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FROM THE EDITOR

The year 2016 has so far been a tumultuous one in international affairs, with terrorism remaining a global concern, fueling the outbreak of an ongoing refugee crisis. Violence in Syria, for example, has driven refugee populations to migrate en masse to safer pastures in the EU. The US presidential race has seen the rise of candidates pushing the limits and making controversial suggestions that capitalize on fears related to immigration and national security. Across the world, problems continue to emerge that highlight the primacy of migration and security. In these events, we see the theme of movement—out of and across borders—and its inevitable result: border-related tensions and conflicts and political decision-making related to the two. These recent and ongoing international developments are mirrored in the conceptual arguments and concerns presented in this semester's collection of submissions. The YJIS 2016 Spring/Summer issue: Migration & Security is thus reflective of both worldly politics and submission topics, drawing attention to the philosophical, geopolitical, sociopolitical, and security matters tied to the free (and sometimes restricted) flow of products and people across both land and sea.

The "Papers" section is led by "International Migration as Absolute Natural Law: An Inquiry into International Migration from the Perspective of Legal Philosophy," a timely piece by Maximilian Ernst that sets the tone for this issue with an inquisitive look into the philosophical conceptualization of migration and its historical status as an absolute natural right. Dr. Niu Song's "'Cross Border Attacks' of Somali Pirates and the Transformation of China's Diplomacy" maintains the theme of border-related problems. The author argues that piracy has prompted cross-border attacks that are reflective

of China's changing diplomatic strategies, showing increasing flexibility and responsibility in the face of international threats to overseas assets. The final piece, "Trafficking of Nigerian Women and Children: Implications for Attaining Sustainable Development in Nigeria" by Ifeyinwa Mbakogu refocuses upon the movement of people, in this case illegally for the human trafficking trade. Advocating for the involvement of women and children, who are the primary victims of trafficking, in decision-making processes, the author highlights the importance of empowerment and lays the groundwork for how Nigeria can make steps toward lasting sustainable development.

Next, the "Essays" section of the Journal begins with "Reforming Japan's Security Policy: Historical Challenges, Modern Necessities" by Giacomo Bagarella, which makes suggestions for how Japan can move forward in its relationships with its East Asian neighbors without setting off alarms, as it already has with Southeast Asian countries that were also once subject to Japanese colonial rule. Also, "Making Waves: Recent Developments of the South China Sea Disputes" by Chunjuan Nancy Wei and John Falzerano overviews the complicated and overlapping claims that exist over the South China Sea. A detailed description of the present situation and the clashing territorial claims between China and a long list of other countries reorganizes the arguments and tensions that have transpired so far, with a focus on what stance and strategies these countries are advancing.[1]

The issue ends with one book review and interview. Jordan DeWeger's analysis of *Fateful Ties: A History of America's Preoccupation with China* by Gordon H. Chang takes another look at the rise of China from a historical perspective, in which the US conception of China and Chinese culture has been refined and redefined over a long period of US-China relations, contributing to the US' present day interest in the regional superpower. Finally, rounding off this issue of the Journal is an interview with Michael Fuchs, a senior fellow at the Center for American Progress and a senior policy advisor at J Street who gives his own insight into many current and relevant topics of international interest, such as US-Asian relations, the Trans-Pacific Partnership, and the Philippines' newly elected president.

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1   Since the receipt of this submission, there have been new developments regarding the South China Sea, namely the decision by the international court at The Hague that favored the Philippines over China, not supporting the assertion of absolute Chinese sovereignty in the region. While such recent events are not reflected, this essay thoroughly breaks down the overall status of the South China Sea disputes.

Both Angela and I are deeply grateful to the wonderful team of editors with whom we've spent countless hours creating this issue. Without their commitment and dedication, this edition of YJIS would not be what it is. This was my first semester as Co-Editor in Chief, and while it has at times been demanding, it has mostly been an educational, rewarding, and fulfilling experience. This will also be my last semester with YJIS as I will be entering the field of professional publishing. I have thoroughly enjoyed fulfilling the duties of an editor for the past three issues of our journal and am grateful to have had the opportunity to handle such a wide range of academic research. I am confident that Angela will continue to succeed as sole editor in chief and wish nothing but the best for her and the rest of the YJIS team.

Briana McClanahan
Co-Editor in Chief

This semester at YJIS, the Editor in Chief position was jointly filled. The experience was new and exciting, but nerve-wracking, nonetheless. Briana and I have managed to successfully publish this issue only by coordinating with and relying on each other, as well as the rest of the editing team. I would thus like to extend my gratitude to everyone who makes YJIS what it is. Unfortunately, Briana will be graduating and moving on from her role. We bid her farewell with sadness. In addition, Cesare, who has been with us for the past five semesters, will likewise be finishing his graduate career. We here at the Journal deeply appreciate the efforts of these individuals so far, and wish them both the best in their future endeavors. I look forward to continuing to work with YJIS and have high expectations for this upcoming semester. It is our hope that readers enjoy this issue and continue to support YJIS into the future.

Angela Lee Sherman
Co-Editor in Chief

MEET THE
CONTRIBUTORS

Maximilian Ernst

Yonsei University
max.ernst@yonsei.ac.kr

Maximilian Ernst is a master's candidate at the Graduate School of International Studies, Yonsei University with a concentration in International Security and Foreign Policy. Prior to his graduate studies in Korea, he received a bachelor's degree from the University of Mainz's School of Language, Culture, and Translation with a concentration in Modern Chinese Studies. His research focus lies in Northeast Asian security and Chinese foreign policy.

Dr. Niu Song

Shanghai International Studies University
phd_niusong@163.com

Niu Song is an Associate Professor in the Middle East Studies Institute at Shanghai International Studies University and Center for Religion and China's National Security at Fudan University. Dr. Niu's research and publications mainly focus on religion and international relations, as well as Middle East studies. He has published one book, *Study on the European Union's Democratic Governance in the Middle East*, in Chinese and about 50 articles in academic journals such as the *Korean Journal of Defense Analysis.* His research program concerning the role of Islamic pilgrimage in international relations recently won support from the National Social Sciences Fund of China. Dr. Niu received his PhD. in International Relations from Shanghai International Studies University and was a postdoctoral fellow at the Berkley Center for Religion, Peace, and World Affairs at Georgetown University for the 2013-2014 academic year. He is also an alumnus of Wuhan University, Tel Aviv University, and Fudan University.

Ifeyinwa Mbakogu

McGill University
mbakoguifeyinwa@gmail.com

Ifeyinwa Mbakogu recently completed her doctoral studies at the School of Social Work, McGill University. Her thesis focused on the trafficking of children in the West African region. Her research interests include: child labor, human trafficking, forced migration/displacement, social policy, African diaspora studies, and development communication.

Giacomo Bagarella

London School of Economics
giacomo.bagarella@gmail.com

Giacomo Bagarella is a master's student in public policy at the London School of Economics - Lee Kuan Yew School of Public Policy dual degree program, from which he will graduate in July 2016. He specializes in international security, as well as urban policy. Previously, Giacomo worked for one year in the New York City Government's procurement office. He has also worked in a human rights NGO in Egypt and in the local and national government in the United Kingdom. Giacomo holds a BA cum laude in Government from Harvard University, with a minor in Psychology, obtained in 2013.

Chunjuan Nancy Wei and John Falzerano

University of Bridgeport
chunjuaw@bridgeport.edu, john.falzerano@gmail.com

Chunjuan Nancy Wei is an Associate Professor and Chair of the East Asian and Pacific Rim Studies program at the University of Bridgeport (UB) in Connecticut. Having received her PhD. from Claremont Graduate University in Southern California, Dr. Wei is a recipient of the J. William Fulbright Foreign Scholarship Program, Chiang Ching-kuo Foundation Scholarly Exchange Research Grant, the UB Seed Money Grant, and the UB Center of Learning and Teaching Excellence Award. She has published book chapters and articles on US-China relations, East Asian political economy, South China Sea con-

flicts, and cross-Taiwan Strait politics. Her journal articles have appeared in *Harvard Asia Quarterly*, *Yale Journal of International Affairs*, *Journal of Global Development and Peace*, *Southeast Review of Asian Studies*, *The Diplomat*, and *The Eurasia Review*. With an undergraduate degree in game design, John Falzerano is fascinated by the interactions between American and Asian popular cultures and the ongoing Sino-US strategic competition. He is a candidate for the University of Bridgeport's MA in East Asian and Pacific Rim Studies degree.

Jordan DeWeger
Yonsei University
jdeweger@gmail.com

Jordan DeWeger is a master's degree candidate in Global Affairs and Policy at Yonsei University in Seoul. His research interests include foreign policy and diplomatic history with a particular focus on US foreign policy and East Asian affairs. He is currently writing his master's thesis on American notions of race and how they affect US foreign policy in East Asia. He is also an editor for a new academic journal focusing on international affairs, the Global Politics Review.

PAPERS

INTERNATIONAL MIGRATION AS ABSOLUTE NATURAL LAW: AN INQUIRY INTO INTERNATIONAL MIGRATION FROM THE PERSPECTIVE OF LEGAL PHILOSOPHY
Maximilian Ernst

"CROSS-BORDER ATTACKS" OF SOMALIA PIRATES AND THE TRANSFORMATION OF CHINA'S DIPLOMACY
Dr. Niu Song

TRAFFICKING OF NIGERIAN WOMEN AND CHILDREN: IMPLICATIONS FOR ATTAINING SUSTAINABLE DEVELOPMENT IN NIGERIA
Ifeyinwa Mbakogu

INTERNATIONAL MIGRATION AS ABSOLUTE NATURAL LAW: AN INQUIRY INTO INTERNATIONAL MIGRATION FROM THE PERSPECTIVE OF LEGAL PHILOSOPHY

Maximilian Ernst
Yonsei University

This paper investigates to what extent international migration law is coherent with the concept of migration as a natural human right. Based on the assumption that migration is an inherently human behavior, beneficial to humankind, and therefore natural law, an analysis of the most prominent sources of international migration law is undertaken. The result of the analysis shows that modern international migration law is largely in line with the concept of natural law, and that the criminalization of migration happens on the domestic level, where economic and populist motivations inform policy makers and shape the law.

If there is a concept in political discourse that lacks any negative connotations, it must be freedom.[1] -Sergei Prozorov

International migration represents a broad, multidisciplinary field. To date, an equally broad body of literature on international migration has been produced. International migration mainly entails at least four disciplines: political science, law (domestic and international), economics, and sociology. The political science literature concentrates on the social and political implications of migration in the sending and receiving country. It also takes the approach of defining race, gender, and global wealth disparity as independent variables and points out future challenges for policy makers. The law literature concentrates on issues of the legal status of persons, sovereignty, criminal law, and human rights. Economists have produced considerable migration-related literature informed by research on

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1   Sergei Prozorov, *Foucault, Freedom and Sovereignty* (Hampshire: Ashgate Publishing, Ltd., 2013), 1.

international labor markets, international political economy, international trade, and globalization. The underlying assumption of this paper is that migration is an inherently human behavior and that a criminalization thereof, through laws both domestic and international, that impede naturally practiced human mobility, will remain unobserved to some degree.

Therefore, this research paper seeks to investigate the main sources of international migration law and to determine to what extent these conventions on dealing with migration are in line with the notion of migration as a natural human right. With that aim, first an approach of legal philosophy on natural human behavior and absolute natural law will be taken. Section three, then, provides a review of the literature on international migration. Section four will evaluate whether the existing practices of dealing with migration in the political and legal sphere are reconcilable with the natural law approach described in section two. Based on the findings of this evaluation of existing domestic and international legal and policy practices vis-à-vis a law-philosophical derived natural right approach, this paper seeks to promote further discussion and research on the topic in both academia and the policy sphere.

Hypothesis and Methodology

> *The discovery of nature or of the fundamental distinction between nature and convention is the necessary condition for the emergence of the idea of natural right.*[2] -Leo Strauss

This section seeks to conceptualize migration as natural human behavior that is beneficial to humankind. Based on this understanding, this section seeks to justify the assumption that migration therefore represents an action that qualifies as a natural right and falls under the ambit of "absolute natural law."[3] The importance of defining what is "right by nature" vis-à-vis what is right by convention, i.e. positive law, is summarized well by Leo Strauss:

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2   Leo Strauss, *Natural Right and History* (Chicago and London: The University of Chicago Press, 1953), 93.

3   Helen Silving, *The Twilight Zone of Positive and Natural Law,* California Law Review 484 (1955): 484.

> [T]he need for natural right is as evident today as it has been for centuries and even millennia. To reject natural right is tantamount to saying that all right is positive right, and this means that what is right is determined exclusively by the legislators and the courts of the various countries.[4]

The paper takes a legal-philosophical approach; it seeks to postulate a philosophical norm that is assumed to be able to inform law. *Philosophy,* literally *love of wisdom,* is essentially "the quest for the 'principles' of all things, and this means primarily the quest for the 'beginnings' of all things or for the 'first things.'"[5] In this manner, it shall first be investigated to what extent migration is one of these "first things," i.e. a principle evident since the beginnings of human existence. Indeed the literature suggests that humans did not only migrate from the very beginning, but that in fact migration predates humans:

> It is safe to assume that when our ancestors first became fully human they were already migratory, moving about in pursuit of big game. The rapidity with which hunting bands occupied all the continents (except Antarctica) in about 50,000 years attested this propensity. No dominant species had ever spread so far so fast before. Our ancestors broke through climatic and geographical barriers with comparative ease because the invention of clothes and housing allowed them to sustain a tropical microclimate next to their almost hairless skins, no matter what conditions prevailed in the environment at large.[6]

The major motivation for our ancestors, it appears, was the search for food, or survival in the wider sense. Migration from tropical Africa into subtropical and temperate Eurasia was motivated by the search for new hunting grounds, while population growth was limited ca. 8,000 B.C. by a general scarcity of hunting grounds, when "[i]ntelligent humans responded by intensifying their food search; and in many places the possibility of expanding natural populations of edible plants was systemically explored."[7] Post-hunting

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4   Strauss, *Natural Right*, 2.
5   Ibid., 82.
6   William H. McNeill, "Human Migration in Historical Perspective," *Population and Development Review* 10 (1984): 1.
7   Ibid.

humans could be divided into sedentary agricultural populations[8] and, dating from ca. 3,000 B.C., nomadic cultures whose *modus vivendi* was again migratory in nature.

The advent of seafaring and nomadic populations guaranteed a mobile element among the different emerging civilizations. This increased mobility led to "important innovations [which] could and did spread very widely and rapidly whenever the superiority of the new was clearly apparent."[9] Hence, human migration is not only an essential part of human nature (it even predates humans), but that migration also substantially contributed to the cultural and technological development of humankind. Going back to the definition of natural right as "what is right by nature," migration again qualifies; migration turns out to be both natural for, and beneficial to, the human race.

Having evinced human migration as a natural behavior and a natural right, it can be inferred that this human behavior and right should not be limited or sanctioned by conventions. In other words, any positive law that directly or indirectly criminalizes or regulates migration in a manner inhibitive or discriminatory to all or parts of the human population qualifies as a violation of this natural right.

Literature Review

The following section will introduce the phenomenon of migration in existing research in the fields of politics and economics. It will also examine the existing legal sources of international law to determine whether the law actually *does justice* to this notion of natural right or whether it, on the contrary, criminalizes international migration.

As shown above, migration is an inherently human behavior, one that is interwoven with the existence of humankind to an extent that covering every aspect of it clearly transcends the scope of this paper. However, with regard to migration and criminalization thereof, the following subsections will investigate two areas that prominently inform migration law (including criminal law), namely the economic and political sphere, as well as international migration law itself.

