countries – Greece with Albania and Bulgaria, FYROM with FR of Yugoslavia, etc.⁴² However, it was never very significant – by the end of the decade, trade among the then seven Balkan post-communist states accounted for as little as 13-14 percent of their total turnover.⁴³ An economic link with neighbours was relatively more important for post-Yugoslav republics that continued trading with other parts of the former federation; however, trade with the EU was by far more important for every single Balkan country.⁴⁴ Mechanisms of commercial liberalisms were thus not present.

Liberal international institutions were hardly present in the 90's in the Balkans. There were a few exceptions; however, they were not very effective. South East European Cooperation Process (SEEC) was established in 1996 as the only regional organization initiated by the Balkan states themselves. Its impact on the regional affairs was, nevertheless, minimal in the 90's. It hosted only two summits – in November 1997 in Crete and in October 1998 in Antalya. The organization's main document – Charter on Good Neighbourly Relations, Stability, Security and Cooperation in the South East Europe – was adopted four years later after the establishment of organization, in 2000. This implies that during the Kosovo War (1998-1999) this regional organization was dormant and did not serve as a platform for dialogue and regional cooperation. Another important institution established in the 90's – South East European Cooperation Initiative (SECI) – was also founded in 1996 from the initiative of the USA. Its aim was to help provide regional peace and stability among the countries of Southeastern Europe through cooperative activities, and to help the countries integrate into the rest of Europe. Clearly, it did not have any major impact on the pacification of the regional in the 90's, given that it did not prevent the Kosovo war. Only with the launch of Stabilization and Association Process (SAP) in 1999 the EU created an organization with influence over regional affairs.

In Croatia, Serbia and Bosnia, the disintegration of the Yugoslav federation in combination with the demobilization of liberal-minded public through ethnic violence and other factors created highly authoritarian regimes.⁴⁵ Only after the Croatian president Franjo Tudman died in 1999 did Croatian transition to democracy begin. EU rewarded Croatia for formation of pro-democratic and pro-western government

with an opening of negotiations over Stabilization and Association Agreement in 2000. Dayton Peace Agreement, signed in 1995, ended a bloody conflict, but also froze Bosnia's ethnic divisions in place. The accords also bequeathed an extremely complex system of government, which made governance extremely difficult. Parliamentary elections in 2000 were quite important, as support shifted in Bosniak areas from the ruling nationalist Party of Democratic Action (SDA) to Haris Silajdzic's Party for Bosnia and Herzegovina (SBiH) and Zlatko Lagumdžija's moderate Social Democratic Party (SDP). Even though the 2000's Bosnia's elections were freer and fairer than any previous ones and moderate politicians started to receive an increased number of votes, it is premature to speak about functional liberal democracy in Bosnia and Herzegovina. For example, an indicted Bosnian Serb war criminal Radovan Karadžić's Serbian Democratic Party (SDS) was still strong in 2000. Milošević's policies and ethnic cleansing in the first half of the 90's created atmosphere of fear and terror for non-Serbs. His government policies on civil and political rights when serving as Serbian President and later Yugoslav president were controversial. Upon the creation of the Federal Republic of Yugoslavia, Milošević's government engaged in the reforms to the Serbian Penal Code regarding restrictions on free speech, which were seen by critics as highly authoritarian. Milošević resigned the Yugoslav presidency amid demonstrations, following the disputed presidential election of 24 September 2000 and was later arrested and extradited to the International Criminal Tribunal for the former Yugoslavia (ICTY) to face the charges of war crimes. Only after Milošević was replaced by Vojislav Koštunica the EU lifted sanctions against Serbia and FRY was readmitted to the Organization for Security and Cooperation in Europe (OSCE). The Republic of Montenegro was a constituent republic of the Federal Republic of Yugoslavia from 1992 until 2003, together with Serbia. Both countries officially abandoned communism and endorsed democratic institutions. Yet the differences between the republics were clear. Montenegrins demonstrated against the deployment of the Yugoslav army reinforcements in the area in 1999 and Montenegrin government promised to arrest any indicted war criminals who might enter Montenegro, including Milošević.⁴⁶

The Albanian state of the early 1990s, which no longer had the centrally controlled order of communism and which had all the weak state features of a post-communist society, descended into a disillusioned transition process that was certain to collapse – and so it did in 1997 as

a result of the breakdown of fraudulent financial pyramid schemes.⁴⁷ Levitsky and Way defined the regime in Albania in the early 1990's as competitive authoritarian, where formal democratic institutions were widely viewed as the principal means of obtaining and exercising political authority and where, however, incumbents violated those rules so often and to such an extent that the regime failed to meet conventional minimum standards for democracy.⁴⁸

For FYROM, in 1990 the form of government peacefully changed from the socialist state to parliamentary democracy. On 8 September 1991, the Republic of Macedonia held a referendum where 95.26% voted for independence from Yugoslavia. It created a state with two major challenges. The first is that between 21 and 40 percent of the population consists of ethnic Albanians who do not share the language with Macedonians and were not particularly devoted to a newly established Macedonian state.⁴⁹ Two main ethnic groups lived quite separated and the ethnic Albanian minority was discriminated – the only official language was Macedonian, ethnic Albanians were often underrepresented in the positions of power and local Albanians often faced police brutality.⁵⁰ Second, only one of four FYROM's immediate neighbours allowed its citizens to call themselves Macedonians. Greece was the most fervent opposer and held trade embargo against FYROM from 1992 to 1995. FYROM managed to evade the wars of Yugoslavia's succession, but the Albanian refugees from Kosovo in 1999 put strain on the fragile new ethnic cooperation and more than 6,000 NATO troops were deployed to Macedonia to prevent severe eruptions of interethnic conflict.⁵¹ A political transition toward liberal democracy began in FYROM but was stalled by not accepting the notion that rights should be universal and equal.

It is, therefore, clear that liberal theories do not explain pacification of the region at the end of the 90's. Until the mid-90's, some Western Balkan states were authoritarian regimes. Even if they formally stepped on the path toward democracy, they often created conditions of illiberal democracy – where formal elections did take place, but political liberties of citizen or limits of one's power were often not respected. Regional or international organizations had little effect over the Balkan affairs, as their fora were not used to conflict-resolution. Economic interdependence also did not exist among the Balkan states. What led to the establishment of negative peace at the end of the 90's were external intervention and security guarantees by major powers.

Second phase: Towards positive peace (1999-2008)

Realist explanation

According to Ripsman's theory, realist factors should be less relevant in the second phase. Instead, democratization and liberal international institutions should be entrenched to help stability endure. Moreover, a great power involvement cannot cease until this entrenchment occurs and instrumental trust develops in the region.

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EUFOR Althea mission in BiH and KFOR mission are still present in the region. However, the Western Balkans saw no major eruption of violence since the Kosovo war (with the exception of the unrest in FYROM at the beginning of the 2000's, which should be considered as an aftermath of the Kosovo war). The EU's initial involvement based on financial aid for reconstruction and negative conditionality (like sanctions against Serbia) did not bring much fruit. Bilateral relations barely progressed in the post-1997 period. Only with the newly launched Stabilization and Association Process (SAP) in 1999 that offered eventual membership in the EU (albeit ambiguous), a situation in the Balkans slowly started to change.

Military presence and interventions of external powers were enough to make the belligerents fold the weapons, suppress occasional outburst of violence and thus spread the negative peace. However, until the EU changed its approach to the region and offered a detailed plan of democratization and building of regional cooperation in exchange for eventual membership in the EU, the Balkan relations did not progress. A regional cooperation between six western Balkan states barely existed. Security guarantees and external presence thus cannot be accounted *per se* for spreading a positive peace.

Liberal explanation

The Western Balkan states have made many reforms regarding democratization and establishment of the rule of law since the launching of the SAP. These changes are studied as a manifestation of Europeanization because they were part of the long list of requirements each potential candidate received in their individual Stabilization and Association Agreement (SAA). There are many definitions of Europeanization; this article understands it in the notion of Schimmelfenning and Sedelmeier's definition – a process in which states adopt the EU rules.⁵² Vachudova saw two ways in which the EU influences policies of

its potential member states – active (conditionality or carrot and stick) and passive (magnetism or attraction of the EU).⁵³ There are numerous critics of the EU institution-building in the Western Balkans – notably David Chandler or Dušan Reljić.⁵⁴ For the sake of this article it is, however, important that the Europeanization brought entrenchment of liberal institutions and democratization to some extent.

To name just a few reforms, Albania has reformed its justice and the voting system, developed the rule of law and shown a considerable effort in the fight against corruption.⁵⁵ Serbia has significantly improved its fiscal system, liberalized and deregulated prices and foreign trade, and adopted a major Public Administration Reform Strategy in 2004.⁵⁶ FYROM has reformed its police, implemented very strict anti-corruption laws, adopted significant reforms on public prosecutor's office and advanced in the judicial and public administration reform.⁵⁷ Croatia has reformed the justice system and has made progress in the reform of the public administration, has consolidated the rule of law and improved legal framework to combat corruption.⁵⁸ BiH only signed its SAA in 2008 and its complicated political system (a result of Dayton Agreements) put it in the political deadlock in 2008. However, during the 2000's it managed to strengthen the judiciary, implement State Law on Indirect Taxation, successful defence reform or several advancements in the gradual transfer of authority from international to local authorities.⁵⁹

The Western Balkan states also substantively progressed with regional cooperation – one of the requirements of the SAP. Since 1999, we can also see an increase in the establishment of various regional initiatives – Adriatic Charter Process, Adriatic-Ionian Initiative, Sarajevo Declaration, RECOM, MARRI regional forum, Brdo Process, Istanbul Declaration just to mention a few. These were usually initiated by the EU or its member states, or by the United States. With their annually organized conferences they offered a forum for socialization among elites and for problem-solving of common issues. SEECP merged with the EU's Stability Pact and evolved into a Regional Cooperation Council (RCC) in 2008 that has a permanent seat in Sarajevo with mixed staff from all the Western Balkan countries. It works on security cooperation and market development and helps countries to progress in their EU and NATO integration. Even in the controversial case of Kosovo's unilateral declaration of independence, Serbia chose to limit securitization of this act and turned to the UN General Assembly and

later to the EU to solve this problem. The so-called Brussels dialogue between Serbia and Kosovo, sponsored by the EU, evolved from the technical dialogue since 2011 to the political dialogue at the highest level in 2012.

The potential accession to the EU and NATO is a strong motivator for these changes. For example, according to the former Prime Minister of Albania, Sali Berisha, accession to NATO and the EU is the 'biggest project of the Albanian nation this century'.⁶⁰ FYROM and Croatia considered accession to the EU and NATO as priorities of their foreign policy.⁶¹ There is a direct relation between the undertaken reforms and accession to these organization – for example, FYROM's Prime Minister Nikola Gruevski stated in 2006 that to 'intensify Macedonia's integration in NATO, [Macedonia] will continue to strengthen [its] democracy and develop [its] civil society'.⁶² The liberal institutions clearly play a substantial role now in the Balkans. It can be even argued that a regional cooperation the EU and NATO accession initiated, started to have a value of its own. For example, Albania, FYROM and Croatia actually increased interaction and cross-governmental cooperation via Adriatic Charter during summer 2005, when NATO temporarily halted membership aspirations.⁶³

Regarding democracy – an important leg of the Kantian tripod and a vital part of the EU conditionality – it is not as entrenched as Ripsman would expect in this phase. According to Freedom House's comprehensive assessment, the level of democracy in seven Western Balkan countries has not significantly changed since 2001 (except for Kosovo). Croatia, Serbia, Montenegro, and FYROM are semi-consolidated democracies; Albania and Bosnia and Herzegovina belong to transitional governments and hybrid regimes. As part of the EU conditionality, the Western Balkan countries are engaged in the transition to democratic regime and development of democratic institutions; however, democracy is not consolidated. In Table 1 we can see that their overall level of democracy oscillates around the middle values (1=most democratic; 7=least democratic). A problem is usually not the electoral process, but high corruption and low independence of judicial framework. Local governance is usually more democratic than national.

Bertelsmann Transformation Index for 2010 indicated that only Croatia and Serbia qualify as democracies, whereas all the other Balkan states may be collectively described as defective democracies: they

hold relatively free elections but fall short of adequately ensuring political and civil rights or the effective separation of state powers.⁶⁴

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Table 1

Country	Democracy Score 2003	Democracy Score 2005	Democracy Score 2008
Albania	4.17	4.04	3.82
BiH	4.54	4.18	4.11
Croatia	3.79	3.75	3.64
FYROM	4.29	3.89	3.86
Montenegro	N/A	3.79	3.79
Serbia	N/A	3.75	3.79

Source: Freedom House, Nations in Transit Annual Reports, <https://freedomhouse.org/>.

As for the economic interdependence, the institutional base is available – CEFTA, but the real integration is below its potential. Croatia joined this originally Central European Free Trade Agreement in 2003, FYROM followed in 2006 and the rest of the Western Balkan countries joined in 2007. The data are not available for the first years of cooperation, but Moraliyska counted a regional trade index for each CEFTA member for 2012 and the results were a little disappointing. Montenegro trades most with neighbouring countries (index of 0.48), followed by Serbia (0.32) and Bosnia and Herzegovina (0.27).⁶⁵ Albania and Bulgaria have an index below the average level – 0.10 and 0.04, respectively, which means that they have only slightly integrated their trade into the regional trade. The reason can be that the Western Balkans economies are quite small and similar in terms of production, which makes trading complicated.

Liberal factors did play a more significant, transformative role in the second phase. Commercial liberalism theses are not salient in case of the Western Balkans. Democratic peace theory also does not apply to the Balkans perfectly, given the fact that most of the Western Balkan democracies were deficient in 2008. However, it is important that all the actors aimed for democracy because dissimilar regimes do not develop higher levels of trust and cooperation easily.⁶⁶ The experience of

setting up similar democratic domestic institutions (through the socialization by the external actors) made the Balkan states inclined to consider each other as 'not-threatening', and hence as sceptically trustful potential partners.⁶⁷ However, membership in the liberal international institutions – both the regional ones and aspiration to join the EU and NATO – proved to have crucial impact on the Balkan states. Magnetic lure of the western structures made the Western Balkan states willing to reform domestic institutions and cooperate. Moreover, constant socialization of the Balkan elites through the EU and regional initiatives helped to establish a positive path-dependency – political elites 'got used' to solving problems by cooperative means.

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Conclusion

This article has argued that although great powers significantly accounted for the end of the wars that devastated the Balkan region in the 90's, the realist strategies alone did not change the quality of relations between the Balkan states. Using an eclectic theory of Norrin Ripsman (2005) it has tried to prove that the actual mechanism that transformed the character of relations in the Western Balkans was liberal. The allure of the EU membership strongly motivated the states to democratize their domestic institutions and work on regional cooperation. An increased socialization enabled political elites to perceive each other as non-threatening and develop a short-term expectation of non-use of force.

Ripsman's theory proved correct in general. In the first phase, liberal mechanisms are likely to be ineffective without a determined great power's involvement that compels regional rivals to cooperate. They are important to restrain regional actors and to assure them that their regional rivals will not take advantage of them. However, the security guarantees alone do not have the transformative power. Democratization, but even more importantly liberal international institutions, proved crucial in the second phase.

However, Ripsman's theory should be improved in one important aspect. Ripsman measures entrenchment of peace by trust that has spread among the nations. This article based on the Western Balkan case study argues that mutual trust among peoples is not a necessary condition for the spreading of positive peace. Liberal institutions, democratization and political reconciliation are necessary. States can work on a common goal without their citizens altruistically trusting

each other. However, this article suggests there is a third phase, characterized as a Deutschian security community, where states no longer expect to use violence against each other. To reach that phase, the socialization and trust must spread not just among elites, but among the citizens as well.

It would be interesting to test Ripsman's theory on a region, where great powers did not intervene or where they were not as active as in the case of Western Europe and the Balkans. The Balkan case study suggests that liberal mechanisms play a more important role in the transformation towards a positive peace and they would arguably be even more crucial in the regions where the peaceful transformation began from the initiative of the regional states themselves.

This article also argues for the usefulness of analytical eclecticism in the explanation of conflict transformation and evolution of cooperation. Previous efforts to explain regional, or even dyadic transition from conflict to peace via the lenses of realism, liberalism or constructivism did not enable a researcher to see the whole picture. Eclectic explanations might enrich our understanding of these complex processes much more deeply and comprehensively.



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Trends in Investment Treaty Making

Finding Balance between National Sovereignty and Investment Protection

Martin Karas

The debate over the prevalence of nation states as the main actors in the international arena has been going on for the past 40 years. This article focuses on a single aspect of the debate, namely the national sovereignty of states within the neoliberal investment regimes. The argument I make in this article is that while investment treaty-making in the past contributed to limiting the sovereign powers of governments in the domain of investment regulation, recent trends suggest that the states are actively seeking to increase their regulatory space. In order to demonstrate this, I develop a theoretical framework based on the competing concepts of “right to regulate” and “investment protection”. This framework is subsequently used to compare investment treaties signed in the 1990s with some of the most significant recently signed investment agreements. The analysis shows the way in which the more recent investment treaties increase the regulatory space of the states, which strengthens their national sovereignty.

Keywords: sovereignty, investment protection, right to regulate, investment treaties, regulatory space.

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Investment protection and right to regulate as part of the discussion on national sovereignty in a globalized world

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A lot has been made in the past decades of the perceived waning of national sovereignty in the globalized world. Competing theoretical conceptions argue over the degree to which the nation state remains the most powerful actor in world affairs in light of the growing influence of international organizations and transnational corporations. This article examines one aspect of the modern investment regimes that can be seen within this framework, foreign investment. Investment has been the main order of the day since the neoliberal turn in the global economy in the 1980s. Proliferation of investment treaties reached its peak in the 1990s. These investment regimes characterized by an accent on investment protection have since come under increased criticism from different angles. Countries importing capital have recently been reevaluating their position towards foreign investment in reaction to a significant amount of irresponsible foreign investment and the ever-growing number of costly investment arbitration cases¹ that have plagued countries that have tried to regulate their investment environment. The main reaction came on the level of treaty-making with states radically changing the language and provisions of their newly signed investment treaties in the last decade.

This article argues that the most recent trends in investment treaty-making go against the current of marginalization of the nation state by enlarging the regulatory space of governments and thus limiting the effects of investment protection regimes on national sovereignty. From the other point of view, my argument is that the ability of investors to invest abroad and initiate arbitration against foreign governments is being limited to a greater degree than was the case in the past.

In order to conceptualize the evolution sketched out in the previous paragraph, I will be making use of the concepts of “right to regulate” and “investment protection”. These concepts are related to the space that states enjoy regulating without outside interference. International investment regimes limit this space by making regulation either impossible, or extremely costly. I will perform a content analysis of treaties signed in the 1990s and compare the results with the same analysis for some of the most important recently signed investment treaties. I will be tracking the evolution of the provisions related to the concepts to the right to regulate and investment protection in order to show that the current treaties increase regulatory space of the

government, thus extending their sovereignty. The traditional theory of national sovereignty affirms the supreme authority of the state on the level of government regulation that is free from outside forces. Investment protection and arbitration is an infringement on national sovereignty in so far as it represents an outside influence on governmental decision-making. At this point, I would like to stress that the use of words as “infringement” or “negative impact” on sovereignty are not used in a normative sense. They simply refer to a particular state of affairs elucidated in the article.

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Right to regulate and investment protection in scholarly literature

In this section, I will define the key concepts and develop the theoretical framework for my analysis. The framework that is elucidated below can be visualized as a spectrum with investment protection and arbitration provisions on the one side (limiting national sovereignty) and the right to regulate provisions (extending sovereignty) on the other.

There are three main concepts that need to be clearly defined in order to achieve the goals set out in the previous chapter: investment protection, national sovereignty, and the right to regulate. For the purposes of this paper, we will be using a common-sense, purposeful and tailored definition of national sovereignty. National sovereignty of a state will be regarded as the ability of a legitimate government to regulate investment environment within its borders. This definition is derived from the Westphalian conception of sovereignty as defined by Krasner, which assumes that full sovereignty means a distinct lack of other authority over the state than the domestic authority.²

The first instance where the sovereignty of the state defined in this way is infringed upon in the system of international arbitration is the general property of arbitration taking place on an international level, leaving the state without juridical competence in the cases of investor-state dispute settlement (ISDS). This, however, is not going to be part of the subject of this article. This article is interested in the sovereignty of the state in relation to the concept of right to regulate³, whose evolution in the investment treaties will be used to track the evolving understanding of the nations of the preferred balance between national sovereignty and investor protection.

Right to regulate refers to the ability of a sovereign state to enact policies and adopt regulatory measures. If we look at the literature that

deals with investment arbitration, we find that this concept is one of the most discussed topics in the field. For this article, I will be using a wide conception of the “right to regulate”, which means that I will not only be talking about the *ability* of the states to regulate their investment environment, but I will also be interested in the ways in which investment arbitration as set out in international investment treaties affects the *willingness* of states to regulate in public interest. For example, while an investment treaty might enable the states to expropriate an investment for a fair compensation, this compensation might deter the states from such regulatory measures, thus representing an outside influence on their decision-making. This is sometimes referred to as the *regulatory chill*⁴ phenomenon, and it represents a research topic for international investment arbitration scholars. To elucidate the concept further, we can use the oft-cited example of the Phillip Morris campaign against plain packaging laws in Uruguay, when some of the ministers indicated that government might reverse parts of the legislation to avoid the claim from the foreign investors.⁵ Under my definition of national sovereignty this represents an instance where the sovereignty is being infringed upon.

This wider conception that includes the influence of investment arbitration on the willingness of the government to regulate is consistent with scholarly literature. It can be seen as early as 2004 in an OECD paper, which states: “The question that arises is to what extent a government may affect the value of property by regulation, either general in nature or by specific actions in the context of general regulations, for a legitimate public purpose without effecting a ‘taking’ and having to compensate for this act”.⁶

Arbitral tribunals also recognized the issue of whether the investment regimes ought to provide space for regulatory measures affecting the value of investment without necessitating compensation, as in the case of *Feldman vs Mexico*, when the tribunal asserted: “Reasonable governmental regulation of this type (environmental protection, tax regimes, zoning restrictions,...) cannot be achieved if any business that is adversely affected may seek compensation...”⁷

Finally, Dolzer and Stephens, prominent investment arbitration scholars, also identify the issue by pointing out that: “... for the host state, the definition (of indirect expropriation for which no compensation is needed) determines the scope of the state’s power to enact legislation that regulates the rights and obligations of owners in in-

stances where compensation may fall due. It may be argued that the state is prevented from taking any such measures where these cannot be covered by public financial resources”.⁸ This passage is key to understand how the question of regulatory chill relates to the issue of national sovereignty. By using the expression *prevented* in the last sentence, Dolzer and Stephens explain most clearly how the issue of indirect expropriation with or without compensation is an issue that falls within the conception of the “right to regulate”. What this means for this article is that provisions that enable states to regulate without needing to compensate affected foreign investors are situated on the side of the spectrum that has at its limit a full sovereignty of the state over its investment environment.

On the other side of the theoretical spectrum, we have the investor protection provisions, representing the side of the spectrum where the state is not able to regulate at all whenever such regulation would affect the value of a foreign investment. These provisions include most importantly fair and equitable treatment, but also national treatment, most favored nation treatment and market access provisions. Additionally, investment protection includes arbitration provisions that enable investors to sue governments in instances of treaty breach. It is obvious that both ends of the spectrum are not parts of the real world and are mentioned here only for theoretical purposes.

This brief overview of the “right to regulate” sets the theoretical background against which the investment treaties will be analyzed. In practice, this means that specific provisions of the analyzed investment treaties will be evaluated based on their effects in relation to the ability of the states to regulate their investment environment without outside influence. I will take full investment protection as the basis, and I will first analyze the patterns of provisions that carve out some regulatory space for the states in the investment treaties from the 1990s. In the second part of the analysis, I will do the same for the most important newly signed treaties and then I will evaluate the results against the discussion of national sovereignty in the globalized world. The goal is not simply to come to an answer to whether the newly signed treaties increase the sovereignty of the state over its investment environment, but also to identify the specific ways in which this is done.

Methodology for comparing investment treaties based on the amount of regulatory space afforded to the State

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For this article, I used qualitative content analysis in order to trace the evolution of the concepts of right to regulate and investment protection in international investment treaties. Qualitative content analysis is a flexible methodology usable for analyzing text data⁹. It defers from traditional content analysis by not simply counting the words in the text, thus losing a certain degree of objectivity, but creating, refining or comparing categories in the text with similar meanings through the process of coding, thus gaining analytical depth. For the purposes of this article, we can define qualitative content analysis as a research method for interpretation of the content of text data through the systematic classification process of coding and identifying themes or patterns.¹⁰ I will be using this methodology to identify patterns of development of the concept of “right to regulate” in investment treaties from the 1990s until today. I will use deductive logic for my content analysis, which means that I will be importing existing theoretical categories, more specifically, the concept of the “right to regulate”, which is well-defined within the theoretical framework of investor protection and investment arbitration which was presented in the previous chapter.

The sample of the text for the content analysis contains two groups. First is a convenience sample of investment treaties from the 1990s. The concept of the right to regulate in these treaties will be contrasted against the conception of right to regulate in the most important recent investment treaties: The Comprehensive Economic and Trade Agreement (CETA) and the China-Australia Free Trade Agreement (CHAFTA)¹¹, which together represent the second group. The convenience sample for analysis of the conceptualization of the right to regulate in the investment treaties from the 1990s will be represented by 20 bilateral investment treaties. The sampling process consisted of selecting the most varied investment treaties with the goal to get a sample relevant for the purposes of this article. Therefore, the sample includes treaties signed between countries from different geographical areas and with different development status, as well as treaties between countries from the same geographical areas and with the same development status. Also, I selected treaties between capital exporting and capital importing countries as well as between two capital exporters. The complete sample of the BITs from the 1990s analyzed in this article

is as follows: Nigeria – United Kingdom (1990), Argentina – USA (1991), Australia – Indonesia (1992), China Uruguay (1993), Poland – Singapore (1993), Bulgaria – Netherlands (1994), Netherlands – Peru (1994), China – Indonesia (1994), Cuba – South Africa (1995), Slovenia – Switzerland (1995), India – Italy (1995), Israel – Kazakhstan (1995), Hungary – Slovenia (1996), Turkey – Iran (1996), Chile – Korea (1996), Morocco – Spain (1997), Austria – India (1999), Czech Republic – Paraguay (1998), Egypt – Slovenia (1998), Czech Republic – El Salvador (1999).¹²

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As for the analysis itself, I will be selecting parts of the sampled text that refer to the preestablished categories of “right to regulate” and “investment protection” and based on the analysis of these parts of the sampled text, I will identify main patterns of conceptualization of these two concepts in the investment treaties from the 1990s on one hand, and in the CETA and the CHAFTA on the other. The relevant parts of the text referring to the concepts of right to regulate and investment protection will be evaluated within the theoretical framework which puts national sovereignty on the one side, and investor protection on the other side of a spectrum. This ought to enable me to make some relevant observations about how the investment treaties relate to the wider discussion on national sovereignty in a globalized world.

Right to regulate and investment protection in bilateral investment treaties signed in the 1990s

In this part of the article, I present the results of content analysis of a convenience sample of twenty investment treaties signed in the 1990s. Content analysis of the selected bilateral investment treaties shows a remarkable level of homogeneity in terms of wording in relation to the preestablished concept of the right to regulate. The analysis shows that the regulatory space of the states entering investment treaties between 1990 and 1999 is limited. With almost no exception, the only provision that grants countries the ability to regulate their investment environment is the expropriation clause, which grants the states the right to expropriate a foreign investment under certain conditions. These conditions vary slightly between the treaties, but generally, two conditions must be met: 1) the investment is expropriated for a legitimate public purpose, 2) and against a fair compensation equivalent to the fair value of the expropriated investment immediately before the expropriation measures were taken.¹³ Other treaties include one or two more conditions for expropriation, namely: 3) the measures are

neither discriminatory nor in contradiction with any obligation which the Contracting Party that takes such measures may have entered into by virtue of an agreement, and 4) measures are taken under due process of law¹⁴.

CEJISS
3/2019 One interesting deviation to the homogeneity of investment treaties signed in the 1990s is a provision explicitly prohibiting the contracting party (state) to exercise their immunity in ISDS cases. The provision states: “The Contracting Party which is part of a dispute, at no time during the proceedings, shall be able to make use of its immunity for its defense.”¹⁵ Even though this provision is interesting in the context of this paper, investment arbitrators generally don’t take into account arguments based on sovereignty or immunity of the state (unless explicitly allowed by the treaty, see further below), thus making this provision superfluous.

The China – Uruguay (1993) treaty also represents a deviation from the other treaties, by limiting the access to investor-state dispute resolution mechanisms to matters related to determination of the amount of compensation for expropriation.¹⁶ This increases the regulatory space for the states in that the regulatory measures cannot be reversed by an international ad hoc tribunal, only by a domestic court (where investor-state dispute resolution is permitted by this treaty). The sovereignty of the state is therefore only limited by the compensation necessary for direct or indirect expropriation. Additional research into this type of an investment treaty shows that these provisions are typical for Chinese investment treaties signed in the 1990s. This makes sense from the point of view of China as a capital importer keen to protect their sovereignty in the matters of government regulation.

On the other side of the theoretical spectrum presented previously, we have the investment protection provisions. All the treaties that were analyzed contain the fair and equitable treatment provision. All the treaties also contain the most favored nation treatment provision (or an equivalent provision). There are some treaties that do not contain the national treatment provisions.¹⁷ What is interesting in the context of comparison with the recently signed treaties analyzed in the next chapter, treaties signed in the 1990s do not contain market access provisions and therefore do not deal with the pre-establishment phase of investment. This represents a factor increasing sovereignty of the state, since the state thus retains the ability to reject foreign investments on their own account.

We can therefore conclude that bilateral investment treaties signed in the 1990s are characterized by their conformity in relation to provisions affecting the right to regulate of governments. The main provisions guaranteeing this right are the expropriation provisions which enable states to expropriate foreign investment for appropriate compensation. This is a very limited conception of the right to regulate, which only affords a limited regulatory space to government in the post-establishment phase of investment. On the other hand, these treaties lack market access provisions, which is an area where governments retain their sovereign powers.

Right to regulate and investment protection in recent investment agreements

In this part of the paper, I present the results of a content analysis of two of the most significant recently signed investment treaties, namely the CHAFTA and CETA. CHAFTA is a free trade agreement between China and Australia, signed in 2015, which eliminates most of the tariffs for exports and liberalizes market access for Chinese investors. The importance of CHAFTA for the global economy lies not only in the sheer volume of trade and investment between the two countries, but also in what it says about investment treaty-making of China, as the emerging global investment player. It is worth noting that the deal leaves a significant amount of provisions open for further negotiation and subject to a review process. Fortunately, the chapters relevant for this paper are virtually all closed. CETA is a free trade agreement between the European Union and Canada, which was signed in 2016, and which is currently provisionally applied until the ratification process is completed. Its stated purpose is to liberalize trade and investment between the EU and Canada. Its importance for this article rests on the fact that it is often touted as one of the most progressive treaties regarding investment, and investment arbitration in particular. What we can observe in both of these treaties is a definitive move towards increasing the regulatory space for states. At the same time however, market access provisions limit sovereignty to a certain degree in the pre-establishment phase of investment.