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8   Early agriculture was still partly migratory, which resulted in travel of not only humans, but also wheat and barley across Europe within only 5,000 years. See McNeill, "Human Migration," 2.

9   McNeill, "Human Migration," 2.

The Political Economy of International Migration

International migration from a macroeconomic perspective largely represents one aspect of the global labor market.[10] Thereby migration to some extent facilitates an opportunity for suppliers and demanders of labor to meet in marketplaces all over the world. Generally speaking, international migration can be divided into two main areas, namely legal and illegal migration.[11] Both areas, legal and illegal,[12] have developed into extensive networks of industries and economic agents that together facilitate the "migration business."

Legal migration, for instance, is often welcomed and encouraged among developed nations, since both nations may expect benefits through an exchange of skilled labor, which serves to explain, for instance, the increasing number of flight connections around the globe.[13] A prominent example of a perfectly legitimate *migration business* is corporate expatriation, which "involves the international movement of professional, managerial and technical staff between company locations world-wide, aided by a set of legal, relocation, counseling and advice institutions."[14]

Illegal migration, conversely, represents an equally well-established business niche. This paper will later address the problem and controversy of the criminalization of migration, but little controversy exists over the illegitimacy of trafficking, which is the business model behind illegal migration. Comparisons with the slave trade in the nineteenth century have been made,[15] which frame the practice as "one of the greatest evils facing the world today."[16]

In reality, however, most illegitimate migration and cases of trafficking are comprised of both legal, or documented, and illegal, or undocumented, passages. For instance, most women who are victims of the illegal sex trade,

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10 Douglas S. Massey, Joaquin Arango, Graeme Hugo, Ali Kouaouci, Adela Pellegrino, and J. Edward Taylor, "Theories of International Migration: A Review and Appraisal," *Population and Development Review* 19 (1993): 432 f.

11 John Salt and Jeremy Stein, "Migration as a Business: The Case of Trafficking," *International Migration* 35, no. 4 (1997): 469.

12 An assessment of the legality of migration will be provided later. For now, the perspective of the reviewed political economic literature is assumed.

13 Douglas S. Massey, "International Migration at the Dawn of the Twenty-First Century: The Role of the State," *Population and Development Review* 25, no. 2 (1999): 308 f.

14 Salt and Stein, "Migration," 469.

15 "Evil of the New Slave Trade," *The Observer*, January 12, 1997.

16 Salt and Stein, "Migration," 470.

i.e. trafficking,[17] enter the country of destination legally.[18]

The motivation for the majority of modern migration in a globalized world can be explained by neoclassical economics—individuals seeking to assure their economic well-being by offering labor on an international market. In the neoclassical economics approach, traditionally the sending country profits most from this movement, as migrants seek to sell their labor in economies more advanced than their own in order to profit from international wage differentials.[19] But higher incomes are not the only economic motivation behind migration. Another motivation, proposed by new economics of labor migration (NELM), is a risk management strategy of sorts, which households in sending countries apply to overcome market failures at home:

> In developing countries, markets (or government substitutes) for insurance, futures, capital, credit, and retirement are rudimentary or nonexistent, and households turn to international migration to compensate for these deficits. By sending members abroad to work, households diversify their labor portfolios to control risks stemming from unemployment, crop failures, or commodity price fluctuations.[20]

In order to understand immigration policy, however, one has to look at the receiving country and investigate which groups in the receiving country perceive migrants positively or negatively. There can basically be three interest groups identified: workers, capitalists and landowners. Workers naturally want high wages and thus politically organize into interest groups that pressure politicians to limit the supply of labor. Capitalists favor an

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17 The Victims of Trafficking and Violence Protection Act (TVPA) defines "severe forms of trafficking" as:
a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or
b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. See Office of the Under Secretary of State for Democracy and Global Affairs and Bureau of Public Affairs, *Trafficking in Persons Report* (Washington: U.S. Department of State, 2008).
18 Salt and Stein, 470. For more details and numbers on legitimate and illegitimate migration, see Hania Zlotnik, "Trends of International Migration since 1965: What Existing Data Reveal," International Migration 37 (1999) and Massey, "Theories of International Migration," 431-466.
19 Massey, "International Migration," 304 f.
20 Ibid., 305.

expansion of the labor supply to be able to reduce wages and keep labor markets more flexible. Capitalists are joined by landowners in political engagement to pressure politicians for more relaxed enforcement of immigration restrictions as they hope for increasing rents.[21] In fact, there exists a negative correlation between economic growth and the number of deportations. "As a country's economy goes through the business cycle, its policy mix shifts, with economic downturns giving greater leverage to workers and economic expansions benefiting capitalists and landowners."[22]

In summary, international migration today has to be understood as but one aspect of an international labor market, as well as but one aspect of a globalized world as a whole. International migration is comprised of a legal, or documented, and illegal, or undocumented, sphere, and often an individual's migration is at times perfectly legal and at other times not. In large part, the sending country benefits more from migration according to both the neoclassical economy model and the NELM model. With regard to migration policy in the receiving country, which will be explained in more detail in the next section, migration benefits certain groups and discriminates against others.

Politics and the Criminalization of International Migration

The above section introduced the political economy of migration. Migration represents an issue that may be welcomed by some and feared by others within the same country. These often emotionally charged debates eventually inform the policy-making process, which, as will be shown, often results in penalization and over-criminalization. The underlying question to be answered is why and to what extent nations criminalize migration through law, both domestic and international.

Recent research on the correlation of global mobility and penal order from Europe[23] shows that increasing criminalization, and therefore increased incarceration of foreigners, is in first instance rooted in increased global mobility and in the rise of state coercion. However, as the reviewed literature unanimously suggests, the agenda of applying penal law to respond to increased immigration is anything but an obvious one and has to

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21 Ibid., 307.
22 Ibid.
23 Vanessa Barker, "Global Mobility and Penal Order: Criminalizing Migration, a View from Europe," *Sociology Compass* 6, no. 2 (2012): 113-121.

be seen as a choice, not a necessity, made by policy and lawmakers. Like in many other areas of the polity, an over-criminalization of migration is taking place where the degree of penalty is by no means related to the damage, if there is any at all, caused to society. As Gene Healy explains:

> [I]t is the troubling phenomenon of continually adding new crimes or more severe punishments to the penal code, criminalizing, recriminalizing, and overcriminalizing all forms of conduct, much of it innocuous, to the point of erasing the line between tolerable and unacceptable behavior.[24]

Vanessa Barker from Stockholm University identifies four main approaches that seek to explain this increasing reliance on criminalization and penalization of migration by the policy community:

(1) Globalization of punitiveness with a focus on how existential insecurity drives demands for harsh and broad penal sanctioning;

(2) Political economy with its emphasis on how the structure of the labor market creates vulnerable and criminalized populations;

(3) Enemy penology with its focus on how racism underpins the criminalization of foreigners;

(4) State governance with its emphasis on how state sovereignty is being reaffirmed and citizenship is being reconfigured by the criminalization and exclusion of others.[25]

Miller[26] and Chacón[27] take a similar approach in concluding that governments have increasingly shifted from handling migration in the civil sphere to regulating migration through the criminal (domestic) justice system. The reason for this may be found in public sentiment, evidenced in points (1) and (3). Immigration is repeatedly among the top three issues identified as

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24 Gene Healy, *Go Directly to Jail: The Criminalization of Almost Everything* (Washington, D.C.: Cato Institute, 2004), 1.

25 Barker, "Global Mobility," 114.

26 Teresa A. Miller, "A New Look at Neo-Liberal Economic Policies and the Criminalization of Undocumented Migration," *Southern Methodist University Law Review* 61 (2008): 171-186.

27 Jennifer M. Chacón, *Managing Migration through Crime*, Columbia Law Review Sidebar 109 (2009): 135-148.

the most important problems facing various countries. In the United States for instance, public opinion on undocumented migration has drastically worsened in the face of so-called 'illegal aliens.' Illegal immigrants in the US are linked to all kinds of societal woes, such as higher taxes, urban street gangs, terrorism, a weak economy, and the lack of rule of law altogether. Some 70 percent of US citizens are reported to believe that the undocumented population weakens the economy through use of public services.[28]

With regard to points (2) and (4), one may further elaborate that politicians in developed countries, influenced by the pressures from the populace to control immigration described above, use rather symbolic policy instruments to "create an appearance of control."[29] Whether policies such as vigorous border enforcement, bureaucratic harassment of aliens, or restriction of immigrants' access to social services are effective at all becomes secondary to the genuine political purpose of producing tangible and concrete "action" to be seen by voters. "Forceful restrictive actions enable otherwise encumbered public officials to appear decisive, tough, and engaged in combating the rising tide of immigration."[30] Another somewhat narcissistic end that harsh immigration laws serve is that of exposing the migrant as someone "begging for access," thus being prepared to undergo hardships and even break the law to get to that particular country. "These proceedings make possible the exposé of the receiving country as desirable, powerful and prosperous; and give the state the opportunity to display the last bastion of sovereign powers—the power to grant entry, and to punish and expel those who are not allowed in."[31]

One can conclude that criminalization of migration, a much discussed topic in recent literature, is a policy choice by governments aiming at pacifying parts of the populace. It is also a means to display decisiveness in the face of what is perceived to be a 'crisis,' and furthermore, gives the populace of the respective nation the corroboration of living in a desirable place.

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28 Miller, "Neo-Liberal," 172.
29 Massey, "International Migration," 314.
30 Ibid.
31 Ana Aliverti, "Making People Criminal: The Role of the Criminal Law in Immigration Enforcement," *Theoretical Criminology* (2012): 11.

International Legal Sources on International Migration

> *The fundamental question [which international, undocumented migration] poses concerns the ability of the state to control who has access to its territory and identity.[32]* -John Salt and Jeremy Stein

Migration, as it has been shown, is a natural human behavior that predates humans. Logically then, migration predates the arrival of nation states and international law in the seventeenth century. The above section sheds light on some of the domestic considerations that policy makers have taken in the face of immigration, including criminalization of immigration and therefore making immigrants "illegals" as a measure of controlling migration. In large part, domestic laws tend to criminalize rather than protect migrants with the aim to preserve domestic values, or to give in to domestic pressure groups that are concerned about decreasing wages, etc. Migration, however, is also subject to the international sphere. This section will therefore look at sources of international law that focus on migration between states and investigate to what extent these laws meet the standards of absolute natural law as described in section two.

The Universal Declaration of Human Rights, to begin with, comprises several articles that are applicable to the status and treatment of refugees. Article 2 defines the universality and inclusiveness of the declaration. It is noteworthy that the Article clearly states that "no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs." This statement is of special significance for refugees who often originate from failed states, contested territory, and/or do not have documents (passport/visa) supposedly necessary for their passage. Articles 5 and 9 frame mistreatment (torture, punishment) and detention as illegal. Article 13 can be called the central manifestation of the absolute natural law of migration defined in section two, as it states that everyone may move freely both within any country and between any country. Articles 14 and 15 govern the rights to enjoy asylum (from persecution), as well as to have and change one's nationality.

The Convention Relative to the Protection of Civilian Persons in Time of War[33] furthermore governs the duties that participants of an international

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32 Salt and Stein, "Migrant," 469.

33 "Convention Relative to the Protection of Civilian Persons in Time of War," August 12, 1949, *United Nations Treaty Series*, 75 U.N.T.S 287.

conflict have with regard to any civilian (including members of armed forces who have laid down their arms) "caught in-between." With regard to the right of movement of people, the convention dictates in Article 26 that family members dispersed owing to the conflict should be able to meet. Article 35 rules that all civilians are entitled to leave the territory at the outset and during conflict. Article 49 states that forcible transfers or deportations are prohibited unless the guarantee of security of the population demands evacuation.

The International Covenant on Civil and Political Rights[34] adds to the Universal Declaration of Human Rights the right of free choice of residence. However, in paragraph 3, restrictions are made to these rights, which enable states to deny the right of free movement if they "are provided by law, necessary to protect national security, public order... public health or morals or the rights and freedoms of others." Article 13 similarly states that individuals may be expelled from a country if "in accordance with law," unless "reasons of national security otherwise require." Since these restrictions and reasons of national security are not and cannot be further defined, it is obvious that states are given much leeway of interpretation with regard to their domestic law.

The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families[35] again builds on the Universal Declaration of Human Rights and adds to it, in the sense that it defines the term migrant worker and family, and that it explicitly grants human rights to migrant workers and their families with regard to the specific situation of migrant workers. It has to be noted that the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families is signed by a relatively small number of non-OECD states. Virtually every article of the convention is concerned with international migration, since it has as its subject migrant workers and their rights in their native and foreign countries. Articles with special significance to migration, legal status, and movement are Article 8 (free movement of migrant workers and their families provided public order is not endangered), Article 24 (equal recognition before the law of all migrant workers and their families everywhere), Article 29 (rights to name, registration, and nationality of children of migrant workers), and Article 55 (employed migrant workers

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34   "International Covenant on Civil and Political Rights," December 16, 1966, 999 U.N.T.S. 171.

35   "International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families," December 18, 1990, 2220 U.N.T.S. 93.

have right to equal treatment with employed nationals).

The Convention Relating to the State of Refugees[36] does, after defining what constitutes a refugee, describe rights and duties of refugees, such as the duty to conform to the country's laws and regulations (Article 2) or the right to treatment at least as favorable as that is accorded to nationals. With regard to the free movement of people, the following articles are significant: Article 26 (right to free choice of residence and movement to all refugees legally in a territory), Article 27 (provision of identification papers to refugees who do not possess valid travel documents), Article 28 (issuance of travel documents for international travels), and Article 34 (if possible facilitate assimilation and naturalization processes for refugees).

There obviously do exist more legal sources governing international migration. The above compiled excerpts seek to give an overview of the existing international laws.[37] Not included in the above overview are legal sources that specify only certain areas of the globe and are not generalizable to other regions, such as legal sources from the Council of Europe instruments, the European Union provisions governing the freedom of movement for citizens and their dependents, the Schengen Agreement, the European Union's asylum policy, and other treaties that only govern regional migration like the Inter-American Convention on Territorial Asylum or the Treaty Establishing the Economic Community of West African States.

The sources of international law are largely in line with the apprehension of migration as a natural right, as defined in section two, which guarantees free movement to anyone, anywhere, with the same rights and duties as the resident population. Throughout the second half of the twentieth century, under the guidance of and through the United Nations, a growing international human rights regime has been established. The growing body of law texts, however, does not represent an increase of rights for migrating people; indeed, the Universal Declaration of Human Rights already provided the widest set of rights. Additional legal sources either specified situations of application or made reservations of the law with regard to domestic law, national security, public order, and health, or the freedom of others.

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36 "Convention Relating to the Status of Refugees," July 28, 1951, 189 U.N.T.S. 150.

37 For an inclusive collection of all legal sources that prescribe international migration law, Richard Plendner, who compiled all basic documents on internal migration law, is an excellent source. See Richard Plendner, *Basic Documents on International Migration Law* (Leiden: Martinus Nijhoff Publishers, 2007).

Absolute Natural Law and International Law: An Evaluation

> The difference between citizens and non-citizens is not natural but
> conventional. Therefore, all citizens are, in fact, "made" and not
> "born." It is convention that arbitrarily cuts off one segment of the
> human race and sets it off against the rest.[38] -Leo Strauss

As the above literature review indicates, today's international migration has
to be understood in the context of a globalized economy, where goods and
services, thanks to technological advances, have become highly mobile and
flexible. The principle of migration as a natural human behavior applies,
whether humans sought food and new hunting grounds a few thousand
years ago, or whether humans seek higher wages, economic and political
stability, or security, including food security. The literature makes a distinction
between legal and illegal, or documented and undocumented, migration.
This distinction, however, appears arbitrary to the legal philosopher, as Leo
Strauss aptly points out:

> Law reveals itself as something self-contradictory. On the one hand,
> it claims to be something essentially good or noble: it is the law that
> saves the cities and everything else. On the other hand, the law
> presents itself as the common opinion or decision of the city, i.e.,
> of the multitude of citizens. As such, it is by no means essentially
> good or noble. It may very well be the work of folly and baseness.
> There is certainly no reason to assume that the makers of laws
> are as a rule wiser than "you and I"; why, then, should "you and I"
> submit to their decision? The mere fact that the same laws which
> were solemnly enacted by the city are repealed by the same city
> with equal solemnity would seem to show the doubtful character of
> the wisdom that went into their making.[39]

The scope of this paper forbids a detailed investigation into the domestic
criminal law of a representative number of countries, but as section 3.2
shows, many states have domestic incentives, both economic and political,
not only to control, but also to decrease immigration. While the political will
to either increase or decrease migration is essentially a matter of policy, the

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38 Strauss, *Natural Right*, 104.
39 Ibid., 101.

practice of criminalizing migration as a legal answer to a political problem is questionable. The problem lies in the lack of criminal intent, or lack of *harm* or *offense,* which is proposed by Schonschek,[40] among others, as necessary to justify criminalization and use of the penal code.[41]

The practice of criminalizing immigration, or "crimmigration,"[42] then is not only contradictory to absolute natural law, but also contorts domestic criminal law in the way that it does not itself constitute a criminal offense ,which would justify the hindrance of movement, let alone incarceration of migrating people, be they foreigners or not. Based on the analysis in section 3.3, it becomes clear that the sources of international law concerning international migration, most notably the Convention Relating to the Status of Refugees, the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, and the Convention Relative to the Protection of Civilian Persons in Time of War, do in large part fall in line with the notion of migration as natural human behavior and therefore absolute natural law. These legal sources do prescribe a set of rights to people regardless of their origin, ethnically and nationally, wherever they are located. The foundation on which most of international migration law builds is Article 13 of the Universal Declaration of Human Rights, which, without ambiguity, states that everyone has the right to freedom of movement within and across borders. Further, basic principles are proposed by Article 9, which rules arbitrary arrest, detention, or exile illegal, and Article 14, which grants everyone the right to seek asylum from political persecution. The majority of ensuing legal sources on international migration law constitute either an amendment, specification, or reservation of these basic principles.

One can conclude that today's international migration law is essentially congruent with the natural law of migration. Criminalization of migration happens largely on the domestic level. The main flaw of international law is that later amendments and specifications[43] include vaguely defined reservations that give states the freedom to make exceptions to international

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40 Jonathan Schonscheck, *On Criminalization: an Essay in the Philosophy of Criminal Law* (New York: Springer Science & Business Media, 1994), 64.

41 Healy, *Go Directly*, 6ff.

42 The term "crimmigration," a coinage of the words criminalization of migration, represents an increased interest and research of the phenomenon. See Juliet P. Stumpf, *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power,* American University Law Review 56 (2006): 367.

43   For example, post-1948 *Universal Declaration of Human Rights*.

law if, for instance, national security or public order is endangered.

Conclusion

Upon the above analysis, several conclusions can be drawn. Most notable is the finding that, with regard to migration, modern international law does represent the needs proposed by natural law. Today, migration is as much a measure to guarantee the survival of the human race as it was several thousand years ago. As history shows, migration is not only natural for but beneficial to the human race, as it spreads knowledge and innovation around the globe. Arguably this role is decreased in times of digital communication, but nonetheless the mobility of people on the planet is prevalent. Proof of this is the increasing number of flight connections all over the globe. To limit migration, an inherently natural behavior, thus constitutes only violation of an absolute natural law, it also discriminates against humankind.

Modern migration has evolved from the sheer expansion of hunting grounds to households' strategies of diversifying income portfolios and countering the economic and political shortcomings of their home countries. Today's migration literature understands migration as a natural function in a globalized labor market, congruent with the principle of natural right and human behavior.

The problem with today's migration flows is that some of them are being criminalized while others are not. This makes documented passage possible for some and forces others to resort to undocumented passage. This discrimination is often based merely on the country of origin or the passport a person holds. While international migration law is largely in line with the notion of migration as a natural right, it is apparent that on the domestic level migration is often regulated through the justice system instead of being handled in the civil sphere. In order to understand this arguable "malpractice" of managing migration through criminalization, one has to look at different interest groups in the receiving countries. As the working classes, naturally the biggest group in most countries, are interested in high wages, they seek to limit the supply of labor. Policy and lawmakers then respond to this "democratic" pressure and along the way carry out populist political agendas that pacify the masses. Often, immigration policies neither serve the economy nor the people, but merely the politicians in drawing an image of toughness and control. With this background in mind, the majority of domestic immigration policies can be identified as failures.

International migration law, conversely, has been found to correspond with the absolute natural law of migration. The core of the international legal sources with regard to migration is Article 13 of the UN Universal Declaration of Human Rights, as it unambiguously states that everyone has the right to freedom of movement and residence within and beyond the borders of all states. In a way, Article 13 is therefore an adaptation of the absolute natural law of migration to the emergence of nation states, stating clearly that the sovereign borders of nation states may have a multitude of functions, but that keeping people from moving freely is not one of them.

Since 1948, when the Universal Declaration of Human Rights was enacted, plenty of laws concerning international migration have been passed. The large majority of these, however, represent either a specification or reservation of the rights that have been pronounced in 1948. One can assume that both reservations and specifications serve their purpose, but at the same time it has to be noted that more international laws on international migration did not equal more rights for international migrants.

Finally, it is hoped that the above review and analysis may promote further discussion and in-depth analysis on the practices of managing increasing migration flows in our modern world. The migrants from Syria and other Middle Eastern and North African crisis regions are making use of their right to freely move. Any institutionally created obstacle to their passage constitutes a violation of natural and conventional international law. The defiance of this fact and even criminalization of migration has forced Syrian refugees, as undocumented migrants from a war-torn crisis region, onto rubber dinghies by the millions, and into death through drowning by the thousands, where an observation of the law would have made a conventional travel on airplanes and ferries possible for the majority of refugees. With this perspective as a concluding remark, the final hope is that this paper may serve as a primer for further researching and developing the argument of international migration as as human right and natural law, so that it may serve to inform the current debates on the refugee crises around the world. **Y**

"CROSS-BORDER ATTACKS" OF SOMALI PIRATES AND THE TRANSFORMATION OF CHINA'S DIPLOMACY[1]

Dr. Nui Song
Shanghai International Studies University

Military operations named "cross-border attacks" have become prevalent in international society. They are different from traditional war, which is fought among states. Generally speaking, cross-border attacks may be internationally concerted legal ones with authorization or unilateral and unauthorized illegal ones. From this perspective, the escort activities of Chinese navy escort fleets combating pirates in Somali seas are legal cross-border attacks aimed at safeguarding China's overseas interests. They are a reflection of China's new diplomatic thinking on sovereignty, internal affairs, participation in international institutions, and international cooperation. They also mark the transformation, and are a specific form, of China's diplomacy. Cross-border attacks will be of positive significance to the maintenance of lasting peace and world prosperity.

In October 2007, after the Turkish Kurdistan Workers' Party (Partiya Karkerên Kurdistanê, PKK) fled and hid in the Iraqi Kurdistan region, sneaked back into Turkey to attack the Turkish military, government agencies, as well as civilians with Iraq as their base, the Turkish parliament authorized the Turkish army to launch cross-border attacks against the PKK. Despite lacking approval from Iraq, the Turkish army sent troops across the border to the Iraqi Kurdish region to combat the PKK. For some time, this type of military action has attracted widespread attention. On the one hand, it reflects the concern of the international community in the modern era on transnational conflicts between state and non-state actors. Although this is different from traditional inter-state wars,

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> Under the pretext of combating terrorism, every country can blatantly disregard the principle of state sovereignty and sanctity of the territorial, and implement an armed invasion toward another country, which is bound to seriously affect the international community in the era of globalization and the maintenance of the principles on inviolability of national territory and sovereignty.[2]

Conversely, it may also reflect the international community's increasing concerns on the situation in the Middle East since 9/11. Referring to the cross-border attacks, China's political scientist Zhu Weilie commented that "the current whole situation in the Middle East is very subtle; the Middle East is facing a new crisis."[3] Although the Turkish army has stepped into Iraqi territory several times since 1995 to crush the PKK, the international community has paid less attention to these actions than it did to the cross-border attacks in 2007. The international community has increasingly observed and analyzed actions similar to cross-border attacks. In recent years, there have been many other examples of cross-border attacks. In 2006, Israel launched a cross-border attack to combat Hezbollah in Lebanon. In March 2008, Colombia launched a cross-border attack to combat FARC forces in Ecuador. From the end of 2008 to early 2009, Israel launched cross-border attacks to combat Hamas in the Gaza Strip. In 2008, the Afghan government threatened to conduct cross-border attacks, and the coalition forces in Afghanistan crossed the border of Pakistan to fight against Taliban remnants. In June 2010, Iran conducted two cross-border attacks on Kurdish militants in Iraq. Cross-border attacks in international relations, especially in Middle Eastern international relations, have become significant issues that affect regional and global security. For this reason, it is important to summarize and analyze cross-border attacks.

A cross-border attack is a long-standing military action, which has been carried out frequently in the international community, especially in the Middle East, since the 9/11 attacks. However, there is a dearth of research concerning cross-border attacks, and as yet there is not a commonly held definition of them.[4] In spite of this, by summarizing and analyzing different

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2   Bo Wang, "Turkey and Iraq Crisis: International Influence of 'Cross-border Attacks'," *Liberation Daily*, November 7, 2007.

3   Weilie Zhu, "Turkey's Cabinet Decided to Send Troops to Iraq to Combat Kurdish Militants," *International Weekly* 3 (October 2007).

4   The phrase used most often in early foreign monographs is "attacks cross-border," such as in John Laffin, *Fedayee: the Arab-Israeli Dilemma* (London: Cassell, 1973). The use of this phrase only recognizes that there are cross-border military operations, but fails to reach the level of

cases of cross-border attacks, it is not difficult to find that this term has the following characteristics.

First, the subjects of cross-border attacks are state actors, and the objects are non-state political and military actors. An attack can only be carried out by state actors against non-state organizations or groups. Military actions carried out by a non-state organization toward a state actor are not categorized as cross-border attacks. Likewise, state-to-state military operations are not labelled as cross-border attacks, but instead as wars of aggression.

Second, in terms of the motivations behind cross-border attacks, it is always the non-state actors that initiate multiple attacks towards a specific country. For example, Hezbollah and Hamas used rockets, mortar shells, and even suicide bombs against Israel; the PKK launched such attacks against the Turkish military for years; the Taliban attacked Afghan civil and military targets; Somali pirates have been robbing merchant ships from all over the world for more than a decade; and the Iranian Kurds in Iraq conducted armed attacks against Iran. The cross-border attacks initiated by countries suffering from terrorism or extremism are counterattacks aimed at those perpetrators.

Third, with regard to the target countries' political situation, they are often facing separatism or political turmoil, where central government authority is unable to control all of its territory. For example, in Israel's cross-border attacks on Hezbollah and Hamas, Lebanon was facing the threat of separatism, especially in southern Lebanon which was dominated by Hezbollah, as well as in the Gaza Strip controlled by Hamas. In Turkey's and Iran's cross-border attacks, Iraq was facing fragmentation, especially the long-term autonomy of the Iraqi Kurdish region. In Afghanistan's coalition forces' cross-border attacks, the Pakistani government failed to implement effective control over many tribes within it. All major countries' cross-border attacks against Somali pirates are related to the existence of Somali warlords, sectarians, and tribal separatists.

Fourth, some targets are domestic anti-government political-military forces that eventually fled abroad. Therefore, this type of cross-border attack is a continuation of civil war, such as the battles between Turkey and the PKK, the Afghan government and the Taliban, as well as Iran and Iranian Kurdish militants. Some targets are the non-central government forces or foreign forces who are hostile to a country and intend to hurt soldiers and

conceptualization of "cross-border attacks."

civilians, such as Hezbollah and Hamas that are hostile to Israel, or the Somali pirates who attack merchant ships. As a result, the major powers have identified them as terrorist or criminal organizations.

Fifth, with respect to relations between the target of cross-border attacks and the country where they were located, there are contradictions and conflicts. For most countries, there is a contradiction between the responsibility to safeguard sovereignty and the potential benefits cross-border attacks will bring to the country. Examples include the conflict between the Lebanese government and Hezbollah; the military conflicts between the Palestinian government and Hamas; the conflict between Iraq and the PKK, as well as Iraq and the Iranian Kurdish militants; the conflict between the Pakistani government and the "Pakistani Taliban Movement;" and the conflict between the Somalia pirates and the Somalia transitional government.

The term cross-border attack includes two parts: cross-boundary and attack. To be more comprehensive, the term cross-border attack is mainly used in the following forms. Firstly, with the development of technology and improvement in transportation, the concept and connotation of "border" has expanded gradually from territory to territorial waters and airspace. Thus, a cross-border approach includes three kinds of approaches: trans-boundary via the land, cross-border via the sea, and cross-border from the air. All three kinds of cross-border approaches are likely to be implemented between neighboring countries, while sea or air cross-border attacks often occur between non-bordering countries. Secondly, military attacks are implemented by ground forces across land borders, warships across the territorial sea or exclusive economic zone border, and fighters in air space. Third, there are both defensive attacks,[5] such as the fight against Somali pirates, and offensives attacks, such as the Israeli attack on Hamas, among the most violent raids and ground war since 1967.

After investigation of the characteristics and forms of cross-border attacks, it is necessary to evaluate their effectiveness. Cross-border attacks are a single type of approach, and only achieving the implementers' goals will eventually lead to actual effects. Successful cross border attacks do

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5   The term "defensive attack" has been mentioned in some academic journals, such as Alison Johnson and Ruth Clifford, "Polite Incivility in Defensive Attack: Strategic Politeness and Impoliteness in Cross-examination in the *David Irving vs. Penguin Books Ltd and Deborah Lipstadt* Trial," *Journal of Politeness Research* 1 (2011): 43-71; P. F. Ferrari and P. Palanza, "Does Fear Modulate Defensive and Offensive Types of Maternal Attack in Mice?" *Aggressive Behavior* 2 (2000): 193-203.

have formidable effects, as seen in with Israel's effective battle with Hamas and Turkey's sabotage against the PKK camps. These actions have resulted in a greatly improved security environment for both countries. However, unsuccessful cross-border attacks often lead to new security dilemmas, such as Hezbollah's war clamor, and the Taliban resurgence in Afghanistan as well as its "Pakistanization."[6] However, this is only one aspect of the problem. Purely military action can barely achieve desired and lasting objectives. Nowadays, despite the overlap of "political military states" and "trading states," trading and military actions are interacting with each other.[7] Military action goes hand in hand with economic development. Presently, the world has become increasingly interconnected. Isolated countries have often been adversely affected by globalization, such as Somalia since 1993. Successful cross-border attacks will have the effect of temporarily eliminating traditional security threats but cannot eradicate the threat altogether. Only by supporting political and economic reconstruction, or the development of free trade with each other, can we consolidate success and ultimately eliminate cross-border attacks, which have the characteristics of old military means in a new era.