What these two treaties have in common when it comes to provisions related to the concept of the right to regulate, they both contain provisions on expropriation very similar to provisions that we were able to see in the “older” treaties from the 1990s.¹⁸ However, these treaties are much

more expansive when it comes to clarifying the relationship between investor protection and regulatory space afforded to governments.

First, both treaties contain explicit affirmations of the right of states to regulate in public interest. The respective provisions are formulated as follows: “the Parties reaffirm their right to regulate within their territories to achieve legitimate policy objectives, such as the protection of public health, safety, the environment or public morals, social or consumer protection or the promotion and protection of cultural diversity”¹⁹ for CETA, and “...nothing in this agreement shall be construed to prevent a Party from adopting or enforcing measures: a) necessary to protect human, animal or plant life or health; b) necessary to ensure compliance with laws and regulations that are not inconsistent with this Agreement; c) imposed for the protection of national treasures of artistic, historic or archaeological value; or d) relating to the conservation of living or non-living exhaustible natural resources”.²⁰ These provisions are more or less in line with the conception of the right to regulate that we could see in the “older” treaties. The only difference is that this explicit affirmation of the right of states to regulate leaves less room for interpretation on the part of the tribunals.

Second, and most importantly, when it comes to expropriation, both CETA and CHAFTA include a provision which specifies the conditions under which a breach of treaty cannot be claimed by an investor, thus limiting the access of investors to investment arbitration. The respective provision are very similar and read as follows: “...the mere fact that a Party regulates, including through a modification to its laws, in a manner which negatively affects an investment or interferes with an investor’s expectations, including its expectations of profits, does not amount to a breach of an obligation under this Section,”²¹ for CETA, and, “...measures of a Party that are non-discriminatory and for the legitimate public welfare objectives of public health, safety, the environment, public morals or public order shall not be the subject of a claim under this Section” for CHAFTA.²² These provisions represent the most modern approach to treaty-making, and at the same time significantly increase the sovereignty of the state in the field of investment regulation, by allowing the state to take investment regulation measures without having to compensate foreign investors for their losses in cases where the government is able to demonstrate that a non-discriminatory measure that affected the value of a foreign investment is in legitimate public interest.

The provision in CETA, which is not as deliberate and specific as the one in CHAFTA is further clarified in the annexes, where the signatories elaborate their position on what constitutes indirect expropriation, once again limiting the access of investors to arbitration in cases where legitimate public interests come into play. The annex specifies that: "...non-discriminatory measures of a Party that are designed and applied to protect legitimate public welfare objectives, such as health, safety and the environment, do not constitute indirect expropriations".²³

On the other side of the theoretical spectrum defined previously, when it comes to investment protection, both treaties contain all the usual provisions (FET, MFN, NT). The area in which the treaties differ are the market access provisions, which are present in CETA, but are largely absent in CHAFTA and the treaties from the 1990s. In this area, CETA prohibits the countries from adopting specific measures limiting market access, although it also makes sure to identify areas, such as zoning and planning, or conservation and protection of natural resources and the environment, where market access measures remain available to states²⁴. In CHAFTA, market access provisions are present, but limited and disproportionate. This has to do with the fact that the investment chapter of CHAFTA is pending review, based on which a comprehensive investment chapter ought to be signed, presumably containing more extensive market access provisions. At this point in time, CHAFTA's market access provisions are limited to the commitment of Australia to increase their limits for investment screening mechanism²⁵.

We can therefore conclude that the regulatory space for governments is significantly improved in the recently signed treaties as compared with the treaties signed in the 1990s, which can be seen most clearly on the post-establishment phase of investment, where the space for regulation in legitimate public interest has been increased by limiting the access of investors to investment arbitration in these cases. The analysis brings a different outcome for the pre-establishment phase, where the sovereignty of states is limited in the new treaties by market access provisions. On the other hand, the provisions in CETA (and CHAFTA) still enable countries to regulate market access to a large degree through screening mechanisms.

Conclusion

This article was interested in regimes of investment arbitration in the context of the debate on national sovereignty in a globalized world economy. It has used qualitative content analysis in order to identify the main patterns in investment treaty making by comparing a sample of 20 investment treaties from the 1990s with two of the most important treaties signed in recent years: CETA and CHAFTA. These two samples were scanned for provisions related to the concepts of right to regulate and investment protection, and the relevant parts of the text were evaluated in terms of their implications for the national sovereignty of the states in relation to their ability to regulate their investment environment. The results of the analysis show that the more recent treaties deal with the issue of regulatory space much more extensively and in more detail. Although the new treaties extend investment protection to the pre-establishment phase of investment, these provisions still leave the governments with significant powers in relation to market access through screening mechanisms. Furthermore, the regulatory space is significantly increased in the most recent treaties, especially through introduction of provisions making it possible for states to indirectly expropriate investments without compensation for a legitimate public purpose. In the context of the discussion over the importance of the nation states as actors in the international system, this analysis shows that in the domain of investment arbitration, states have recently been able to wrangle a certain level of sovereignty back from the transnational arena represented in this case by corporations and investment tribunals, by extending their regulatory space through more careful and detailed drafting of investment treaties.



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Notes

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- 2 Stephen Krasner (Ed.) (2001), *Problematic Sovereignty: Contested Rules and Political Possibilities*. New York: Columbia University Press. Retrieved from <http://www.jstor.org/stable/10.7312/kras12178>, p. 11-12.
- 3 For a more detailed analysis of the right to regulate, see V. Korzun (2016), *The Right to Regulate in Investor- State Arbitration: Slicing and Dicing Regulatory Carve-Out*, The Fordham Law Archive of Scholarship and History, S.J.D. Dissertations.
- 4 For more on regulatory chill, see Christian Tietje and Freya Baetens (2014), *The Impact of Investor-State-Dispute Settlement (ISDS) in the Transatlantic Trade and Investment Partnership*, Study prepared for the Minister of Foreign Trade and Development Cooperation, Ministry of Foreign affairs, The Netherlands, or Kyla Tienhaara (2011) *Regulatory chill and the threat of arbitration: a view from political science, Evolution In Investment Treaty Law And Arbitration*, Chester Brown, Kate Miles, Eds., Cambridge University Press.
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- 6 See OECD (2004), "Indirect Expropriation" and the "Right to Regulate" in International Investment Law. In *OECD Working Papers on International Investment*, 2004/04, OECD Publishing. <http://dx.doi.org/10.1787/780155872321>, p. 2.
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- 9 Cavanagh, S. (1997), Content analysis: concepts, methods and applications. *Nurse Researcher*, 4(3), 5-16.
- 10 H. Hsieh and S. Shannon, (2005), Three Approaches to Qualitative Content Analysis, in *Qualitative Health Research*, 15(9), P. 1278. Also see for a more detailed description of approaches towards the qualitative content analysis.
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- 12 Agreement between the Government of the Federal Republic of Nigeria and the Government of the United Kingdom of Great Britain and Northern Ireland for the Promotion and Protection of Investments, Nig.-UK., (signed 1990), UK Treaty Series No. 66. Treaty between United States of America and the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment, USA-Arg., (signed 1991), Senate Treaty Documents. Agreement Between The Government Of The Peoples' Republic Of China And The Government Of The Oriental Republic Of Uruguay Concerning The Encouragement Of Reciprocal Protection Of Investments, Chin.-Ur., (1993). Agreement Between The Government Of The Republic Of Singapore And The Government Of The Republic Of Poland On The Promotion And Protection Of Investments, Sin.-Pol., (1993), Republic Of Singapore Government Gazette Treaties Supplement No. 1. Agreement between the Government of Australia and the Government of the Republic of Indonesia concerning the Promotion and Protection of Investments, Aus.-Indo., (1992), Australian Treaty

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13 See for example China – Indonesia BIT (1994), art. VI.

14 See for example Hungary – Slovenia BIT (1996), art. 5.

15 See Czech Republic – El Salvador BIT., (1999), art. 4.

16 China – Uruguay BIT (1993), art. 9(3).

17 See for example Indonesia – China BIT (1994).

18 See Comprehensive Economic and Trade Agreement (CETA), (signed 30 October 2016), Can.-EU, available at <http://ec.europa.eu/trade/policy/in-focus/ceta/>, art 8.12(1), CHAFTA has provisions on expropriation as part of the future work program, but it can be assumed that it will contain these general provisions.

19 CETA, (2016), art. 8.9(1).

20 Free Trade Agreement Between The Government Of Australia And The Government Of The People's Republic. Of China (CHAFTA), (signed 2015), Aus.-China, available at <http://dfat.gov.au/trade/agreements/in-force/chafta/official-documents/Pages/official-documents.aspx>, art. 9.8(1).

21 CETA, (2016), art.

22 CHAFTA (2015), art. 9.11(4).

- 23 CETA, (2016), annex 8-A, art. 3.
- 24 CETA (2016), art. 8.4.
- 25 CHAFTA (2015), annex III.

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Unregulated Migration and Nigeria-EU Relations

Kingsley Emeka Ezemenaka

This article presents the social and political causes of Nigeria-EU migration issues concerning unregulated migration that has been affecting the EU. This was done through qualitative and quantitative methodology, which includes interviews, data gathering and documentary analysis. From the findings and discussion, the article submits that the main problems frustrating the effort of the EU interventions on migration is the political situation of Nigeria. If the political sphere in Nigeria is not addressed in a proper way by eradicating numerous vices that undermine the economy and security through corruption, granting and assisting funds by the EU will be a superficial solution. It also presents the unconventional neo-vectors of migration and concludes that, since migration is a part of the human right through freedom of movement, which is also enshrined in human security, migration issues therefore cannot be exterminated through the building of migration centres. However, they can be reduced, if there are effective collaborative efforts by the Nigeria-EU relations in conjunction with other African states through strong border controls and enabling development as a precursor to addressing migration problems.

Keywords: migration, Nigeria, EU, Africa, population, human security.

Introduction

Migration is a continuous process that has been the subject of political debate worldwide. ¹ Over the past decade, concerns have been raised regarding the huge influx of migrants from Africa to Europe, which in-

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cludes staggering numbers of Nigerians arriving via the central Mediterranean Sea that connects Libya to Italy; and on arrival, Italy becomes a conduit for dispersal into other European countries. Italy is not the only point of entry to Europe, but it also serves as an entry point for thousands of migrants.² The issue of migration is a worldwide phenomenon, as evidenced in Latin America, where it has resulted in an outburst from the United States President, Donald Trump, who has committed to building walls to keep migrants out of the United States of America³ and in Britain, where it was also purportedly a cause of Brexit.⁴

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Regulated migration is by no other means a system created by a state in order to monitor the flow of people's movements in and out of a state. This is done through immigration channels. With this, proper documentation and information is available for the state in decision making concerning security and economy. While unregulated migration in simple terms are undocumented or illegal movement of people to a desired country or region, which is triggered by so many factors. For instance, the waves of migrant flow which is presented as a response to persecution, war⁵, and economic migration are caused by exponential population growth⁶, which has led to spiralling competition for resources and employment in African states, where there is little chance of gaining employment that will allow one to live a normal life in such situations. Also, the 'reasons why Nigerian nationals choose to leave their country of origin are complex and cannot be generalised... because the causes of migration are not specific, for migrants cannot name one specific trigger, but it seems there is an overlap between forces and economic reasons, especially since drivers also changed along the routes'.⁷

Furthermore, Shimeles explains that cross-border movements are motivated by common *inter alia* colonial ties, linguistic and historical roots, which explains why migrants tend to go to European countries where they have relatives or friends.⁸ Additionally, the social capital garnered from migrant networks can reduce the psychological and financial costs of migration, offering access to social and professional communities. Therefore, this study sets out to analyse and discuss unregulated migration, which can affect or is already affecting relations between Nigeria and the European Union (EU).

To achieve this, the paper aims at answering the research questions presented for discussion in this study, which are as follows: what are

the challenges related to rural-urban and urban-rural flows in Nigeria? What are the new vectors/factors causing Nigerians to migrate to Europe? What are the consequences of unregulated migration flows at the national and transnational level and between the Nigerian government and the EU? And what are the best solutions for checks and balances of unregulated migration flows to EU countries? Although Afolayan expounds extensively on the routes for international migration and also highlights internal migration absorbing zones⁹, this work is distinctive in that it shows the pattern and causes of migration using population growth to explain unregulated migration and how it places a strain on the EU's relations with Nigeria when it comes to migration flow.

Methodology

Central to this study is the issue of population and migration flows. In exploring the research question, this study adopts a qualitative and a quantitative method approach. The population of study comprises the working class, tertiary institution students and unemployed youth as these three categories are inclined to migration issues, and 2 private Czech attorneys were also interviewed. In total, a mix of unstructured and structured 43 interviews were conducted through purposeful random selection, 30 respondents were interviewed in Nigeria, 11 Nigerians living in the Czech Republic. 5 among those living in the Czech Republic were married to Czechs, and they were chosen to also get an insight of how and what life looks like through a mixed marriage of an African and a European in the Czech Republic, which can also be an extended case for other EU countries. The structured interviews were used for the 2 Czech attorneys, because foreigners often consult them when there is an issue with their stay in the Czech Republic.

Population flows were mapped based on local government area (LGA) and at the ward level and were used to explain migration at the national level, linking the national to the transnational vectors of migration. Using population as an explanatory variable is important as it reveals socio-cultural and economic demographics in the country. It is also a useful variable to explore the past and suggest actions that need to be taken in the future.

For the qualitative method, youth were randomly selected for interview from the south-west, south-east and middle belt (Edo state), based on the fact that 1) younger people are highly associated with mi-

gration flow and 2) in Nigeria, the south-west, south-east, and middle belt (Edo state) specifically, as noted by the United States Department of State, appear to be the regions of the country that have high records of migration, both nationally and transnationally¹⁰. This is why the focus is on the south-west (Yorubas), the south-east (Igbos) and the middle belt region (Edos).

For the quantitative method, data were collected in Nigeria regarding population growth, which reveals the flow of rural-urban or urban-rural movement patterns, for the presentation of analysis and discussion in the study. (For the interviews, the perceptions of respondents were analysed in comparison with the information gathered through quantitative data during this study).

Situating the push-pull theory

According to Haas, there is no central body of conceptual frameworks or theories on migration that can direct and be knowledgeable through empirical work.¹¹ This is why, the use of theories has remained, unsurpassed¹², and an ad-hoc.¹³ The push-pull theory is important in explaining the causes of unregulated migration in Nigeria because, the distinctive feature of the push and pull factor theory is the variation of social conditions; it is assumed that the social conditions in the pull factor countries are more favourable than in the push factor countries. They are also related to the economic, political, and conflict conditions of the countries of origin and destination. In support of this, Stanojoska and Petrevski noted that

...globalisation has changed the way many people see the world. As people become more aware of living standards and lifestyles in other parts of the world, for instance through television or the stories (and sometimes wealth) of returning expatriates, their understanding of their 'relative' poverty has increased, and their expectations have changed. This motivates people to migrate to secure greater income. There is also evidence that young people in particular consider migration because they want to escape the drudgery of subsistence living.¹⁴

Therefore, delineating from the many causes for the lack of progress in generalized understanding of migration and considering the present situation in Nigeria with the new vectors of migration to European

countries, the push-pull factor theory is valid in that it points out the social conditions and the inherent motives for migration on both the national and international levels.

The advantage of the push-pull theory is that it helps to explain many of the reasons for transnational migrations. On a level-based analysis, the push-pull factors help explain the micro-level decisions from an individual perspective¹⁵, which is utilized in this study as a guide for inquiry during interviews in this study, and on the discipline-based analysis the theory is situated in the social sciences, where the inquiry of this study stems from. However, the theory fails to explain the 'biased views of receiving country' - at best, the theory can help to explain a positional view of a receiving country on the need for working class migrants to assist in building their economy through immigration programs. Hence, there are other concepts and factors that are covered by different theories.

Situations in Nigeria

Challenges of internal migration flow in Nigeria

The flow of people's movement within Nigeria is mixed, due to different motivations such as economic reasons, persecution, and violent conflict, amongst many others. In terms of economic reasons, there has been a mass movement of people from rural locations to the urban centres in the country, with the youth especially moving in search of jobs.¹⁶ This movement has led to a decline in development and attraction in the rural areas of the country, while the urban areas have become condensed with huge populations. Describing a similar situation of rural-urban movement in Europe, Farwick used the education variable to explain the migration pattern in Germany, highlighting the unattractive and undifferentiated range of educational facilities, and work-related movement that is promoted by a decline in old industrial regions and limited opportunities for workers in contrast to those in the urban centres¹⁷

Aside from economic reasons, the Internal Displacement Monitoring Centre¹⁸ noted that many people have been displaced in Nigeria due to violent activities, for instance, in the south-south region people have been displaced due to militant activities in the Niger Delta regions, over competition for land, political power, and oil wealth.¹⁹ In the northern part of Nigeria, displacement has occurred due to ethno-religious in Plateau and Boko Haram's religiously-justified violence,

known as *takfir* (a concept based on denouncing of the other as infidels, due to their rejection of the Quran and Sunnah), to justify the killing of any individual who did not accept Boko Haram's leadership.²⁰ Furthermore, Buchanan-Clarke and Knoope pointed out that 'the chaos and trauma created by the Boko Haram insurgency has seen an increase in inter-communal violence, banditry, and a general breakdown in social cohesion, in north-eastern Nigeria. It is estimated that the 2 million IDPs in the region impact 10 million people, as 80% of them live among host communities. This rapid internal migration puts acute strain on traditional economic, social, and justice systems'.²¹

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Arango stated that formulating a theory that can explain different aspects of migration is the goal of migration theorising.²² This is challenging because, as Kurekova pointed out, the research field of migration is multifaceted and offers multiple levels of analysis.²³ Taking a cue from the basic economic models of migration by Hicks²⁴, Lewis,²⁵ Harris and Todaro²⁶, who theorised that migration is engineered due to wage differentials across markets or countries emerging from varying factors, such as geographic differences and labour market tightness, is still very much tenable and valid in the case of Nigerian migration flow.

In Nigeria, economic migration explains and accounts for a large proportion of rural-urban migration, with the exception of the issue of violence, which causes internal displacement. For instance, during the interviews for this study, some of the youths who participated in this study explained that 'their migration to states like Lagos, Rivers, and Abuja, amongst others, was to find good jobs in order to meet up with the demands of high prices for services and products in the country through high income/wages as compared to the lower wages in the state that they left'.²⁷ They also explained that 'as a result of earning higher wages, they were able to save and build or make small investments in the location they had moved away from'.²⁸ This is also applicable to outflow migration, where Africans move to the EU for economic reasons.

Violence is another major factor that causes internal displacement and refugees. One of the consequences of violent conflict has been noted by Ladbury et al., who explain that 'without support from a significant portion of the civilian population, any new state risks losing its population to mass out-migration, or risks expending valuable military assets on policing possible migrants'. Additionally, 'with a high volume of migrants arriving in cities, city leaders are faced with the challenge

of providing vital urban infrastructure and services to meet the needs of the migrant population. This includes affordable and social housing, quality education and health services, simple access to basic utilities (water, power, etc.), robust and congestion-free roads and transportation infrastructure as well as, finally, ensuring integration and social cohesion for the increased diversity.²⁹

The world is increasingly competitive, and the global economy of past decades cannot be compared with the current global economy, due to population growth. In other words, there is a strain in terms of maintaining order while trying to meet high demand. This was observed and reported by the respondents in this study. Respondents revealed 'that another effect of internal migration (rural-urban) at the national level in Nigeria was on housing and the prices of goods and services in general'³⁰, an effect which is applicable almost everywhere in the world. However, the distinctive feature of the Nigerian case is that when normalcy returns following hikes in prices of all commodities and services (which are triggered by domestic and international issues), the prices remain the same and do not return to their previous levels. Consequently, these prices become serious challenges for workers who are paid wages that are not commensurate to what is obtainable from the market and services provided; this leads to a spiralling situation in which workers associations are in conflict with the federal and state government in attempts to increase their salary. For instance, the business personnel respondents interviewed in this study reported that, 'due to high population demand in the urban cities, the market has increased and there is more competition coupled with an increase in disposal income as the middle class expands'³¹. Supporting this, research by Kelley and Schmidt revealed that the 1980 population growth acted as a brake on economic growth, an effect measured by growth rate per capita gross domestic product.³² However, the effect of the larger population on diluting resources per capita, and thus lowering income per capita, as per the Malthusian mechanism, was counteracted by technological progress which allowed income to continue rising;³³ however, the counteraction of Malthus is significant in developed nations not in developing nations, such as Nigeria.

New vectors and future migrations

Apart from the conventional explanations of migration, such as conflict and violence, war, natural disasters, climate change, social in-

equality, ethnic cleansing, and so on, this study has gathered information from respondents, who revealed that 'Nigerians are now relaxing their strong stand on ethnicity inclination'.³⁴ This is unlike previous belief, when marrying a foreigner such as Caucasian (a notion of race believed by most people) was frowned upon. Physical categories of race have been debunked by science and moral grounds in that there are no biological races in humans, but adaptive traits and cultural category as expressed by Templeton³⁵, Liberman, Kirk, and Corcoran³⁶ Wade 2004³⁷. Yet, most of the respondents engaged during this study do not know about this. Even with the available information one of the respondents, a 'half-cast' or 'mulatto', as they are widely called, stated 'that one of the challenges of being a mixed-race child is that in some social situations they face discrimination and are not regarded as fully Czech and that they are constantly reminded of a mixed-race situation'.³⁸ This attunes with what a senior Russian lawmaker, Tamara Pletnyova, cautioned Russians at the FIFA World Cup in 2018, where she warned them not to have sex with non-white/different race people because these relationships often end badly, which may lead to women becoming single mothers if they become pregnant, and many of the children conceived through such a union may face discrimination, being known as 'children of the Olympics', a term popularly used in the Soviet Union following the Moscow games in 1980, a time when contraception was not widely available.³⁹ Though this type of neo-migration vector is not highly significant, it accounts for the channels associated with migration because at the point of having a family, most Europeans like to raise one in their countries due to security and economic stability, which warrants the spouse to join her.

Concerning population, the Nigerian population is growing and putting pressure on the available resources for the country. The inability of the average man to make a good living with the struggle for available state resources leads to outflow and migration to Europe, a place seen as a 'greener pasture'. Also, the Nigerian borders are weak as discussed by Gabriel and Fayemi⁴⁰; Achumba, Ighomereho, and Akpor-Robaro,⁴¹ and Osimehin et al.,⁴² and the land-based migration route shows that:

Internal major migrant route activities take place from Edo, Kano, Kaduna, Calabar and Lagos serving as the borders to and from ECOWAS borders, the routes are Benin, Cameroon, Ga-

bon, Niger, Chad, Burkina Faso and Mali. Also, irregular immigrants could use either the Lagos or the Calabar exit axis, travelling by boat or any other vehicular means, either to enter or leave the country for varied purposes (trade/business, pilgrimage, sexual exploitation, domestic work/urban informal sector, begging). Those who use the northern land routes, via the porous borders of the States of Sokoto, Kebbi, Katsina, Kano, Jigawa, Yobe and Borno, are overwhelmingly male traders and farmers, who perceive the border as an imaginary line.⁴³

At the international level, sadly, the Nigerian border is also seen as an imaginary line which does so little in regulating the inflow and outflow of people, and the Nigerian government has not provided any solid barrier that keeps people in or out of the state. The borders are porous and can be easily crossed.⁴⁴ For instance, the only constraint or demarcation signifying the Nigerian state and that of the Benin Republic are just fickle log of woods that barricades the highway and can be easily crossed by pedestrians avoiding the highways. With this in mind, it does not deter migrants and they don't take the Nigerian borders seriously, which serves as a route to Europe and other destinations. Also, the fact that the Nigerian state does not have a complete database documenting its citizens, coupled with an unregulated population and porous borders, poses serious challenges in regulating outflow migration by land to Europe. In addition, controlling and containing overpopulation is challenging, due to the religious practices, culture and traditions in Nigeria that do not limit child-bearing, and an economy that does not permit people to have many children, due to a lack of available resources; nevertheless, this does not deter people from having as many children as they wish.

Migration flows from Nigeria to the EU

Migration flow is not a problem itself, because there are varying degrees to which migration takes place, which has been explained previously in the article. The consequences of transnational flow of unregulated migrants are the pressure on the carrying capacity of European countries. For instance, Embling noted that more than 1.8 million migrants have travelled to Europe since 2014, with approximately a third of those going to Italy.⁴⁵ This huge influx has led to implementation of strict and tighter policies that may affect state-state relations. This is already be-

ing reflected in support for the anti-immigrant party in Italy, Brexit in the UK, and in Germany it was reported that the German government is set to deport almost 30,000 Nigerians seeking asylum there.⁴⁶ Contrastingly, among the countries that saw a spike in migration in the EU, it is the war-torn countries such as Syria, Iraq and Afghanistan that are seen as asylum seekers in the EU.⁴⁷ The tighter security policies are not only directed towards Nigerians but on migration issues in general, Nadeu, Vonberg and Mezzofiore, noted that, since the height of the deadly crisis in 2015 of migrants crossing through sea, governments across Europe have sought to fortify their borders.⁴⁸ This shows that population in fact is a problem for host countries in Europe as well. Before the massive influx of migrants to Europe, the EU managed the unregulated migrants in EU due to the lesser influx compared to the huge numbers in recent years.

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Another case of increase in the migrant population was revealed in February 2017, when EU leaders outlined plans to stem the flow of migrants travelling across the Mediterranean from Libya to Italy and to boost the ability of the EU to send people back. A recent challenge is one faced by Aquarius, a rescue team jointly operated by SOS Mediterranean and Doctors Beyond Borders (known by its French acronym, MSF), who were not able to dock migrants easily, after Italy and Malta rejected and closed their borders having taken too many migrants. Apart from population as a major consequence of unregulated migration that leads to national and transnational migration, terrorism and violence are also important issues. Since the al Qaeda attacks of September 11, 2001 in the United States, immigrants have been increasingly blamed for increasing crime in many societies. Although the link between migration and crime and terrorism is often exaggerated for political purposes, it is still a reality that increasing international migration and mobility has enabled the expansion of transnational organised crime.⁴⁹

Another consequence of international migration is the blame game, in that when crimes are committed by citizens of the host country, the positional or reported view to the public in most cases is that the criminal acted as a result of a mental disorder, and the word 'terrorist' is sparingly used, but when it is committed by a non-citizen, all avenues are explored in order to link the crime to terrorist activities. The consequences for the *bona fide* migrant are that when there is a terrorist attack, they are often the victims or targets of hate speech and

condemned as the causes of all the crimes committed and problems in society, whereas the *mala fide* terrorist, as mentioned by Schmid, continues their activities under the migration umbrella.⁵⁰ In other words, people categorise both *bona fide* migrants and *mala fide* terrorists as the same, and the cause of problems in the host country.

In the Czech Republic, five Nigerian respondents married to Czechs gave detailed accounts of how they have suffered psychologically and threatened with expulsion from the Czech Republic with an exit visa when they go to the foreign police to renew their documents, even when they met all of the necessary requirements to live in the country. The other six Nigerian respondents interviewed stated that it is not always the case, because if an individual lives in the Czech Republic legally and meets the requirements to live in the Czech Republic then they will not have problems, and suggested that the issues some Nigerians have with foreign police are special cases where an individual is already experiencing problems with documentation. In a follow up investigation on Czech foreign policies towards Nigerians concerning their renewal of residence in the Czech Republic, two private lawyers who agreed to participate in this study anonymously explained that it is true that there have been some instances where foreign police staff have abused the powers of their office by issuing exit visas when there is no need for it; this is when the lawyers step in to assist individuals in need of legal support.

Notably, the respondents highlighted that issues concerning Nigerians and foreign police in the Czech Republic would not exist if the Nigerian government and economy was strong, which would reduce Nigerians' interest in living not only in the Czech Republic, but in the EU generally. They explained that no citizen of a strong country, such as the USA, Canada or Norway, would be treated unjustly if they decided to migrate to and live in another country.

Other effects of transnational migration are that it shapes globalisation, culture, and foreign policy debate. Concerning foreign policy towards sub-Saharan Africa, it was noted that Czech foreign development aid goes back to the period of the communist regime in former Czechoslovakia and recently, the amount of development aid flowing to individual sub-Saharan countries in Africa depends on historical factors, while factors such as good governance and division of labour among donors are not significant. This means that the relations among individual sub-Saharan countries determines the disparities on how

foreigners are treated in the Czech Republic.⁵¹ For instance, the taxes imposed on sub-Saharan Africans who are engaged in shooting movies varies and examples of these agencies are Extrafilms, Castingplus and Pro3 among many others.

Globalisation bridges the gap in cultural differences through migration and reshapes cultural norms and values. Some Europeans do not want migrant cultures to be integrated into the EU system because with the future increase of migrants comes a demand for rights that conflicts with and affects the cultural norms of EU society. In terms of policy, a typical instance of the effects of migration is the ongoing crisis in future migration policy debate, which has split the EU on unilateral decisions. The over one million migrants that have entered Germany within the last three years has driven an increase in the support for the far-right Alternative for Germany (AFD).⁵²

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Relevant EU policies in Nigeria

For the Nigerian State and its citizens, the EU has assisted and influenced some significant policies in strengthening the Nigerian state. For instance, from the 11th European Development Fund, the EU Commission adopted the National Indicative Program for the Federal Republic of Nigeria between 2014-2010 that cost EUR 26,500,000 (European Commission 2017). The focus was on the Nigerian health sector in strengthening the Nigerian health system through improved primary healthcare delivery in Northern Nigeria. This decision and the objective of the 11th European Development Fund, which highlights provisions of good governance, rule of law and democratic consolidation, helps to reduce political and social conflicts, a precursor to internal displacement of people and migration.

On issues concerning rehabilitation and development and promoting the stability and safety of communities in displacement in North East Nigeria, with the objective of greater economic impact and employment opportunities and strengthening resilience, the EU has committed a total amount of EUR 11.623 million, which were direct grants to NGOs in addressing basic social services, food security, conflict prevention and resolution, reconstruction, relief and rehabilitation.⁵³ Regarding the energy sector, the EU has contributed and supported the African Investment Facility with EUR 33,000,000 from the European Development Funds contribution. On energy programs in Nigeria at the federal and state levels, it prioritizes contributing to improving ac-

cess to the sustainable supply of electricity, especially for the poorest and in the least developed states, in Northern Nigeria.

Most importantly, regarding the issue presented in this article, the EU has provided EUR 15,500,000 for strengthening Migration Governance in Nigeria and Sustainable Reintegration of Returning Migrants with the objective in preventing irregular migration and forced displacement and facilitating better migration management. Nonetheless even with these interventions, migration issues are still pressing challenges for Nigeria and the EU. One of the main problems frustrating the effort of the EU interventions on migration is the political situations of Nigeria and for most African states. If the political sphere in Nigeria is not addressed in a proper way in eradicating issues that undermine the economy and security, granting and assisting funds by the EU will be a superficial solution.