In the modern era, cross-border attacks refer to the retaliatory military action taken by state actors towards non-state actors (especially its military forces) in a foreign country's territory, causing actual threat to its military forces or civilians. The attacking state would penetrate another country's territory and carry out military strikes, its goal being the elimination of the long-term threat brought by the targeted non-state actors rather than confrontation with the government of the country where these non-state actors hide. Due to domestic divisions or military weakness, it is impossible for these countries to prohibit a cross-border attack. Therefore, these countries are usually acquiescent to, or even encourage, such cross-border military action due to their own conflicts with these non-state actors. Nonetheless, only a handful of cross-border attacks are authorized by the United Nations or the countries where targeted non-state actors hide.

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6   "Pakistanization" refers to the Taliban's retreat to the border regions of Afghanistan and Pakistan, and the Taliban in Pakistan eventually becoming a Pakistani native political-military force that actually cut off its relations with the Taliban originating in Afghanistan.

7   See Richard Rosecrance, *The Rise of the Trading State: Commerce and Conquest in the Modern World* (New York: Basic Books, 1986).

The Current Situation Regarding Somali Pirates and China's Cross-border Attacks

Piracy is a long-existing international problem which, despite a decline in popularity during the twentieth century, has been on the rise since the 1990s due to Somali pirates. Since December 2008, the Chinese navy has dispatched five rounds of escort warship fleets to Somali waters. These fleets have had repeated confrontations with Somali pirates and have fought to protect commercial and civilian vessels. According to the above definition of cross-border attacks, the escort activities by navies of various countries in the waters of Somalia are actually defensive actions of cross-border attacks. The Chinese navy's cross-border attacks in the Gulf of Aden and the Somali waters[8] against Somali pirates has generated widespread attention in the international community. *The Guardian* described it as a "deployment to join international force in biggest naval operation by China in more than 600 years," and said, "the move marks a major shift in naval policy and would be China's first active deployment outside the Pacific region," because China's "growing wealth and economic interests around the world have led to argument inside and outside China that it should play a greater role on the world stage."[9]

The United Nations and the Somali transitional government have authorized China and other naval fleets to combat Somali pirates. The UN Security Council in 2008 adopted resolutions calling on the international community to fight against Somali pirates.[10] Upon the request of the Somali

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8   Defining "Somali waters" is a complex issue. Somali pirates conduct their activities within a range of 200 nautical miles. The 200-nautical-mile area is universally recognized by the international community as a measure of an exclusive economic zone. It is a vague area between the territorial waters and the high seas, but the Somali government in 1978 unilaterally determined its territorial waters of 200 nautical miles. The Chinese Foreign Ministry acknowledged Chinese naval escort activities in Somali waters are mainly in its exclusive economic zone, which is actually within the territorial waters of Somali, according to Somalia's perception of the range.

9   Tania Branigan, "China Sends Naval Fleet to Somalia to Battle Pirates," *The Guardian*, December 18, 2008.

10   1) UN Resolution 1816 states that foreign troops that have obtained the consent of the Somali transitional government may "enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law;" 2) UN Resolution 1838 "calls upon States interested in the security of maritime activities to take part actively in the fight against piracy on the high seas off the coast of Somalia, in particular by deploying naval vessels and military aircraft, in accordance with international law, as reflected in the Convention," "calls upon States whose naval vessels and military aircraft operate on the high seas and airspace off the coast of Somalia to use on the high seas and airspace off the coast of Somalia the necessary

government, the United Nations expanded the scope for foreign "across border attacks" against Somali pirates from the high seas, airspace, and territorial waters. This reflects the United Nations' and the Somali transitional government's great determination to combat piracy. It also reflects the worsening of the problem of Somali pirates and the internationalization of its harm.

Somali pirate attacks on ships from China and other countries have posed security threats on personal safety and property as well as economic losses. These threats spur the most direct motivation behind the Chinese cross-border attacks against Somali pirates. The waterway suffering from piracy is the main route for Chinese exports to Europe, as well as to the Middle East, and thus of important significance to China's overseas and strategic interests. After the former Somali president Siad Barre stepped down in 1991, Somalia experienced a long period of anarchy and wars among warlords. In 1993, the United States carried out peacekeeping operations in Somalia, which ended with the "Black Hawk Down" disaster. Since then, Somalia has become a failed state without an effective central government and has long been neglected by the international community. Moreover, due to its location, bordering Sudan and, across the sea, Yemen, it is difficult to maintain a balance of power against Somali pirates given the chaotic political situation in both Sudan and Yemen. As a result, Somali pirates have been unimpeded in these waters. Shaul Shay described Somalia, Sudan, and Yemen as the "Red Terror Triangle," "particularly the links that each of them maintains with Islamic terror and the reciprocal ties between them, based on the assumption that in the future all or some of them may constitute a basis for Islamic terror organizations;"[11] these factors provide a breeding ground, as well as domestic, regional, and international space for the development of Somali pirates. Somalia is located along the Red Sea, Gulf of Aden, and the Arabian Sea, and is the maritime transport hub and

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means, in conformity with international law, as reflected in the Convention, for the repression of acts of piracy;" 3) UN Resolution 1851 further noted, "In response to the letter from the TFG of December 9, 2008, encourages Member States to continue to cooperate with the TFG, notes the primary role of the TFG in rooting out piracy and armed robbery at sea, and decides that for a period of twelve months from the date of adoption of resolution 1846, States and regional organizations for which advance notification has been provided by the TFG to the Secretary-General may undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG, consistent with applicable international humanitarian and human rights law."

11 Shaul Shay, *The Red Sea Terror Triangle: Sudan, Somalia, Yemen, and Islamic Terror* (Piscataway, NJ: Transaction Publishers, 2006), x.

a critical point along the path for Europeans to enter Asia through the Suez Canal. This geopolitical advantage offers Somalis favorable conditions for maritime activities.

The formation of Somali pirates as a distinct criminal group is the result of a historical process. Faced with the illegal operation of foreign fishing vessels and their wrongful acts, such as dumping industrial waste in Somali waters, the Somali people formed various groups to meet those challenges. These groups would become the prototypes of later pirate groups. With increasing militarization of these groups, looting innocent foreign merchant ships for ransom became a primary task. Supported by armed warlords and tribal elders, this interest community formed in order to compete against the weak Somali central government. As a result, piracy has become an increasing problem in the twenty-first century. The first case of Somali piracy activities appeared in 1989. The German cruise ship "Poseidon" was attacked on the high seas at a distance of about 70 nautical miles from the Somali coast.[12] Somali pirates rampantly looted passing ships in order to charge a high ransom. This caused widespread concern in the international community. From January to November 2008, about 65 merchant ships and about 200 crew members were hijacked with ransoms as high as US $25-30 million.[13] On December 18, 2008, Chinese Foreign Ministry spokesman Liu Jianchao revealed that,

> This year, from January to November, a total of 1,265 Chinese merchant ships passed through this route, averaging 3-4 ships per day. 20 percent of these Chinese ships were subjected to pirate attacks. This year, there were seven hijacking cases involving China, including two cases involving two Chinese ships and 42 crew members, the other five cases were foreign ships but had Chinese crews, carrying Chinese cargo or hanging the regional flag of Hong Kong. So far China still has a fishing boat and 18 crew members hijacked by pirates.[14]

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12 Augus Konstam, *Piracy: The Complete History* (Oxford: Osprey Publishing, 2008), 306.
13 "Status Quo of Somali Pirates," United Nations, accessed March 1, 2016, http://www.un.org/chinese/focus/somalia/somaliapirates.shtml.
14 "Foreign Ministry Spokesman Liu Jianchao Q&A on Issues of the Fight against Somali Pirates," Central People's Government of PRC, accessed March 1, 2016, http://www.gov.cn/xwfb/2008-12/18/content_1181865.htm.

Political fragmentation in Somalia and conflict between Somali pirates and its central government create the conditions for a cross-border attack. For now, two major problems lie ahead in the political reconstruction of Somalia, one of which is the issue of local power. Within the territory of Somalia, there are de facto states, such as the Republic of Somaliland. This state, which has not been recognized by the international community, is the most stable area within Somalia, and one of the most democratic governments in Africa, so it is known as "democratic but abandoned."[15] Therefore, hopes of Somali national unity are waning. Another problem is that the Somali "Transitional Federal Government" (TFG) and the "Islamic Courts Union"[16] (ICU) are competing for state power. The TFG, which is widely recognized by the international community, is relatively weak. It mainly relies on Ethiopian troops to compete with the ICU. In contrast, the ICU has a similar growth path and thinking pattern as the Taliban in Afghanistan. It has benefited from the vacuum of power and ideology after the collapse of the Somali government in 1991. Four forces have allowed for the rise of Islamic extremism in Somalia: "1) Iran—Directly and indirectly through its ally Sudan; 2) Sudan—Directly and through Somali power brokers which it supported; 3) Bin Laden and Al-Qaida—Independently, but in coordination with Sudan; 4) Radical Islamic entities from Saudi Arabia and the Emirates in the Persian Gulf."[17] In terms ideological similarities, the ICU has great similarity with the Taliban. Rethinking the international community's attitude of isolating the Taliban regime will be beneficial toward a future reconciliation between TFG and the ICU. However, the involvement of foreign troops indeed often leads to counterproductive outcomes. The Islamic Courts Union steadfastly refused the Ethiopian army to influence the process of political rebuilding in Somalia. Sheikh Hassan Dahir Aweys, the leader of the ICU, stated that "as long as Ethiopians are in our country, we cannot continue to negotiate with the government."[18]

Under the premise of authorization from United Nations and the Somali TFG, China sent troops to Somalia waters and carried out legitimate

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15 Edna Adan Ismail, "Somaliland: Democratic but Abandoned by the World," accessed March 1, 2016, http://www.somalilandpress.com/somalilanddemocratic-abandoned-world-2/.

16 It is also known as the Union of Islamic Courts, Supreme Council of Islamic Courts. After the collapse of the Somali government in 1991, some Sharia courts played the role of government and gradually became a union. In 2006, ICU even controlled the Somali capital, Mogadishu, and most of the central and southern region of Somalia. Obviously, ICU's goal is the state regime.

17 Shaul Shay, *Somalia between Jihad and Restoration* (Piscataway, NJ: Transaction Publishers, 2008), 60.

18 "Somalia: Islamist Refuse Talks, Acknowledge Eritrea," *Mail and Guardian*, July 25, 2006.

cross-border attacks. China's escort fleets performed defensive attacks strikes only, with the main purpose of peaceful convoy and the expulsion of pirates. Chinese escort fleets are composed of guided missile destroyer and helicopters, so its cross-border attacks will be based on air and maritime attacks. So far, there is no indication that China will engage in ground attacks against Somali pirates. In terms of achievements, current attacks have lessened Somali pirates' threat to Chinese and other countries' foreign vessels. However, the escort fleets dispatched by different countries lack collaboration. For example, the Indian navy is skeptical of Chinese escort fleets, a fact that has largely limited the effectiveness of the cross-border attacks on Somali pirates. Due to the disputes within Somali clans and political factions, a land attack against Somali pirates may be necessary in the internal conflict of Somalia, which is not in line with China's original intention in combating pirates. The main problem of piracy is rooted in internal conflicts in Somalia. Therefore, to solve this problem, foreign cross-border attacks are not sufficient, and military action alone can hardly solve the problem from its root. Efforts to combat piracy must include improving people's livelihood, political reconciliation and reconstruction of Somalia, restoring the authority of the central government, strengthening democracy, and re-integrating Somalia into the international community.

In the 1960s, China performed two military actions that could be counted as cross-border attacks. In the late 1940s, the Chinese Nationalist Party (Kuomintang, KMT) army was defeated in the civil war. Some remnants of this routed army fled to Myanmar. They used Myanmar as a military base to attack Mainland China's military and civilian targets, and formed military groups against the Myanmar central government in some regions. In this case, China and Myanmar reached a secret agreement in 1960. Myanmar allowed China to conduct cross-border attacks in its territory to combat the KMT remnants. China implemented cross-border attacks against the KMT remnants, respectively, in November 1960 and February 1961, causing devastating damage to the main remnants of the KMT army.[19] As a result, they were no longer able to launch large-scale attacks on Mainland China. China and Myanmar basically achieved their expected goals. China's cross-border attacks were licensed by the Myanmar government and were an extension of the Chinese civil war. Along with the decline in strength of remnants of the KMT, the war between Taipei and Beijing mainly remained in Taiwan

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19   See Hui Chen, "Disclosure of the Sino-Myanmar Joint Fight on Demarcation and Safekeeping," *General Review of the Communist Party of China* 11 (2011).

and the Fujian waters. Such cross-border attacks primarily resulted from the considerations on the maintenance of political legitimacy of the new regime and security of China, as well as of Myanmar. This is very similar to the threat of cross-border attacks by the new regime of Afghanistan on the former Taliban regime and armed forces in Pakistan. But, such cross-border attacks executed in the early years of the founding of the People's Republic of China did not turn into a normal type of behavior for the Chinese military in the next few decades. Today, cross-border attacks are not part of the core set of ideas that constitute Chinese diplomacy. China's major mode of conducting overseas wars is by sending armed volunteers abroad (such as in the Korean War and the Vietnam War), or by engaging in bilateral wars (such as the Sino-Indian border war), but these do not meet the definition of cross-border attacks. All in all, in the twenty-first century, especially under the new international situation after the 9/11 attacks, China's cross-border attacks against Somali pirates are a major breakthrough in China's military strategy and a major transformation of China's diplomacy. In the future, the practice will be further improved in terms of the specific ways and approaches to carry it out, in order to best safeguard China's national interests.

The Cross-Border Attacks against Somali Pirates and Transformation of Chinese Foreign Policy

A country's diplomacy is a continuation of its internal affairs. The implementation of cross-border attacks of China against Somali pirates is a milestone in China's new diplomacy in the new era. To make such a decision, China considered both domestic and external interests. Before its reform and opening-up policy, China, and other socialist countries, developing countries and even Western countries, had achieved a certain degree of economic and trade exchanges. However, such exchanges had not extended beyond the official level. Moreover, at this stage, political interests often had higher priority than economic ones. After the "Reform and Opening" policy, China opened its doors and attracted foreign investment. At the same time, more and more Chinese citizens and capital flowed out, including the officials and staff members of state-owned enterprises dispatched by the Chinese government, as well as private entrepreneurs and private companies. This strategy was a great success. In addition to government workers, private enterprise, and capital, a large number of Chinese students and tourists

studied and traveled abroad. In a variety of cases in which Chinese citizens' and enterprises' interests were undermined abroad, China negotiated with the countries concerned mainly through the Chinese government or embassies to better fulfill the function of safeguarding its people's interests. However, the international situation is ever changing. The political process and situations in countries vary. In many countries, there are various de facto states, which are not recognized by the international community. There are also tribal areas with a high degree of autonomous status. Some armed groups even contend with the central government locally. These areas are isolated from the political process of the country, as well as the larger process of globalization. The interests of Chinese enterprises and citizens in these special areas are often infringed upon, and the Chinese people there have even suffered life-threatening dangers, hardly protected by the host government effectively. In such cases, the Chinese government does not have adequate relations with the negotiation party. For example, Chinese workers in Pakistan suffered terrorist attacks by Islamic extremists; al-Qaida in North Africa threatened to undermine Chinese overseas interests after the 7/5 event of Xinjiang. As Chinese international strategic scholar Men Honghua said in *Study Times*, "china's overseas interests and safety risk are expanding synchronically. China's overseas interests are becoming increasingly sensitive and vulnerable. Maintenance and expansion of overseas interests are facing enormous challenges," and "the size of China's overseas assets is in the expansion, and the weight and importance of the overseas resources are also rapidly rising. However, our means and capabilities to protect these interests are insufficient."[20]

Cross-border attacks on Somali pirates are not an isolated phenomenon; in fact, they are one step in the transformation of Chinese foreign policy. Chinese diplomacy is about to achieve a breakthrough with regard to its original diplomatic tactics, and China has a tentative plan in safeguarding its national interests in turbulent regions. The implementation of this is comprised of two steps. The first step is dispatching the United Nations peacekeeping force to the relevant regions. China deployed and stationed peacekeepers in Sudan's Darfur region, as well as in Haiti. Through this action, China was fulfilling its international responsibilities. These actions also safeguarded China's economic interests in these regions.

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20 Honghua Men, "To Strengthen the Study of China's Overseas Interests," *Study Times*, June 15, 2009.

The second step is conducting cross-border attacks against the Somali pirates, which are limited to air and sea areas. Two main features characterize this action: 1) Chinese military escort activities are only in the Somali exclusive economic zone and its airspace (in the Somali Constitution, this area is considered its territorial waters and airspace), which is far away from China; 2) China does not take the initiative to attack but undertakes defensive attacks against Somali pirates with the use of light weaponry.

In spite of the authorization of the United Nations and the Somali TFG, this is a breakthrough in both Chinese military operations and diplomatic tactics under the new historical context. China has not considered a land attack on the pirates due to its consideration of geopolitics and national strength. China is located far away from Somalia and the capabilities of its landing operations and logistics support are not good enough to accommodate the distance. Furthermore , the possibility that China might become involved in Somali internal political disputes is not in line with China's principle of "non-interference in internal affairs," since the coordination of Somali governmental troops is difficult.

Chinese Rear Admiral Yin Zhuo stated on December 31, 2009, that "by the end of 2010, it is necessary to find some logistics supply stations in nearby places to provide logistics support, such as drinking water, diet, and even the maintenance of warships, for Chinese naval escorts. The neighboring countries have clearly welcomed it, because it will bring opportunities for local consumption and promote the exchange of peace."[21] He further stated on March 4, 2010 that, in terms of the logistics supply station's location, "Aden in Yemen and Djibouti are the main consideration; Pakistan is too far away."[22] Chinese scholars also put forward proposals. Professor Liu Zhongmin, an expert on the Middle East and marine studies, said on May 18, 2010, in *Global Times*, "Planning overseas bases has become China's current problems that cannot be avoided. China should clearly articulate its plans on overseas bases, and actively carry out public diplomacy in order to address the concerns of the world and neighboring countries... China should make the international community understand that the establishment of overseas bases is based on China's own interests and needs of the international commitment."[23] In short, both Chinese military scholars and

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21 Feng Jiang, "Chinese Naval Supply Overseas Was Hyped," *Global Times*, January 1, 2010.

22 Shaofeng Guo, "Yin Zhuo: I Hope the Navy to Set Bases in the Gulf of Aden for Materials Supply," *Beijing News*, March 5, 2010.

23 Zhongmin Liu, "Professor Says China Has No Need to Cover or Avoid Building Military Bases Overseas," *Global Times*, May 18, 2010.

civil scholars expect the Chinese military to improve its capacity in convoying and combating maritime piracy and to apply the experience of anti-terrorism military exercises abroad to a real cross-border attack, combating terrorist activities as soon as possible in order to maximize protection of China's national interests.

Sudan, Somalia, and Haiti are distant from China, and China's interests there are mainly economic ones. However, Central Asia and South Asia are different for China. The presence of Islamic extremists in Central Asia and South Asia, which share borders with China, means that China has not only economic but also political and security interests. In addition, this direct threat can take place even within the scope of Chinese territory. For example, on July 23, 2009, the PLA Chief of General Staff Chen Bingde mentioned in an interview with Phoenix TV that "China's military has had sufficient capacity to fight terrorism. If authorized by the United Nations, the Chinese military will seriously consider sending troops to the Central Asian countries within the framework of the Shanghai Cooperation Organization, and cooperate with other countries in the fight against 'East Turkistan terrorist forces.'"[24] Due to China's military practices in "cross-border attacks" against Somali pirates, China will implement "cross-border attacks" against the so-called "East Turkistan" forces in Central Asia. This is likely to become the third step for China to protect its national interests.

The threat Chinese enterprises and individuals encounter in Sudan, Somalia, Pakistan, and other places is not a problem only for China. These are general problems of terrorism and violence, and terrorism is a global hazard that harms innocent civilians through violence. In international relations, a global public issue has the following characteristics: "it refers to a common problem faced by many countries and the global community;" "it is not only a common problem between country and country, but also a common problem faced by individuals, nations and the whole world;" "the resolution is not unilateral but multilateral, and joint action is not individual decision but global public policy and planning based more on cooperation."[25] It is not difficult to see how the degree of international cooperation is closely related to the United Nations' peacekeeping operations and the effectiveness of legal cross-border attacks.

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24 According to a news report by Hong Kong Phoenix TV on July 23, 2009.

25 Changhe Su, *Global Public Issues and International Cooperation: An Analysis of Institution* (Shanghai: Shanghai People's Publishing House, 2009), 5.

If cross-border attacks in Somalia and Central Asia are China's specific tactical adjustments, then the emergence of the Shanghai Cooperation Organization (SCO) is a strategic adjustment, as well. SCO was originally composed of Russia, China, four Central Asian countries (Kazakhstan, Tajikistan, Kyrgyzstan and Uzbekistan), and four observer countries (India, Iran, Mongolia, and Pakistan). Based on a list that emerged from the Shanghai Five-Countries Summit. The strategic adjustment began in the early 1990s, prior to the tactical adjustments of cross-border attacks at the end of 2008. China has carried out a number of joint military exercises with member states within the framework of the SCO, including PLA military exercises abroad. China's joint military exercises with other SCO member states are aimed at combating three forces, which in fact provided experience for the Chinese army to combat the "East Turkistan" forces in Central Asia. On June 16, 2009, the SCO regular meeting of the Council of Heads in Yekaterinburg released a communiqué stating,

> "The SCO member states should improve coordination abilities in jointly dealing with terrorism and other security threats. Anti-terrorism organizations in this region should play a central role... the joint anti-terrorist military exercises held by SCO member states in Tajikistan from April 17 to 19, 2009, which were entitled 'Nolak counterterrorism-2009,' have yielded positive results, and the joint anti-terrorism exercises should be held regularly."[26]

The degree of international cooperation of the SCO member states in combating Islamic extremist and ethnic separatist groups, such as the East Turkistan Islamic Movement,[27] is much higher than the level of collaboration of various naval forces in Somali waters, and they are more common interests. Moreover, China borders Central Asia, a geographical benefit for China's military operations and logistics in the coming cross-border attacks. These Central Asian countries also have the operational military capabilities necessary to join in on the combat. Moreover, the Chinese government has also strengthened anti-terrorism cooperation with specific countries, such as with Pakistan to counter the East Turkistan army. In July 2010, China and

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26 "Joint Communique of Shanghai Cooperation Organization (SCO) Council Meeting," Shanghai Cooperation Organization, accessed March 1, 2016, http://www.sectsco.org/CN/show.asp?id=232.

27 This is an organization of Islamic extremism and ethnic separatism.

Pakistan held a joint anti-terror military exercise in the Ningxia Autonomous Region of China.

The second step of China's foreign policy is to safeguard the country's overseas interests. This has been achieved through the experience gained from cross-border attacks in the waters and airspace of non-bordering countries. The third step has already been achieved through the experience of conducting landed joint military exercises in neighboring countries directly bordering China. It is an apparent trend that China and other relevant countries will have joint military actions to combat the "Three Evils."[28]

Conclusion

Today's Chinese foreign policy pattern is a continuation of diplomacy in the "Reform and Opening" period started from 1979. However, China's diplomatic practice is always seeking flexibility while preserving its basic principles. In the past twenty years, China's participation in multilateral, international institutions represents the main part of the change—this is China's new diplomacy. Cross-border attacks on Somali pirates and the claim of implementation of cross-border attacks on "East Turkistan" forces further deepen China's new repertoire of diplomatic measures, reflecting a significant transformation of China's diplomacy. China's legal cross-border attacks firstly reflect the specific changes in China's understanding of national sovereignty, as well as its "non-interference in internal affairs" policy. With globalization, only the assignment of limited sovereignty can make international cooperation possible in the face of transnational organized crime and terrorist activities. Piracy and terrorism are global menaces, and fighting them is not a country's unique "internal affairs" issue. This is why China no longer limits its military action within China's territory, and no longer rejects military exercises abroad. Secondly, it reflects the gradual internalization of international norms in China. China has actively taken more international responsibility. Chinese diplomacy is also actively accommodating itself into the framework of various systems, such as the Shanghai Cooperation Organization, a major innovation in China. It explicitly targets the "Three Evils," all of which are non-state actors. Therefore, China conducted counterattacks on Somali pirates based on the principle of

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28 The "Three Evils" refer to: 1) violent terrorist forces; 2) ethnic separatist forces; 3) religious extremist forces.

"keeping peace if I was not offended; fighting back when I was attacked," and the connotation extends from hostile countries to non-state actors.

In short, China's cross-border attacks are military actions legally authorized by the United Nations and the target country. This still reflects the inviolability of territorial sovereignty and the diplomatic bottom line of non-interference in internal affairs. The changes being made to deepen specific tactics are aimed at reducing and eliminating risks in order to maintain lasting peace in the world, as well as the common prosperity of both China and cross-border attack target countries. This is in line with China's new diplomatic concept of a "harmonious world." The transformation of China's diplomacy focuses on both strategic and tactical aspects. Its strategy has remained relatively stable, while its tactics have demonstrated more flexibility. The combination of both has represented the concept of "flexibility based on stability" in Chinese diplomacy. The Chinese-style cross-border attacks are just a microcosm of the transformation of China's diplomacy. The potential internationalization resulting from the cross-border attacks will play a positive role in strengthening international cooperation and reducing, perhaps even eliminating, non-legitimate cross-border attacks. **Y**

TRAFFICKING OF NIGERIAN WOMEN AND CHILDREN: IMPLICATIONS FOR ATTAINING SUSTAINABLE DEVELOPMENT IN NIGERIA

Ifeyinwa Mbakogu
McGill University

This paper questions the endless debates on sustainable development in Nigeria that fail to address the obvious economic, social, religious, cultural, and political factors reinforcing the marginalization of women and children, as well as their susceptibility to human trafficking. The paper also acknowledges the gendered nature of human trafficking and the human trafficking discourse, where the tendency is to merge women and children into a single group of marginalized people. For Nigeria to attain sustainable development, this paper advocates introducing the involvement of women and children in decision-making that will enhance their empowerment, well-being, and development as an effort towards promoting social justice. Further, this paper calls for an anti-oppressive foundation for attaining sustainable development by introducing the idea of equal opportunities, which is entrenched in several international conventions and should be applied in reality to the situation of women and children in Nigeria.

The trafficking of women and children for exploitative practices is becoming a widespread occurrence in Nigeria. To some extent, the rise in trafficking cases can be traced to the country's deplorable economic conditions, which make women and children fall for dubious promises made by trafficking agents who claim they will provide them with employment opportunities in urban areas within Nigeria or abroad. In the late 1990s, human trafficking in Nigeria was associated with the trafficking of women and girls from Edo state for prostitution in Italy and other European countries. Recent trafficking literature shows that Nigerian women and children are likely to be trafficked for purposes other than prostitution. Women and children are liable to be trafficked for domestic servitude, forced labor, hawking, organ harvesting,

early or forced marriage, and other exploitative practices.[1]

In response to the rising number of human trafficking cases in Nigeria, the Nigerian National Assembly passed the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act (TIPPLEA Act, henceforth identified as the NAPTIP Act) in 2003 to address trafficking in person and protect children and adults from criminal networks.[2] This NAPTIP Act established the National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) in August 2003 to investigate and prosecute trafficking cases, and rehabilitate victims of trafficking. The NAPTIP Act was amended in 2005 to prohibit different forms of trafficking in the country and give the agency more enforcement powers by increasing penalties for trafficking offenders.[3] Nigeria has also signed a number of international conventions to address the problem of human trafficking and protect women and children in the country. However, in order for the anti-trafficking agency to fulfill its mandate of removing women and children from trafficking, there should be an adequate provision of funds allowing agencies to undertake functions[4] for trafficking victims and those vulnerable to trafficking. Moreover, the anti-trafficking effort is often hampered by the dubious practices of corrupt law enforcement and border-control officials, as well as Nigeria's weak legislature structures for handling trafficking cases.[5] The NAPTIP Act notwithstanding, the persistently high rates of trafficking of women and children is evidence that the problem of addressing human trafficking transcends policy frameworks.

Bearing in mind that sustainable development is associated with an attempt by countries to meet the welfare and survival needs of their citizenry, the high incidence of trafficking in women and children disrupts Nigeria's quest for sustainable development. This paper is an attempt to question the endless debates on sustainable development in Nigeria, which

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1   Muhammed Tawfiq Ladan, "Recent Legal, Policy and Case-Law Trends in Combating Trafficking of Children and Women in Nigeria," *Policy and Case-Law Trends in Combating Trafficking of Children and Women in Nigeria, January 8* (2016); S. Abdulraheem. and A. R. Oladipo, "Trafficking in Women and Children: A Hidden Health and Social Problem in Nigeria," *International Journal of Sociology and Anthropology* 2, no. 3 (2010): 37.

2   Abdulraheem and Oladipo, "Trafficking in Women and Children," 9; Adeola Ayodele Oluwabyi, "Legal Response to Women Trafficking In Nigeria," *Frontiers of Legal Research* 3, no. 1 (2015): 9.

3   Tade Oludayo, "Recruitment and Abuse of Trafficked Children in Southwest Nigeria," *African Security Review* 23, no. 3 (2014): 264-282.

4   Victoria Ijeoma Nwogu, "Anti-Trafficking Interventions in Nigeria and the Principle-Agent Aid Model," *Anti-Trafficking Review* 3 (2014).

5   Oluyemi Oyenike Fayomi, "Women, Poverty and Trafficking: A Contextual Exposition of the Nigerian Situation," *Journal of Management and Social Sciences* 5, no. 1 (2009): 65-79.

fail to address the obvious economic, social, religious, cultural, and political factors that reinforce the marginalization of women and children, and render them open to the exploitative intents of trafficking agents. Building upon this, the paper will dwell on asking and finding answers to questions pertaining to: the present situation of Nigerian women and children, especially in relation to what these groups currently have and lack; understanding what sustainable development means; and analyzing the extent to which women and children can contribute to the discourse by expressing factors contributing to their propensity to human trafficking. The paper will end by recommending a pathway to attaining sustainable development in Nigeria that explores a gender perspective.

If sustainable development refers to processes for maximizing the well-being of individuals in a society in a way that will not jeopardize that of future generations, it follows that the route to attaining sustainable development requires eradicating several external and internal impediments. These include impediments to resource acquisition and utilization, environmental preservation, and provision of a healthy and organized environment with flexible strategies for responding to current and future shocks that members of the society (especially women and children) are exposed to. The understanding is that human welfare should form the core of sustainable development activities. This entails a balanced look at diverse contributors to human welfare, including economic efficiency, social development, and environmental protection. It also means that in looking at these factors, the concern should not be exclusively about the future, but ensuring that the needs of the present generation are met.