Results and discussion

It has been argued by Balatsky, Balatsky and Borysov,⁵⁴ Bremner et al.,⁵⁵ Bendick⁵⁶ and Harris⁵⁷ that a large population puts a strain on state resources. This has also been argued in relation to the Nigerian case in terms of the causes of internal and transnational migration flows. It is true that the available resources are not sufficient enough to address the needs of the country coupled with the huge population growth in Nigeria. However, it appears to be worsening even with current technological advancement, research, and regime changes from military to democracy.

Of the 30 respondents interviewed in the south-west and south-east, 15 gave a unified response, revealing that internal migration and transnational migration is directly linked to searching for opportunities for employment to improve their standard of life and also to support dependent family members. They explained that if their regions were adequately catered for by the government through the provision of a reliable and sustainable livelihood, then there would be no need to move to more populated regions and big cities in search of opportunities aside from tourism and leisure purposes.

Also, 11 Nigerian respondents living in the Czech Republic were asked about their reasons for migrating to European Union countries and gave a similar account of economic migration; in response to a question about education and tourism, the responses given did not reveal the main causal factor for migrating to the EU. However,

respondents pointed out that the Czech Republic was not a top choice destination for migration purposes due to the language barrier, and that their stay in the Czech Republic was temporary. The respondents who indicated that they would like to stay in the Czech Republic already had children with Czech citizens; some were married and did not want to leave their children to grow up with a single parent. Even so, among the married interviewees, some indicated that if they had the means, they would still prefer to leave the Czech Republic with their families and children to live in a country with higher incomes.

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Regarding the mode of entry to the Czech Republic, some of the respondents who were students revealed that they migrated directly from Nigeria for education purposes, and while some migrated from countries such as Italy, Germany, the Netherlands, and Sweden, amongst others, due to the high cost of living and high tuition fees for study, those who made a living from the 'street' revealed that there were tight rules implemented by security operatives, such as the police, and too much competition in other high-income European countries.

In addition to the population growth models, which indicate that any change in the number of individuals within a specified population comes about either as a result of birth, death, immigration or emigration, which in simple form can be expressed as: $\text{population change} = \text{Birth} + \text{Immigration} - (\text{Deaths} + \text{Emigration})$, BIDE and the logistic growth model of Verhulst a Belgian mathematician as explained by Vogels, Zoeckler, Stasiw and Cerny⁵⁸, as well as the Malthusian exponential model of population have been found to be credible and employed in identifying and discussing the Nigerian context of migration flows.

Population data for Ibadan and Lagos was purposively collected to study internal migration flow in the years 2006, 2012, and 2018, based on the fact that Ibadan and Lagos are in close proximity and Lagos has major pull factors attracting migrants and increasing the Lagos population, such as its cosmopolitan nature and historical significance. Also, it serves as a major route for international travellers and a supposedly advantageous base for people to realise their dreams of working and earning the money required for transnational migration of any kind. Therefore, in studying the population data of Ibadan and Lagos, the exponential model was employed, which is given as:

Where P_0 is the initial population at time $t=0$, r is the growth rate, sometimes known as the Malthusian parameter, and P_t is the population size at time t . The results are presented in tables.

From the table above, it can be seen that 2006 was the only year for which population census data could be obtained from the archive of the National Population Commission, from which data for subsequent

Table 1: Ibadan population

CEJISS
3/2018

LGA	2006	2012	2018
AFIJO	132,184	162,096	198,778
AKINYELE	211,811	259,743	318,522
ATIBA	168,246	206,321	253,012
ATISBO	109,965	134,851	165,369
EGBEDA	283,643	347,832	426,548
IBADAN NORTH	308,119	470,315	717,893
IBADAN NORTH-EAST	331,444	326,536	321,702
IBADAN NORTH-WEST	154,029	188,884	231,627
IBADAN SOUTH-EAST	266,457	326,755	400,697
IBADAN SOUTH-WEST	283,098	347,162	425,722
IBARAPA CENTRAL	103,243	126,608	155,260
IBARAPA EAST	117,182	143,702	176,223
IBARAPA NORTH	100,293	122,989	150,820
IDO	104,087	127,641	156,526
IREPO	121,240	148,676	182,321
ISEYIN	255,619	313,466	384,404
ITESIWAJU	127,391	156,220	191,572
IWAJOWA	102,847	126,122	154,663
KAJOLA	200,528	245,906	301,554
LAGELU	148,133	181,654	222,760
OGBOMOSHO NORTH	198,859	243,861	299,047
OGBOMOSHO SOUTH	100,379	123,094	150,949

OGO OLUWA	65,198	79,953	98,048
OLORUNSOGO	81,339	99,744	122,314
OLUYOLE	203,461	249,505	305,970
ONA-ARA	265,571	325,669	399,368
ORELOPE	104,004	127,539	156,400
ORIRE	149,408	183,218	224,680
OYO EAST	124,095	152,178	186,615
OYO WEST	136,457	167,338	205,206
SAKI EAST	108,957	133,614	163,852
SAKI WEST	273,268	335,109	410,946
SURULERE	140,339	172,097	211,043
TOTAL	3,614,996	4,433,065	5,436,263

years was retrieved using the exponential projection model. The total population in the year 2006 was **3,614,996** people in all the local government areas (LGAs) of Ibadan, with the highest number of people located in north-east Ibadan and the lowest population in Ogo Oluwa LGA, with 65,198 people.

The growth rate of each LGA was calculated using the growth rate formula, which is given as: $(C/B)^{(1/y)-1}$, where C is the initial population value, B is the final value, and y is the number of years involved. Each LGA had a different growth rate, which was used to calculate the projected values for the population within each area.

In the year 2012 the projected population for all LGAs was calculated to be **4,433,065**, and for the year 2018 it was calculated to be **5,436,263**. It can be observed that the difference in the population size from 2006, to 2012, and 2018 was 818,069 and 1,003,198, respectively. Ibadan North had the highest population in both the years 2012 and 2018; this occurred as a result of migration from one LGA to another reflecting internal migration.

Table 2 shows the values for the census data obtained from the National Population Commission, and projected data for 2006, 2012, and 2018, respectively. Alimosho, Ajeromi and Kosofe LGAs had the highest number of people. The lowest population was in the Ibeju and Lekki LGA in 2006, 2012, and 2018. The total population of the state of Lagos, as counted by the National Population Commission, was 9,113,605; the projected population sizes for 2012 and 2018 were **11,042,680** and

Table 2: Lagos population

LGA	2006	2012	2018
Agege	461,743	559,481	677,908
Ajeromi/Ifelodun	687,316	832,799	1,009,077
Alimosho	1,319,571	1,598,887	1,937,325
Amuwo Odofin	328,975	398,610	482,985
Apapa	222,986	270,187	327,379
Badagry	237,731	288,051	349,022
Epe	181,734	220,201	266,810
Eti Osa	283,791	343,860	416,643
Ibeju Lekki	117,793	142,726	172,935
Ifako/Ijaye	427,737	518,276	627,979
Ikeja	317,614	384,844	466,305
Ikorodu	527,917	639,660	775,056
Kosofe	682,772	827,295	1,002,408
Lagos Island	212,700	257,723	312,276
Lagos Mainland	326,700	395,851	479,640
Mushin	631,857	765,603	927,658
Ojo	609,173	738,118	894,357
Oshodi/Isolo	629,061	762,214	923,552
Shomolu	403,569	488,993	592,499
Surulere	502,865	609,301	738,266
Total	9,113,605	11,042,680	13,380,080

13,380,080, respectively. It was observed that more people came to Lagos; in 2018, over 2 million were projected to be added to the population for 2012. The Lagos state was once the administrative capital of the nation, which attracted more people (for trade that involves economic and political administration etc).

The data above did not reveal individual-level information regarding the causes of internal migration in Ibadan, but the respondents who participated in this study reported that people tend to migrate to the northern part of Ibadan because it is believed to be more secure, due to the army barracks situated in Ojoo, and the relative peace there. Another factor explaining this migration is the affordable land available for residential settlements for the working class in the state. Lagos

already has several pull factors, as mentioned earlier, and it happens to be a confluence centre for people migrating from different parts of the country.

Comparing the result from Ibadan and Lagos to the causes of migration to the EU, it shows the general trend of movement of people within the country based on human needs and security, which are major causes of migration flow. In the absence of the provision of the necessary services such as employment and security for an individual with the country, they tend to look outside the country for greener pastures where they felt they can survive and obtain the necessary needs and wants they desire, similar to Syrian refugee migration to the EU. Invariably, the EU becomes a pull factor region for individuals in countries that do not meet their human rights and security requirements among many others.

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Discussion and recommendation both for Nigeria and EU policies

In Nigeria, a 2015 national policy aimed at strengthening the structures that protect the human, civil and economic rights of its domestic and international citizens as well as aliens residing in Nigeria was set forth with about 14 objectives⁵⁹. Yet since 2015, little has been done. In the set objective of the national policy, accountable documentation regarding Nigerians should be prioritized; this will enable and add meaning to the policy in addressing the issue of population. What the Nigerian government has regarding population are estimates. There is the need to upgrade the documentation of Nigerian citizens as a basic prerequisite to addressing migration issues. The government should also start thinking of curbing overpopulation if they do not have the capacity to utilise the resources, they have in providing adequately for the Nigerian citizens.

Ostensibly, it was reported that the EU is making plans to resolve the issues related to unregulated migration, which was revealed in leaked draft documents, as seen and reported by Rankin and Henley, which stated that 'the EU wants to look at the feasibility of setting up migration centres in North Africa, where most migrant journeys to Europe begin. With the aim to provide rapid processing to distinguish between economic migrants and those in need of international protection and reduce the incentive to embark on perilous journeys'.⁶⁰ This is supported by the United Nations plan for Mediterranean migrant

centres for the EU.⁶¹ However, what the EU need to understand is that those who embark on a mission to travel to the EU by unregulated means, via the sea and across borders, have made up their minds and signed a non-legally binding death warrant, where they either reach their destination or die trying. Though, the EU is at the forefront in supporting Nigeria towards development and migration issues that affect both Nigeria and the EU, there is the need to look beyond creating or making plans to create migration centres in Africa.

The first point of call in terms of a solution to the issue of migration is that Nigeria and the EU will have to work together to strengthen the Nigerian politics in eradicating corruption and insecurity. Also, they will have to go beyond the old traditional approaches they have been adopting in terms of research, funding and implementation of programs in addressing migration issues, and efforts should consist of a grassroots and intergovernmental approach.

An important grassroots approach is for Nigeria and the EU to re-visit history and find reasons beyond the positional view on why the EU is facing wave of migrants. A high number of these problems have been argued to be due to colonial conquest and extractions in Africa, which have caused problems for African states, leading them to remain undeveloped, underdeveloped,⁶² and dependent on the EU.⁶³ Though this argument may not be tenable for most scholars, as the problems of Africans have been caused by Africans post-independence, it should be borne in mind that the institutions that govern the African states are those of the West, institutions that were imposed and inherited, obsolete but yet operational. For instance, France still receives taxes from its colonies, when these colonies should be free from such taxes and able to channel these funds to developing their state.

While the bulk of the blame seems to fall on the EU as the primary cause of unregulated migration flow from Nigeria and Africa to the EU, Nigeria needs to re-evaluate and revamp its policies for state development. Many scholars such as Olure-Bank,⁶⁴ Uzonwanne,⁶⁵ and Adams⁶⁶ have written on diversification in terms of development and state-building. Therefore, this study aligns with the view that Nigeria should diversify in terms of its dependency on resources for the state. After all, the world is moving away from consumption and usage of fossil fuels to green, safe and renewable energy in the fight against climate change and to protect the ecosystem; the EU has already shown support through significant project funding on energy as discussed in

the earlier part of this article. With these will come job creation and exploration of other regions for development, and migration to Europe for economic purposes will hopefully decrease. After all, if Nigeria was a European country rich in resources, it would be amongst the world powers.

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Conclusion

This article has brought to the forefront the undeniable facts and neo-vectors related to the causes of unregulated migration trends in Nigeria and the EU and the starting points in how to address and solve these issues. Effort was made to elucidate perceptions of the respondents in this study to clarify the present situation. Although the focus was on Nigeria, the fact still remains that migration issues in the EU cut across most states in Africa, especially states that are fragile, weak, failing, or have failed as a result of war, unemployment, and human rights abuses, among other causes. Addressing the issue of migration is a Herculean task and the proposed building of migration centres will not deter individuals from embarking on unregulated migration journeys. The proposed building of migration centres is a superficial solution; the root causes, as highlighted earlier, need to be addressed. Regarding Nigerian and African relations with the EU, there are better ways to make both countries work effectively and to support state development beyond the superficial relations that are solely governed by the West. Also, African states will do well by strengthening and improving their border controls which will eliminate the readily available migration route for migrants to the EU.

Ultimately, migration cannot be avoided entirely because freedom of movement is enshrined in human rights and human security, which emphasises freedom from want and fear; indeed, even if a state chose to be left alone, the 'outer world' would not necessarily choose to leave it alone, which has been evident since humans first learnt to conquer and conquest.



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Hydro-Politics and the Dynamics of the Shifting Ethio-Egyptian Hydropolitical Relations

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The foremost intent of this article is to investigate the major dynamics that are changing in Ethio-Egyptian hydropolitical relations. To attain this objective the researcher employed case study design, primary and secondary sources of data, and purposive sampling techniques. Despite the fact that perpetual national interests on Egyptian Nile water policy are a national security issue, dynamics in the Nile basin have fostered a shift in the relations of Ethiopia and Egypt hydro political relations on Nile water.

Keywords: Ethiopia, Egypt, hydro politics, dynamics, Nile.

Overview of the antique struggle for the Nile

Ethiopia and Egypt have had a long relationship of both harmony and discord, the latter the result of religious issues and access to Nile water, among other factors. The relations between Egypt and Ethiopia go back to the early years of the Axumite kingdom. This means they have been in contact for centuries, which seems to have been based on Red Sea trade. Not only this, there is a long and important link between the minority Egyptian Coptic Church and the Ethiopian Orthodox Church. However, the relationship of the two states is older than the relations between the churches. To sub-



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stantiate this contention there are historians who indicate that early Ethio-Egyptian contact dates back to 2800 B.C.¹

Egyptians tried to locate the source of Blue Nile and its tributaries, historical relics found in the tombs of pharaohs and inscriptions found on the tomb of Titmos. The relics mention places like Adulis and Tigre, thereby indicating early contacts Ethiopia had with Egypt².

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In the recent past, Egypt and Ethiopia fought over control of the Red Sea and the upper Nile basin. The climax came in 1876 at the battle of Gura in present day Eritrea, where the Ethiopians delivered a humiliating defeat to the Egyptian army.³

Coming to the colonial era, the European partition of Africa in the 1880s added a huge complexity to this conflict. Colonization created many new states in the basin. Uganda, Rwanda, Burundi, Kenya and Tanganyika set off new competition for resource and territory⁴. In the late nineteenth century, controlling Egypt was the key to Asian wealth, and since Egypt depended on the Nile, controlling the source of the Nile became a major colonial goal⁵.

The French and English colonial competition to control the Nile basin reached its climax in 1898 at Fashoda. The French conceived of building a dam on the White Nile so as to undermine British influence further down river and establish east-west control of the continent. They organized a pincer movement with one group of soldiers travelling from east Africa across Ethiopia and the other from West Africa across the Congo⁶. The British heard of the French expedition and, having just captured Khartoum, ordered a fleet of gun boats and steamers with soldiers under the leadership of general Horatio. With fewer than 200 men, the French were embarrassed. In 1889 the two colonial powers reached an agreement which designated to France the frontiers of the Congo River and to England the frontiers of the White Nile⁷.

The Fashoda incident revealed how little Europeans understood about the Nile River. Thinking that most of the Nile waters came from the equatorial lakes (Victoria, Albert, Kyoga, and Edward), the English spent enormous energy on plans to increase White Nile water flows⁸. First called the Garstin cut and later the Jonglei Canal, the British intended to create a channel that would maximize water transfer through the great swamp (where half of it evaporated). One of the most expensive engineering projects in Africa, the Jonglie canal was terminated in 1984 by the Sudan People's Liberation Army

because of the severe disruption it brought to the lives of the indigenous upper Nile peoples. If the 300-mile-long Jonglei canal had been completed, it would have increased water flows by nearly four billion cubic meters into the White Nile⁹. These hydro political and historical incidents have shown that there were increased ambitions to control the Nile water resources, which even included controlling water sources of the Nile. The major intent of this article is to investigate the political dynamics of the Nile riparian state that foster the shift in Ethio-Egyptian hydro political relations.

Materials and methods

In this study a qualitative approach is used to investigate Ethio-Egyptian relations on the Nile River and the author employed a case study design according to the sample and participants of the study, officials who work in Ministry of Ethiopian Foreign Affairs (particularly in the directorate of research and policy analysis, the Ministry of Water, Irrigation and Electricity, the trans-boundary rivers directorate and NBI coordinator official, diplomat from Egypt Embassy in Addis Ababa and other scholars who served as key sources of information). The interviews were conducted in Addis Ababa and available documents which are written on Ethio-Egyptian hydro political relations served as secondary data sources. The researcher employed thematic analysis to analyse different sets of data collected from various sources.

Dynamics that are shifting the Ethio-Egyptian Nile hydropolitical relations

This study investigated various dynamics that convey the changes in Ethio-Egyptian hydro-political relations. These are: Ethiopian aggregate political power in the basin, the signing of Cooperative Framework Agreement (CFA) by upper stream states, the Egyptian revolution, the launch of the Grand Ethiopian Renaissance's Dam (GERD), signing of Declaration Of Principles (DOPS) on GERD by Egypt, Ethiopia and Sudan, and the inclination of Egypt for proficient utilization of Nile water resources in the basin.

Ethiopian comparative growing power

The result of this study shows that the emergence of Ethiopia's political and economic power was one factor that brings change in

Ethio-Egyptian hydropolitical relations. Ethiopia overcame many challenges such as civil war, political instability, and hunger to reach today's stable political and economic change¹⁰. Such historical barriers along with Egyptian historical claim to use the Nile unilaterally caused Ethiopia to be relatively disadvantageous in utilizing the Nile as a water resource. However, this study showed that such power of Egypt has been challenged because of Ethiopian's growing power in terms of the political and economic sphere. Such growth enables Ethiopia to use its potential water resources for the country's development by challenging the historic power of Egypt. In relation to this, a participant stated that:

Today Ethiopia is relatively politically stable in the Nile basin states. There is the

driving force that Ethiopia concentrates its financial resources on development areas such as poverty eradication program and water resource developments. The country has potential resources that enable to generate hydroelectric power and agricultural irrigation, which brings economic growth. Such growth of economy enabled Ethiopia to start developing water resource projects irrespective of Egyptian interests (Interviewee 01, 2016).

Gross Domestic Product (GDP) in Ethiopia was \$64.54 billion in 2015. The GDP Value of Ethiopia represents 0.10 percent of the world economy as reported by the World Bank (2016). According to the report, the GDP expanded by 9.6 % in 2015 from the previous year's. The report indicates that Ethiopia is one of the poorest countries in the world. Most of the populations relies on subsistence agriculture and foreign aid. Yet Ethiopia is amongst the fastest growing non-oil economies in the world. The government reforms succeeded in opening the economy to foreign direct investment and resulted in the expansion of commercial agriculture and the manufacturing industry.¹¹

The statement given by this interviewee and the World Bank report clearly indicated that there is a change in Ethio-Egyptian hydro-political relations because of Ethiopia's economic growth in one hand and its political stability on the other. Its economic growth allows Ethiopia to develop water resource projects by its own finance. In line with this¹²,

Cascou affirmed that recently there is a relative increase of economic and political stability in Ethiopia that has led to an increase in its desire to develop water resources. This writer also stated that Ethiopia is able to fund development projects without resorting to international donor agencies, such as the World Bank. Moreover, the increased political stability in Ethiopia has allowed the country to concentrate its financial resources in development areas other than defense.

The other participant also stated that 'the political and economic growth of Ethiopia enables it to develop mega projects in the Blue Nile unilaterally despite some challenges from downstream states, particularly from Egypt' (Interviewee 01, 2016).¹³ Ferah (2011) also argued that Ethiopia can jump start its water resource development without input from Egypt. In general, the study found that Ethiopia's growing power in economic and political areas resulted in changes in Ethio-Egyptian hydro political relations.

Egypt's commitment for proficient utilization of Nile

This research also showed that the Egyptian's commitment to utilize its water resources efficiently is the other factor that brings change in its relationship with Ethiopia. As participants clearly indicated, this commitment is a manifestation for Egypt to work in tandem in utilizing water resources with other riparian states, particularly with Ethiopia. In this regard, an Egyptian official from Addis Ababa stated that 'Egypt is ready to recycle water resources up to household level and utilize it properly' (Interviewee 03, 2016). Similarly, an Ethiopian official also argued that Egypt has showed its commitment to use water resources efficiently particularly following the conclusion of the agreement on GERD, which in turn shows its readiness to enter into CFA (Interview 02, 2016).

The main point here is that Egypt's commitment to utilize water resources efficiently indicates its interest to share water with other riparian states. This in turn shows its readiness to create smooth relations with Ethiopia towards using the Nile River.

Egyptian Revolution

On February 11, 2011, Egyptian President Hosni Mubarak resigned from office after 18 days of protests. The gloomy prospects surrounding the use and allocation of the Nile waters seem to have improved following the 2011 Egyptian revolution that forced Mubarak to re-

sign from power and brought about political change in the country. One Egyptian official stated the idea that ‘the present government in Egypt is open to the negotiation process regarding with the Nile respective of the state national interest, and the Ethiopian government has a strong stand on cooperation with the Nile River regarding public interest and other developmental issues’ (Interviewee, 03, 2016). Many, including some Egyptians, believe that the recent political change in Egypt will boost the chances of reaching a new deal to equitably share the Nile waters (Interviewee 04, 2016). This shows that the new regime is opened for discussion among the riparian states of the Nile basin, particularly because it is the nearest to Ethiopia, especially when compared with the previous Mubarak ruling period. Therefore since the Egypt revolution is the reason for regime change, it is in turn also a factor for changes in Ethiopia and Egypt hydropolitical relations.

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The validation of CFA by upstream riparian

It seems that Egypt has changed its rules of engagement with upstream countries, particularly Ethiopia, in relation to the Nile question. This sign of rapprochement has been reinforced by the recent visit of a 48-member Egyptian public diplomacy delegation and Egypt’s Prime Minister Essam Sharaf to discuss the Nile River.¹⁴

After ten years of negotiation the countries of the Nile Basin come up with the cooperative Framework Agreement, which was firmly founded on the principle of equitable and reasonable utilization of the Nile waters.

In line with this, article 4(1) of the CFA declares that ‘Nile Basin states shall in their respective territories utilize the water resources of the Nile River Basin in an equitable and reasonable manner’. It is a means to create a positive sum game between them where the entire riparian is determined to win. The Nile Basin Initiative (NBI) achieved tangible progress in 2010, when four of its members met in Kampala, Uganda to sign the CFA treaty.

Uganda, Tanzania, Rwanda and Ethiopia signed, followed shortly by Kenya. Burundi signed the CFA in February 2011 bringing the number of signatories to six. South Sudan also joined in June 2013 and Democratic Republic of Congo is expected to join soon. However, Egypt and Sudan have still not signed the agreement with the aim of maintaining the status quo.¹⁵

The major point of difference between up and down stream states is on the point that the Nile Basin states agree 'not to significantly affect the water security of any other Nile Basin states'. However, Egypt and Sudan refused this statement and Egypt proposes its modification: 'not to adversely affect the water security and current uses and rights of any other Nile Basin state'. For this reason, in order to convince the downstream states to sign the CFA, upstream countries are exerting their effort diplomatically to bring them to a round table discussion.

According to Egyptian official (interviewee 03, 2016, 'Egypt is discussing with the internal political decision makers to sign the CFA'. The internal political decision makers also influenced for mutual benefit sharing by Nile Basin Initiative (NBI) with respective of Egyptian national interests. NBI has played its contribution to come up with riparian countries to cooperatively utilize the Nile water resource particularly the CFA signatories have sent the unusual message to Egypt. Among the CFA signatories, Ethiopia has hegemonic power geopolitically and internal political stability. It has also the ability to shift Egypt's hydro hegemony power on Nile water.

The objectivity of South Sudan

The independence of South Sudan in July 2011 and therefore the emergence of a new riparian state for the Sudd Swamps, an ecosystem crucial for the flow of the White Nile due to its large evaporation rates, have the potential of influencing upstream-downstream relations by new coalition opportunities. The creation of South Sudan as an independent state has both advantages and disadvantages - since regional tensions over water management and distribution have grown lately, the birth of an independent Southern Sudan would exacerbate this problem by adding another player to the game of Nile politics, which already involves an unmanageable number of states.

On the other hand, owing to its strategic location, independent South Sudan would robustly bring an adjustment and a shift of power balance in the Nile basin, because South Sudan is a vital state in the Nile basin since most of its geography lies there.¹⁶ This author adds that the emergence of independent South Sudan in the Nile basin caused enormous panic to downstream countries. The existence of new sovereign entity in the Nile basin has a direct and indirect impact on both Ethiopia and Egypt. The state and its massive land incorporated much of

the White Nile (with gigantic potential of hydroelectric power) and planned to engage in constructing hydro power stations on its own after discussion with upstream countries.

This is why Paul Mayom, Minister of Water Resources & Irrigation of the Republic of South Sudan said on admission of the Republic of South Sudan to the Nile Basin Initiative that ‘the decision you took today will be received with cheerful applause by the Government and the people of South Sudan. This is because South Sudan geographically falls wholly within the Nile River Basin and therefore, our growth and prosperity are undoubtedly linked to the developments within the Nile River Basin.’¹⁷ Thus, we can easily understand from Mr. Mayom’s speech how much weight South Sudanese gave to the Nile River. An Egyptian official (Interviewee 03, 2016) stated that for the issue of Nile hydropolitics, South Sudan has nothing to contribute for water volume but Egypt is ready for supporting south Sudan with its internal instability and with the resolution of the government and the opposition parties’ conflicts.

Even though the official has downgraded the stake and contribution of South Sudan in the hydro politics of the Nile, it is arguable that South Sudan does have a stake in it. In this regard, Salman¹⁸ has written: ‘Because of the size of the White Nile in South Sudan, the heavy water losses at the swamps there and the possibility of conservation of a good part of such water, the stakes of South Sudan can be classified as very high, almost at equitable utilization Nile water with Egypt, Ethiopia, Sudan and by filtrating Sudd Swamps water in the middle course of white Nile in South Sudan.

The second important advantage of this dam is that it reduces flooding that causes property damage every year in these countries. Ethiopia also believes that the two countries (Sudan and Egypt) will get more water due to the construction of the GERD, but as Ethiopian rivers fully flow only for about four months a year and then decrease, the amount of water that the two countries could receive has also decreased. Thus, the flow of water will be the same throughout the year if the GERD is built. Finally, the Dams in Sudan and Egypt have no power of retaining evaporation.

This indicates that South Sudan has an influence in the hydro politics of Nile and its emergence as independent state and subsequently its inclination to the upstream countries is considered as one reason is changing the hydropolitical relation of Egypt and Ethiopia.

The launching of GERD by Ethiopia

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In April 2011, Ethiopia announced its plan to build the 6000 Megawatt Ethiopian Renaissance dam. The reservoir will be the largest body of water in Ethiopia, with a capacity of 63 billion cubic meters of water, twice the size of the largest natural lake in Ethiopia, Lake Tana. This project is being constructed at the very course of the Blue Nile that contributes about 86% of the total Nile waters, some 40 kilometers away from the eastern boundary of the Sudan. During the launching of the project, the late Prime Minister Meles Zenawi said it would cost about 80 billion Birr (about 4.8 Billion USD) that would be covered domestically¹⁹ (Hammond, 2013). This was because Egypt had successfully lobbied against Ethiopia receiving access to external loans and grants.

According to the Ethiopian government, the construction of the Grand Ethiopian Renaissance Dam (GERD) over the Nile River is one of the major projects that could play a major and decisive role in realising the five-year Growth and Transformation Plan and the consequent advance towards the eradication of poverty. The project is expected to improve the country's electric and energy needs by providing for between 65 and 87 percent of the entire power supply the country expects to generate over the period of the plan (MOWIE, 2015). In addition, the Ethiopian government has argued that as well as supplying Ethiopians with electricity, the dam would generate surplus energy for export to neighboring countries, benefitting the wider region. The Ethiopian government further argues that the building of the GERD is also beneficial for Sudan and Egypt. For instance, Sudan spent 70 percent of its water budget to avoid silt, which is also a problem for Egypt. However, the building of the GERD could help these countries to receive, however, is in a deep gorge that it could decrease water evaporation so that the amount of water for the two countries could be increased.

Despite the fact that Egypt is not comfortable with the construction of the GERD, the new Egyptian government is partially succeeding in strengthening cooperation with upper riparian countries, in contrast to the actions of the former Mubarak government. The attitude of many politicians in Sudan, and perhaps also the government, seems to be one of positive expectation towards the dam. For instance, the Sudanese president Al-Basher recently told the press that his country will provide the necessary support towards success

of construction of the Grand Ethiopian Renaissance Dam since the project would help Sudan improve the flow of water in the summer and provide an overall increase in the amount of water available to his country. Similarly, Egypt's Prime Minister Essam Sharaf during his visit to Ethiopia said this has opened a 'whole new environment' for settlement of the longstanding dispute over sharing the waters of the Nile River.

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According to Tewodros20, the Grand Renaissance Dam has mobilized Ethiopians from all corners of the world in the manner of no other cause in recent history. It has proved a stronger bond than ethnic, religious, political or any other affiliation. It is not an exaggeration to say that it is in fact further cementing the unity of Ethiopians in a manner to help ensure Ethiopia's Renaissance in the shortest possible time. This also provides the great political legitimacy to the ruling government in comparison with previous years.

Ethiopia, Sudan and Egypt signed Declaration of Principles on GERD

In 2015 Ethiopia, Sudan and Egypt signed an agreement on a Declaration of Principles on the Grand Ethiopian Renaissance Dam in Khartoum. Ethiopian Prime Minister HailemariamDesalegn, Egypt's President Abdel Fattah El SiSi and Sudan President Omar Al- Bashir signed the agreement. Others attending the occasion included the Vice-President of South Sudan, James Wani Igge, as well as officials ,representatives from IGAD, the Nile Basin Initiative, the World Bank and other international organizations (interviewee, 04, 2016).

In the Preamble to the Declaration of Principles (DOPS) the three countries entered the signing of the Declaration mindful of the rising demand of their trans boundary water resource, and cognizant of the significance of the River Nile as the source of livelihood. By laying down the Principles relating to the GERD, the document underlines its historic importance. It also demonstrates that cooperation is the only way to solve disagreements and enhance confidence and trust among the three countries regarding the GERD. To this end, the three countries have agreed 'to cooperate based on common understanding, mutual benefit, good faith, win-win and principles of international law and in understanding upstream and downstream water needs in its various aspects' (DOPS, 2015).