For Nigeria to attain sustainable development, this paper advocates for immediate improvement in people's lives by introducing the involvement of women and children in decision-making that will enhance their empowerment, in addition to development as an effort towards promoting social justice. A society that has always marginalized women and children can be motivated to change some elements of its discriminatory traits. Key avenues for initiating and/or achieving such change could be through public awareness programs, conferences, and policy forums where affected victims or vulnerable populations are included as participants. Platforms for involving children in decision-making could be at deliberative processes for children-focused initiatives at the local, state, and federal levels. Children partaking in these interactive sessions should be victims or children susceptible to trafficking. Child-victims are more readily recognized as having major stakeholder status in addressing social woes when they are seen as people

able to recount their trafficking experiences and describe its effects on their lives. The expectation is that when children likely to experience a major social problem are involved in decision-making about social, economic, and educational incentives targeted at vulnerable Nigerian children, the identification of factors triggering children's susceptibility to trafficking will be more likely, with the adoption of appropriate policy strategies to curtail the occurrence of said problems.

The Present Position of Women and Children in Nigeria and West Africa

Global estimates indicate that approximately 700,000 to 2 million women and children are trafficked annually.[6] Evidence also shows that of the number of people trafficked globally each year, 32% engage in forced economic exploitation, with 56% of this number comprising women and girls.[7] Trafficking, especially when it involves the trafficking of women and girls for prostitution, is considered an infringement on the rights of the trafficked persons. This practice also exposes trafficked persons to HIV/AIDS and other sexually transmitted diseases.[8] The economy in most West African countries is based on agriculture and mining. Due to major inequalities in wealth distribution in these countries, there are high rates of poverty, and with the need for more families to get out of situations of crippling poverty, human trafficking has become an increasingly attractive option. Based on the economic mainstay of West African countries, children are likely to be trafficked to work on cocoa plantations or large farms,[9] while other children are found hawking, begging, or engaging in domestic or sex work.[10]

Furthermore, Adepoju attests that clandestine migration in West Africa has been fueled by situations where a large percentage of the

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6   Erin O'Brien, "Dark Numbers: Challenges in Measuring Human Trafficking," *Dialogue e-Journal* 7, no. 2 (2010): 1-21.

7   ILO, Forced Labour Statistics Factsheet, International Labour Organisation (2007).

8   Yvonne Rafferty, "The Impact of Trafficking on Children: Psychological and Social Policy Perspectives," *Child Development Perspectives* 2, no. 1 (2008): 13-18; Innocenti Insight, "Trafficking in Human Beings, Especially Women and Children, in Africa," *Florence: UNICEF Innocenti Research Centre* (2003).

9   Kathleen Fitzgibbon, "Modern-day Slavery? The Scope of Trafficking in Persons in Africa," *African Security Studies* 12, no. 1 (2003): 81-89.

10 UNICEF, "Promoting Synergies Between Child Protection and Social Protection: West and Central Africa (2009)," accessed November 3, 2012, http://www.unicef.org/wcaro/wcaro_UNICEF_ODI_5_Child_Protection.pdf.

populace lives in abject poverty.[11] Sawadogo reports that countries in West Africa have the lowest standards of living, with eleven of them falling within the bottom thirty countries on the 2011 Human Development Index.[12] Worsening economic situations in West African countries adversely affect young people and limit their access to employment, propelling them deeper into poverty and making them easy prey for trafficking agents who promise attractive jobs in foreign countries.[13] Some researchers also attribute the growing menace of the transnational crime of trafficking to globalization,[14] while others attribute it to a lack of employment or investment opportunities, which then pushes women and girls to partake in sex trafficking.[15] The growth of the social problem cannot be detached from the fact that when women lack assets or a steady means of livelihood, they are bound to resort to trafficking. A study by Adejumo also shows that when women and girls are poor, their poverty is evident in their low social status, low self-esteem, and susceptibility to exploitative practices.[16]

Trafficking literature often refers to parents' reliance on the extended family as a last resort for rescuing family members, especially children, from poverty.[17] The need for alternative sources of income for household sustenance, and educational opportunities for their children, are among the most important considerations for parents in making decisions about placing their children with affluent extended family members. Recently, a lot of risks have been associated with this child placement practice, especially when parents live in distant cities or urban areas. Relatives could potentially collude with trafficking agents to lure children away from their parents and eventually involve them in trafficking.

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11 Ibid., 17.
12 Wilfried Relwende Sawadogo, "The Challenges of Transnational Human Trafficking in West Africa," *African Studies Quarterly* 13, no. 1/2 (2012): 95.
13 Ibid., 18.
14 Noeleen Heyzer, "Combating Trafficking in Women and Children: A Gender and Human Rights Framework" (plenary address at the UN Development Fund for Women's conference regarding the trafficking of women and children, Honolulu, Hawaii, November 13-15, 2002), accessed May 14, 2016, http://www.childtrafficking.org/pdf/user/unifem_gender_and_human_rights_framework.pdf.
15 Izugbara C. Otutubikey, "'Ashawo Suppose Shine Her Eyes': Female Sex Workers and Sex Work Risks in Nigeria," *Health, Risk & Society* 7, no. 2 (2005): 141-159.
16 Gbadebo Olubunmi Adejumo, "Psychosocial Predictors of Involvement of Women as Victims of Trafficking in Persons in Southwest Nigeria," *Gender and Behaviour* 6, no. 1 (2008): 1480-1493.
17 Michael Bourdillon, "Children as Domestic Employees: Problems and Promises," *Journal of Children and Poverty* 15, no. 1 (2009): 1-18; Mike Dottridge, "Trafficking in Children in West and Central Africa," *Gender & Development* 10, no. 1 (2002): 38-42.

Nigeria has a population of approximately 170 million people, with about 54% of its population living in situations of poverty.[18] In addition, Nigeria houses 10% of the world's children who are currently out of school,[19] where 191 children per 1000 live births die before the age of five from diarrhea and other diseases related to poor sanitation,[20] and an estimated 15 million children are engaged in child labor.[21] Of the former, 40% face the risk of trafficking, either internally within the West African region or internationally for forced labor, prostitution, organ harvesting, early marriage, domestic labor, or farm work.[22] Statistics indicate that more than 60% of Nigeria's population falls below 18 years of age[23] and that there are about 10,000 to 15,000 girls of Nigerian origin working in Italy as prostitutes.[24] Apart from class, gender, and ethnic issues that contribute to the marginalization of women,[25] Nigerian women are trafficked mostly in their attempts to cope with the diverse roles society expects of them as they assume headship of families upset by social, economic, and political situations existing in the country. There is also the feminization of poverty: women, as family breadwinners, have to migrate to earn a living that will enhance their social status and supplement household income.[26]

The spate of trafficking in Nigeria and other West African countries is also attributed to the questionable, corrupt practices of customs and immigration officers that allow a growing number of undocumented people to pass through country borders undetected.[27]

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18 British Council, "Gender in Nigeria Report 2012: Improving the Lives of Girls and Women in Nigeria: Issues, Policies, Action," *Department for International Development, British Council, Nigeria* (2012).

19 DFID, Bilateral Aid Review results: Country Summaries (2012), accessed October 2, 2012, http://www.dfid.gov.uk/Documents/MAR/BAR-MAR-country-summaries-web.pdf.

20 Ogunjimi Lucas Olusegun, Rosemary Thomas Ibe, and Ikorok Maria Micheal, "Curbing Maternal and Child Mortality: The Nigerian Experience," *International Journal of Nursing and Midwifery* 4, no. 3 (2012): 33-39.

21 UNICEF, "Child Trafficking Information Sheet," April 2007, accessed July 10, 2011, http://www.unicef.org/wcaro/WCARO_Nigeria_Factsheets_ChildTrafficking.pdf.

22 Ibid.

23 Rebecca Holmes, Michael Samson, Wendy Magoronga, B. Akinrimisi, and J. Morgan, "The Potential for Cash Transfers in Nigeria," *ODI Project Briefing* 59 (2012).

24 UNODC, "The Role of Organized Crime in the Smuggling of Migrants from West Africa to the European Union," Vienna: United Nations Office on Drugs and Crime (2011).

25 Patience Elabor-Idemudia, "Race and Gender Analyses of Trafficking: A Case Study of Nigeria," *Canadian Woman Studies* 22, no. 3/4 (2003): 116.

26 Aderanti Adepoju, "Fostering Free Movement of Persons in West Africa: Achievements, Constraints, and Prospects for Intraregional Migration," *International Migration* 40, no. 2 (2002): 3-28.

27 Ibid., 2, 19.

By questioning the effectiveness of the drive for sustainable development in Nigeria vis-à-vis the persistent trafficking of women and children in the country, this paper seeks to determine if improvements have been made in the lives of Nigerian women and children within the last two decades. Considering the cultural domain that fosters viewing women as assuming secondary positions to men, or as people who should be seen, but not heard, there have been few positive changes. Nevertheless, more girls have access to education,[28] a larger number of women have also entered the workforce for formal employment, and the ratification of several conventions has helped protect the rights of women and children.[29]

Isolating the Situation of Women in Nigeria

It is important to address the contested issue of the role of women in society. Nigerian society still expects women to be more confined to internal domestic roles rather than external roles, where they are likely to occupy key economic or managerial positions. Different factors build up to subordinate the advancement of women. Women are marginalized in access to employment, because employers would rather recruit men than women. Women are unable to access high-paying jobs[30] or aspire to managerial positions in employment institutions since a large number of women have limited access to higher education. Even when women have access to higher-paying jobs, they are likely to be sidetracked for career enhancement programs in favor of men who are considered more dependable, jeopardizing their career advancement opportunities. As Anugwom argues, Nigerian men are also more likely to keep women at home in the usual role of housewives, rather than have them as competitors for positions in the formal labor market.[31] Social and cultural trends, especially in West African countries, appear to reinforce decisions taken by employment agencies concerning women. The way women are viewed by employment agencies reflects the way women are

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28 Renée Pittin, "Selective Education: Issues of Gender, Class and Ideology in Northern Nigeria," *Review of African Political Economy* 17, no. 48 (1990): 7.

29 Deborah Egunyomi, "Access to Basic Education for Girls: the Nigerian Experience," *Widening Access to Education as Social Justice* (2006): 429.

30 Nkoli N. Ezumah, "Perception of Womanhood in Nigeria and the Challenge of Development," accessed October 26, 2012, http://www.gwsafrica.org/knowledge/nkoli.htm.

31 Edlyne, E. Anugwom, "Women, Education and Work in Nigeria," *Educational Research and Reviews* 4, no. 4 (2009): 127.

perceived by the society within which they operate.[32] This is evident in the paper's interpretation of the current situation of women, using Nigeria as a case in point:

1. Women are considered employment risks mostly because of their reproductive potential;
2. Women, married or unmarried, are inclined to take more time off work to attend to family needs;
3. Women, married or unmarried, are inclined to have more responsibilities toward their extended and immediate families, which may affect job stability;
4. Women, married or unmarried, are inclined to experience sexual harassment at their workplaces, which will affect job performance and lead to termination of employment when these advances are rebuffed.

The gendered nature of the Nigerian labor market is reflected in huge income differences between men and women, especially for managerial positions in the banking sector.[33] While it is difficult to explain the growth in the income gap between men and women in the employment market in Nigeria, researchers like Oyelere attest that the trend began post-democracy, spanning from 1999 to the present.[34] Gender differences are also evident when looking at the insignificant number of women employed in the non-agricultural sector, which was 29.5% in 2004, compared to 70.5% for men in the same year. The number of women employed in the non-agricultural sector witnessed only a slight increase to 32.5% in 2007.[35] In the absence of high-paying jobs in formal employment, the next option for Nigerian women is establishing micro-enterprises that for a large number of women are usually small-scale roadside businesses, retail, or garment industries. Based on their gender and limited collateral, women are less likely to have access to loans and other credit facilities. Reports also show that more women than men

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32 Debra Meyerson and Megan Tompkins, "Tempered Radicals as Institutional Change Agents: The Case of Advancing Gender Equity at the University of Michigan," *Harv. JL & Gender* 30 (2007): 303.

33 John O. Okpara, "The Impact of Salary Differential on Managerial Job Satisfaction: A Study of the Gender Gap and its Implications for Management Education and Practice in a Developing Economy," *Journal of Business in Developing Nations* 8, no. 1 (2004): 65-91.

34 Ruth Uwaifo Oyelere, "Within and Between Gender Disparities in Income and Education Benefits from Democracy," *Available at SSRN 1136383* (2007).

35 Ibid., 9.

involved in micro-enterprises are highly educated and have post-graduate qualifications.[36] Considering that 43 percent of Nigeria's economically active women are involved in micro-enterprises,[37] which contributes to their empowerment in a gendered employment market, a large number of women are still denied loan or credit facilities in the country. Besides, since few women are elected into policymaking or legislative positions where patriarchal ideologies dominate, women are unable to change the policies, and other legal, economic, political, and social instruments or structures that underpin their marginalization.[38]

What Do Nigerian Women Currently Lack?

The UN-HABITAT reports that 25% of households worldwide are headed by women and attributes the migration of women from rural to urban areas as a means of earning a better income to enhance household survival.[39] The poverty that a large number of women experience makes them vulnerable to exploitative jobs, not only as a means of survival, but also as a way to ensure the survival of members of their families. If women are currently being pushed to accept exploitative jobs (human trafficking included) for household survival, it becomes difficult to discuss safeguarding the welfare of future generations. In these restrictive environments, gender disparity benefits men and gives them greater political and economic control, much to the detriment of women, who are engaged in multiple roles as mothers, wives, and workers, yet remain at the lowest levels of poverty. When there is reduced budget spending on the public sector, making fewer jobs available for families, the burden of earning extra income to keep the family together usually falls upon women.[40]

The diverse roles that women play in the household, as well as their contribution to household income, are dependent on where they live. Nigeria

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36 Giuseppe Iarossi, Peter Mousley, and Ismail Radwan, "*An Assessment of the Investment Climate in Nigeria,*" World Bank Publications (2009).

37 Ibid., 9.

38 O. V. C. Ikpeze, "Legislating Women's Affirmative Action and its Constitutionality in Nigeria," *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 2 (2011).

39 UN-HABITAT, "Gender, Culture and Urbanization" (paper for the World Urban Forum Second Session, Barcelona, September 13-17, 2004), accessed October 28, 2012, http://mirror.unhabitat.org/downloads/docs/3081_20354_K0471981%20WUF2-11.pdf.

40 Mariam Dem, "Sustainable Development: Women as Partners," *Gender & Development* 1, no. 1 (1993): 14-18.

has an estimated population of 78 million women, with more than half this number living and working in rural areas.[41] If women live in rural areas, then they are mostly involved in growing crops dependent on market fluctuations. Women's income is also dependent on the rent they pay, unless the land belongs to their family or husbands. Since women hardly own land, they are unable to make enough profit from the sale of their crops to provide for their families. A Department for International Development (DFID) report indicates that only about 7.5% of Nigerian women living in rural areas own the land they cultivate, while only about 15% have bank accounts.[42] These defects also limit women's access to loans and other credit facilities that enhance their businesses and contribute to their empowerment. If women live in urban areas, their productivity will also be dependent on prevailing housing costs, the unemployment status of males in the household, and the range of employment opportunities available in their locality. Notwithstanding the roles that women have played in the economic and social development of their homes and communities in colonial and post-colonial Nigeria, the position of women in society has undergone little change.

Regardless of where women reside, the quest for women's sustainable development has to address the needs of women both at the rural and urban levels. These needs could relate to: (1) Making land accessible to rural women and their children because they need the proceeds from these lands to fend for their families; and (2) Including women in the decision-making process rather than assuming that women reside too far away to contribute to policymaking institutions, ensuring that their voices are heard and their circumstances taken into consideration in the allocation of resources. After all, during political campaigns, policymakers do not consider rural areas "too far away" to visit. Essentially, the poor should not be undermined by political and socio-cultural environments that inhibit their self-expression and agency.

The Road to Attaining Sustainable Development in Nigeria

The key challenge to attaining sustainable development in Nigeria relates to the inclusion of women and children in development activities. Several factors should be acknowledged in sustainable development planning.

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41   Ibid., 9.
42   Ibid.

These include the social, economic, and religious factors that make women and children vulnerable to unemployment, as well as the absence of social safety nets that reduce women and children's ability to cope, thereby increasing their defenselessness against diverse exploitative means, the key of which is human trafficking. If the trafficking of women and children persists in Nigeria as in other African countries, then it can be assumed that minimal progress is being made to protect the global environment and reduce situations of poverty that expose marginalized groups to risks.

In the quest for sustainable development, it is crucial to determine who makes those decisions on social, political, and economic development in Nigeria. For now, a closed group of policymakers performs this task, with narrow or rigid requirements about what areas to focus on. It is therefore necessary to adopt an inclusive, integrated, and human-centered approach to sustainable development that recognizes the differences between individuals and places, women and children, and that will then allow them to contribute to decision-making. The most affected or exclusive groups happen to be living in rural areas or in disadvantaged positions in urban areas. As these marginalized groups battle the effects of limited education, lack of access to health care and housing, and natural disasters, their vulnerability to economic and social shocks increases.

Gender Perspective: the Recognition of Differences and Sustainable Development

A gender perspective to sustainable development will ensure that women and children are included in both planning, decision-making and implementation of programs. As a step toward offsetting the imbalances in the involvement of women and men in sustainable development, Nigeria introduced the National Policy on Women in 2000, later amended and renamed the National Gender Policy in 2006.[43] The Nigerian government also introduced the strategic implementation action framework for the National Gender Policy from 2008 to 2013.[44] While the National Gender

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43 Abuja, Federal Republic of Nigeria's Federal Ministry of Women Affairs and Social Development, "National Gender Policy: Federal Republic of Nigeria," accessed September 23, 2012, http://cewhin.org/pdf/National%20Gender%20PolicySituation%20Analysis.pdf.

44 Abuja, Federal Republic of Nigeria's Federal Ministry of Women Affairs and Social Development, "National Gender Policy Strategic Framework (Implementation Plan): Federal Republic of Nigeria," accessed September 23, 2012, http://cewhin.org/pdf/STRATEGIC%20DEVELOPMENT%20RESULTS%20FRAMEWORK.pdf.

Policy tries to meet guidelines stipulated by other international conventions relating to women, the policy still faces difficulties in designing programs to acknowledge and address the diverse inequalities that women face in the country. For example, the first set of women to hold public office in Nigeria were elected in 1976, and to this day, the number of women in policymaking roles is less than the 35% stipulated by the National Gender Policy.[45] While women are often seen working or cultivating land, cultural restrictions ensure that men own land and command immense economic and social recognition from such property rights. Women are also involved in small-scale businesses, but are less likely to occupy leadership or policymaking roles. The limited involvement of women in leadership is also a precursor to their limited involvement in decisions about sustainable development.

A gender perspective to sustainable development also breaks down the trafficking discourse to isolate the nature of trafficking as it pertains to Nigeria and its unique human trafficking situation. This perspective actually opens up the trafficking discourse to present a clearer picture of who is trafficked and why they are trafficked. The trafficking of women and children (girls and boys alike) is also more evident in patriarchal societies such as Nigeria, where women and children are considered assets that could be traded for the well-being of the family. It is often the parents who perpetrate this trade, marrying girls off at an early age to obtain income to train their favored sons, start family businesses, pay debts, or keep the family fed in dire economic circumstances. For instance, young women and girls are more attractive to trafficking agents because they are regarded as more willing to accede to the demands of their future employers than boys, who are seen as having a more rebellious temperament.[46] Women and girls are likely to be involved in trafficking to ensure that they have a better future, either in urban areas or out of the country, and they may be enticed by offers of marriage abroad. Exploitation of women and girls could also occur in the bid to escape situations of early marriage or female genital mutilation.[47] Trafficking puts women and children in positions where they accept jobs considered menial for the inhabitants of the countries to which they are trafficked. Accustomed to getting either low or no wages in their countries of origin, trafficked persons may see relatively low-paying jobs in receiving

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45 Ibid., 8.
46 Ibid., 28; Ann D. Jordan, "Human Rights or Wrongs? The Struggle for a Rights-Based Response to Trafficking in Human Beings," *Gender & Development* 10, no. 1 (2002): 28-37.
47 Elizabeth Warner, "Behind the Wedding Veil: Child Marriage as a Form of Trafficking in Girls," *American University Journal of Gender, Social Policy & the Law* 12 (2004): 263.

countries as high-paying ones.[48] Most trafficked women and children also have a limited education and cannot actualize their rights in terms of employment; their voices are left unheard.

A gender-based perspective should form the hub of any means to address human trafficking and attain sustainable development because this framework acknowledges that women and children have human rights in need of recognition. The involvement of women and children in trafficking is an infringement of their fundamental rights to decent food, clothing, and shelter as citizens of a particular country. It also implies that in empowering women and children, factors contributing to their disempowerment should be looked into. Attempts should be made to isolate those factors that contribute to their marginalization—politically, economically, socially, culturally, and religiously—and how these impact their access to land, credit, employment, housing, and other necessary means of survival. In other words, a gender-focused approach will provide the means for women, girls, and children to claim their rights to sustainable development by paving the way for access to education, jobs, and networking tools.

Another issue that is not addressed in discussions on sustainable development in Nigeria is the fact that development affects people in different countries, regions, and communities of the world in different ways. As such, the planning and implementation of programs targeting men, women, and children should differ. Reflecting on gender differences in development planning is considered an attempt to introduce a "gender perspective," which offers preparatory ground for comprehensive research on the factors that, peculiar to a specific country, contribute to the marginalized position of certain groups of people. Introducing the gender perspective also offers evidence-based research that amplifies government efforts to implement inclusive and effective social policies targeting women and children.

Bearing in mind that over the years women have contributed in such non-visible tasks as farming, home care, and child rearing, they are not only marginalized, but their contribution to the development of Nigeria is rendered invisible.[49] What is necessary is an anti-oppressive foundation for attaining sustainable development by introducing the idea of equal opportunities, which is entrenched in several international conventions, and should be applied to the situation of women and children. Since the discourse on the

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48 Ibid., 21.
49 C. E. Onyenenkwa and Anayo Dominic Nkamnebe, "The Gender Gap and Sustainable Human Development in Nigeria: Issues and Strategic Choices," *Asian Journal of Rural Development* 1, no. 1 (2011): 41-53.

position of women and children are often linked together, when women have low status in society and are susceptible to trafficking, this also aggravates the situation for children, thereby promoting the likelihood that a circle of poverty and vulnerability to trafficking will be passed on to children. In addition, the idea of equal opportunities ensures that everyone, irrespective of their gender, age, and ethnicity, will be involved in development planning to secure the well-being of present and future generations.

Nigeria has signed a number of conventions to elevate the position of women and children but has had difficulty enforcing them. When conventions are at odds with the religious, cultural, and legal practices of a country, enforcement is often lacking, and this poses obstacles for attaining sustainable development in relation to the welfare of women and children. For example, Nigerian Senator and former governor of Zamfara State, Yerima Ahmed Sanni, wedded a 13-year-old Egyptian girl,[50] and despite calls for his impeachment by several NGOs and women's coalitions, the senator asserted his innocence, claiming that since he had not violated Islamic laws, he was unconcerned about violations attributed to the marriageable age of a girl in Nigeria. Yerima Sanni also claimed that historical accounts reveal that "Prophet Muhammad did marry a young girl as well. Therefore I have not contravened any law. Even if she is 13, as it is being falsely peddled around." [51] Since that wedding in 2010, no assessable attempts have been made to hold the senator accountable for engaging in child marriage, which could serve as a basis for protecting young girls in Northern Nigeria from the practice of early marriage.

How much protection can children be offered as citizens of a country as diverse as Nigeria? Only 24 out of 36 states in the country have ratified the Child Rights Act. The Northern States attribute the lack of enforcement of the Child Rights Act to portrayals of the religious practice of child marriage as sanctioned by Islam. Practices that marginalize and exclude women and children persist because a large number of women and children are not literate enough to understand their rights. Eneh and Nkamnebe argue that this may be related to the "traditional socialization" of women to accept their exclusion in contributing to public discussions of public policy or decision-

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50   BBC, "Nigerian Senator Sani Denies Marrying Girl of 13," April 30, 2010, accessed September 2, 2012, http://news.bbc.co.uk/2/hi/africa/8651043.stm; O. Iyabode, "Child Bride and Child Sex: Combating Child Marriages in Nigeria," *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 2 (2011).

51   Ibid., 49.

making.[52] When women accept roles that victimize them, they transmit the cycle of victimization to their children and future generations, defeating the objective of sustainable development, which is to ensure the integration of diverse factors for the health and well-being of citizens.

The trafficking of children has not appeared to wane entering into the twenty-first century; rather, the likelihood of seeing children peddling goods on highways in major Nigerian cities has increased and will reach uncontrollable levels if the country does not adopt effective interventions that attend to the needs of trafficked children. Poverty is often portrayed as the key cause of trafficking in women and children. This emphasis on poverty led to an influx of poverty alleviation programs in Nigeria and other African countries in the 1990s. The most common ones were those implemented by the government's National Poverty Eradication Programme (NAPEP). These programs notwithstanding, it remains difficult to isolate aspects of NAPEP's initiatives that favor women, and such programs can often hinder more than help. For example, the most common program by NAPEP promotes tricycles popularly called 'Keke NAPEP,' used for public transportation within certain states in Nigeria. However, these tricycles are operated solely by "daredevil" male drivers, again reinforcing the belief that women should neither drive, nor be seen driving commercial vehicles.

Another program by NAPEP is the conditional cash transfer program, or In Care of the Poor (COPE). The intention of the COPE initiative is to reduce child labor and trafficking in poor families. The program, which began as a pilot study in 12 states in December 2007, is now in its third phase.[53] Families benefiting from COPE are expected to have children of school-going age and be households headed by the elderly, physically challenged, or women. Beneficiaries of COPE receive a monthly income of $10 to $33 for 12 months of coverage.[54] COPE has succeeded in reaching only about 22,000 households, just less than 0.001 percent of poor people in Nigeria, even nine years after its inception.[55] The COPE program is flawed by its inability to reach children vulnerable to child labor and trafficking (which is part of COPE's stated objective). There are also complaints from beneficiaries that

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52 Ibid., 48.
53 Rebecca Holmes, Michael Samson, Wendy Magoronga, B. Akinrimisi, and J. Morgan, "The Potential for Cash Transfers in Nigeria," *ODI Project Briefing* 59 (2012); Rachel Godfrey Wood and Deepta Chopra, "Nigeria: Social Protection and Child Malnutrition," 2012 Save the Children country briefing, accessed October 29, 2012, https://www.savethechildren.org.uk/sites/default/files/docs/social-protection-Nigeria-briefing-BT.pdf.
54 Wood and Chopra, "Nigeria," 2.
55 Ibid., 3.

the monthly payments should be increased to about $75 to address the needs of those with large families and account for inflationary upsets in the country.[56] Again, not much is known about the effectiveness of COPE and other poverty alleviation programs in Nigeria. It is also difficult to evaluate government efforts at eradicating poverty when Nigeria, although a middle-income country, invests less on social protection than other African countries. Even when an investment is made on social protection, a sizeable portion of it goes toward the civil service, and programs are difficult to implement because of a shortage of trained personnel and ill-equipped health services.[57]

Conclusions and Recommendations

This paper questions how to achieve a comprehensive discussion of sustainable development when it is a term that is difficult to understand. Many researchers refer to the idea of sustainable development as more charming than clear.[58] Although there are a broad range of indicators showing what areas need to be either sustained or developed in a country, the problem of measurement makes it especially difficult to know when a nation has achieved sustainable development.[59] In other words, while the indicators let countries know when they are following the wrong path in the quest for sustainable development, there are no guidelines that can be judiciously explored to attain sustainable development.

In developing countries such as Nigeria, there are also problems with the quality of data on sustainable development.[60] It follows, therefore, that to accurately address the problem of trafficking in women and children as a hindrance to attaining sustainable development, it is expedient to acquire available and reliable data that will direct research and policymaking. At the moment, data presented may not reflect the realities of trafficking in specific countries. For instance, for almost a decade now, statistics on the number of children involved in trafficking in Nigeria has been pegged at 40

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56 Ibid.
57 Ibid, 1.
58 Michael Redclift, "*Sustainable Development: Exploring the Contradictions*," Routledge, 1987.
59 Robert W. Kates, Thomas M. Parris, and Anthony A. Leiserowitz, "What is Sustainable Development?," *Environment* 47, no. 3 (2005): 8.
60 D. K. Shangodoyin, and T. A. Lasisi, "The Role of Statistics in National Development with Reference to Botswana and Nigeria Statistical Systems," *Journal of Sustainable Development* 4, no. 3 (2011): 131.

percent of the total number of children involved in child labor. Considering the population of Nigeria, this number could be either below or above the recorded number of affected children in the country. The government and NGOs involved in reintegrating trafficked persons are also not working together to present figures that are more reliable. Up-to-date, reliable statistics on the number of trafficked women and children in Nigeria would aid the path to attaining sustainable development and benefit policymaking and program design. The likelihood of obtaining such statistics is enhanced when returning trafficked persons are warmly received and provided with reintegration packages that serve as incentives for encouraging them to share their trafficking experiences. Evidence-based research with trafficked persons is crucial for insight into the Nigerian situation, especially those factors that propel women and children into trafficking.

It is important for discussions on curtailing human trafficking and attaining sustainable development to explore the extent to which a country's anti-trafficking programs incorporate the unaddressed needs of women and children likely to drive them into trafficking. Several studies indicate that Nigerian women and children are exposed to trafficking as a result of economic, cultural, religious, and social shocks. [61] Ultimately, disregarding these drivers means that the trafficking of this group of people will persist, and that women and children will continue to leave their countries of origin to escape deplorable conditions. Further, when removing women and children from trafficking situations and returning them to their home countries without ameliorating the conditions they were initially escaping from, then anti-trafficking services are bound to fail, since trafficked persons are likely to return to trafficking. Some researchers point out that trafficking victims have a fear and distrust of state-owned anti-trafficking agencies and are inclined to lean towards services provided by NGOs.[62] Another study criticizes the Nigerian government for attempting to address trafficking in the country without making information accessible to civil society, researchers, and irrelevant communities, especially those "sending communities" that could help create awareness and rally the general populace toward addressing the problem.[63]

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61 Ibid., 23, 53.
62 Marina Tzvetkova, "NGO Responses to Trafficking in Women," *Gender & Development* 10, no. 1 (2002): 62.
63 R. Iyanda, "Community Perceptions of and Participation in Policy Formulation and Implementation on Human Trafficking in Nigeria," Nordic Africa Institute, accessed August 21, 2012, http://www. nai.uu.se/ecas-4/panels/81-100/panel-100/Rachael%20Iyanda%20-%20Abstract.pdf.