The Declaration of Principles (2015) endorses the point that the benefits of the GERD are for the whole region 'through generation of sustainable and reliable clean energy supply' which is itself an important input 'to contribute to economic development, promotion of trans boundary cooperation and regional integration'. The Declaration is a crucial document in the sense that it also rejects any past mistrust and suspicion. The three riparian states have now opted for cooperation and utilization of their trans boundary watercourses on the basis of internationally accepted principles: the 'principles of equitable and reasonable utilization and not to cause significant harm'.

Another central point in the Declaration is that the three countries, as owners of the issues, have opted for an internal mechanism for peaceful settlement of disputes. This crucial point demonstrates the level of trust and confidence that the three countries have reached. In effect, the signing of the Declaration of Principles has brought the Ethiopia and Egypt relations closer together. The Ethiopian officials admirably responded that there is a new era which shows the changing situation in Ethiopia and Egypt relation on Nile in history. It is the first time that Egypt clearly recognizes and takes part in the practical Nile water development by Ethiopia in the ground.

Conclusion

This study showed that there are recent developments that indicate Egypt's readiness to sign CFA, of which the country's signing of DOPS with Ethiopia and Sudan is the main one. Since 1999, the power of Egypt has been challenged because of Ethiopia's comparative growing power in terms of political and economic spheres. Such growing of power enables Ethiopia to use its potential water resources for country's development by challenging the historic power of Egypt. Egypt's commitment to utilize water resources efficiently indicates its interest to cooperate by using water with other riparian states. This in turn shows its readiness to create smooth relations with Ethiopia towards using the Nile. The Egyptian revolution is the reason for regime change in that country; it is in turn also the factor for the changes of Ethiopia and Egypt hydro-political relations. Additionally, the independence of south Sudan, the signing of CFA by upstream states, the launching of GERD, and the signing of DOPS by Ethiopia, Egypt and Sudan are the governing factors that foster changes in Ethiopia and Egypt hydro-political relations.

The basic changes and the reasons for changes in Nile River are driven from the intrinsic demands of the upstream states of the Nile basin. The demand is particularly to eradicate poverty, to balance economic growth with population growth and to cultivate the uneven climate in the region. The other driving force is political stability of the upstream states. Ethiopia's performance in political stability is better than from upstream states. This political stability and other national demands push the autonomous utilization of the Nile by Ethiopia without the aids of international financial institutions.

To withstand such modifications Ethiopia should cooperate not only with upstream states but also with Egypt and Sudan. Ethiopia should also consolidate its political and economic power to embark on different water development projects. Hydropolitics of the Nile River between Ethiopia, Egypt and Sudan have clearly been influenced by how these nations have competed over the control of the Nile water resources. An administrative doctrine logically should culminate in water treaties and agreements. Agreements between countries that share water resources are essential if conflict is to be avoided in the future. As water becomes scarcer, the need for regulatory mechanisms through inter-state agreements and treaties will become increasingly indispensable. State policies are supposed to provide rules and procedures for water utilization among the administrative units. The entire affair is handled within the normal and accepted framework of the internal sovereignty of the state in question. So, in any event of water use conflict between two or more administrative units, the national state law is invoked to resolve it in an orderly, peaceful and efficient manner as long as the state is functioning well.

Ethiopia has shown willingness in sharing the water resources that arise in its territory with downstream nations. Ethiopia wishes to see the prevailing status-quo, embedded in the previous agreements, to be reversed and replaced by a new institutional and legal regime, whereby the riparian countries have 'equitable' and 'judicious' use of the water resources that bounteously traverse their respective territories. The downstream states have special responsibility not only to understand but also work positively to create a healthy environment for future collaborative water use and management in the Nile Basin.



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Russia, the Arctic and Northeast Asia

The Strategic Importance of the Far North

Rafael Contreras Luna

Historically, the Arctic has been much more important to Russia than to other Arctic countries. In Soviet times, the development of the Arctic was of paramount importance and it was used by the Soviet government to legitimise its great power status to domestic and international audiences. It is argued in this paper that the administration of President Putin has re-established a narrative on Russia as an Arctic power. In this sense, Russia not only seeks to exploit natural resources and develop the Northern Sea Route, but to project status as it conceives of itself as a great power. This paper suggests that the Arctic is not only becoming more important for Russia itself but also for Northeast Asian countries, as China, Japan and South Korea require a stable regional environment and secure supply of natural resources, which are essential for their prosperity and stability. In this sense, diverse partnerships are being developed between Russian and Northeast Asian countries; this work analyses the key components of those partnerships and its potential benefits. The development of the Far North constitutes an essential component in Russia's larger and long-term project to develop Asiatic Russia. It would be fallacious to examine Russia's Arctic strategy only through the prism of the current confrontation between Russia and the West.

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Since Russia expanded to the Pacific, the Far North¹ has been ingrained in the Russian national consciousness. In Soviet times, the development of the Far North was of paramount importance for the country's great power status; civilising the tundra was conceived by the Soviet leadership as one of the nation's greatest achievements. The Soviet period of Arctic exploration and development had the emphasis on national glory and science. It is argued in this paper that the administration of President Putin attempts to re-establish the narrative on Russia as an Arctic power, albeit on a different manner.

Russia is one of the few great powers to have a noun *velikoderzhavnost* – greatpowerness – to define its status and position in the world. This 'greatpowerness' is a central element of Russia's national identity and exerts huge influence in the country's foreign policy making. One of the key elements used to sustain Russia's aspirations to be a great power is its Asiatic Russia. In the last decade, Putin has been constructing the narrative that development of Siberia, the Russian Far East (RFE), and the Arctic will further the development of Russia. The development of the Russian Arctic constitutes an essential component in the country's larger and long-term project to develop Asiatic Russia. It would be fallacious to examine Russia's Arctic strategies only through the prism of the current confrontation between Russia and the West. Certainly, the crisis in the Ukraine has negatively affected Russia's plans for the region. Nevertheless, as Saint Petersburg scholar Alexander Sergunin argues, the crisis has minimally affected Russia's Arctic long-term strategy, as Russia started to talk about the Arctic before other countries did and long before the current confrontation with the West started. What is more, Russia's plans in the Arctic are part of a much bigger plan of developing the entire Asiatic Russia, a project that Putin has stated would take Russia the entire century to accomplish. As per Soroka, 'Russia is playing a long game in the Arctic'.²

This article suggests that the Arctic is not only becoming more important for Russia itself and its great power status, but also for Northeast Asia (NEA), as China, Japan, and South Korea require a stable regional environment and secure supply of natural resources, which are essential for their prosperity and stability. The melting Arctic ice has in recent times pushed NEA countries to pay more attention to the re-

gion. Indeed, China, Japan and South Korea joined the Arctic Council³ in 2013 as permanent observers. The three countries are turning north in quest of shipping routes, oil, gas, scientific research and to enhance their international profiles. Similarly, China, Japan, and South Korea see the Arctic as a kind of barometer of climate change and, therefore, they consider that non-Arctic states have the right to participate in discussions and decision-making. Russia is apparently the most promising Arctic partner for NEA countries as it is not only the closest to them, but it is the largest circumpolar state and possesses the longest Arctic shoreline; it is also the nation that apparently has the highest ambitions in the region. It could be said that there is a synergy between Russia's turn to Asia and its longstanding effort to re-develop the Arctic, and Northeast Asia's turn north. Within this framework, Russia seeks to establish effective partnerships with NEA countries in the region.

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Russia's Arctic strategies are not determined only by material incentives but also by internal ideas based on its self-image as a great power. Russian plans in the Arctic are pursued if they satisfy status-seeking demands.⁴ Therefore, it would be inaccurate to analyse Russia's Arctic policies only through the prism of geopolitics or realism excluding a constructivist approach, as it would neglect the possibility of a close nexus between cooperation and the country's reassertion of great power status. Anne Clunan argues that Russia's national interests and foreign policy cannot be defined on the basis of conventional cost-benefit assessments.⁵ The self-image of Russia as a great power exerts a decisive influence on how interests are defined by the state.⁶ In terms of international affairs, the priority of the Russian leadership is to ensure the position of Russia as a global power.⁷

This article pursues a research study⁸ focusing on these ideas: Russia's insistence on its great power status and the idea of Russia as an Arctic power. It tries to explain the significance of the Far North for Russia in a historic, economic, and political perspective; but also how the Arctic remains a central element defining and promoting Russia's quest for great power status. It aims to examine how the previously mentioned ideas relate to the apparent necessity of Russia to develop the Arctic and the Northern Sea Route (NSR), and the diverse partnerships Russia is promoting with NEA countries. The function and perception of the Russian Arctic is not exclusively internal or external but arises out of the interaction of the two. Therefore, this article does not only focus on changes in the Russian Arctic in the post-Soviet period;

but also on the new circumstances in Northeast Asia and the strategic interests of China, Japan, and South Korea in the region.

This article is organised as follows. Firstly, it tries to locate the Arctic within the Russian imaginary, from Mangazeya to the single-industry towns; it emphasizes the particular importance of the region in the Soviet era. Secondly, it attempts to answer the question: What is the Arctic for Russia? This section describes the main features of the Russian Arctic and the position of the region within the new international order, and it examines the current political, economic, legal, and security issues of the region for Russia. Thirdly, this work examines the strategic interests of China, Japan, and South Korea in the Arctic and its drivers which include security, political, economic, and scientific factors, putting emphasis on the potential benefits of a Russia-NEA partnership in the region. This section is largely empirical and descriptive. Finally, the article concludes by reflecting upon the relevance of the Arctic for Russia and Northeast Asia, Arctic governance, and the risks of potential conflicts in the region.

The Arctic in Imperial and Soviet Russia

In the sixteenth century the Tsardom of Muscovy was almost a landlocked country; it did not have coastlines in the Baltic or in the Black Sea, with the exception of the village of Kholmogory (later Arkhangelsk) in the far north which traded with Europe. In 1582 Yermak took Isker and subdued the khanate of Siberia and conducted what was later known as the conquest of Siberia. Afterwards, Russian Cossacks, explorers and *promyshleniki* (fur traders) began to colonise Siberia by building forts at strategic points along the river routes to the east and to the north.⁹ As a result, in 1601 the first Russian settlement above the Arctic Circle was established: Mangazeya. The legendary town of Mangazeya on the Taz River played a crucial role in Russia's expansion into Asia as it served as a fur-trading port and base for the Russian advance into Siberia. A continuous sea route was established from Arkhangelsk to Mangazeya, this was an early precursor to the Northern Sea Route.¹⁰ As a result, by 1615 the trade volume of Mangazeya surpassed that of all the rest of Russia.¹¹ Nevertheless, due to its remote location it became clear to the new Tzar Mikhail that Mangazeya could not be controlled. Consequently, the port was closed in 1619 and fur trade was re-routed. This resulted in the rapid decline of the town and its later abandonment. As the town was built in one of the most inhospitable parts of

the Eurasian landmass, its exact location was forgotten and remained unknown until its ruins were discovered in 1967.¹²

In the sixteenth century the idea arose in Europe that a northern sea route connecting Europe to the Pacific Ocean existed, and consequently, Europeans began to explore the Arctic Ocean and reached the Taimyr Peninsula.¹³ They could not go farther east, however. In the seventeenth century, Russian explorers moved along the river basins of the great three Siberian Rivers and reached Siberia's Arctic shoreline, but they did not have the means to go farther. Similarly, there were rumours of the proximity of America and Asia and the existence of a strait between them. The Russians first reached Chukotka in the 1640s and began to explore that remote land. An expedition led by Semyon Dezhnev sailed in 1646 from Anadyrsk west to the Kolyma River and then north to the Arctic Ocean, reached the north-eastern tip of Siberia, rounded the Chukotka peninsula and passed through the strait dividing Asia and North America (the Bering Strait).¹⁴ Dezhnev was unaware of this, however, he did not know he was proving that Asia and America were separate continents and his report remained unknown until the mid-eighteenth century.

Peter the Great recognised the great advantage Russia would enjoy if the route existed and a month before he died, he entrusted Vitus Bering with the execution of an expedition to determine whether Asia and America were joined and to find a route to North America.¹⁵ In 1728 the expedition led by Bering rounded the extremity of the continent (the Chukchi Peninsula) and without realising it, passed through the strait separating Asia and America (now the Bering Strait). Due to restricted visibility, he could not see Alaska and therefore did not realise how close America was, but he confirmed that both continents were in fact separate.¹⁶

In 1730 the new Empress Anna proposed that Bering undertake a second mission which was later called the Great Northern Expedition or Second Kamchatka Expedition. The Expedition was 'one of the most elaborate, thorough, and expensive expeditions ever sent by any government any time'.¹⁷ The Great Northern Expedition was divided into three different vectors. The second vector was intended to explore the Russian Arctic and to chart Siberia's Arctic shoreline from Arkhangelsk to Chukotka.¹⁸ This would confirm the existence of the northern route connecting Europe and the Pacific Ocean. This mission was divided into five different segments and even though not all the segments were completed (especially the last one from the Lena River

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to the Bering Strait), most of the exploration and survey of the Russian Arctic shore was accomplished. Nevertheless, interest in Arctic waned during the reigns of Elizabeth and Catherine the Great.¹⁹

Several expeditions to the Arctic took place in the nineteenth century but only by the end of the century could the Russians successfully navigate the entire sea route along the Arctic. The Arctic began to play an important role for Russia only in the first half of the twentieth century when the Soviet Union began to explore and set up permanent stations and villages in order to exercise sovereignty and exploit natural resources. During Soviet industrialisation the resources located in the Soviet North began to play a central role in the Soviet centrally planned economy. A major industrial base was created, as well as a transport infrastructure. The Soviet government created many single-industry strategic towns above the Arctic Circle and their development was considered a state priority.²⁰ These mono-towns were usually established in remote areas on permafrost and under some of the most extreme and unfavourable weather conditions in the world: Dikson, Vorkuta, Norilsk, among others. The 1970s and 1980s were the golden years of such Arctic cities as their population grew exponentially, and the government drastically improved human comfort and livability of the Arctic cities. The harsh conditions were compensated by higher incomes and social benefits.

The Soviet Union put settlements and populations in some of the coldest places on Earth due to the belief that “all its territory must be populated to be possessed and governed.”²¹ The leadership sought to “impose the authority of the Soviet State on the open tundra.”²² In fact, compared to other northern countries, the Russian Arctic is different as it has more Arctic cities: out of 125 Arctic cities in the world, 93 are located in Russia, 22 in Alaska, 5 in Canada, and 5 in Norway.²³ These settlements are scattered across the vast Russian tundra and have few limited connections to the rest of Russia. The city of Norilsk epitomises the Russian Arctic town. Indeed, inhabitants of Norilsk refer to the rest of Russia as *materik*, the frequently used Russian word for mainland as the city is not connected to the rest of the country by road or railway. “Due to its Arctic location, severe climate, permafrost, isolation, size, and the level of urbanization, the city of Norilsk is unique and can be viewed as an improbable, yet truly Arctic city.”²⁴

The severe deterioration of living conditions in the early 1990s resulted in a dramatic population decline in the region, particularly in

mono-towns and ports along the Arctic coastline. Indeed, some ports on the Laptev and East Siberia seas were totally depopulated and officially abandoned. At the present time, snow-covered abandoned houses, schools, polar stations, and other buildings across the Arctic are only the living memory of the golden years of Arctic development. Certainly, the Soviet development of remote Arctic regions has left a problematic legacy for modern Russia; this can be seen throughout the Russian Arctic region. Perhaps, no other city embodies this problematic legacy better than Vorkuta. In Soviet times, this former GULAG camp became the third largest Arctic city and one of the largest coal sources of the country. In the 1990s, however, the situation in this single-industry town was “catastrophic” and Vorkuta was deemed to disappear. In 2003, the private company *Severstal* bought the state-owned company *Vorkutaugol* and since then conditions in the city have slightly improved. Nevertheless, the situation is far from being normalised: eight out of thirteen coal mines have closed, and large parts of the city have been practically abandoned.²⁵ The future of the city is totally uncertain as it depends directly on how profitable coal extraction will be.

Exploration and development of the Arctic has been much more important to Russia than to Western countries: “For as long as Russia has existed as a country, and particularly during the twentieth century, the Arctic has occupied a special place of prominence in its national development.”²⁶ For the Soviet leadership industrialising and urbanising some of the most inhospitable territories in the world was viewed as one of the USSR’s greatest achievements.²⁷ Indeed, for Russia the development of the Far North is a history of a fierce battles against the incredibly severe conditions of the Arctic; a history full of stories of success and tragedy.²⁸ Russians felt proud of civilising the tundra and overcoming the extreme harsh weather conditions. As Pier Horensma observes: “What to many had been a cold and empty area has been changed by icebreaker expeditions and polar stations into a miraculous empire, in which heroic battles were fought and records achieved.”²⁹

Russia’s strategic interests in the Arctic

After the collapse of the Soviet Union the Arctic apparently lost its importance for Russia; the policies of the country to the north focused on measures only to respond to the economic and social crisis originating from the demise of the USSR. Indeed, the Arctic was not a priority until the mid-2000s when it gradually regained its strategic importance

for Russia. Economic and security interests of Russia in the Arctic have considerably changed in the last two decades. Arguably, one of the most important factors contributing to this new reality is the recent retreat of the ice in the Arctic Ocean as it has brought international attention back to the area.³⁰ Although the ice is not retreating in a predictable way, climate models predict that the Arctic Ocean will be ice-free in summer sometime between 2030 and 2050.³¹ Apart from the obvious effects on the local and global environment, this unlocks a wide range of both opportunities and security challenges: the opening of Russia's Northern Sea Route have led to predictions of shortened trade routes saving thousands of miles and many days at sea- between Europe and East Asia. Forecasts of large oil and gas reserves have given rise to concerns over sovereignty, security and sustainability throughout the region.³² An oft-cited report by the US Geological Survey estimates that the Arctic could be home to 13 percent of the world's undiscovered oil and 30 percent of the undiscovered gas, more than 80 percent located offshore, in addition to abundant metal and non-ferrous deposits of copper, zinc, diamond, gold, silver and nickel and fishing resources.³³

Arguably, Russia has the highest ambitions in the Arctic as it has important economic, social, environmental, and military-strategic interests in the region. The Russian government refers to the Arctic as an area of strategic national interest and constantly emphasises the importance of the region. Russian Deputy Prime Minister Dmitry Rogozin stated that "The Arctic is a Russian Mecca."³⁴ After Norway, Russia was the second Arctic country to formulate an Arctic strategy. In 2008 the Russian Federation's Security Council set out the basic national interests in the Arctic and its vision of the future, defining the Arctic as Russia's main strategic resource base and the Arctic as a zone of peace and cooperation, emphasising its commitment to international laws. Similarly, *The Foundations of State Policy of the Russian Federation in the Arctic for the Period up to 2020 and Beyond* focuses on the priorities of Russia's Arctic policies. "This strategy aims to transform the region into Russia's future resource base by providing greater investments, protecting Russian borders and safeguarding territory, ensuring environmental safety, promoting science and research, and contributing to international stability."³⁵ In 2013 *The Strategy for the Development of the Arctic Zone of the Russian Federation* was approved by President Putin; it focuses on the sustainable socio-economic development of the Rus-

sian Arctic. These two documents comprise Russia's Arctic strategy. Russia is operating at various levels in the Arctic: political, economic, military, and legal.

Russia has strategic economic interests in the Arctic. The aforementioned report by the US Geological Survey estimates that most of the oil and gas potential of the Arctic is located in the Russian sector: 60 percent of the undiscovered Arctic oil and gas.³⁶ Similarly, the Russian Arctic nowadays produces about 11 percent of the country's gross domestic product and approximately 22 percent of the total Russian exports. The region accounts for 95 percent of Russia's gas production and 70 percent of the country's oil production. The Arctic is also abundant in other mineral resources such as diamonds, nickel, cobalt, and copper, among others.³⁷

The Northern Sea Route comprises a set of sea routes along the Russian Arctic shoreline providing access to different Russian ports: Novy Port, near the mouth of the Ob River; Dikson, Dudinka, and Igarka at the mouth of the Yenisei River; Tiksi at the Lena River; and Pevek and Mys Shmidta along the coastline of the Chukotka Autonomous Okrug, among others. The NSR is of interest to global shipping firms as an alternative to the longer southern routes between East Asia and Europe. The competitive advantages of the NSR are the speed of delivery and the resulting financial savings, as well as being a safer route. Nowadays, the route is opened through the ice and maintained by Russian nuclear ice breakers. The Rotterdam-Yokohama route, for instance, could be reduced from 18,350 km to 11,100km.³⁸ Russian leadership has placed special emphasis on the development of the NSR. President Putin has defined it as a "future international transport artery that will compete with other maritime routes."³⁹ Thus, "the modernisation of the Northern Sea Route for international commercial use becomes strategically important for Russia."⁴⁰ Russia's *Transportation Strategy to 2030* establishes aims such as developing the NSR and the river networks that link it to the interior of the country.

Travelling along the NSR poses several challenges for Russia, however. Firstly, high operation costs and the unpredictability of the Arctic weather seriously limit the viability of using the route. The shallow depth of some parts of the route and the retention of ice, particularly in the Vilkitskiy Strait (Taymyr Peninsula) seriously restrict the transit of ships even in summer.⁴¹ In the long term, trans-Arctic regular shipping through the NSR remains uncertain. The number of vessels mak-

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ing the full length of the route rose from four vessels in 2010 to around 50 in 2012 and to 71 in 2013, however, in 2014 it slumped to about 25. The number of vessels traversing the route increased slightly in 2017. Total cargo volume on the NSR increased from 2.8 million tonnes in 2013 to 7.5 million tonnes in 2016. It is said that total cargo volume on the NSR rose in 2017 by 40 percent.⁴²

Figure 1. The Northern Sea Route.



Source: Global Security.

Opening the Northern Sea Route has prompted discussion regarding the sovereignty of the route. Russia seeks to secure the region legally due to the several national claims on maritime borders and rights on the Arctic between circumpolar states. The United Nations Convention on the Law of the Sea (UNCLOS) grants sovereignty rights for exploring and exploiting natural resources over a 370 km economic exclusive zone (EEZ). Sovereign rights over a wider area can be claimed if it is demonstrated with geological evidence that the area claimed is a prolongation of its land territory. In 2001 Russia made its first legal claim and submitted a proposed outer boundary to its continental shelf in order to extend its EEZ beyond the two hundred nautical miles as stipulated by UNCLOS. Russia's claim stems from the argument that the Mendeleev and Lomonosov ridges are a continuation of the Siberian shelf. This claim was first submitted to the UNCLOS, however, the Commission argued that there was insufficient data for its support and recommended Russia to present more geological evidence. Russia

worked on its application for several years and resubmitted its claim in 2015. Nevertheless, the revision of Russia's new submission can take a long period of time. Moreover, extraction of hydrocarbons would not be profitable for decades to come as these areas are very deep and distant.⁴³ By the same token, it should be emphasised that more resources are located within Russia's EEZ. Consequently, it could be argued that Russia's legal strategy and primary concern is not the acquisition of territory for natural resources but "in keeping foreign powers out of what it regards as its strategically vital region."⁴⁴ It should be underlined that Russia plans to solve the problem peacefully and within the UNCLOS framework as it has much to lose doing otherwise.⁴⁵ Russia attempts to be perceived as a play-by-the-rules Arctic actor that fulfils a leadership role.⁴⁶

In recent years Russia has substantially increased its military activity in the Arctic in order to improve its military capacity on an operational level. For instance, in 2017 the Defence Ministry announced the completion of a new military airbase on Franz Joseph Land, the northernmost part of Russia's territory and only less than 200 kilometers from the North Pole. In addition to this facility, Russia has built a series of other military facilities along its Arctic coast and airbases on the islands in the Arctic Ocean. This situation has brought concerns to some Arctic and non-Arctic actors.

The increasingly more assertive and active stance of Russia in the Arctic has fuelled speculation about a new Cold War, particularly in Western publications, however, it should be noted that Russia's Arctic military strategies do not greatly differ from those of other Arctic states. In military terms, Russia seeks to secure and defend its interests in the region as any other country does: by increasing its presence and creating a favourable operating system regime for its armed forces, troops and coastal border guards.⁴⁷ It should be emphasised that Russia's Arctic approach is more the return of a major power to a normal level of activity in a region that was practically neglected due to the decay of the armed forces.⁴⁸ In words of the Deputy Defence Minister Anatoly Antonov: "A lot of people are wondering: what are Russians doing in the Arctic? There is talk that Russians are building up their [military] presence there, but I think the answer here is very simple. We are ensuring the security of our country on our legitimate territory."⁴⁹ Russia's "limited modernisation" of the military in the Arctic has more to do with deterrence against NATO and patrolling the large area

rather than for obtaining offensive capabilities.⁵⁰ In general, the early predictions of military conflict in the region seem for the time being groundless as the level of intergovernmental cooperation has gradually increased. It should be noted that nearly all the oil and gas deposits are within the EEZ of the coastal states.

One initiative epitomises Russia's great power ambitions in the Arctic: the Yamal LNG Project. This initiative constitutes Russia's flagship Arctic project and one of the biggest LNG undertakings in world. Located in Sabetta in the Yamal Peninsula under extreme cold conditions, Yamal LNG is currently the northernmost LNG plant in the world. Yamal LNG is owned by Russia's Novatek (50.1%), together with France's Total (20%), Chinese National Petroleum Corporation (CNPC) (20%), and recently by China's Silk Road Fund (SRF) (9.9%). The LNG plant is being developed in three phases. The first phase started operations in December 2017. The total production capacity will be 16.5 million tonnes of LNG per year when the three liquefaction trains will be functioning by 2019 and it is the second LNG plant in Russia after Sakhalin-II.

As global LNG production has been growing considerably in recent years, Russia has therefore reconsidered its focus on pipeline exports. In 2017, Russia was the seventh larger LNG exporter, with exports of 10.8 million tonnes Russia accounted for 4.2 percent of global market share. With Yamal at full operation Russia's LNG capacity will grow more than 100 percent thus gaining a foothold in LNG production. Russia's market share in global LNG exports will increase to more than 10 percent as the country's total liquefaction capacity will increase to 27.3 million tonnes.⁵¹ Russia is aiming to increase the volume of LNG exports by developing five additional projects: Sakhalin-II expansion, Far East LNG, Vladivostok LNG, Arctic 2 (Pechora) LNG, and Baltic LNG.

It should be noted that the situation in the Arctic is now more difficult for Russia than prior to the crisis in the Ukraine. Moscow scholar Egor Makarov argues that Western sanctions against Russia were primarily directed to Arctic resource extraction and many projects were cancelled or postponed. Indeed, US and EU sanctions aimed to restrict financial borrowing and export of technologies to Russia. Consequently, the future of Yamal Project appeared uncertain as the United States and the European Union imposed sanctions on Novatek in 2014. Novatek could keep the Project afloat, however, as US sanctions prohib-

ited gas and oil exploration whereas EU did not.⁵² Therefore European companies such as Total could still participate in the Project. In terms of financing, Novatek turned to China and sold a 9.9 percent stake of Yamal LNG to SRF, a stated owned interest fund. By the same token, Chinese banks loaned an additional 12 billion to Yamal LNG.⁵³ Similarly, other Chinese investors have shown interest in Novatek’s Arctic 2 LNG.

Russia, the Arctic and Northeast Asia

Figure 2. Russia’s LNG Plans.



Source: Warwick Business School.

Although Novatek is not a state company, the Russian government placed special emphasis on the Project in Sabetta and gave a lot of support. At the opening ceremony in December 2017 in Sabetta, President Putin stated: “The Yamal project paved the way for the Arctic route. It will contribute to the development of the energy industry in the whole world as well as Russia and Europe.”⁵⁴ For Putin this undertaking is

“extremely important” not only for the energy sector but as part of a more ambitious project to develop the Arctic.⁵⁵ In this sense, the project in Sabetta could trigger other development plans in the region. According to Russia’s greatpowerness, as the country develops the Arctic it confirms its great power status. Consequently, Yamal LNG project represents to Russia an opportunity to demonstrate its power as even under the current sanctions is still capable of following its plans. For Russia, Yamal LNG is a complete success as the country showed that it can bypass Western sanctions by partnering with Asian countries, particularly China. “Economic advantages aside, the successful completion of Yamal LNG holds considerable propaganda value, as it will undoubtedly be spun to highlight Russia’s technological prowess and the impotency of Western sanctions.”⁵⁶

Before the crisis Russia relied on Western financing and technology to develop large projects in the Arctic. The conflict with the West in the Ukraine accelerated Russia’s attempt to integrate Asiatic Russia into Northeast Asia. In general, Northeast Asian countries are becoming more important to Russia, particularly China. Russia’s Arctic plans should be viewed within the context of Russia’s ambitious long-term project to develop Asiatic Russia and integrate it into Northeast Asia. The function and perception of the Russian Arctic is not exclusively internal or external but arises out of the interaction of the two. Therefore, the second part of this article considers the new external conditions in Northeast Asia to connect them to Russia’s external strategy in the Arctic and ideas on great power identity.

Northeast Asia and the Arctic

China

The Chinese government for a long time did not establish a particular strategy on the Arctic. Similarly, there was no official statement of policy or high-level pronouncement on the Arctic. Apparently, the region was neither a top foreign policy priority for China nor an immediate interest, but part of a long-term strategy⁵⁷ as with numerous other second-tier foreign policy issues.⁵⁸ Chinese scholars and scientists gradually started paying more attention to the area and suggesting policies to the government as Chinese leaders were still in the early stages of developing an official policy toward the region.⁵⁹ Finally, in January 2018 the government adopted an official strategy for the Arctic when

the State Council Information Office of the People's Republic of China published a white paper titled *China's Arctic Policy*. In this paper China portrays itself as a near-Arctic state and being "an active participant, builder and contributor in Arctic affairs who has spared no efforts to contribute its wisdom to the development of the Arctic region."⁶⁰ Similarly, by issuing this whiter paper the Chinese government aims "to expound its basic positions on Arctic affairs, to elaborate on its policy goals, basic principles and major policies and positions regarding its engagement in Arctic affairs."⁶¹

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China seeks a role in determining the political framework and legal basis for future activities in the Arctic.⁶² The Chinese government sees the Arctic as an environmental zone and an arena for economic opportunities: "These interests are crosscutting and environmental preservation goes hand-in-hand with commercial interests."⁶³ It should be emphasised, that China has historically maintained a low profile on Arctic issues, possibly so as to not cause alarm among Arctic states. As a Chinese specialist asserts, "China needs to make it clear to major Arctic players that as non-Arctic country it recognises Arctic nation's sovereignty and related rights in the area."⁶⁴ China's interests in the Arctic are economic, geopolitical and ecological.⁶⁵

The melting ice in the Arctic will likely have profound effects on the country's climate; China is very susceptible to rising seas levels. Consequently, China's activities are focused on environmental issues; it participates actively in several research projects, especially on issues concerning the impact of the melting polar ice on the country's environment and geological and mineral extraction. In effect, China has one Arctic research station: the Arctic Yellow River Station on Svalbard Island, established in 2003. China also has a large ice breaker, the Xue Long, which rescued the Russian icebreaker Akademik Shokalskiy. It could be argued that scientific research legitimises China's claims in the Arctic as a non-Arctic state.

China is interested in the NSR as the Chinese economy is highly dependent on international shipping. The country therefore sees the melting ice of the Arctic as an opportunity to use the NSR as an alternative route to transport goods in summer from Europe to Asia and vice versa. It is the shortest route for commercial shipping, particularly for the eastern ports. In 2013, the first Chinese merchant ship travelled to Europe via the NSR. Secondly, it is a safer route. China is the largest consumer of energy and it is vital to its interests to ensure safe transit

of oil and gas, and the shortcut via NSR not only would diversify energy supplies to China but shipping via the Arctic would give it the ability to avoid dangerous routes.

China is also interested in resource development, and access to energy and mineral resources under the Arctic seabed. To avoid conflict with the Arctic states, particularly with Russia and Canada, China continuously emphasises its recognition of the Arctic state's sovereignty and that it is seeking only to form a partnership with them. As the head of the Polar Research Institute of China stated, "[...] we insist that these resources are not ours, and China's partnership with Arctic countries in the sector will come naturally as it is part of the widening economic cooperation among countries in the context of globalisation."⁶⁶

Of the Arctic states, China has been giving priority to cooperation with Iceland and Denmark in the last decade. China-Iceland cooperation in the Arctic is particularly active and both countries are gradually working more closely. Recently both countries signed a free trade agreement, and the China National Offshore Oil Corporation was granted a license to explore oil and gas resources in the Draki area.⁶⁷ Similarly, Denmark is looking for closer cooperation with China, particularly in sectors such as mining, fishing and sea-route development.⁶⁸

As it has been said, the ongoing crisis between Russia and the West has negatively affected Russia's plans to develop the Arctic as cooperation and exploration projects have been cancelled or postponed. "Sanctions on Russia have made it difficult for energy projects to get the capital they need from the West. Companies like Novatek, the independent company operating Yamal LNG, have instead looked to China, which sees in Russia opportunities for geopolitical and economic gains."⁶⁹ Consequently, for Russia its partnership with China in the Arctic seems to be crucial in the mid-term. "China presents itself not only as a potential customer of Russian Arctic resources, but it could also offer Russia what it needs in terms of capital and financial banking for the development of Russia's energy and transport infrastructure in the Arctic."⁷⁰ As Mia Bennett notes, Yamal LNG Project is not just Russian but it is also Chinese. Sanctions obliged Russia to completely refinance the project and the future of it was uncertain until China decided to finance the project. Consequently, China sees Yamal LNG also as its own success story.⁷¹

Apart from Yamal LNG, both countries are planning to develop projects in the Barents and Pechora seas. CNPC signed an agreement

with Soucomflot to coordinate efforts to use the NSR and the shipping of hydrocarbons as Russia's expertise in terms of icebreakers is essential for China.

Due to the extensive energy ties, strategic partnership, and Arctic policies, Russia could be one of the most promising partners for China in the Arctic, through "mutually advantageous cooperation."⁷² China-Russia cooperation in the Arctic can thus strengthen the strategic partnership between both nations. Nevertheless, as in Siberia and the RFE, the increasing presence of China in the Arctic creates some concern in Russia and could represent a future dilemma for Russia. Additionally, China is still reticent to invest in large Russian projects in the Arctic, Yamal LNG being the exception as the circumstances surrounding were quite unique.⁷³ Moreover, Chinese companies still lag behind the West technologically in the Arctic. China is also concerned about the regulations that Russia could impose on vessels passing through the NSR as China supports the principle of free navigation along the Arctic. Consequently, "China negatively perceives Russia's attempts to prove their rights in accordance to the UNCLOS."⁷⁴

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Japan

Japan has been involved in Arctic activities since the 1970s, is not a newcomer compared to China and South Korea and has more expertise on Arctic research and activities as it has conducted scientific research in the region for a long time. It has neither an official policy nor a strategy for the region, however. Several scholars and members of the private sector have thus urged the government to devise an official Arctic policy outlining the country's interests and how they can be met. There is no cross-ministerial organisation to deal with Arctic affairs, but there are several government's ministries involved in Arctic issues and some universities and institutes conduct Arctic research.⁷⁵

Japan pursues science diplomacy in the Arctic as its major interests in the region are related to scientific research, the effects of climate change and the potential impact on global climate. According to the government, protecting and understanding the Arctic environment is the main aim of Japanese involvement in the region, because climate change in the Arctic impacts the global climate.⁷⁶ Japan believes that as a responsible member of the international community, it should participate in the protection of the Arctic environment.

Japan positions itself as a maritime state willing to make an important contribution to Arctic scientific cooperation.⁷⁷ The aim of Japan's Arctic policies is "[...] to build on the achievements it has made so far, maintaining its low-profile position as a non-Arctic or non-coastal state, while at the same time emphasizing Japan's past contribution to Arctic research."⁷⁸ As noted, Japan has conducted polar research since the 1970s. In 1973 it founded the Centre for Arctic Research under the National Institute of Polar Research (NIPR) and has established two observatories on Svalbard. Japan has carried out different research projects in the Arctic.⁷⁹ Similarly, Japan has contributed to the Arctic Monitoring and Assessment Programme (AMAP), one of the Arctic Council working groups. "[Japan] is willing to contribute actively and constructively to the work of the Council by providing expertise gained through scientific research activities."⁸⁰

The Japanese Institute of International Affairs has recommended the government to use its financial means and technology in the field of resource exploration and take advantage of its expertise and technology to play a leading role in Arctic research.⁸¹ In this regard, according to Kazuyuki Shiraishi, Director-General of the NIPR: "Arctic research is drawing attention in recent years in particular, along with growing interest in global warming. NIPR steadily implements the Arctic Climate Change Project as one of Green Network of Excellence (GRENE) programs in collaboration with various research communities."⁸²

Japan's Arctic policies are backed by tools of science and technology. For instance, in 2018 the proposal *Utilizing Scientific Knowledge in the Arctic: Japan's Contribution* was officially submitted to the State Minister for Foreign Affairs of Japan. This proposal conceives Japan as a "neutral non-Arctic State' [which] can provide objective scientific data for the Arctic policy and rule making."⁸³

One of the major potential economic benefits for Japan is the opening of the NSR, as it would make travel to and from Europe shorter, safer, and cheaper. The distance from Yokohama to Rotterdam along the Northern Sea Route is 43 percent shorter than via the Suez Canal.⁸⁴ The Japanese government, along with different ministries and institutes, has carried out feasibility studies of the route and the possibilities of using it for commercial shipping. In fact, Japan carried out with Russia and Norway one of the first international programmes aiming to prove the viability of the NSR. Nevertheless, the opening of the NSR will increase traffic in Northeast Asia and for Japan, this creates con-

cerns about increased traffic and sea power struggle,⁸⁵ as this could disrupt military balance in East Asia.⁸⁶

Japan's policies in the field of energy resources involve looking for opportunities to develop oil and gas fields in cooperation with the Arctic States, particularly with Russia, in order to improve its energy security. Nonetheless, scepticism remains high as the technological difficulties and harsh weather conditions may significantly increase costs. Similarly, the possible benefits of the NSR to Japanese businesses are still uncertain, especially due to extreme weather conditions in the Arctic. "Uncertain, intermittent weather forecasting and the lack of reporting of icy ocean conditions also pose serious hazards for Arctic shipping."⁸⁷ Based on current evidence, the Japanese business community still does not believe that there are significant opportunities in the Arctic, even if the ice-melting continues. "For them, there are too many uncertainties to generate the kind of financial benefits that would encourage them to make substantial investments required to operate in the Arctic."⁸⁸

Partnership with Russia in the Arctic would not only help to strengthen bilateral ties but would be an opportunity for Japan to engage more in the region through cooperation with the most important player in the Arctic. "It will also give Japanese energy and maritime corporations and scientific institutions valuable Arctic access."⁸⁹

Cooperation with Russia in the field of infrastructure development and the organisation of navigation along the NSR may open opportunities for new projects. As noted, Japanese enterprises and institutions have already conducted feasibility studies for using the NSR, and the countries could partner in different projects aimed to rebuild and modernise the decaying infrastructure along Russia's Arctic coast. Russia and Japan held talks in 2013 about beginning commercial shipping through the Arctic Ocean; Russia even proposed simplifying the procedures for applying for use of the NSR.⁹⁰

For Japan and Russia, partnership in the extraction of energy resources and research other sources of energy in the Arctic may also be attractive, partnership with Japan in sustainable development of energy resources could be a new opportunity for cooperation, given Japanese know-how in energy extraction and Japan's need to find alternative sources of energy. Another field for cooperation is research. Russia-Japan cooperation in Arctic research started in the 1990s and has been developing. The first official discussions on cooperative research

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between Japan and Russia on the Arctic, following the recommendation by the Japan-Russia Joint Committee of Science and Technology Cooperation, took place in 2014 in Japan, and both sides discussed twelve different themes such as the effects of climate change, weather forecasting, ecosystems, and sea navigation.⁹¹ According to Sergunin, Japan-Russia cooperation on Arctic research appears to be one of the more promising fields for bilateral cooperation.

South Korea

As a result of its acceptance in the Arctic Council as a permanent observer, the Republic of Korea (ROK) articulated a strategy for the region and in 2013 announced the government's *Arctic Policy Master Plan*, outlining its economic, scientific, and political goals. According to the Deputy Prime Minister Hyun Oh-seok, South Korea is taking the advantage of its status as an observer country on the Arctic Council to enter new markets, and a "comprehensive blueprint" has been drawn up to accomplish that aim.⁹² Indeed, South Korea was the first Asian state to outline a comprehensive Arctic strategy. Basically, the strategy contains four strategic goals: to boost the country's cooperation with Arctic states, strengthening South Korea's scientific research in the Arctic, develop a new Arctic business model, and improve legal and institutional infrastructure.

For the ROK, being involved in the Arctic's governance helps the country to play a role in global matters and to enhance South Korea's international profile. Thus, pride, national privilege, and the need to take a more active foreign policy are some of the reasons for South Korea to be involved in Arctic issues.⁹³ Establishing legal and institutional grounds for participation in Arctic affairs is a priority for South Korea. Thus far, seven government ministries and two agencies manage the country's Arctic activities.⁹⁴

The ROK places special attention on science, and thus, one of the main drivers for involvement in the Arctic is scientific research. According to the Korean Polar Research Institute (KOPRI), South Korea secures its national interests through scientific research, and thus, joint development and cooperation with other Arctic states on research activities is seen as a way to secure national interests.⁹⁵ South Korea has a polar research programme realised by the KOPRI and it established the Dasan station on the Svalbard Archipelago in 2002 to undertake research on the Arctic Ocean. Similarly, the ROK built the

research icebreaker ARAON and has announced the construction of a second icebreaker.

Global climate change concerns South Korea and it actively participates in research to promote green technologies and the sustainable development of natural resources. It believes the Arctic to be a “barometer of climate change,”⁹⁶ and thus it puts emphasis on climate research and particularly climate change in the Arctic.

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Shipping, shipbuilding, offshore infrastructure, and energy resources comprise the main economic interests of the ROK in the Arctic. South Korea is practically cut off from the mainland, and therefore relies on maritime shipping for its exports and imports. This over-dependency on maritime imports and specifically on energy imports “[...] means that maintaining safely navigable shipping lanes free from disturbances is vital to state security.”⁹⁷ Along these lines, the opening of the NSR creates several expectations in South Korea, as it can serve as an alternative maritime route to that from the Middle East for the import of hydrocarbons and for exports to Europe. Additionally, transportation along the NSR could reduce fuel costs by 25 percent. For instance, if Arctic oil could replace just 10 percent of Middle East’s oil, South Korea could save at least \$1 billion in transportation costs.⁹⁸

Incidentally, as pointed out by Makarov, the NSR and extraction of energy resources in the Arctic is looked on with special interest by South Korean building companies as it could increase the demand for icebreakers, ice-class vessels and tankers. South Korea’s shipbuilders are among the most competitive firms in the world and have the potential for the construction of icebreakers and ice-class vessels and tankers to transport LNG along the Arctic. Indeed, Hyundai Heavy Industries, Daewoo Shipbuilding & Marine Engineering, and Samsung Heavy Industries are the three largest shipbuilding conglomerates in the world and build most tankers ordered worldwide.

For the South Korean leadership and scholars Russia is arguably the most important partner for the country in the Arctic.⁹⁹ Both countries have agreed on mutual cooperation in the development of the Arctic, its study, preservation of the environment, the use of the NSR, and on strengthening cooperation in the new field, associated with the construction and operation of icebreakers and ice-class vessels.¹⁰⁰ At the 2017 Eastern Economic Forum in Vladivostok, South Korean President Moon Jae-in noted the compatibility of both countries’ policies and described the potential areas of Russia–South Korea economic cooper-

ation (nine bridges), which include the development of infrastructure, seaports and Arctic shipping routes.¹⁰¹

One of the most promising fields for Russia-South Korea cooperation is shipbuilding as South Korean companies are at the vanguard in technology to navigate in Arctic conditions. Daewoo Shipbuilding & Marine Engineering (DSME) CEO Jung Sung-lee stated that South Korea “[...] will be the biggest beneficiary from the active development of the Arctic thanks to our high technology in ships navigating the area.”¹⁰² In fact, South Korea is already building carriers to transport LNG from the Arctic. In 2013 DSME signed an agreement with Sovcomflot to build up to 16 icebreaking liquefied gas vessels to transport LNG produced at the Yamal LNG project in Sabetta. The first three Arctic gas carriers were delivered in 2017 and the rest should be delivered by 2020.

Similarly, proposals have been discussed to collaborate by allowing South Korean vessels to use the NSR in its territorial waters¹⁰³ and efforts are made to promote cooperation projects to link ports along the Arctic coast with the main continental shipment terminals and logistics centers.¹⁰⁴ South Korea could be part of a larger NSR stretching from Scandinavia, along Russia and down to Northeast Asia, and Busan could become a major port on the route for vessels into and exiting the NSR.¹⁰⁵ Other areas for bilateral cooperation include the development and modernization of the Russian Arctic ports, and information and communication technologies.

Arctic cooperation with Russia embodies not only an alternative shipping route but a separate source of hydrocarbons to increase energy security. The ROK is interested in cooperation with Russia in the offshore extraction of energy resources, researching other sources of energy and exporting technologies for cooperation due to the large expertise of South Korean companies. For Russia, given the troubled current relationship with the West, partnership with the ROK in the sustainable development of energy resources appears to be a priority.

One of the priorities of South Korea in the Arctic is scientific research, therefore it is keen to develop joint research activities with Russia as “scientific interests and cooperation have remained at the centre of South Korea’s approach to Arctic affairs.”¹⁰⁶ Northern Arctic Federal University (Arkhangelsk) and KOPRI are interested in cooperation in the sphere of joint research and educational programs. For instance, in April 2018 took place in Arkhangelsk the 1st Korea-Russia Workshop on Arctic Research initiated by the Korea-Russia Science and Technol-

ogy Cooperation Center, which was attended by scientists and representatives of both governments and several research organizations.¹⁰⁷

Finally, trilateral cooperation between NEA countries has developed in recent years. For instance, the three countries held their first trilateral talks on Arctic issues in 2016. The second trilateral meeting took place in 2017 in which China, Japan, and South Korea reached an agreement on scientific research.¹⁰⁸ The third Northeast Asian dialogue on the Arctic took place in Shanghai in June 2018, at the summit the three countries attempted to coordinate their engagement in the region and strengthen their scientific diplomacy.¹⁰⁹

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Conclusions

As Arctic ice recedes, the growing economic interest and strategic significance of the Arctic brings security concerns, that have led some academics and politicians to argue that the region is being “re-geopoliticised” and is likely to become a geopolitical hotspot in the decades to come.¹¹⁰ Speculations of possible conflicts were triggered in 2007 by the Russian expedition *Arktika* which made the first descent to the ocean bottom below the North Pole and planted a titanium Russian flag on the seabed at 4,261 meters deep. Contrast to grim visions of an Arctic battle over resources and boundaries, this highly contested region remains a largely cooperative one. Indeed, after the crisis in the Ukraine in 2014, all the Arctic states emphasised their commitment to preserve the Arctic as a zone of cooperation and peaceful coordination.¹¹¹

This work examined Russia’s Arctic policies to give insight into the kind of role it expects to play in Arctic affairs. Russian strategies in the Arctic are aimed to ascertain its presence in the region, protect and develop its economic interests, develop its Asiatic Russia, and to demonstrate that it remains a great power. In a like manner, looking into the Russia-NEA limited partnership in the Arctic sheds light on how the mechanism for regional cooperation works, and on how due to the harsh environment and remoteness of the region, and the unknown consequences of Arctic warming, international collaboration is crucial for generating solutions to regional and global issues.

Russia has continued to signal a commitment to Arctic peace and to international law in the Arctic. As argued, its actions and policies are in line with those of the other members of the Arctic Council. Nevertheless, as the NSR passes along its Arctic coast, one of the main potential points of contention of Russia with other countries is the possibility

that Russia could impose strict regulations, high ice-breaking fees and particularly high fees for using the NSR as Russia consider it to be part of its territorial waters. Political conflicts and legal disputes cannot be ruled out in the Arctic. Having said that, claims that Russia's military buildup in the Arctic brings the region closer to a political or armed confrontation seem to be groundless. In the military sphere, Russia is primarily focusing on radar and surveillance capabilities as until recently the Russian military could not monitor its entire Arctic coast. Therefore, the significance of Russia's Arctic military strategy has to do more with establishing permanent presence rather than developing combat capabilities. As per Soroka: "The Arctic represents a region where operating even under optimal conditions requires considerable technical competence and resources, rendering it a geographic canvas upon which states can project power and signal their rising international stature."¹¹² Russia is using the development of the Arctic as to legitimise to domestic and international audiences its great power status in the region. Frequent announcements of Arctic strategy such as the decision to launch a virtual excursion around the new modern airbase in Franz Joseph Land,¹¹³ are aimed to show that Russia has restored its great power capabilities in the Arctic.

Similarly, China's engagement in the region creates some concerns, particularly in Western publications. China believes the Arctic is a common heritage and that actions in the region have global effects, and therefore non-Arctic states should be considered. This, and China's assertiveness in seas closer to it, has fuelled suspicion and generated concerns about the country's real intentions, and has led several analysts and officials to draw a parallelism between the situation in South China Sea and the situation in the Arctic.¹¹⁴ Accordingly, as the Arctic becomes a contested area, Chinese assertiveness in the region will grow fuelled by the need for natural resources and the country will not uphold international laws. Nevertheless, to draw parallels between China's claims in the South China Sea and China's aspirations in the Arctic is problematic, to say the least, as the context is completely different. Moreover, in spite of the fact that China's position strengthened after it was granted the status of permanent observer, this should not be overestimated as the status does not give China more powers. Indeed, China's Arctic interests are quite modest.¹¹⁵

An analogy could be drawn between the Arctic and South China Sea in the sense that the Arctic region has similar great power rivalry,

“but instead offers a good example of peaceful settlements and compromise.”¹¹⁶ The situation in the Arctic could give light for establishing an effective framework to manage the growing rivalries over resources and sovereignty issues in East Asia. Wilson Rowe argues that it is a remarkable achievement that the Arctic Council has been largely buffered from the current conflict between Russia and the West.¹¹⁷ As strategic interests of all actors are intricately no one benefits from destabilization. What is more, in the Arctic context, significant “great powers” such as the US and Russia, are best understood as “resting powers.”¹¹⁸ Arguably, since the outbreak of the conflict in the Ukraine, the Arctic and space exploration are practically the only fields where Russia-US cooperation remains unaltered.¹¹⁹

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The Arctic Council has long had scientific cooperation as its key mandate.¹²⁰ By the same token, science diplomacy has been important for NEA to participate in Arctic affairs. Indeed, the scientific-diplomatic approach has been very useful for NEA countries to promote cooperation with Russia. Arguably for Russia, the major threat in the Arctic may not come from potential interference of other Arctic nations in Russia’s regional affairs, but from the consequences of global warming in the Arctic; as temperature in the region increases, the permafrost is melting and there is a major escape into the atmosphere of methane gas.¹²¹ This could have severe consequences for the entire Far North.

This article argues that the Arctic has been historically much more important to Russia than to other Arctic countries, particularly in the Soviet period, and Putin administration attempts to re-establish the narrative on Russia as an Arctic power. Unlike the Soviet paradigm which prioritised the development of northern settlements, the Russian government is prioritising the development of the NSR and oil and gas deposits in the Arctic, particularly LNG. The case of Sabetta is paradigmatic; under the Soviet rationale, it would have been developed an entire city there, in modern Russia it is not the case. The emphasis that the Russian leadership has placed on projects such as Yamal LNG illustrates to what extent the Arctic is important to Russia. Nevertheless, as in Imperial and Soviet times, it seems that the Arctic as much of Asiatic Russia is being developed to a great extent on a geopolitical basis. This is, the Arctic is instrumental for the Russian state. Therefore, it is to be seen whether those projects can positively impact on the development of northern cities as it is not clear where the eco-

conomic benefits go. Russia needs an integral plan for the development of its Arctic zone including single-industry towns that have been practically abandoned by the government.

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Notes

- 1 This work follows the definition of the Russian Arctic according to Russia's state program *Socio-economic development of the Russian Arctic zone until 2020*. This article uses interchangeably the terms Arctic and Far North to refer to the whole Russia's Arctic zone.
- 2 George Soroka (2016), 'The Political Economy of Russia's Reimagined Arctic,' *Arctic Yearbook 2016*, The Northern Research Forum.
- 3 The council has eight members, the five countries bordering the Arctic Sea, Canada, Denmark, Norway, Russia and the United States, and the three countries with territory above the Arctic Circle, Finland, Iceland and Sweden. At first the Council was regarded as a coordination of environmental issues and research; however, in the last decade the relevance of the Council has been strengthened and now it addresses several other issues.
- 4 Soroka (2016).
- 5 Anne Clunan (2009), *The Social Construction of Russia's Resurgence; Aspirations, Identity and Security Interests*, New York: John Hopkins University Press.
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Evidentiary Thresholds for Unilateral Aggression

Douma, Skripal and Media Analysis of Chemical Weapon Attacks as a Casus Belli

Gavan Patrick Gray

The initiation of military or economic punishment generally on states requires significant justification, lest it be judged an act of aggression. In 2018 two separate incidents invoked similar rationales for such acts of reprisal, specifically that they were responding to attacks using chemical weapons. The incidents were an alleged sarin gas attack by the Syrian government on political opponents, which led to military strikes from the United States, and an alleged poisoning via novichok nerve agents by the Russian government on a Russian ex-spy and his daughter, which led to economic sanctions from the United Kingdom. In both cases, however, evidence of culpability fell short of what legal standards typically require. Despite this, media coverage has failed to examine alternative scenarios or to offer effective critical assessment of the weak rationalizations offered by US and UK governments. The result, precipitate and incautious policy, driven by hasty conclusions rather than careful analysis, represents a failure on the part of both media and government institutions to present the public with an even-handed and neutral assessment of matters vital to their national interest.

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It is reasonable to suggest that tensions between the world's great powers are higher now than any time since the end of the Cold War. Certainly this is the view of US Director of National Intelligence, Dan Coats.¹ What previously seemed like minor differences in foreign policy, escalated during recent crisis events in Syria and Ukraine, reaching the point where direct military intervention has become entirely plausible. In April 2018, in response to a US declaration that it would launch missile strikes against the Syrian government in retaliation for alleged chemical attacks, Russia said it would not simply shoot down such missiles but potentially strike at the 'sources' launching them.² If international relations have reached a point where such a narrow margin lies between war and peace, the utmost care and attention must be given to incidents capable of causing escalation.

Two recent incidents acted as primary triggers for that dramatic increase in tension. The aggressive unilateral responses to them raise significant questions regarding the evidentiary standards required before punitive action can be taken. The first was the aforementioned retaliation for alleged gas attacks in Syria, in which the US unilaterally, and in breach of international law, attacked Syrian governmental targets. The second was the 'Skripal Affair' in the UK, in which the UK government claimed that a former Russian intelligence operative living in the UK had been poisoned by the Russian government. In both cases the level of evidentiary proof offered fell far below what would serve as reasonable standards for conviction in criminal, civil or international humanitarian law. Despite this, widespread media support for the allegations and a lack of consideration for alternative scenarios, generated an atmosphere in which it became possible to carry out reprisals against the alleged crimes without any significant opposition or response from the international community.

This paper examines the incidents used by mainstream media outlets to assess the case of allegation, it uses both independent and alternative media sources to examine whether other analysis was possible. It also compares the findings with accepted evidentiary standards for issues of international law to reach three conclusions. Firstly, media failure to highlight the weakness of evidentiary standards claimed as justification is inimical to journalism's vital role as a safeguard of the

public interest. Secondly, in promoting only a single perspective on these issues, their narrow analysis is likely to allow the perpetrators to escape justice. Finally, they exacerbated the tensions between states to the extent that major conflict becomes increasingly likely. Should such patterns of politicized media analysis persist, they are prone to represent a very real threat to international peace and security.

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Standards required

The strikes against Syria were an act of aggression that, even if driven by humanitarian aims, still require the highest level of justification to avoid crossing into illegality. The sanctions against Russia, though not as blatantly militant, still constitute an act of significant aggression and raised as much potential for an escalation of economic warfare as the missile strikes did for an escalation of the more direct kind. Though very different in nature and scale, the two incidents generated pretexts by which the US and UK could isolate their opponents from the international community and make their aim of regime change in Syria that much easier to achieve. If the claims involved in the two incidents could, therefore, be judged to have been lacking in sufficient merit it might reasonably be construed that the responses to them were driven instead by broader foreign policy aims.

To determine what legitimacy the US and UK claims held, the evidence on hand must be weighed against the standards required to justify punitive action. Should the evidence prove insufficient, there would be a further need to ask why this was not clearly highlighted by the media of those states. If such failures resulted from poor journalism or politicization of the media, there would then be a need for greater scrutiny given to the ability of these institutions to prevent governments from violating international laws and norms.

Let us consider the military first. The fact that Humanitarian Military Intervention (HMI) requires some degree of deliberate killing and destruction necessitates a heavy burden of justification.³ In considering the principles of Just War Theory the Syrian retaliatory strikes meet only one of these clearly (*Proportionality*), and one disputably (*Just Cause*), providing the crimes occurred as claimed. The others are all lacking. *Just Intent* is patently false when claimed by states openly calling for regime change in the target state while also supporting a war of aggression in nearby Yemen that has destroyed the country's infrastructure, left thousands dead, millions in the grip of fam-

ine, and unleashed a cholera outbreak infecting almost half a million people;⁴ their aims seem driven far more by Realpolitik than humanitarian principles. *Just Authority*, requiring the support of the United Nations Security Council or General Assembly, was not even sought. *Last Resort*, given Syria's willingness to accept inspections and engage in international dialogue cannot reasonably said to have been reached. Even *Probability of Success* was lacking, as the impact of both strikes and sanctions have been negligible in changing the target countries' positions on the issues in question.

The problem is that HMI is becoming increasingly legitimized through the ease at which it is invoked and the lack of repercussions for those using it as a tool of foreign policy. Some scholars suggest it is an 'emerging norm',⁵ or even a 'soft law',⁶ yet, such arguments require that exceptions to UN rules have emerged as a matter of customary international law.⁷ In the case of Unilateral Humanitarian Intervention (UHI), intervention lacking a UN mandate, unwavering opposition from the G77 and Non-Aligned Movement shows that this is certainly not the case, and the International Court of Justice, in *Nicaragua v. United States*, concluded that neither treaty nor custom legitimize UHI.⁸

Despite this, since the 1994 Rwandan massacres, some believe that UHI is justifiable where the UN fails to respond to crisis events.⁹ This still fails to recognize the deleterious, incremental effect such action has upon international law; gradually easing restrictions on the initiation of violence that exist primarily to protect weaker states from the depredation of the strong. It is for this reason that the USA was unsuccessful in removing UHI from the International Criminal Courts recognized crimes of aggression.¹⁰ Even if moral goals are accepted many other arguments remain against both UHI and HMI, one being that it frequently prolongs conflicts by preventing a weaker side from suffering a decisive loss that might allow peace to emerge¹¹. In the case of Syria it seems clear that Western support for rebels was a key factor in preventing an early victory for government forces.¹²

It is reasonable to call HMI a contested issue whose guidelines, both moral and legal, are in a state of flux. This does not mean, however, that guidelines do not exist and the clarification, acceptance, and adherence to norms governing HMI is something the international community should be moving toward.¹³ One baseline for such norms are the standards of proof used in International Humanitarian Inquiries.

These cover four broad ranges:

Reasonable suspicion: Grounds for suspicion that an incident occurred, but other conclusions are possible (forty percent probability).

Balance of probabilities: More evidence supports one interpretation than other possibilities (fifty one percent probability).

Clear & convincing evidence: Very solid support for the main probability and limited information suggests alternatives (sixty percent probability).

Overwhelming evidence: Conclusive or highly convincing evidence supports one primary interpretation of events. (eight percent probability).¹⁴

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These standards are for inquiries rather than interventions. However, it should be evident that in either case the level of 'reasonable suspicion' is quite weak and should never form the basis for decisive action. In civil law the standards are usually the higher levels of the 'balance of probabilities', while sometimes 'clear & convincing' evidence is required. In criminal law the standard reaches even higher than any of the above cases to 'beyond reasonable doubt', whereas one hundred percent probability is required for conviction and punishment. Similar standards apply in the International Criminal Court (ICC) whereby five distinct steps occur, each with more stringent requirements.

Step 1: Bringing a case to the ICC's attention: anyone can do this.

Step 2: Investigation occurs: will happen unless there are reason not to do so.

Step 3: Arrest warrants are issued: if *reasonable grounds* are established.

Step 4: Indictment and prosecution occurs: if there are *substantial grounds* for belief.

Step 5: Conviction occurs: if the defendant is found guilty *beyond reasonable doubt*.¹⁵

However, for HMI the level of 'beyond reasonable doubt' is generally accepted to be far too stringent. The circumstances surrounding crisis situations are never clear enough to guarantee this and the

time required to gather sufficient evidence would negate the impact of intervention. If we take this view, rather than strict proof, what is required is evidence that crimes against humanity are occurring, the level of evidence could switch to use either 'substantial grounds' or civil law's 'balance of probabilities' as a baseline. This would exclude only 'reasonable suspicions' as being insufficient grounds for action. In looking at the evidence for both Douma and the Skripal affair we would, therefore, be required to find a preponderance of evidence holding one party more clearly responsible than any other, before retaliatory action can be justified.

One caveat is that where any actor prevents or obscures the investigation and analysis of evidence, or promotes inaccurate or deliberately misleading interpretations of that evidence, they should expect their behavior to lead to inferences being made regarding their motivations, or their own culpability, regarding the incidents in question.¹⁶

The Douma gas attack: The accusations made

On the 7th of April, 2018 dozens of civilians were reportedly killed in a suspected chemical weapons attack in the Syrian town of Douma. US President Trump immediately laid the blame on the Syrian government, calling President Assad an 'animal' and saying Russia and Iran also bore responsibility.¹⁷ These comments established the dominant media narrative on the incident and within days many news organizations were reporting that a chemical attack had actually occurred.¹⁸ This was despite the fact that no hard evidence existed beyond video footage of alleged victims and claims from witnesses of questionable neutrality. The search for perpetrators thus jumped over the typically precedent stage of establishing that a crime had occurred.

More caution might have been expected considering prior experience of unreliable evidence in the wake of the alleged sarin gas attack in Khan Shaykhun on the 4th April 2017. At that time the attack brought a response within 24 hours in which the US Defense Secretary, James Mattis, stated, 'the Syrian regime attacked its own people...I have personally reviewed the evidence and there is no doubt'.¹⁹ Yet, within the year Mattis backtracked from his earlier claims, admitting that while, 'we have other reports from the battlefield from people who claim it's been used...we do not have evidence of it'.²⁰ While the earlier event resulted in a joint report by the United Nations and the Organization for the Prohibition of Chemical Weapons (OPCW) that found

the 'most likely' source was the Assad government, many experts on chemical weapons disagreed with such assessments.²¹

Despite this, the US responded rapidly to the Douma incident with Mattis himself stating he had 'not much doubt' and, regarding responses, the US would 'be making that decision very quickly, probably by the end of the day'.²² The evidence was, however, severely lacking, with Mattis acknowledging that, 'we're not engaged on the ground there, so I cannot tell you that we had evidence, even though we had a lot of media and social media indicators that either chlorine or sarin were used'.²³ Mattis should have recalled Colin Powell, when he stated that the National Intelligence Estimate used to justify the invasion of Iraq, and which had been signed off on by 16 intelligence agencies, had turned out to be a 'great intelligence failure'.²⁴

Support for reprisals came from the French government. The French stated that they had seen 'evidence sufficient to call into question the responsibility of the Syrian regime in the chemical attacks'.²⁵ Such declarations are without meaning, as any allegation no matter how outlandish is 'sufficient to call into question' so long as the odds are not absolute zero. The French evidence was the same videos of alleged victims, regarding which the French reported only a 'high degree of confidence' that it was not staged. The Syrian motivation, they suggested, was to dislodge rebels from urban areas and punish civilians. They also declared they had no information to support claims that rebels had access to chemical weapons.²⁶ As a result of such assessments, the US, UK and France, in contravention of international law, launched missile attacks on Syria on the 13th of April, that is nine days after the allegation.

Later, claims would be made that samples smuggled out of Syria by 'activists' offered evidence that chemical weapons had been used.²⁷ Yet, these samples had no chain of custody of any kind and passed through the hands of rebels, foreign governments and intelligence agencies all opposed to the Syrian government.²⁸ In terms of on-the-ground investigation, the area was controlled by rebel forces and thus the Syrian government was unable to access it. The first investigative team were members of the Russian Military Police who arrived on 9th of April.²⁹ As rumors regarding the alleged attack began to spread, verifiable information was in short supply and some claimed that Syrian and Russian authorities were attempting to prevent inspection of the site by OPCW representatives.³⁰ The US went so far as to claim the delay was an effort by Syria and Russia to sanitize the site and clear up evidence.³¹

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Russia responded that hostile local reaction to the premature US missile strikes was the actual cause of delay and that the UN Department of Safety and Security were the ones withholding permission.³² The reality was that due to the unsecured nature of the site neither Syrian nor the Russians had the power to 'grant access' to it. Protests by crowds of civilians, shots being fired in the vicinity, and at least one nearby explosion were the key factors contributing to the delay.³³ The plain facts, if not the media's confusion, were finally cleared up by an OPCW chief who confirmed the Russian version of events, i.e. the delay being caused by security concerns from the UN.³⁴ At the end of April 2018, the situation on the ground remained the same, with very little clarification of what evidence, if any, had been discovered.

The Douma gas attack: Alternate viewpoints

In evaluating what evidence existed to justify military action against Syria, the basic elements of opportunity and motive have to be considered. In regard to carrying out these, or any other, chemical attack it should be remembered that all of Syria's declared stockpiles were verified as having been destroyed by the OPCW.³⁵ Of course, they may have kept other undeclared stocks but no evidence of this has been provided.

In terms of motives for the attacks, President Assad stated, 'If we kill people indiscriminately, it means we are losing the war because people will be against us. I cannot kill the Syrian people, either morally or for my interest, because in that case I am going to push the Syrian community and society towards the terrorists.'³⁶ While it would be foolish to take this at face value, the statement is logical, in both tactical and strategic terms. In the wake of the alleged 2017 attack in Khan Shaykhun, many, such as US Representative Tulsi Gabbard, were quick to point out that it made no sense to target civilians in a manner that would provide no practical military gains and instead offer justification for further Western intervention in Syria.³⁷ US Senator Richard Black, a former head of the Criminal Law Division at the Pentagon also expressed skepticism saying that, as a prosecutor in military cases, he could not find a motive and that Assad was 'winning on every front... why on earth would he make a small attack on a group of civilians?' adding, 'the only way ISIS can defeat President Assad is to draw the U.S. into the war. What better way than stage an attack on women and children?'³⁸

The same questions can be applied to Douma, yet at this stage the war was even closer to resolving as a victory for the Syrian government, with the US conceding in 2017 that Assad's removal was no longer necessary,³⁹ and numerous sources in early 2018 suggesting that the war was essentially over.⁴⁰ Once again, doubts were publicly raised over the logical inconsistencies with US Senator Rand Paul suggesting, 'the only thing that would galvanize the world to attack Assad directly is a chemical attack....so you wonder really what logic would there be for Assad to be using chemical weapons'. He added, 'either Assad must be the dumbest dictator on the planet — or maybe he didn't do it. I have yet to see evidence that he did do it'.⁴¹ Similarly, Major General John Shaw, former head of UK Special Forces, asked, 'Why would Assad use chemical weapons at this time? He's won the war. That's not just my opinion, it is shared by senior commanders in the US military. There is no rationale behind Assad's involvement whatsoever'. These views were echoed by Admiral Lord West, former head of the Royal Navy, who said, 'If I was advising President Assad, why would I say use chemical weapons at this point? It doesn't make any sense. But for the jihadist opposition groups I can see why they would'.⁴²

Some analysts claim that for the rebels to have targeted civilians with sarin is unlikely, either because they did not have access to it, or it is 'really difficult to assemble'.⁴³ This is moving beyond the more fundamental question of whether any attack actually took place. Certainly dead bodies were shown, but this does not mean that they were killed in a chemical attack, or that they might not have been killed elsewhere and the bodies staged for propaganda purposes. Early news reports from the scene stated that no evidence could be found of the alleged attacks and that locals were suggesting the rebels had indeed staged it.⁴⁴

Whether such claims are verifiable remains to be seen. However, there is strong evidence that the rebels did have access to, and the ability to use, chemical weapons. In 2013, based on witness testimonies, the UN had 'strong, concrete suspicions but not yet incontrovertible proof' that the Rebels had used sarin gas against civilians.⁴⁵ In the same year an interview with a rebel commander showed him make veiled threats against the West that they should supply rebels with anti-aircraft and anti-tank weapons or the rebels would 'reveal all the evidence we have [about use of chemical weapons]'.⁴⁶ As a threat this only works if such revelations would reflect badly upon the West or their allies in the Syrian opposition factions.

Later, during the war (yet prior to destruction of Syria's chemical stocks) the rebels seized control of Syrian Army bases used by Regiment III and reportedly took control of large supplies of chlorine, sarin and mustard gas.⁴⁷ In a similar vein, Turkish MPs openly claimed that members of the Turkish intelligence services had been complicit in allowing rebels to gain access to sarin.⁴⁸ On multiple occasions, Syrian government troops have been attacked with chemicals later identified as Sarin (Khan al-Asal, Jobar, Ashrafiyat Sahnaya) but in each case the relevant international organizations declined to blame rebels due to a purported lack of sufficient evidence.⁴⁹

Regarding whether rebels would use weapons against civilians, it is important to remember that these groups are extreme fundamentalists. There is no longer any significant 'moderate', non-sectarian opposition to the Syrian government,⁵⁰ and the strongest of the remaining opposition factions, whether the Islamic State or Hay'at Tahrir al-Sham (formerly Jabhat al-Nusra) take their guidelines from Al Qaeda tactical manuals such as 'The Management of Savagery'. This book advises militant believers to 'avoid targeting children and women.....as long as there is no greater Sharia benefit in targeting them'.⁵¹ In other words, where strategic benefits exist, targeting innocents is seen as justifiable. Tahrir al-Sham is one of the dominant rebel factions and it gained notoriety from a willingness to target non-combatant civilians and aid workers. In Iraq used suicide attacks against civilians while other insurgent factions focused their operations on US and Coalition forces. Their commander, Julani, encouraged such attacks against the Alawite population of Syria, leading to massacres such as the 2013 Latakia attacks which killed 190 civilians.⁵² They are also the most likely suspects in the 2017 Rashidin massacre, in which a suicide bomber targeted evacuees from a pro-Government area, killing 126, including 68 children⁵³. Such attacks frequently resulted in hundreds of people at a time being taken hostage.⁵⁴ In some cases, these hostages were placed in large cages and paraded through rebel-held areas as human shields against possible government attacks.⁵⁵

The integrity of some journalists has been attacked for suggesting that chemical attacks may have been faked or staged (either that there was no actual attack, that footage was from different times or locations than claimed, or, that actual use of chemical weapons is shown in a manner intended to divert responsibility from the true perpetrator). What is undeniable is that, from beginning of the civil war, fake videos

of massacres have been distributed on social media. Yet, in many cases, when their fraudulent nature was revealed it was then claimed that they were made by the Assad government in order to discredit the opposition for distributing them.⁵⁶ Such claims ignore a common principle of propaganda which states that an early 'big lie' will have far more impact than later revelations of truth, and that corrections can often increase the impact of the original lie.⁵⁷ Later, more carefully orchestrated fabrications appeared that were created either by individuals seeking to portray the Syrian government in a negative light, such as the entirely false 'Gay girl in Damascus' blog,⁵⁸ or for less clear-cut motives. For example, footage purportedly showing a young boy braving sniper fire in Syria, that was actually created by Norwegian film-makers in Morocco, apparently to study how the media would react to potentially fake material.⁵⁹ In both these cases, the media response was the same, both the blog and video were taken entirely at face value and widely promoted as examples of the brutality of the Syrian government.

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In the case of Douma, one month prior to the event Russia claimed that the Rebels intended to stage chemical weapon attacks in Eastern Ghouta (which includes the Douma District) as a pretext for US attacks on the capital.⁶⁰ Would the rebels be technically capable of such trickery? BBC Foreign News Producer Riam Dalati suggested they were certainly interested in manipulating media perceptions when he commented how he was, "sick and tired of activists and rebels using corpses of dead children to stage emotive scenes for Western consumption. Then they wonder why some serious journos are questioning part of the narrative."⁶¹ A much earlier video, uploaded by opposition activists to YouTube, also supports the plausibility of such a hypothesis. In it, a bizarre scene unfolds in a room within which a large Al Qaeda flag hangs on one wall. Young children are clearly encouraged to feign exposure to nerve gas (with typical spasming of the legs and shaving foam applied to their mouths), then men dressed as doctors rush in to 'treat' them with gas masks.⁶² The purpose of the video is unclear. Potentially, it is macabre performance art protesting prior chemical weapon attacks, but it is more than enough to show that rebel groups have long had the ability to convince young children to feign victimhood and mimic the effects of nerve agents.

A more recent video tape in the wake of the Douma incident shows a young boy, Hassan Diab, state that rebels brought him from the street into a hospital where he was passed off as a victim of chemical

attacks.⁶³ A doctor from the area, interviewed by veteran Middle East reporter Robert Fisk, claims that the victims of the incident are actually people who 'were overcome not by gas but by oxygen starvation in the rubbish-filled tunnels and basements in which they lived' in the aftermath of an artillery strike.⁶⁴ The Syrian Observatory for Human Rights, typically staunchly anti-Assad, also supported this interpretation of events when it blamed deaths in the area at the time on building collapse and suffocation.⁶⁵

In the wake of the attack, photos of two yellow cylinders were claimed to be 'chemical devices' yet witnesses on the scene stated that there had been no sound of explosion in the area where they were found and the devices looked too undamaged to have been dropped as bombs.⁶⁶ A reporter from Germany's ZDF network spoke to refugees from Douma who claimed the targeted building had been an Islamist command post and the opposition fighters had brought chlorine canisters to the building specifically so they could be used to portray a chemical attack if it was later bombed by the government.⁶⁷ In another video two medical personnel (Muwafak Nisreen and Khalil al-Haish), seen treating civilians in footage of the aftermath of the incident, claimed that the primary problem faced by victims was an inability to breathe due to inhalation of smoke and dust and that, while they were dealing with these patients, unidentified figures caused a panic by shouting that there had been a chemical attack.⁶⁸ It is significant that this video, together with the testimony of those in it, has been given no exposure in mainstream Western media. In the case of the Guardian, the claims are reduced to a single sentence stating, 'some doctors have appeared on Syrian television to deny that anything took place in Douma,' but offers no details of what they witnessed and instead suggests that their denials of a chemical attack are due to government threats.⁶⁹ This is potentially true, but it is only one interpretation of events and the alternate possibility, that they are describing what happened, should be weighed and assessed rather than dismissed as no news.

What seems clear is that at the time of the US missile retaliation, there was no concrete evidence that a chemical attack had taken place. There was video evidence that people had died and that others were injured and treated at medical facilities but the witness statements regarding the causes were, at best, conflicting. Physical evidence at the scene, of yellow gas canisters, was similarly underwhelming and, even in the event that these were explicitly linked to the release of nerve

agents, there is no reason to assume that the responsible party was the Syrian government, who lacked any tactical or strategic motive; rather, rebel groups, who had access to sarin, have displayed a willingness to massacre civilians, and who have a very clear and pressing reason to create such an incident. As previously stated, in cases of international humanitarian law the level of evidence required to support action, rather than simple investigation, is generally accepted to be more than that of reasonable grounds. Suffice to say, the situation in Douma was far from clear and certainly not so cut and dried that reprisals could be justified on the basis that the Syrian government was ‘clearly’ the most likely perpetrator. By circumventing such guidelines the United States’ unilateral action constitutes a further degradation of the international standards meant to preserve peace, international stability and the rule of law.

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The Skripal affair: The accusations made

The Douma incident might seem like a repetition of other earlier alleged gas attacks. However, when compared to the recent alleged poisoning of former Russian spy Sergei Skripal, we can see many of the same elements at play. This suggests a dangerous pattern of behavior is developing in the relationships between Western governments and their national media. A flurry of unsubstantiated allegations from the government was being echoed in the media, confusion in the investigative process, and a blind eye turned by the media to aggressive acts of retaliation despite the dangers such acts pose to international stability.

On the 4th of March 2018, Sergei Skripal, a former Russian double-agent who had been released to the UK in a spy swap, was allegedly poisoned along with his daughter Yulia, in the British town of Salisbury. The Skripals, along with a police officer who attended to them after they were found incapacitated, were admitted to hospital where it was said they were exhibiting symptoms of poisoning by a nerve agent. By the 12th March the UK government claimed it was ‘highly likely’ that Russia was responsible for the attack, either directly poisoning the Skripals with a class of nerve agent known as ‘Novichok’, or letting such material fall into the hands of the people who did poison them⁷⁰. Within days, the governments of France, Germany and the USA joined the UK in stating there was ‘no plausible alternative’ to the UK’s claims of Russian responsibility, and labeled the act a breach of international law and a threat to international security.⁷¹

The UK Foreign Secretary, Boris Johnson, claimed that the Russians had been stockpiling Novichok agents for decades,⁷² and soon after stated that he had received assurances from Porton Down, the UK's primary chemical weapons research center, that the agent used had originated in Russia. This statement was demonstrably untrue, and it was only one of many inconsistencies, errors, or distortions surrounding the case.⁷³ Despite all that, the UK and its allies pushed ahead with enacting punishment against Russia well before any reliable identification of the responsible party had occurred and before the OPCW had finished its own official investigation of the incident. On the 14th March Britain's Prime Minister announced sanctions that would be imposed upon Russia, on the 20th March, the UK expelled 23 Russian diplomats from its territory, and on the 26th March the US expelled another 60, with 16 different EU states announcing expulsions of their own. It was only on the 3rd April, after much of the press had spent several weeks generally presenting Russia's guilt as a foregone conclusion, that senior officials from Porton Down released a statement explicitly stating that while they had identified the substance involved as being a 'Novichok' class agent, they had no way of identifying where it came from.⁷⁴ Shortly thereafter, the Russian government made a statement that elements of BZ, a NATO hallucinogenic drug, had been revealed in the samples sent to OPCW labs, though the OPCW later stated the BZ was only present in control samples for the tests.⁷⁵

By mid-April all three of the victims had either recovered, or were in a stable and recovering condition. However, the UK continued to insist that 'only Russia has the technical means, operational experience and motive for the attack on the Skripals and that it was highly likely that the Russian state was responsible. There is no plausible alternative explanation'.⁷⁶ Is it true, however, that no plausible alternative scenarios had existed which might have made it sensible to forestall initiating a major diplomatic war?

The Skripal affair: Alternate viewpoints

Before Porton Down identified the agent involved as a type of Novichok, there was a clear possibility that other causes might have existed. The Skripals had eaten at a seafood restaurant just prior to their collapse, leading some to think shellfish poisoning might have been involved. Shellfish can excrete a form of nerve toxin that would induce similar symptoms to military nerve agents. However, the initial symp-

toms reported were that the victims 'looked out of it' and were 'doing some strange hand movements looking up to the sky. It looked like they had been taking something quite strong'.⁷⁷ These comments are far more in keeping with the symptoms of high doses of opiates (such as Fentanyl) or hallucinogens (such as BZ) than they are with nerve agents of the Novichok class, whose symptoms are violent spasming of the muscles and inability to breathe, not what would typically be described as someone who is 'out of it', a phrase referring to someone being out of touch with reality, rather than experiencing a clear medical emergency. The receiving hospital also initially identified the substance involved as Fentanyl, though later reports edited this to refer only to a 'substance'.⁷⁸ There were certainly other possible scenarios that should have led the media to urge caution and wait to see the results of official investigation.

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Widespread claims of Russian responsibility and the promotion of the narrative that the substance involved was Novichok, kicked off an entire month before analysis of the material was carried out by the OPCW.⁷⁹ The French government had initially called for hard proof of Russian involvement, saying 'We don't do fantasy politics. Once the elements are proven, then the time will come for decisions to be made'.⁸⁰ Yet, within days they had, without hard evidence, joined the UK's condemnation of Russia. Germany, in contrast, gave initial support and then backed off with requests for firmer proof.⁸¹ That the agent was later identified as a Novichok was in no way proof of Russian involvement and is irrelevant to the fact that accusations and reprisals were carried out long before the evidence justified them.

Some early journalists asked the right questions, namely 'Qui bono?'⁸² Was there any reasons for Russia to target Skripal, after holding him in prison for six years and freely trading him in a spy swap? Some suggested that it was an effort to intimidate other spies,⁸³ yet this seems implausible given that all three victims survived and any future poisoning would clearly create significant diplomatic trouble for Russia. As such, in terms of plausible motives for targeting Skripal it is hard to imagine any benefit Russia could have hoped to acquire.

The timing was also highly unfavorable for Russia. Novichoks, previously unknown to the general public, had, in the very same week of the attack, been the central plot element of a television spy drama called 'Strike Back' shown in the US (earlier shown in the UK in November 2017/January 2018). With Russia also experiencing significant

international pressure regarding its support for the Syrian government and with an upcoming Presidential election, and the hosting of the 2018 Football World Cup, placing Russia in the international spotlight, it seems as though there would be several strong reasons for Russia to avoid attracting unneeded condemnation.

Leonid Rink, a Russian scientist who helped develop the Novichok strains said, 'It's hard to believe that the Russians were involved, given that all of those caught up in the incident are still alive. Such outrageous incompetence by the alleged spies would have simply been laughable and unacceptable.'⁸⁴ Alan Rodier, director of the French Center for Research on Intelligence, echoed these views, suggesting that even if Russia had wanted to attack Skripal, it would have been highly unusual for Russia to fail to kill their target or attack them in such a way that bystanders were also affected. He added that targeting a participant in a prior spy swap would also go against established inter-service norms.⁸⁵ Yet, when Jeremy Corbyn, leader of the UK's opposition Labour Party, expressed hesitance in accepting Russian guilt, he was seen by some media as having 'misjudged the mood' among British lawmakers wherein any doubts regarding responsibility for the attack were met with strong disapproval.⁸⁶

One early, and repeated, claim was that only Russia had access to Novichoks. For most of the general public, having been previously unaware of the very existence of such agents, this was perhaps easy to accept. Yet, this statement was far from being accurate. For a significant time the OPCW's official position on Novichoks was that they had 'insufficient information to comment on the existence or properties' of the agents.⁸⁷ However, communications released by Wikileaks revealed that as far back as 2006 they had supported US efforts to prevent Novichoks being added to the Chemical Weapons Convention.⁸⁸ The reason for this may have been the fact that one of the creators of the Novichok strains, Vil Miryazanov, had emigrated to the USA where he released a book that detailed the formula for the agent, something he admits would have made it quite easy for many states to produce the agent themselves.⁸⁹ The US certainly had the capability, though they took efforts to feign ignorance of the agents existence,⁹⁰ while the UK could easily have produced its own at the Porton Down chemical weapons facility, by apparent coincidence a mere eight miles from where the Skripal incident occurred. We know for certain that at least one other country, Iran, independently created Novichoks,⁹¹ and that

alone is enough to destroy any claims that, because of the type of agent employed, Russia must bear responsibility.

Would there be any motive for anyone else to poison Skripal? Given that we have no clear motive for Russian culpability, suggesting that other parties might have also had some as yet unidentified motive is both perfectly reasonable and standard policing. In another coincidence regarding the case, Skripal was apparently a friend of a security consultant who worked for the firm that created the Steele Dossier, used to attack the reputation of US President Donald Trump.⁹² If it is reasonable to think that Russia would assassinate Skripal for decades-old espionage reasons, it would also seem prudent to determine whether he was engaged in more recent espionage for either the UK or US governments that might give them a motive for silencing an operative element. Misha Glenny, a writer specializing in Eastern European organized criminal groups, suggested it could have been an attack by such types of “economic actors” in response to illicit business dealings Skripal may have been connected to.⁹³ Aside from these possibilities, the clear and significant negative impact the incident has had on Russia’s international profile makes it plausible that the event could have been staged purely to weaken Russia’s ability to support Syria. Each of these questions, if even remotely possible, required that a careful and open investigation be conducted to accurately determine what had occurred, and assess what evidence existed to support each individual hypothesis. Unfortunately, such an investigation did not take place.

From the start of the incident, requests by Russia for access to both the victims and samples of the agent were repeatedly rejected by the UK authorities. As the Skripals are Russian citizens, their Embassy enjoys, via the Vienna Convention on Consular Relations, the right of consular access to its citizens. Additionally, under the Convention on Chemical Weapons, parties involved in a potential breach of the accords are obliged, in regard to the incident, to ‘make every effort to clarify and resolve, through exchange of information and consultations....any matter which may cause doubt’.⁹⁴ Russia requested immediate adherence to these guidelines, with Foreign Minister Sergei Lavrov stating, ‘As soon as the rumors came up that the poisoning of Skripal involved a Russia-produced agent...we sent an official request for access to this compound so that our experts could test it in accordance with the Chemical Weapons Convention.’⁹⁵ Under these principles Russia could have reasonably expected to receive access to both

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samples and the Skripals within a maximum of ten days, giving Russia in turn ten days after that point to respond to allegations, yet neither of these established procedures were followed. On the 20th March Lavrov's counterpart, UK Foreign Secretary Boris Johnson, stated, 'we will trust to the technical experts of the Organization for the Prohibition of Chemical Weapons...that's the proper procedure that the UK has to follow under the Chemical Weapons Treaty'.⁹⁶ This is plainly untrue as the treaty states that parties involved in an incident are obliged to engage in information sharing. The UK's stance toward such sharing of information with Russia might have been more honestly expressed by their Secretary of State for Defence, Gavin Williamson, when he said, 'Frankly Russia should go away and should shut up'.⁹⁷

By 6th April Sergei Skripal was improving rapidly.⁹⁸ However, by 29th of April he had still not made any form of public appearance or statement. His niece, who had previously expressed doubt over Russian involvement, was refused a visa to enter the UK to visit her relatives,⁹⁹ while his daughter Yulia, now discharged from hospital, remained isolated from both public sight and from representatives of the Russian Embassy. Her only comment on the issue was a message released by the Metropolitan Police, allegedly drafted by her, which stated, 'I do not wish to avail myself of [the Russian Embassy's] services,' and, 'I want to stress that no one speaks for me, or for my father, but ourselves'.¹⁰⁰ Aside from the significant doubts such statements raise over the level of freedom of expression she was enjoying, there is a common legal concept of 'adverse inference', wherein, if a party fails to provide access to a witness it may reasonably be inferred that the witness's evidence is probably unfavorable to the party in question.¹⁰¹ Such concerns were rendered even more troubling by reports that the British government was preparing to relocate both Skripals under assumed identities, a development that could hardly be construed as helping to provide greater clarity regarding what had befallen the pair.¹⁰²

Once again, this lack of clarity makes it very hard to ascribe more than 'reasonable grounds' to the level of evidence provided as justification for retaliatory action. In other words, even if there was evidence supporting a 'possibility' of culpability it clearly did not reach the extent whereby Russia was the most likely perpetrator. Given the lack of clarity in so many details of both the Skripal case and the Douma attack, it could reasonably be expected that a vigilant media would be eager to uncover the truth surrounding both incidents. Instead, there

was a surprising lack of incisive analysis dealing with the points raised above and in its place, with rare exceptions, the delivery of a one-sided narrative in which Russian and Syrian guilt for both incidents was presented to audiences as a *fait accompli*.

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The media response

In a 1991 report on control of public information the CIA declared their 'relationships with reporters from every major wire service, newspaper, news weekly, and television network in the nation,' that 'helped us turn some "intelligence failure" stories into "intelligence success"' and through which they 'persuaded reporters to postpone, change, hold, or even scrap stories that could have adversely affected national security interests or jeopardized sources and methods'.¹⁰³ In 2013 such practices likely became even easier to carry out with the rescinding of a law prohibiting US media from directly promoting government messages to their audiences¹⁰⁴. In the UK similar traditions exist, with both MI5 and MI6, the domestic and foreign intelligence services, having long histories of influencing, or directly working as, the journalists of major media organizations.¹⁰⁵

This is not merely an issue of journalistic ethics. The dissemination of propaganda which advocates for war, or which promotes incitement to violence or hatred against national groups is a breach of international law under Article 20 of the International Covenant on Civil and Political Rights, to which both the US and UK are parties. While the US has done its best to abrogate its responsibilities under this law,¹⁰⁶ this does nothing to obscure the fact that such acts are viewed as illegal by the international community. On an individual basis it can be hard to accuse single journalists, or even an organization, of acts justifying the condemnation of the international community. However, when an entire national press is promoting a narrative that supports punitive actions that go outside the bounds of international law, there should be a mechanism by which they can be held accountable.

In the first week following the Skripal incident UK audiences were met with a deluge of media messages assuring them of Russian guilt and calling for retaliatory measures. *The Metro* declared, 'From Russia with hate: Link to Kremlin confirmed',¹⁰⁷ while the *Daily Telegraph* labeled it a 'warlike act to which NATO must respond'.¹⁰⁸ *The Telegraph* also asked, 'What can Britain do in response to Russian nerve attack?',¹⁰⁹ and other newspapers offered helpful suggestions, such as

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the Guardian's, "10 possible British responses...how could the UK punish Russia effectively?"¹¹⁰ This theme of 'punishment' was very common, with *the Guardian* also offering up 'Retaliation in Syria: What are May's options?'¹¹¹ and the *Belfast Telegraph* describing the eventual response as 'Airstrikes launched as allies punish Syria for "despicable" Douma attack'.¹¹²

Not only was there a clear narrative being promoted by much of the media, in many cases, independent voices were attacked for offering alternative points of view. In the USA in 2014, Barack Obama set the tone that would be used in such cases when he declared that it was 'an insult to human reason and to the legitimacy of [the United Nations] to suggest that anyone other than the [Syrian] regime carried out this attack [at Ghouta]'.¹¹³ Far from being an insult to reason it is, in fact, a fundamental principle of both good reporting and good policing to investigate all possible scenarios and to always maintain an element of doubt in your own findings. Black and white pronouncements of 'obvious' guilt are the tools of political rhetoric rather than either law enforcement or journalism, yet the former has begun to seep more and more into the latter fields.

When #SyriaHoax began to trend on Twitter, J.M. Berger, a counter-terrorism researcher suggested it was 'a clear example of a Russian influence campaign'.¹¹⁴ Whether or not this might be true overlooks the important fact that dislike for the source of information does not by automatically render the information untrue. Repeatedly, the fact that perspectives on the incidents in Syria or the UK were either promoted by Russian media sources, or shared the same views as Russian sources, was used as an excuse to 'poison the well', whereby anything agreeing with Russian positions is inherently suspicious. As in the aforementioned case of the leader of the UK's Labour Party finding himself under attack, from his own party members, when he challenged the Prime Minister's assertion that Russia was to blame for the Skripal incident.¹¹⁵ More significantly, his Press Secretary was accused of peddling Russian propaganda for daring to have opinions that were similar to those of the Russia government, for example by suggesting that, 'Ukraine had become governed in part by the fascistic right, and that the Ukraine conflict could start World War III'.¹¹⁶ Given that there were far-right elements in the post-coup Ukrainian government and that any conflict involving Great Powers has the potential to spiral out of control, both of these were purely factual statements; yet, now they

seem to have become enough of an incentive to warrant a McCarthy style hunt for 'Reds under beds'.

Certainly, the Russian government and its media does engage in propaganda and everything its says should be met with a measure of skepticism. Its claims that the samples in the Skripal incident contained the BZ agent only used by NATO, and the announcement that they had discovered chemical weapons laboratories in rebel-held areas of Syria were both dramatic, but ultimately hollow and unsubstantiated, examples of why all such claims should be critically assessed and verified. The same, of course, applies to Western media. In the wake of both Douma and the Skripal Affair, comments on social media that disagreed with the dominant narrative, were written off as the work of 'Russian bots'.¹¹⁷ However, two of the accounts highlighted as examples of this turned out to be very real individuals who simply happened to have alternative opinions. In acknowledging the error some media outlets decided it would be more accurate to refer to them as 'trolls' (someone who writes purely with the intent to offend) or 'conspiracy theorists'.¹¹⁸

The term 'conspiracy theorist' has long been a common, and perhaps an effective, way of excluding people with alternative viewpoints from political discussion.¹¹⁹ Following gas attacks in Syria in 2017, anyone suggesting the Syrian government may not have been responsible was, ipso facto, a conspiracy theorist. Theodore Postol, a weapons expert and Professor Emeritus at MIT was labeled as such for opposing the US government's position on the Syrian issue.¹²⁰ Though Postol's analysis was not entirely solid and contained several errors, it was not any inaccuracy that earned him the pejorative appellation. The media itself frequently makes similar errors and Postol's past, award-winning work critiquing missile systems should have seen his assessment, whether accepted or rejected, viewed purely in terms of objective analysis. What is more relevant, however, in being labeled a 'conspiracy theory' is whether the conclusions reached are outside the bounds of what the government and the mainstream media have designated as being socially acceptable points of view. Thus you have the *New York Times*, 'Syria conspiracy theories flourish at both ends of the spectrum',¹²¹ the *Guardian's*, 'A lesson from Syria: Its crucial not to fuel far-right conspiracy theories',¹²² and *The New Statesman* suggesting that conspiracy theories regarding the Skripal affair 'tap into antisemitic tropes'.¹²³ For many mainstream media sources the consensus appeared to be that

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supporting the narrative of the UK or US governments was legitimate journalism but if you happened to share the views of Russia or Syria you became an 'apologist'. *Al Jazeera* offered a clear example of this practice when it declared,

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Eva Bartlett, Vanessa Beeley...call themselves independent journalists, yet post gushing photos of themselves posing with Bashar al-Assad on social media, appear on Russian state television to peddle the Assad regime's lines and travel across the United States to accuse anyone opposing Assad of being an al-Qaeda sympathizer...Robert Fisk, Tim Anderson and pro-Palestinian 'activists' such as Rania Khalek have all joined in on the whitewashing. The problem with these regime apologists is that they claim to be journalists or academics...a genocide-denying regime and its allies cannot be given the benefit of the doubt, and those publicly defending such a regime are not journalists.¹²⁴

This type of reasoning is clearly begging the question. That is, we cannot question the truth of whether Assad is an evil dictator because Assad is an evil dictator. This form of biased, fallacious analysis should have no place in either professional journalism or academia.

This pattern of aggressively militant journalism reached its current nadir, however, with the *Times of London* declaring, with a front-page headline, that several British academics were, by virtue of expressing doubt over mainstream views on Douma, 'apologists for Assad' and that their work was 'wrong, unscholarly and odious' and represented a 'stain on the reputation of the institutions which host [them]'. By comparing them to 'holocaust deniers' and suggesting that no university would host the latter, the *Times* was explicitly advocating for the termination of the academics' employment.¹²⁵ Thankfully, none of the institutions involved seem to have been swayed to such measures by the heavy-handed appeal for academic censorship and punishment. Nonetheless, such excessive, and unwarranted, accusations by a paper that, despite its obvious journalistic failings, holds significant status, could still have a very negative impact on an academic's career prospects.

One of the *Times'* own reporters, former Middle East correspondent Hala Jabar, gave a succinct assessment of the problem when she tweeted,

In my entire career, spanning more than three decades of professional journalism, I have never seen MSM resolve to such ugly smear campaigns & hit pieces against those questioning mainstream narratives, with a different view point, as I have seen on Syria, recently...This is a dangerous maneuver, a witch hunt in fact, aimed not only at character assassination, but at attempting to silence those who think differently...The journalists, activists, professors & citizens under attack are presenting an alternative view point. Surely, people are entitled to hear those and are intelligent enough to make their own judgments.¹²⁶

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That a multiple winner of Foreign Correspondent of the Year and a key voice from the Syrian conflict could make such comments and not have them picked up by any major Western media is perhaps, in itself, evidence of what she has described. Another award-winning Middle East journalist, Jonathan Cook, wrote that the '[Anti-Assad] voices are important. They are another piece of the jigsaw, as we try to work out what is really going on in places like Douma. But publications like the *Guardian* are consistently presenting them as the *only* pieces their readers need to know about. That isn't journalism'.¹²⁷

This is precisely the danger. Any party interested in identifying and bringing to justice the perpetrators of the Douma and Skripal attacks should be eager for open and honest debate of all perspectives on the matter. With Douma, there is certainly a possibility that the Syrian Army, even if Assad himself did not approve a chemical attack, might have acted independently of rigid command structures and launched an operation resulting in such deaths. Similarly, with the Skripal affair, while it does not seem as though Russia had sufficient motive, this does not mean that one did not exist. Yet, in both of these cases, failures to critically assess more than one side of the story seriously calls into question mainstream Western media claims that they wish justice to be served.

The impact

In the wake of the Douma incident, the USA first violated international law by threatening to use unilateral military action against Syria. Then it more clearly violated international law, and arguably domestic US law, when Donald Trump ordered retaliatory missiles strikes on Syrian

facilities. Even the tenuous legal arguments used to attempt to justify US Presidents skirting Congressional authorization for such acts ring hollow, given that they still require the ‘anticipated nature, scope and duration, fall short of a war in the constitutional sense’.¹²⁸ While the actual outcome of the Syrian missile attacks was relatively minor, nine injured and no deaths, the strikes could not have been anticipated with certainty to have avoided escalation. Russia had stated that it would respond proportionally, leading to potential tit-for-tat engagements, and if Russian citizens had been harmed they would have targeted the US planes or vessels involved. Numerous articles had already been written on the possibility that Syrian tensions might be the spark for a wider conflict between the US and Russia, and such speculation only increased in the months leading up to the strikes.¹²⁹ The international response to this perilous jingoism was not any type of formal chastisement or condemnation, but instead weak disapproval from the United Nations, more vocal opposition from Russia and China,¹³⁰ and statements of support from the EU, Canada and NATO.¹³¹

In a similar fashion, UK efforts to impose harsh economic sanctions on Russia in response to the Skripal affair received little backlash despite their lack of justification. Rather, members of the European Parliament called for a boycott of the Russian-hosted 2018 World Cup,¹³² while UK broadcasting regulator OFCOM announced it was considering banning the Russian television station RT.¹³³ In the end, tougher economic sanctions were blocked by a small number of opposing EU states.¹³⁴ Nonetheless, the sanctions imposed on Russia by both the UK and US in response to the Syrian and Skripal incidents still had serious economic impact and further exacerbated tensions between the countries.¹³⁵ While the Chinese government suggested that ‘all parties should discard their Cold War mentality, refrain from confrontation and make concerted efforts to uphold world peace, stability and tranquility’,¹³⁶ a motion at the UN Security Council calling for states to ‘cease aggression against the Syrian Arab Republic and refrain from further aggressive acts in violation of the international law and the UN Charter’ failed to find support outside Russia, China and Bolivia.¹³⁷ This failure to defend the fundamental purpose of the United Nations made it considerably easier, the following month, for Israel to launch strikes on Syria without fear of rebuke.¹³⁸ These strikes, targeting alleged Iranian assets within Syria, threatened to draw the former state further into the prolonged conflict and represented the clear manner

in which these incidents of preemptive punishment can lead to incremental escalation of tensions and a continuing degradation of international law and security.

Conclusion

It is common sense to assume that state actors will be swayed by various biases and a desire to promote their individual aims. However, when the same biases begin to permeate the state's media institutions, society loses its ability to hold government accountable. Beyond this, the dissemination of propaganda, when done effectively and extensively, will cast a baleful influence not only upon the state's own population but on any international agencies that might also be exposed to these narratives. Thus it becomes open to question whether officers of agencies such as the OPCW, if exposed to a steady stream of heavily biased Western media narratives, can be expected to act in a perfectly neutral manner. This is not solely in regard to UK or US media bias but also Russian, or any other, media messages that fail to present a balanced analysis of events. When discussion of the issue devolves into competing opposing narratives that refuse to engage with the alternate positions, it only increases the likelihood that external spectators will feel as though they are expected to 'choose a side'. Media coverage of this type, straying from basic principles of neutrality, invariably creates a toxic atmosphere at the highest levels of international interaction in which unbiased analysis of critical events becomes almost impossible to achieve.

The increase in tensions, coupled with the weakening of international law's ability to prevent aggressive acts, makes it more and more likely that minor incidents will escalate into acts of aggression or tit-for-tat reprisals that might lead to broader, more intense, or more direct military conflict. Not only are any media that fail to engage in neutral, balanced analysis, complicit in such developments, they also neglect their responsibility to try to clearly identify the guilty parties involved in the instigating incidents. There is still no clear answer regarding who was responsible for either the deaths in Douma or the poisonings in Salisbury and, in both cases, there remains a pressing need, in terms of justice being served and future incidents being prevented, in identifying, prosecuting and punishing the guilty parties in a matter according to established law.

While the reaction of governments to the incidents described in this paper may be in keeping with self-serving principles of RealPolitik,

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and a nefarious yet still understandable, willingness to bend the rule of law, there can be no similar rationalization of the media's negligence. Whether deliberate malfeasance, stemming from unconscious bias, or a simple inability to maintain professional standards, the gradual politicization of many major media outlets appears to have played a significant role in preventing incidents such as Douma and the Skripal affair from receiving the careful scrutiny such events demand. This paper, however, does not make a blanket condemnation; that problems which are evident can in no way undercut the contributions made by individual voices within major organizations that still challenge accepted doctrine or offer counterpoints to the prevailing popular opinion. It will be necessary, however, for them to remain vigilant, and for others to emulate their professional standards, if other factors are to be prevented from exerting a degrading effect upon their profession. Given that the governments involved are unlikely to be swayed by ethical concerns, it is likely that only a greater adherence to the core values of journalism by such individual actors will be able to prevent similarly precipitous reprisals from occurring in the future.



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*Evidentiary
Thresholds
for Unilateral
Aggression*

The United States' China Containment Strategy and the South China Sea Dispute

Victor Teixeira

The common contention regarding the South China Sea is that its characteristic assets are the central or even the sole explanation for the debate. However, it is the argument of this study that this view is distorted and perilously deceptive. This study argues that there are multiple explanations for these territorial disputes and that they are significantly complicated by the proximity of a few players, the ascent of powerful new forces, the impact of financial power, the dispersion of military and political power, and geopolitical rivalry in Asia. The United States views China as a threat to its global hegemony and so has a policy of 'containment'. In the context of the South China Sea, its policies therefore are not intended to resolve disputes in a mutually beneficial way, but to limit China's influence. This forces countries to 'choose sides' rather than engage in mutually beneficial trade. The policy has now also led to a trade war, which could escalate into a military confrontation. This investigation examines the progression of this debate by taking into consideration the various geostrategic, geo-economics, and geopolitical interests of the parties involved and suggests a fundamental paradigm shift in the direction of research to be more conducive toward finding a realistic and peaceful resolution to the disputes in the South China Sea.

Keywords: economic containment policy, US-China relations, geo-strategies, geo-economics, South China Sea.



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The purpose of this article is to establish the geopolitical issues surrounding the South China Sea (SCS) in the past decade. Among other issues, the study will identify the vested interests of the West, the United States and the European allies, as far as the South China Sea is concerned. On the greater scale, the article will unearth the emerging significance of the United States' pivot to Asia, besides offering detailed research on the reasons and dynamics for this abrupt change by world's most powerful country. It will help the reader, or people with interests in global politics to understand the specific subject matter surrounding the SCS. Further, taking the SCS as a case study, the reader will be able to make relative generalizations of the arguments to other similar disputes featuring geopolitical interests. To authenticate the argument, the article borrows knowledge through a literature review of the realists' and the idealists' view on the matter. The two groups present a somewhat similar view to the argument of the paper. For instance, China was labelled the "sleeping giant" by Napoleon who dared not wake it up until it was woken up later by the invasion of Japan, the civil wars, the imperialism and monarchy. However, ever since the death of Mao in 1976, the 'giant' seems to have woken up from its sleep and it truly is shaking the world with the present challenge to the U.S. security. Considering the fact the U.S. had enjoyed unrivalled world superpower for decades, the big question is how then can they contain China without a possibility of war breaking out? Liberalists advocate a policy of economic and institutional inclusion to integrate China in the global economy. Their point of view is that if China can rise peacefully, the possibility of a war breakup will be minimal. Realists, on the other hand, call for an aggressive approach to China's growth, featuring aspects like containment policy. Their view is that China's growth is a threat to America's hegemony and that it should be controlled to avoid a challenge to the status quo. This article is of the view that the adoption of democratic channels and withdrawal of military interventions would be crucial to realization of peace and stability around the SCS as well as between China and the U.S. The abandonment of the containment policy and a paradigm shift by the U.S. to view China not as an enemy but as a partner can lead to resolutions in the territorial disputes in the SCS.

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Introduction

The South China Sea is a marginal sea making part of the greater Pacific Ocean, with an approximate area of 3,500,000 square kilometers

(1,400,000 sq. mi). Despite its comparatively smaller geographical area, the interest it draws from the world's superpowers is significant for various reasons. First, the sea is strategically positioned with reference to the major trading routes across the world as shown by the fact that one-third of the world's shipping have to pass through the region to and from their destinations. The numerous international transactions that take place within the region yield approximately U.S. \$3 trillion in a year, a partial explanation for the increased interest by the international community in the region. Furthermore, the region harbors huge untapped oil and gas reserves in its seabed. The strategic positioning of the region and the natural resource endowment therefore explain the recent increased interest in this region of the Pacific sea.

Coupled with the two leading reasons highlighted above, the unsaid truth about the conflicts surrounding the South China Sea, however, is the ascension of China in the pecking orders of the world to make its statement as a great power as marked by the significant developments in various of its economic sectors comparative to the contemporary global system. Indeed, according to Regilme, it is the rise of China that ultimately can be credited with creating the conflict in the South China Sea. Domestically, the efforts of Chinese President Xi Jinping to increase China's stature in the world, and his control domestically, necessarily means challenging the US, especially in Southeast Asia, China's backyard.¹ However, China's increasingly aggressive moves in the region have forced many Southeast Asia countries preferentially turn towards the US, as a means of protecting themselves from being overwhelmed by China.

For the last three decades, China has made remarkable improvements in modernizing its military. The progress has come despite the notably lower budgetary allocation by the China government to the course, as revealed in the country's transparency policy, as compared to the United States' hefty military funding with no revelations. Besides the resurgence of China, the country has increasingly been involved in diplomatic interventions aimed at achieving peace in regions that were recently involved in skirmishes. The involvement of China in international matters in regions such as Africa, Latin America and Southeast Asia denotes the political maturity that the country has achieved over the years. This is translated as a shift in power balances by the U.S. and her allies in the Asia Pacific region.²

The traditional powers, including the U.S. and several European nations, feel threatened by the rise of the Asian economy, led by China. As a result, the former countries have their antennae on alert to combat any further rise which might see the status quo challenged, or a shift in power and world control take place. With limited legitimate alternatives left, the U.S. and its allies are left with few options on how to put checks on China and Asia at large to reduce the potential threat that they pose internationally. Desperation has left the aggressors with the alternative of curbing the growth of the economies of the target regions and countries through unfair economic sanctions and bans. A classic example of the same is the U.S. containment policy which is discussed at a later stage of this study. Critics have labelled such moves by U.S. and its allies as unnecessary and detrimental to the target countries and regions. Further, the moves seem to go against the democracy which the U.S. government seems to always profess, besides infringing on the sovereign rights of the people and the governments of the affected regions. In cases where the economic sanctions and containment policies are not applicable, civil war becomes the other option.³ With civil wars, a region or a country would have its long terms goals thwarted and derailed as well. Geopolitical interests can be used to explain many of the civil wars around the world, including the South China Sea area, which has had a fair share of its own. For instance, the dispute in SCS resonates from “vital” issues such as territorial sovereignty, economic development, military security and political legitimacy for China and other claimants. Civil wars will see any development projects within a region halted, either through a court process or through armed forces. Such acts come with heavy losses in finances and capital resulting from the idle capacity. In some other instances, the regions may lack peace and as a result, the normal human life and businesses will not take place. Any time that passes by represents a loss in GDP.⁴ Such is the predicament of the South China Sea. The containment policies attached to the regions are strategic tools used by U.S. and its allies to see to it that neither China, nor the greater Asia continent benefits from the strategic positioning of the SCS.

The US containment strategy

Different authors have discussed the issue of the United States’ actual intentions in its involvement in South China Sea. Some authors argue that US intentions are clear and honest and are aimed at bringing

peace in the region while some authors argue that United States has some hidden intentions which can cause major setbacks in attempts to keep peace in the region. According to Glaser,⁵ the United States' participation in South China Sea is based on its struggles to maintain harmony in the area by enhancing sovereignty in navigation around the South China Sea, facilitating passage of trade items around the area without restrictions and also resolving problems peacefully between different parties around the area. Glaser⁶ makes it clear that US intentions are all aimed at maintaining peace in the region and enabling all parties involved to benefit. He explains that failure to carry out these roles would undermine the United States position as a leading nation in the world and this is the main reason why US has sacrificed many resources on the South China Sea dispute.

According to John Mearsheimer,⁷ the attempt by China to climb the ladder in terms of economic class and challenge the United States will be a violent venture. Mearsheimer says that China has set its efforts in gaining control over the area of Pacific- Asia while the United States is interested in taking over the western region. The need for these two regions to dominate areas around them is to attain a position of being superior over their surrounding countries therefore gaining a sense of security that there will be no challengers arising from these neighboring nations. The United States is feeling threatened by the steady growth of China as a superpower, therefore it has developed a strategy that is aimed at slowing the growth.⁸ The U.S has come up with a policy known as containment policy that will ensure that the expansion of China is curtailed therefore its probability of becoming a super power is reduced. In regard to the containment policy, America is trying to get into diplomatic agreements with nations surrounding China therefore shifting their support to it.⁹ It's important to note that the US has increased its contact with states such as Vietnam and India and is increasingly entering into agreements with the two countries. These actions by the United States are not aimed at improving its internal relations with these countries but they are aimed at weakening the support of China from its surrounding countries to ensure that it does not enter the political and the economic realm.

On the other hand, China is feeling the pressure of the policy being used by America to contain its growth and has in turn reapplied similar strategic pressures to its bordering countries.¹⁰¹¹ According to John Mearsheimer, Australia should be on the lookout for the competition

and the aggression between the two great nations because their conflict would see the stability of the area affected.

Conforming to John Ikenberry,¹² China is growing at such a fast rate in that it is posing a risk to the US's global hegemony. The use of containment policy to ensure that China does not speedily grow is damaging to the economies of the sphere with the economy of the US not being spared. In that case, the United States should approach the problem of China through a strategy that limits the creation of curtailment alliances with China's neighboring countries to such an effect that the growth of China is supported by liberalism instead of negative brute effects of hegemonic imperialism.¹³ For instance, economic liberalism can allow for a free-trade unilateral agreements between China and other countries of the world. Moreover, it is within the culture of liberalism that China must offer a platform of fully-opening its markets as has done Washington. Such a liberal form of interests can allow the United States to moderate the amount of economic pressure it is putting on China so as to allow it to be the sole provider of economic security within the whole of East Asia. Nevertheless, it is critical to note that despite the current economic tensions between the two countries, China has already taken US's offer by allowing for a slow yet systematic opening of its economic borders and improving its international institutions especially with regard to its economic niche in East Asia.¹⁴

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This approach by America is a safe one and will decrease the agitation between China and its adjustment countries as it will be allowed to engage with them through trade and other diplomatic issues thus it will grow. However, this growth will be toned down at the point where it is restricted from engaging in the security matters of the western and the pacific-Asia region.¹⁵

In consonance with Joseph Nye, America ought to use both the strategies of realism and liberalism while dealing with the growth of China to become the global leading economy commonly known as Smart Power. Smart Power is the capacity to use hard and soft power interchangeably to ensure that the intended results are attained. In this case soft power is the liberalism strategy whereby America enters into a pact with China allowing it to grow without constraints and it takes the docket of securing the Western and Asia-Pacific region, while hard power is the realism strategy whereby the containment policy is brought into use.¹⁶ The use of realism strategy by the US seeks to pro-

tect its concerns and position in the world. In this case the political scientist claims that America is justified to use its containment policy against growth and challenging it in the political and economic realm. It is important to note that having a little control and engagement with the countries surrounding China will deter it from growing progressively in that the policy works just fine and America will retain its position in the world. In addition to use of the realism strategy, America uses its diplomatic tactics to engage China and enter into a pact with it to ensure that the rivalry between them is neutralized.¹⁷

The United States is applying the art of liberalism which allows China to trade and enter into agreements with other countries but on the terms that it provides security to East Asia countries. The use of the two strategies works for the two countries as China is forging forward towards its attainment of its position in the global sphere while the United States is working to retain its position by restricting China's rise without triggering any attack by China despite implementing its containment strategy.¹⁸

Research has also been carried out on ways in which United States can win over China in their contention on South China Sea. Indeed, one element of the efforts has focused on supporting the 2016 decision in the dispute between China and the Philippines by the Permanent Court of Arbitration (PCA) in The Hague. According to the decision, China did not have a legal basis its territorial claims vis-à-vis the Philippines. While the US points out the effect of the ruling in the SCS and beyond, the question as to whether China will be influenced by the same is a matter of time. Critics of the International Tribunal for the Law of the Sea or the International Court of Justice, as it is famously referred to, once applauded the court for giving a sweeping victory to the 'underdog' in the legal battle, the Philippines. The legal institution for the first-time did not adjudicate on the matter of sovereignty but rather on the weight of the content contained therein, with the court. China's is under reservations after the ratification of the United Nations Convention on the Law of the Sea (UNCLOS), which prohibits the politically 'bigger' countries against compulsory dispute settlement under the Convention, a move which makes the ruling legally binding and enforceable in the context of China. The panel established that China claimed no historic rights in the nine-dash line, which is used by Beijing to demarcate its interest in the South China Sea, to be legally baseless.

According to latest developments, China-US relations are about to collapse especially due to various remarks that have been made by both parties. In 2017, the new elected US secretary of state's announced that China should stop building in their artificial island along South China Sea and they should not access the islands too. In response, Beijing responded by making it clear to United States that unless US launches war on China, the construction cannot be stopped.¹⁹ These two remarks are a clear signal that the two countries are ready for war unless intervention is carried out. Authors have responded by coming up with different ideas on how the problem can be stopped before it is too late.

Recently the world has witnessed the creation of Xi Jinping's personal political ideology, which will entrench his position in the legacy of the Communist Party on a footing equal to that of Mao Zedong or Deng Xiaoping. Xi's 'theory' emphasizes China's nascent ascension to the status of a great power, as can be evidenced through such statements by Xi himself as 'It is time for us to take center stage in the world and to make a greater contribution to humankind'.²⁰ This shows a leader with confidence asserting that his country has already become a great power; while also reinforcing China's political culture. For Xi Jinping, China's socialist democracy is the world's most genuine and most effective democracy to safeguard his people; China doesn't need to copy any other political system. Regarding the South China Sea, Xi Jinping noted that the artificial islands were a significant development of the last five years, heightening tensions with other stakeholders (including the United States).²¹ The President also noted that China is not seeking conflict, but nonetheless highlighted the reorganization of China's military as a significant achievement over the last five years and further promised continued changes including increasing the professionalism of officers and improvements in weaponry, promising that China's military capabilities would be first class in all fields.

A few hours later, the United States Secretary of State, Rex Tillerson said 'America would deepen cooperation with India in the face of a growing Chinese peril in Asia'. According to Tillerson's speech as given at the Center for Strategic and International Studies, China is a non-democratic society and America should recognize India as a potential partner in a strategic economic and political relationship that could never happen with China.²² In Tillerson's words, China has sometimes acted outside of accepted international norms, and he gave the South China Sea Dispute as an example. In Tillerson's words: 'We

will not shrink from China's challenges to the rules-based order and where China subverts the sovereignty of neighboring countries and disadvantages the US and friends.²³

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Taken together, it would seem that Asia has become a priority in American foreign policy, politics, and ideology.²⁴ Asia is transcending the present dimensions of geopolitical power and restructuring the dynamic of geopolitics towards one that focuses on economic efficiency rather than military might. America's concern with the South China Sea is not merely due to any fear of a potential military escalation in the region or even commitment to treaty allies; rather, America's involvement in the dispute is an attempt to contain an ascendant China. In other words, China's nascent ascension to the status of a regional and global power represents the antithesis of the established global order which threatens America's own hegemony. Containing China is a platform held up by two pillars, one geopolitical and one geostrategic. Geopolitically, containing China reduces her to the status of a regional power. Geo-strategically, containing China ensures the continuing dominance of the American hegemony. This view is supported by Peter Navarro²⁵ who observes, 'The United States does not tolerate peer competitors. As it demonstrated in the twentieth century, it is determined to remain the world's only regional hegemony. Therefore, the United States can be expected to go to great length to contain China.'

According to Navarro and Peter, America's major concerns in Asia is not finding a resolution to the South China Sea conflict, but balancing Chinese growing influence. The US policymakers' obsession with China's growing popularity is ill-advised and bound to bring more harm than good. The question is, does the containment strategy mitigate issues in the SCS?

The theory of containment was imposed by the US to prevent the spread of Soviet idealism after the Second World War. This theory speculated that any country that adopted Soviet influence could subsequently influence all neighboring countries through a domino effect.²⁶ In other words, the US government has become used to considering the world, especially after the Cold War, as if it were a chessboard, albeit a board on which it is the only player in the game and the others are pieces.²⁷

Since its foundation, the US has consistently oriented its strategy toward the acquisition and maintenance of its predominant power over

its rivals, first in the North America, then in the European hemisphere and, finally, globally. This strategy was called containment during the Cold War.²⁸ This policy of containment is composed of several dynamics that involve treaties of mutual security, limiting access to natural resources and preserving the military, economic and technological supremacy of the US.

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The US created an international system designed for its interests and to maximize its national power. These dynamics are based upon three dimensions: political, diplomatic and military. The US Military is working to contain China in Asia even though political leaders of the country continue to deny it. American policymakers have developed a strategy that would check the Chinese surging military and economic power. US military forces could threaten China's trade through the South China Sea.²⁹ The raw materials and oil transported through the sea lane in South China Sea are crucial to the rising Chinese economy.

China is believed to be designing an alternative international system to weaken the existing standard system, as highlighted by Blackwell and Tellis:³⁰ 'a variety of similar bodies that privilege China's position and Undermine standards of governance set by the Organization for Economic Cooperation and Development (OECD), the World Bank, and other international institutions'.³¹ What analysts do not see or do not want to see, because they have been moulded by the assumption that the US is the sole superpower (i.e., American exceptionalism), is that the institutions created by China and their initiatives will not undermine the international system and will constitute alternatives not only to China but also to other powers.³²

Contrary to the assertions by policymakers inside the Pentagon that the US is only concerned about the escalating territorial conflicts in the SCS, Ikenberry³³ noted that the strategy of the US is to enhance its military presence with military and naval training, diplomatically supporting any discretion of neighboring and allied countries in the United Nations, financially supporting these states, sharing new technologies and trying new trade agreements.

Over the last twenty years, the China and USA diplomatic relations have significantly improved save for a few mishaps that tended to derail the Sino-US relations projection. The last five administrations have tried to maintain a neutral position to the South China Sea dispute by choosing neutral language to avoid being entangled in the border dispute. The speeches by senior US administration officials often carry

a disclaimer that the USA seeks to choose no sides in the SCS border dispute and wishes to resolve the border disputes in the SCS to be reached without coercion.³⁴ This effort is difficult to maintain since the USA seems to be drawing many countries in the SCS border dispute to its political-military sphere except China.

With its vast resources and reach globally, the US Navy has the ability to represent its face fully in the Pacific region. However, when it comes to China the US Navy has been unable to engage its emerging naval power³⁵. The US Navy fleets in the Pacific region conduct over 700 port calls for scheduled maintenance, crew liberty, and engagements thereafter. The USA flag on the naval warships is a powerful symbol and a sign of the strength of the USA relationship with the countries they make those port calls in, a tool they have employed in the past century successfully. Since 1993 to 2011, the US Navy has however made fourteen (14) port calls to China, which is relatively low compared to over 13,000 in the surrounding countries in the SCS in the same span, portraying the political difficulty in permission obtaining such visits in the country.³⁶ It also portrays the inability or reluctance of the USA to make relationships with China as it has been successfully able to do with other countries in the SCS border dispute.

Is this strategic three-dimensional dynamic of the US sufficient to contain the relations between the states mentioned above and China? Does it offer any help towards regional territorial peace in the SCS?

According to Ikenberry,³⁷ this strategy is not sufficient, and containing China is useless. China is already a world and regional power as many studies have indicated. The US response follows the military dynamics, increasing and strengthening its presence in the region and increasing the ability of its allies and partners in the region. However, the analysis of Ikenberry³⁸ shows that this strategy of containment failed and that even the unquestionable US military supremacy is not effective as an influence in Asia; the economic dimension is more influential than the military power. Beijing has launched several successful economic initiatives, as mentioned above, and the AIIB already has 70-member countries and heads the negotiations at the regional Comprehensive Economic Partnership (RCEP), some trade alliances in the region that aims to gather the ten ASEAN member countries, including China, Australia, New Zealand, India, Japan, and South Korea. It is notable that this group represents almost half of the world's population, slightly below the level of the world GDP.³⁹ Even if the agree-

ment is not reached, the RCEP is the new 'game' in which the US is not present. China's initiatives are important given its regional impact and the fact that it induces the perception of inevitability in relation to the economic future of the sub region under Chinese leadership. A recent study by Ikenberry⁴⁰ has shown that the South Asian countries are aware that the US is losing ground and that the Trump administration is not interested in the region and is unlikely to sign a free trade agreement.

*The US Strategy
for China
Containment*

Trade war, US protectionism or containment strategy?

The United States created another way of containment strategy, namely economic containment, which is both dangerous and risky. This is so because such a strategy can affect or, is already affecting other countries around the globe including the US itself. Economic trade wars are imposed with an aim of reducing the amount of imports from a rival country. Economic trade wars have very adverse effects on the rival countries and on the world as a whole. For instance, the prices of commodities increase thus reducing the rate of purchase of the commodities and in return affecting international trade. Also, economic trade wars affect the developmental plans of a region due to a lack of sufficient or standard goods and services that would be only available from the rival countries.

The South China Sea is a very productive region due to the presence of reserves of oil. Oil is a natural component that, as a source of energy, possesses a high monetary value. Also, the region is popular due to the presence of natural gases that are also valuable. The area also harbors a diverse ecosystem and biodiversity due to the available natural resources. In addition, the region is best known for the fishing activities that are carried out here due to the presence of different fish species. Finally, highly valued shipments are passed through the waterway, thus behaving as an efficient path to enhancing trade between countries. However, the economic trade war between America and China is affecting the smooth continuity of activities in the region. For instance, the economic trade wars are affecting the ports of the region (major shipping companies use the waterway to transport their commodities).

Economic trade wars seek to restrict the amount of imports and exports of materials being transported through the water way. Thus, the activities taking place in the ports will be highly affected as they will be

reduced or cease in extreme cases. Consequently, South China Sea has faced a reduction in the amount of fish in its waters because of overfishing for trading activities.

The looming economic trade wars between the United States and China will reduce the trading activities between the two countries and to a greater extent to other parts of the world. In that case, it will indirectly affect the demand for fish globally hence providing a solution to the decreasing number of fish in the waters of the region due to overfishing. As a result, the fishing activities will reduce hence allowing more fish that will be available for fishing and sale by the local East Asian fisheries.⁴¹ These economic trade wars will affect the mining activities of the natural resources due to reduced import and export of the resources in countries due to increased prices. Therefore, the trading activities will decrease as the activity of mining drops as a result of the trade war. The reduction in the mining activity will directly impact the stability of the region as the conflicts and hostility that accompany it should see a decline.⁴² In addition, the availability of military personnel around the waters will decrease as the demand for the resources available in the region decreases due to increased prices that are as a result of the economic trade wars between the two main stakeholders of the South China Sea.⁴³

South China Sea is well known to the world, however some of these countries are closely affiliated to the region while others are stakeholders who do not claim the region but harbor interests of the region. One of the international countries that have an interest in the region is the United States. America is keen on taking over the operations of the region thus becoming a domineering force. America provides the region with economic benefits in addition to providing military personnel to the region. South China Sea is also internationally known to Russia. Russia is among the largest provider of arms in the world, therefore it plays an important role in protecting the South China Sea by providing security and in return ensuring its stability.⁴⁴ Australia is an international nation that has the knowledge of the region. Australia plays a role of ensuring the restoration of peace in the region through proactive methods. Australia uses a strategy that involves rules to control the pressure build up in the region. Lastly, Japan is among the international countries that know the South China Sea. Japan plays a very crucial role as it provides trading platforms in the region. Also, Japan is keen on providing security materials for the region due to the crisis

and conflicts associated to its contestation. It is important to note that the international communities that have knowledge of the region have developed interests in being part of its operation or taking full control of the region courtesy of the economic value and political advantages it harbors.⁴⁵

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I came to this conclusion because the economic trade war imposed by the United States is just a vehicle of a containment strategy. The protectionist policy implemented by US is, in my opinion, a 'Machiavellian' way of containing Chinese growth utilizing all means to ensure that China fails to accomplish several goals, such as overtaking the US as the largest economy in the world.

I recognize that my point of view needs deep research on this issue, even upon the full extent of the repercussions of imposing such tariffs to Canada, EU or Japan. Hiroshige Seko, the Japanese Minister of the Economy noted 'If the Japanese auto industry is weakened, it will not be able to invest in the U.S. This works as absolutely no plus for the world economy, and Japanese companies are shipping parts to China to finish them as products there that are exported to the U.S., and the effects are already being felt, Ultimately, it will hurt the U.S. and Chinese economies'.⁴⁶

Furthermore, the tariffs imposed on the EU have the same effect. The ultimate target of the trade war campaign is definitely China, Sherman Katz noted, 'whatever damage the conflict could do to U.S. jobs, industry, and consumers, this conflict will jeopardize essential allied collaboration to confront Chinese state capitalism, the underlying cause of much of the current trade conflict'.⁴⁷

Finally, the tariffs that target Canada and the way the US handles this issue is quite curious because all products that have individual components made in China also will be a target. In a recent article published by Mike Blanchfield explaining that the tariffs will start at the frontier, he noted that 'At the Canada-U.S. border, where American customs agents have the broad power to declare anything a Chinese product - even if it was made in Canada.' In other words, 'American customs officials have the discretion to declare any finished product to be of Chinese origin, even if only some of its parts are from China'.⁴⁸ In addition, and in the same article Mike published, Cyndee Todgham Cherniak, a Toronto trade lawyer who has served as an adviser to the Tax Court of Canada, noted that 'Even a Canadian-made make-up brush, a Canadian-made power cord - any of these items would be subject to 10 percent duty go-

ing into the United States. The whole goal is buying American and hire American... So it doesn't bother the U.S. customs agent that Canadian manufacturers will be collateral damage in the U.S.-China fight'.⁴⁹

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I called the above a 'Machiavellian' policy because the US administration does not restrain themselves from hurting partners, allies and themselves in order to achieve their objectives. It is clear to me that the so-called trade war has one purpose only - containment strategy from the US to stop or delay China's growth. It is in this sense that I asked, if this three-dimensional strategy of containment followed by US will be enough to contain the bilateral relations between the states mentioned above and China? In my opinion, it is not, and attempting to contain China is useless. As far as I am concerned, China is already a world and regional power. The US response follows the military dynamics, increasing and strengthening its presence in the region and increasing the capacity of its allies and partners in the region. However, my analysis shows that this strategy of containment will fail and that even the unquestionable US military supremacy is not effective as an influence in Asia; the economic dimension is more influential than the military power.

Beijing has launched several successful economic initiatives, as mentioned above, and the AIIB already has 70-member countries and heads the negotiations at the regional Comprehensive Economic Partnership (RCEP), a regional trade agreement that aims to gather the ten ASEAN member countries: Australia, China, India, Japan, New Zealand and South Korea.⁵⁰ It is notable that this group represents almost half of the global inhabitants and capable of representing significant portions of the world's GDP. Even if the agreement is not reached, the RCEP is the new 'game' in which the US is not present. China's initiatives are important given its regional impact and the fact that it induces the perception of inevitability in relation to the economic future of the sub region under Chinese leadership. A recent study has shown that the South Asian countries are aware that the US is losing ground and that the Trump administration is not interested in the region and is unlikely to sign a free trade agreement.

Furthermore, Sherman Katz observed that in 2017 the European Union, Japan, and the USA declared that they will work together to combat market subsidies with China as a target, and the European Commissioner noted: 'There are some grave concerns on China, [which is] massively subsidizing state-owned companies'.⁵¹ Addition-

al meetings are scheduled but after the trade war imposed by the US against Japan and the EU, no positive outcome resulted and it is difficult to imagine it will come soon. Tellingly, in July of 2018, the European Union signed a comprehensive and progressive free trade agreement with Japan.

*The US Strategy
for China
Containment*

Geo-economic policy

Geo-economics is defined by Allison thusly: ‘The use of economic instruments (from trade and investment policy to sanctions, cyber-attacks, and foreign aid) to achieve geopolitical goals.’⁵² Robert Blackwill and Jennifer Harris in their book *War by Other Means: Geo-economics and Statecraft* offer another explanation: ‘It’s not using economic tools for economic purposes, although those are fine, notable objectives. It’s using these economic tools to advance a government, a nation’s geopolitical interests.’⁵³ There is nothing novel in this strategy - countries of the past and present have employed and continue to employ geo-economic strategies to achieve their goals. Russia frequently uses its energy resources as leverage over other nations, and an economic sanction is a tool frequently employed by the USA in pursuing its geopolitical interests. Both these nations and others use state-owned or iconic companies to achieve geopolitical ends. The increased focus towards Geo-economics in political dialogue today has occurred due to China’s ongoing and successful use of this stratagem.

According to Robert Blackwill,⁵⁴ to counter the possibility of China’s successful use of geo-economic stratagem, the US is using the Trans-Pacific Partnership (TPP) as outlined by the Obama administration and withdrawn by the Trump administration in the first phase, although there is current consideration of whether the agreement should be amended. Trump has stated, ‘I would do TPP if we were able to make a substantially better deal. If we did a substantially better deal, I would be open to TPP’.⁵⁵ Shiro Armstrong contended that the benefits of the TPP are poor, indicating that the nature of this agreement is more political than economic. The TPP can be characterized as a preferable excluding agreement, a regional arrangement in which a large world power, such as the United States, should contribute more to the development of investments and global trade rather than blocking the initiatives in progress of other regional powers, such as the ASEAN. It is argued that ‘perhaps the biggest issue is that the TPP is in many respects fundamentally a political and a security tool’.⁵⁶

TPP is the American economic backbone in its 'pivot to Asia strategy' and it is important to note how China was left out of the negotiation process.⁵⁷ Leaving China out of trade deals in Asia only jeopardizes any chance of solving the SCS dispute. China is a major player in the conflict, the US formation of alliances with other disputants except China is a miscalculation. It only highlights USA's possibly wrong approach to the regional matters. The US has in many occasions insisted that their approach to TPP is not a deal targeting Chinese containment, but to set new global standards as President Obama stated on October 15th, 2015: 'We can't let countries like China write the rules of the global economy. We should write those rules.' Among other purposes, the TPP serves as a tool to curb China's growing economic dominance in Asia. As Walt pointed out, 'although, of course, the TPP will not erase China's asymmetrical economic advantages with respect to the nations of Asia, it will be a vivid demonstration that the United States is determined to compete on the Asian economic playing field'. The TPP may act as either a lucrative opportunity for China or her challenge. The chance for the inclusion of China is still open as noted by Japan's Prime Minister Shinzo Abe when he said, 'it would have significant strategic meaning if China joined the system in the future'.⁵⁸ With the current stated conditions for membership, China may, however, be unable to join unless it undertakes significant reforms in the near future. Additionally, there are other challenges for China joining TPP such as the FTA negotiated in Asia. China on its part has established its political standing for 'Greater China' by signing FTA with Taiwan, Macau, and Hong Kong.

During President Obama's administration, the US became closer to Vietnam as a key piece in the US-designed containment policy, in which Vietnam plays a three-dimensional role. As far as the economic dimension is concerned, Vietnam is a member of the Trans-Pacific Partnership (more precisely, a free trade agreement), which intentionally excludes China. In view of the diplomatic dimension of containment, Vietnam supports the Philippines against China in the dispute over the South China Sea and emphasizes cooperation among the member countries of the ASEAN as a legitimate regional forum.⁵⁹ Lastly, as far as the military containment dimension is concerned, the US raised the arms embargo and simultaneously increased financial support for the maritime development of Hanoi, which shows the importance of Vietnam for the US containment strategy. The Philippines

is not a member country of the TPP, Japan is not present in the ASEAN, and Vietnam has evolved from an enemy to a US strategic partner, which makes Vietnam an imperative piece of the US strategy.⁶⁰ However, Vietnam has solid relations with China, so it acts independently. This occurs because Vietnam does not want to be under the influence of any of the powers. Vietnam prefers combining relations with the US and with China to opting for a direct commitment to any of the superpowers. Vietnam emphasizes cooperation with several states simultaneously, such as Russia, Japan, and India. This multi-cooperation enables Vietnam to take its own independent position in a new world that is no longer unipolar.

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As Shiro Armstrong,⁶¹ notes, the US policies have already created a rift in the region. This is true as a parallel - China's FTA with Australia and Pakistan has been finalized and signed while the one with ASEAN member countries is still in progress in order to propel China's relations and regional links with its neighbors.⁶² More recently, ambitious trading negotiations have been launched with South Korea, India and Japan. The Regional Comprehensive Economic Partnership (RCEP) is also a major component of China's web of Asian FTA. The negotiations began in 2013 and brought together some ASEAN members, including Japan, India, New Zealand, China, Australia and South Korea. However, the conclusion of this TPP may push non-members to form to strike a deal that would balance economic impacts of the latter TPP.⁶³ Also, as a major geopolitical component, the RCEP would allow China broaden its ties through major trade deals that do not include the US.

According to Kupchan,⁶⁴ the United States, and not China, may be the catalyst for any potential conflict. The West may actually concern themselves too much with the internal nature of the Chinese regime and seek to limit China's power abroad because simply they care less about their domestic policies. In other words, the strong belief in 'American exceptionalism' has deterred the country from accepting the new power as the new 'exceptionalism'. Digressing from whether China's interests are valid or not; China's pursuit of its own geopolitical interests are certainly no more provocative than those of any other major power, including the United States.⁶⁵ China merely seeks to establish its own 'Monroe doctrine' with regards to securing its own interests in the geopolitical corner of the world it occupies. As Kupchan⁶⁶ observed, 'Just as the United States unfurled the Monroe Doctrine to ward off European powers that challenged US hegemony in the West-

ern Hemisphere, China is set to lay claim to a sphere of influence in Northeast Asia and guardianship of the region's vital sea lanes'. How China's rising confidence may affect American regional interests in the Southeast Asia region depends on how US interests in the region are defined. The traditionally considered key Southeast Asia region interests of the US are: promotion of balance and stability of power, with the main objective of keeping Southeast Asia from being solely dominated by any hegemony; prevention of itself from being edged out of the region by another power or group of powers; protection of sea lanes and freedom of navigation; trade and investment interests; supporting treaty friends and allies; democracy promotion; rule of law; religious freedom; and human rights. A recent addition to this list is the prevention of the region from becoming a base for support of terrorists. The same cliché the U.S always has is they never say their real purpose aloud. America's intention is to suppress the Chinese rise and to prevent a transition of power in the future.⁶⁷ Scholars such as Mearsheimer⁶⁸ shared my opinion: "The United States has a critical interest in providing reassurance to its allies and partners in the region that it will maintain a strong security presence to prevent a power vacuum from developing as China rises'.

United States strategy is to prevent the rise of China; Mearsheimer in Peter' interview supported this with 'the United States will, therefore, form a balancing coalition in Asia, which will include most of China's neighbors and the United States. And they will work overtime to try to contain China and prevent it from dominating Asia'.⁶⁹

The United States' own interests in the region are diverse. To begin with, the U.S. Navy has long dominated this maritime region, which is a crucial pass for the U.S. warships cruising from the Pacific to the Middle East. The treaty between the United States and Japan also obligates the US to defend Japan and its maritime lifelines.⁷⁰ Therefore, freedom of navigation in the East and South China Sea is a declared U.S. national security priority. China has not yet made the implications of its rise felt on the international scene, and it is as yet unknown what China's true intentions are regarding the established international order - who is to say whether or not China is a revisionist country and a truly dangerous aggressor? One does not observe China declaring itself a 'balancer' to the actions of Russia, the US, or any other great power. Actually, according to Schweller,⁷¹ America's pivot is to contain China - however, this may even be a case of 'overbalancing', with the

US reading too much into the actions of China and overestimating the value of these actions upon the world order, thereby seeking to impose itself, thus triggering an arms spiral with China. Schweller,⁷² in his brilliant work, *Unanswered Threats* continues: 'Overbalancing (or inappropriate balancing), which unnecessarily triggers some costly and dangerous arms spiral because the target is misperceived as an aggressor but is, instead, a defensively minded state seeking only enhance its security'. History has numerous examples of such which can lead to disputes that could potentially turn into conflicts.

The policy of engagement and containment by the US government towards China has in the tail end of President Obama's administration elicited different views after the Secretary of Defense visited India and signed bilateral agreements on military logistics in Mid-April. President Obama later visited Vietnam and announced a lifting of the weapon embargo to Vietnam.⁷³ The US senior officials always insist that their bilateral agreements with Vietnam aren't meant to contain China, but such words lack credibility when viewed against the blunt reminders to China on its security obligations to the Philippines as per their bilateral defense treaty.

The containment policy by the US to China has accelerated recently as a result of China's ascending influence in the region and globally. Much emphasis is put on the view of China (by the US) as a competitor, if not a full-blown rival. China and the US are trading partners, with China importing goods worth \$116 billion from the US while exporting goods worth \$482 billion to the US in 2015 and their bilateral economic relationship is crucial and extensive.⁷⁴ Despite inflammatory remarks in the recent past towards China by President Donald Trump and other critics, disruption of this economic interdependence between these two countries would be mutually costly.

A repeat of the containment strategy employed towards USSR in the Cold War era is unlikely to work if used in China. During the Cold War era, the economic interdependence between the US and USSR was negligible as opposed to that today between China and the US.

It will also be difficult for the US to successfully assemble dependable alliance(s) against China. Implementing a containment policy against the USSR was quite possible during the Cold War because neither the US nor its allies had much to lose.⁷⁵ The political and economic costs of containing Moscow were therefore minimal. This, however, is a bit tricky with China. Most of US allies in the Far East such as South

Korea and Japan have massive economic dependence with China. Japan's leading trade partner is China. It would not be easy for Japan to lose a major trading partner is support of a confrontational US policy.⁷⁶ Even though Japan has concerns about China's approach in the South Sea China, it would still be non-committing to participate in a hostile containment strategy.

The containment policy against the USSR during the Cold War proved difficult for US leaders as time passed. That was true especially in 1970 when Germany's *Ostpolitik* policy sought better relations with Moscow, East Germany and the rest of the Soviet bloc. The deepened connections grew USSR and democratic Europe; support for the hard-line US strategies began to fade. The fading US support was evident in 1980's when the US attempted to persuade European allies to decline a proposal for the establishment of a pipeline from the USSR to Western Europe, fearing that the project would give Moscow an unwarranted degree of policy influence. Key European allies rejected that request much to the disappointment of the US.

According to Blackwill and Tellis⁷⁷ America continues to assemble support for a containment policy against China, but it faces minimal chances of success. Few countries that are more reliant on US support may welcome the idea, but large powers may not make firm commitments that may antagonize their ties with China. The containment policy against China is, therefore, a poor option for the US. It will be difficult to solve the SCS and other regional issues without the substantial input from China.⁷⁸ It's nearly impossible to picture an end to the territorial disputes in SCS without cooperation from China, for example.

A consideration of Chinese worldwide view is important in dealing with China's issue of growth. The Chinese are very acute in their history and are quite aware that for many centuries, they see themselves as victims of imperialist domination. As a result, the Chinese leadership do not trust the Western states and are convinced that the Western states are out to contain its ambitions to gain a status in the world.

With that said, a liberal approach to China and the South China Sea disputes would be the most productive approach. The US, by deepening its Chinese ties and taking a less than aggressive approach towards China, plays to Chinese sensitivities and mitigates potential misunderstanding that can cause conflicts. If China feels that they receive the respect they deserve and are included in regional security arrangements, they would probably be more supportive of the US strategic policies.

Political institutions would surely be liberalized by continued economic growth. Chinese would easily support liberalization of world institutions as they seek to gain influence in international matters.

On the contrary, the realist's approach would antagonize China and lead Beijing to believe that the West is out to suppress its growth. China does not possess sufficient military power to directly confront the US, but American policymakers view Chinese military development as threatening. However, the US treating China as an enemy would lead China to respond in kind. Beijing would build a military to challenge the US presence in Asia while seeking ties with other countries that feel dissatisfied with the US hegemony.

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China is strategically working to gain power across the world and gaining control of the SCS is fundamental in gaining national dignity. However, China does not seek to alter the international system of relations and can be useful as a member of the world's security community. The liberal policy can easily help achieve such an objective. When the time comes when China finally shakes the world, it will do so along with the West rather than against.

Conclusion

In conclusion, the wider concept of the South China Sea dispute and United States containment policy on China can be summarized by different facts. To start with, United States involvement in the South China Sea dispute is a problem rather than a solution or benefit. This is because countries in the region have to choose between two superpowers in the region. Some countries will form allies with United States and others will create allies with China, and this will end up splitting the region into different powers. This means that China should be allowed to dominate the region and bring together countries in the region. This would guarantee peace in the region and eliminate political conflicts due to the South China Sea divided interest.

However, international organizations should be on the lookout to prevent the spread of communism in the region which would put the world at risk of another world war. On the other hand, United States containment policy on China is doomed to fail. This is because China currently is strong both economically and defensively and thus United States need strong allies in Asia. After a critical evaluation of all possible United States allies in the region, strong allies are not ready to partner with the United States because they have their problems to settle and

they do not want to jeopardize their relationship with China, mainly because of trade partnership. Countries that are likely to form allies with United States are weak and thus they can be of no help to United States.

Provincial inquiry used to be the most legitimate hazard to security. Similarly, a multilateral level-headed discussion has ended up being more unsafe and complex in the SCS. Today, most local level-headed discussion is latent and thus a less unique wellspring of contention. In the context of the increasing importance of the ocean resources and the globalization of the world economy, regional countries tend to allot more importance to maritime inquiry. China sees the SCS as lost spaces that should be part of China again, like other lost districts, such as the Diaoyu/Senkaku Islands in the East China Sea. In any case, by taking a more discernible power position in this district, China exposes issues related to its complex nature of vitality.

China presents itself as a major power set on building a friendly world during its peaceful climb. Thus, the need for cooperative neighboring countries is perceived while addressing claims in the SCS. This indicates Chinese determination; however, there is no sign that China is putting it all on the line by surrendering its private money related to improvements through a coercive methodology in the SCS conflict. I suggest that China will expect a central part, paying little regard to the possibility of war or investment in the SCS. With the increase of its ocean fiscal interests, such as resources, sea power and legal limits, China is depended upon to become more unequivocal in the coming years.⁷⁹ Meanwhile, the CCP experts observe that more imperative political interests should be considered. Along these lines, the appearance and improvement of Chinese insistence will no doubt be incremental and confined. Chinese earnest exercises do and will certainly continue to produce uneasiness in Southeastern Asian states and require these regional states to make countermeasures, perhaps with unquestionable or unequivocal assistance from external forces, such as the US.

Of course, given the Chinese emphasis on East Asia and the CCP's need for private money related to progression, China could use its muscle in a limited way and maintain a vital separation from any sudden acceleration of its maritime inquiry in the SCS. As noted above, prompt results from the China-ASEAN Free Trade Agreement (CAFTA) with regard to monetary estimation are necessary in addition to another dynamic related to establishing peace and reducing the es-

calation of conflict between the claimants.⁸⁰ China joins a fragile influence with a hard influence, which implies a sharp influence. This, together with money-related affiliation, conveys another dynamic into the SCS discussion. In the coming years, the Chinese capacity to modify its developing penchant to show a surer position and its political energy toward joint effort will be tested. It will similarly be a test for Southeastern Asian inquirer states to respond to the changing Chinese approach to managing conflict. In light of misunderstood standards concerning the SCS, the DOC may well be the best option for the diverse solicitor states because it establishes the possibility of maintaining existing conditions, which may be the foundation for a future arrangement of standards.

I believe that the inevitable destiny of the SCS question is the maintenance of existing conditions, in which talks are defended calmly and focused on specific issues. One could argue that this condition is adequate for now and that the inquirers may continue to satisfy their people with remarks and clarifications while avoiding equipped conflict in light of the political and fiscal costs involved. This means living with the standard until improved political and financial relations reduce strains and the likelihood of a political power establishing that no country has a perfect claim to the SCS; thus, there must be exchange to identify verifiable principles to make sense of it. The US has played a basic part in empowering security in Southeastern Asia: 'America`s point in Asia should be change, not quality.'⁸¹ This would involve a plan for the ASEAN states to attract a rising China and a different way.

The US, through its containment policy, has made numerous moves to enable China's rivals in the South China Sea conflict to fight with China and now is moving forward to a trade war that is not beneficial for US allies and US itself; the fact is, it has done more harm than good. The US is not using the containment policy to attempt to help these countries; rather, this is a move to attempt to stop the movement of world superiority from the US to China. In fact, the US is rather hypocritical in this matter since it is not doing anything to help other countries. Rather, this is a move to attempt to remain in power since the US feels that China will gain more power by taking control of this area. This is done without considering that China is already a superpower in the world today given its economic power and strength. The US is only adding injury to wounds in the SCS crisis, in the world also and should stop interfering with matters in the region.

In order to effectively solve South China Sea problem, the United States should be ready to stay neutral in the conflict. This can happen if the United States tables its genuine reasons behind its involvement in the region. United States should also abandon its strategy of containing China. Following these terms would allow countries within the South China Sea to settle their issues effectively. However, to prevent China over dominance in the region, international organizations should intervene where they should introduce international laws as a way of guiding the whole process. China, on the other hand, should be ready to comply with the set agreements for the good of all players involved. The best option would be leaving South China Sea as free waters where trade and access of natural resources should not be restricted. China establishment of artificial islands in the region should be stopped at all cost by international organizations but not the United States. However, if South China Sea conflicts are not handled in the right way, it can lead to a dangerous crash between United States and China. Countries around the region would also suffer from the conflict especially United States allies such as Philippines and Vietnam.

Joseph Nye noted that the heart of the SCS dispute is not oriented toward natural resources but rather toward the growing power of China as a risk to the status quo position of the US as the leader of the present world order.⁸²



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Notes

- 1 Regilme employs analytic eclecticism, a favorite tool employed in the study of international matters to explain the subject matter of SCS to the reader. Analytic eclecticism refers to approaches to research that consciously address and selectively recombine theoretical and substantive elements of scholarship produced in separate research traditions.
- 2 Marston & Co. considers the people, place and environments across the globe as a study tool salient to the problem of SCS. People and their

- interest in politics and environmentally rich regions are an explanation to the problems of SCS.
- 3 Walt & Co. addresses the critical subject matter that has been the American foreign policy and how it makes the country over the years. They cite the same for being the problem in the context of SCS.
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WEISS, Thomas G. *Would the World Be Better Without the UN?*. Medford MA.: Polity Press, 2018. ISBN 978-1509517268.

Would the World Be Better Without the UN?

Reviewed by Gregorio Stagliano

The author tries to understand through the whole book whether or not the UN has improved the international scenario since 1945 and to do so, he tries to imagine a world without it, through counter factuality, through mental simulations and “opposing worlds”.

In the first part of the book, the author meticulously probes some of the pathologies that afflict the organization born from the ashes of the Second World War. The limits identified are undoubtedly embedded, first of all, in the brakes imposed by the reluctance of the member states to surrender their sovereignty, wanting to remain anchored in the international design enshrined in the Peace of Westphalia of 1648. Added to this is the anachronistic debate on the division between a northern and a southern theatre of the world which, as Weiss claims, using a different and interesting interpretative lens, has in reality been replaced, since the end of the Cold War, by a fracture between East and West. Moreover, the structure of the UN is in no way that of a society or a hierarchical pyramid organization. It has numerous command centres scattered throughout the world, various strategic nodes such that some analysts define it as ‘organized anarchy’. The system lacks a central structure of authority. Furthermore, it has difficulties in the exercise of its leadership,

suffering the deterioration of its dependence, of its integrity and of its own competence.

In the second part, Weiss sets out three examples to make the reader understand how much UN action has impacted the global scene and how much effort has been made to shape the world through its action. According to the author, the world would be more violent without UN action and it is enough to think only of peacekeeping. This was the means through which the organization was able to deploy forces in the field in a neutral manner without compromising the international system, during the Cold War since the first use of Blue Helmets in the Suez Crisis of 1956. The world would have been even more repressive and less welcoming and Weiss says so in clear terms, showing how decolonization could not have taken place without the precious help of the UN; today we would not even have the Universal Declaration of Human Rights, perhaps the organization's greatest contribution in the field; we could not have seen the implementation of some deeply important principles such as 'responsibility to protect' (R2P). Finally, the world would certainly have been poorer and more polluted without the UN: it has in fact produced over the years an infinite amount of data and analysis but above all it has shared them with the world, giving everyone the opportunity to enjoy a general mapping. It has contributed to eradicating infectious diseases and other health threats and has intervened on climate change.

In light of all this, in the following chapters of the third part of the book, Weiss analyses what improvements could be made on the organisational level to ensure that the structure really does work, regardless of the short-sightedness of the Member States. In this section of the book, the author also offers a distinction between ideas and operations that allow us to reflect on theory and practice. It would have been a more repressive world if the UN had not intervened in a matter of human rights and through humanitarian operations. Beyond the undoubted successes and achievements, Weiss intelligently and objectively focuses the final pages of the work on the possible and absolutely necessary reforms that the organization should address. Because much has been done, but much remains to be done, and the UN today, especially with Trump's United States, is facing a tough process of downsizing, with budget and contribution cuts. What we need to be very careful about is not making the organisation an appendix to the foreign policy of the Member States and, from this point of view, a re-

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form of the Security Council, with a formula that goes in the direction of the multipolar world in which we now live, and of the structure of peacekeeping, appear to be extremely necessary and urgent.

CEJISS
2/2019 There are five challenges facing the UN before it takes the path of change.

1. The challenge of 'competition' because the UN is becoming less and less funded and less important.
2. That of 'consistency' in its actions and methods.
3. 'Co-optation' or the use of the multilateral system as an appendix to bilateral assistance that has made the UN a subcontractor of donor priorities.
4. That of its 'capacities': what is the UN really capable of doing? Repeating the strategies of the past would be a big and unforgivable mistake.
5. Finally, that of 'complacency' because too many international actors do not recognize the criticality of the situation and pretend nothing.

Weiss concludes this long and interesting debate on the usefulness of the UN with a look at the Trump era, and at the challenges that the world poses today to the organization that most of all has tried to secure the entire world, doing everything possible to avoid the escalation of violence or the outbreak of a new conflict. The answer to the question of the title is in the pages of the book, in the ideas and reforms proposed by the author, in which one grasps the will to ask the organization to rediscover its original idealism, its independence, its self-denial and its original coherence, which have made the UN the greatest attempt to build a world government, never thought of in the history of humanity.

VOLPI, Frédéric. *Political Islam: A Critical Reader*. New York: Routledge, 2011. ISBN 978-0415560283.

Political Islam: A Critical Reader

Reviewed by Alina Shymanska

What is the true meaning of Political Islam? And why do some followers of Islam prefer violence? Where exactly does this violence originate from? These are just a few of the questions raised in the book *Political Islam: A Critical Reader*, edited by Frédéric Volpi. This book is a collection of articles written by different authors about issues pertaining to Political Islam. Despite being published in 2011, this book continues to be relevant for those researching Political Islam, its rise, typology, and goals. This book review will mainly focus on the issue of how the violence is presented in the context of Political Islam. For this reason, I will pay particular attention to only two articles among those published in the book. The articles are titled “Origins and Development of the Jihadist Movement” by Gilles Kepel and “A Genealogy of Radical Islam” written by Quintan Wiktorowicz. These can be found in Section Six (“Political Islam and Political Violence”).

Gilles Kepel starts off his article by sharing his opinion on how the United States-sponsored confrontation between the Red Army and jihadists in Afghanistan became an indirect investment into 9/11. According to Kepel, the American government skillfully took advantage of the belief that defensive jihad means the duty of all Muslims to protect their fellow Muslims from external threats. This belief is

what led the legion of Mujahidin attacking the Soviet Red Army immediately after they entered Afghanistan. Kepel says that it was the United States who persuaded the Muslim Brothers (as the author refers to the group) from Egypt and Jamaat-e-Islami that are the equivalent of Muslim Brothers from Pakistan, as well as the Saudi insurgents to fight against the Soviet 'infidels' who were oppressing Afghanistan. What the American decision-makers didn't realize was that the Mujahidin survivors would return to protect the fellow Iraqi nation from the threat of Western expansion during the Gulf War. The author also describes the emergence of al-Qaeda's suicide bombing between 1996 and 2001; this guerilla military practice was borrowed from the Shi'ite by the Sunni jihadists, and the symbolic meaning of 9/11 demonstrated America's vulnerability in facing jihadi fighters. Kepel concludes that despite the special characteristics of these terrorist operations and the enormous impact of destabilization that it caused the United States, Islamists 'had not been able to force the USA to modify its policy on the Middle East' (p. 268). After 9/11 the United States began to interfere in Middle East issues with doubled intensity.

The article by Quintan Wiktorowich elaborates on the theoretical debates among several Salafi thinkers, such as Mawdudi, Qutb and Faraj on various issues, such as infidelity, global jihad, the jihad outside of the warzone, killing civilians, and suicide bombing. The author tries to demonstrate the way al-Qaida formed visions on the problems mentioned above. The main argument of Wiktorowich is that al-Qaida has intentionally constructed a doctrine that fully justifies their targeting civilians and suicide attacks regardless of the condemnation of these actions by some jihadi ideologists (especially the supporters of non-violent jihad) and prohibitions of suicide in the Quran.¹ The article concludes that there are in fact plenty of controversial points about how the Quran should be understood and how real Muslims should behave and that none of the suggestions can be seen as solely true. For instance, it is hard to answer questions about Mawdudi promoting Sharia law through the means of political reforms or the Qutb, who viewed radical jihad as the only way to build an Islamic state that was more dedicated to Islam and the Quran. It seems like there is no single person, group, or institution that can legitimately claim to speak for all Muslims and Islam as a whole.

1 Quintan Wiktorowich, "A Genealogy of Radical Islam" in Frédéric Volpi (ed.), *Political Islam: A Critical Reader* (Routledge, 2011), p. 291.

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take from my classes?
The ability to ask
the right questions.”**

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