It is often emphasized that the demand for cheap labor in industrialized countries enhances the growth of human trafficking. The implication, then, is that if trafficked persons' countries of origin create jobs or employment opportunities that are accessible to people across genders, it will become unnecessary for women and children to endanger their lives by migrating for work. With a gender-focused dimension to sustainable development and human trafficking, it becomes easy to understand and address the gendered nature of trafficking or the recruitment of women and children for different trafficking-related activities. Moreover, a country that aspires for sustainable development in situations where a large number of its women and children are susceptible to trafficking should aim to check the potential effects of trafficking on the health and well-being of the affected groups.[64]

These problems notwithstanding, this paper has looked at sustainable development within the context of what is lacking. In an environment of gross inequality and marginalization of certain groups of individuals, it is impossible to speak about satisfying the needs of future generations, especially when the present generation is moaning under the yoke of an intense poverty that makes them vulnerable to diverse survival strategies, including human trafficking. This paper advocates for extending the discourse on sustainable development to accommodate the input of women and children in deliberations about the development process. A safe space for women and children to speak about the issues affecting them should ensure representation from grass-roots organizations or groups in the deliberative process. Presently, it appears that women and children may be remaining silent because they do not understand the nature of the problems afflicting them. It also becomes questionable how programs can target women and children without their representation in decision-making boards. The present structure of sustainable development projects in Nigeria should be torn down and rebuilt to recognize the diverse role of different individuals in the development process, with every individual understanding their own roles, strengths, limitations, and the resources available to them. This should serve as the foundation for a social justice and sustainable development that will nurture future generations in Nigeria. **Y**

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64 F. E. Okonofua., S. M. Ogbomwan, A. N. Alutu, Okop Kufre, and Aghahowa Eghosa, "Knowledge, Attitudes and Experiences of Sex Trafficking by Young Women in Benin City, South-South Nigeria," *Social Science & Medicine* 59, no. 6 (2004): 1315-1327.

ESSAYS

REFORMING JAPAN'S SECURITY POLICY: HISTORICAL CHALLENGES, MODERN NECESSITIES

Giacomo Bagarella
London School of Economics

In light of challenges such as international terrorism, nuclear proliferation, and a rising China, Japanese Prime Minister Shinzo Abe has sought to reform Japan's security policy to give the country greater flexibility in how it addresses these issues. However, low trust between Japan and its neighbors, China and South Korea, which derives from an unresolved post-Second World War legacy, as well as modern disputes, hinders Japan's ability to adopt a modern security posture. The experiences of Germany and Italy in addressing post-war reconciliation and establishing normalized security policies offer insight into how a holistic approach can assuage neighbors' fears, although important differences exist between each case. At the same time, Japan's ability to construct positive ties with former Southeast Asian colonies exemplifies that past atrocities are no barrier to reconciliation when governments can focus on common, present interests rather than on historical recriminations. Japan can learn from these cases and improve the way it communicates about its security reforms, adopt an unequivocal stance on its Second World War legacy, and focus on shared interests in order to be able to pursue a normalized security policy and overcome historical issues with China and South Korea.

Can Japan update its security policy without upsetting its neighbors and destabilizing the surrounding region? Prime Minister Shinzo Abe seeks to expand Japan's military capabilities, shift to a policy of "collective self-defense," and revise the strategic posture of the Japan Self-Defense Forces (JSDF). Collective self-defense would require that Japan intervene to defend an ally—such as the United States—if the latter were attacked. Previously, this commitment only held true in the opposite direction. Such a change requires rethinking Article 9 of Japan's constitution, which prohibits Japan from engaging in war. Mr. Abe's ambitions to reinterpret this Article have met with both domestic and international opposition.

The logic behind the Japanese government's intentions is to establish Japan as a "proactive contributor to peace" in a twenty-first century environment, which requires a different security paradigm than the more passive one Japan has maintained since the end of the Second World War.[1] Minister for Foreign Affairs Fumio Kishida, speaking in 2014, justified Japan assuming greater responsibility in promoting "peace and safety" in its neighborhood and the world by citing changes in the Asian balance of power and the emergence of threats such as terrorism and nuclear proliferation.[2] Abe reiterated the same point at the thirteenth Asian Security Summit later that year, emphasizing his efforts to bring about a generation of "'new Japanese'... who are determined ultimately to take on the peace, order, and stability of this region as their own responsibility." Abe described his vision as "Japan for the rule of law. Asia for the rule of law. And the rule of law for all of us. Peace and prosperity in Asia, forevermore."[3] The Japanese Diet secured Abe's reforms by passing relevant legislation on September 19, 2015.[4]

However, such statements and policies do not sit comfortably with the Japanese public and its closest neighbors, China and South Korea. Domestic opinion polls show low support for Abe's proposed security reforms. While 37 percent of those sampled by an *Asahi Shimbun* survey in July 2015 said they supported Abe's cabinet, just 29 percent agreed with the government's proposed bill on allowing collective self-defense and expanding JSDF activities internationally. Furthermore, only one-fifth of Japanese find that the security bill should be a priority for the current legislature.[5] The present opposition to Abe's security reforms, which have spurred significant protests, is consistent with the Japanese public's aversion towards its military, dating back to 1945.[6]

If Abe's moves are seen to lack public support within Japan, they encounter even stiffer resistance from China and South Korea. In China,

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1   Japan, Cabinet Secretariat, *Cabinet Decision on Development of Seamless Security Legislation to Ensure Japan's Survival and Protect Its People.* July 1, 2014.
2   Fumio Kishida, "Comment by the Minister for Foreign Affairs at the Munich Security Conference" (speech, Munich Security Conference, Munich, February 1, 2014).
3   Shinzo Abe, "Peace and Prosperity in Asia, Forevermore: Japan for the Rule of Law, Asia for the Rule of Law, and the Rule of Law for All of Us" (speech, The 13th IISS Asian Security Summit - The Shangri-La Dialogue, Singapore, May 30, 2014).
4   Cabinet Secretariat, *Cabinet Decision on Development of Seamless Security Legislation*.
5   "Asahi Shimbun Public Opinion Poll (07/19/2015)," The Maureen and Mike Mansfield Foundation, July 19, 2015.
6   Franz-Stefan Gady, "Japan at Peace," *Foreign Affairs*, September 16, 2015.

93 percent of respondents in a 2014 Genron NPO-*China Daily* poll have unfavorable or relatively unfavorable impressions of Japan, up from 72 percent in 2009. The highest-ranked reasons were the dispute over the Senkaku/Diaoyu Islands (64 percent) and Japan's lack of a "proper apology" over its invasion of China (60 percent).[7] Japan's image fares little better in South Korea, where a 2015 Genron NPO-East Asia Institute poll identified that 73 percent of South Koreans sampled had unfavorable impressions of their neighbor. Here, too, historical and territorial disputes taint Koreans' views of Japan: 74 percent attribute their unfavorable view to Japan's "lack of remorse" for invading Korea and 69 percent to confrontations over ownership of Takeshima/Dokdo Island.[8]

To be fair, much of the external animosity preceded Abe's proposed reforms. However, as a renowned nationalist and perceived hawk, his security policies make for an easy target for politicians across the East China Sea and Sea of Japan. Domestically, for a public whose primary concerns are economic and whose worldview is generally neutralist, a revolution in security policy is unpalatable despite possible worries about an ascendant China and a nuclear-armed, recalcitrant North Korea.

Yet the Japanese government's current position is by no means unique: the two other defeated powers from the Second World War—Germany and Italy—have faced similar challenges in developing autonomous security policies while burdened by their historic legacies. All three countries possess what might be termed as "pacifist" constitutions, but their paths to becoming active players in international security have been very different. Their domestic publics' responses to this evolution also exhibit variations. It is worthwhile to study these cases, contrasting them to shed light on Japan's situation and on potential remedies.

From Pacifist Constitutions to Normalized Foreign Policies

Among the similarities that Japan, Germany, and Italy share are constitutional safeguards against militaristic excesses. Article 9 of the Japanese constitution echoes Italy's Article 11 in forswearing war as a means of resolving international disputes, while Article 26 (1) of Germany's Basic

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7   The Genron NPO and China Daily, *The 10th Japan-China Public Opinion Poll: Analysis Report on the Comparative Data,* publication, September 9, 2014.

8   The Genron NPO and East Asia Institute, *The 3rd Japan-South Korea Joint Public Opinion Poll (2015): Analysis Report on Comparative Data,* publication, May 2015.

Law criminalizes preparing a war of aggression and disturbing international peace.[9] Japan's is the sole case where the constitution appears to ban military forces altogether, even though Article 9 was interpreted to permit the use of force as a matter of self-defense. Consequently, though military forces "will never be maintained" to "[settle] international disputes," the ban did not apply to the aptly named Self-Defense Forces.[10]

In Europe, Germany and Italy took different paths, with the former experiencing a slower remilitarization and shift to an active role on the international stage. Only in 1955 did Cold War logic lead Britain, France, and the US to permit the establishment of a West German military and, successively, to its accession into the North Atlantic Treaty Organization (NATO), which they had established six years earlier.[11] By contrast, Italy retained a military following 1945 and was a NATO member from the organization's inception. (The Japan Self-Defense Forces were founded in 1954.) Furthermore, while West Germany's defense paradigm focused on "territorial defense" and remained reluctant to intervene abroad until the early twenty-first century, Italy had begun to define itself as a "global peacekeeper" as early as the 1980s.[12] Italy, having played a relatively secondary role in the Axis, was thus able to transition into a foreign policy paradigm unencumbered by its Second World War legacy. Only with Libya did it continue to experience occasional tensions on this topic into the twentieth century.

These policy differences are evident in each country's deployments to international missions in 2014, as can be seen in Table 1. A starker difference emerges in the roles of deployed units: Italy devoted over 1,000 soldiers to both Afghanistan and Lebanon, many of which were in combat or front-line roles. Germany committed a similar amount to Afghanistan and nearly 700 to the Balkans, with similar duties. Japan's main contribution was an engineering company with an employee count numbering 271 to the

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9   "The Constitution of Japan," Prime Minister of Japan and His Cabinet; Germany, Deutscher Bundestag, *Basic Law for the Federal Republic of Germany*; and Italy, Senato della Repubblica, *Constitution of the Italian Republic*.

10   Alice Lyman Miller and Richard Wich, *Becoming Asia: Change and Continuity in Asian International Relations since World War II* (Stanford, CA: Stanford University Press, 2011), 54.

11   Laura Chappell, *Germany, Poland and the Common Security and Defence Policy: Converging Security and Defence Policy in an Enlarged EU* (Basingstoke: Palgrave Macmillan, 2012), 50-59.

12   Fabrizio Coticchia and Giampiero Giacomello, "All Together Now!: Military Operations Abroad as 'Bipartisan Instrument of Italian Foreign Policy," ed. Giampiero Giacomello and Bertjan Verbeek, in *Italy's Foreign Policy in the Twenty-First Century: The New Assertiveness of an Aspiring Middle Power* (Lanham, MD: Lexington Books, 2011), 136.

United Nations' mission in South Sudan, with an explicit ban from engaging in military operations. Additionally, Figure 1 below indicates that Japan's military expenditures, measured both as percentage of gross domestic product and per capita, rank among the lowest within a diverse comparison group. Figure 2 presents the evolution of military spending among Japan, China, and South Korea in the last quarter century. Though Germany and Italy also trail both partners and adversaries, it is remarkable to see the world's third largest economy devote so few resources to the military.

**TABLE 1** Deployments to International Multilateral Operations as of 2014

Country	Troops and Observers	Destination Countries	Maritime Operations
Germany	2,700	17	3
Italy	3,500	15	2
Japan	<500	2	1
Source: See the "Deployment" section for each country in Chapter 4 (Europe) and Chapter 6 (Asia) of *The Military Balance* 115, no. 1 (2015).			

FIGURE 1 Comparison of Defense Spending Across Select Countries
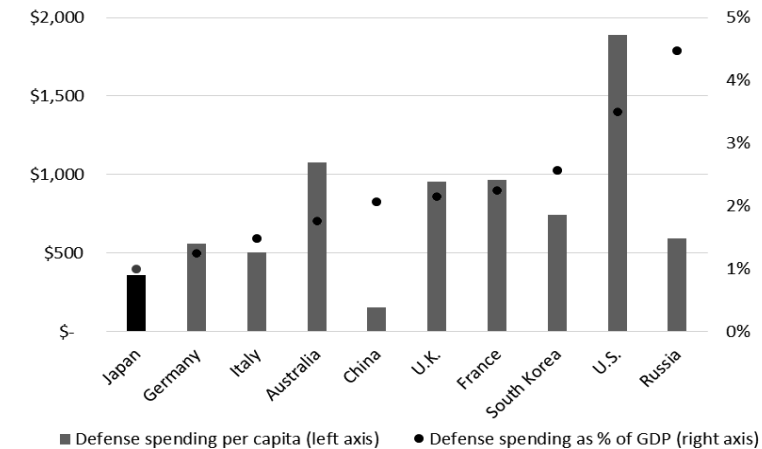
Source: Stockholm International Peace Reseach Institute, *Military Expenditure Database* (2015).

FIGURE 2 Military Expenditure, Billions of Constant 2011 US Dollars
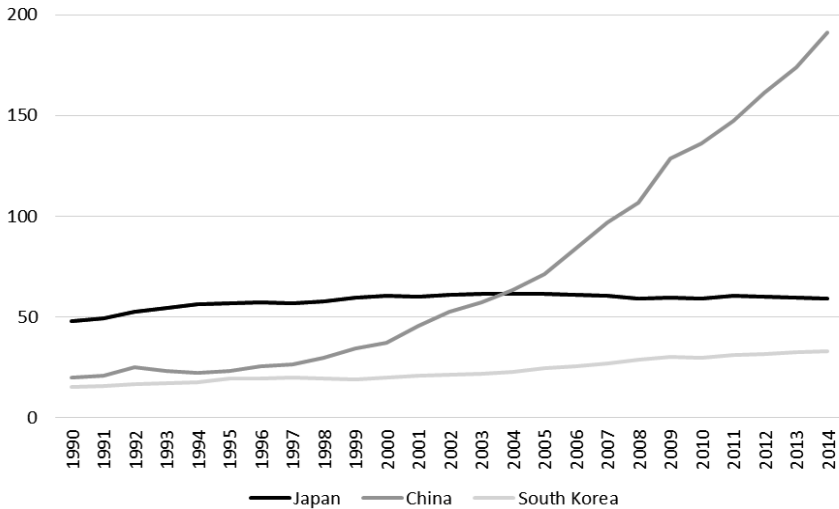
Source: Stockholm International Peace Reseach Institute, *Military Expenditure Database* (2015).

Germany's allies have welcomed greater German responsibilities in international security. Its partners have long demanded that Germany play a continental and security role commensurate to its economic stature, a feeling best epitomized by a statement in 2011 by the then-foreign minister of Poland Radek Sikorski when he stated, "I fear Germany's power less than her inactivity."[13] This declaration has particular weight given how Poland's twentieth-century relationship with Germany—a land to be conquered, subdued, and exploited—resembles that of Korea with Japan.

However, the view that Germany and Italy have fully atoned for their Second World War crimes—thereby reconciling increasingly assertive security postures with their neighbors—while Japan has not, is convenient, but partial at best. For, if China and South Korea still resent Japan's post-war legacy, other countries in Asia—many of them former Japanese colonies—view Japan favorably, as suggested in a 2014 Pew Research Center poll (see Table 2).

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13 Radek Sikorski, "I Fear Germany's Power Less than Her Inactivity," *Financial Times*, November 28, 2011.

TABLE 2 How Asians Rate Each Other's Countries

| Country | % With favorable views of: | | | Confidence in Abe to do the right thing in world affairs* |
	Japan	China	US	
Thailand	81	72	73	53
Philippines	80	38	92	55
Indonesia	77	66	59	46
Vietnam	77	16	76	65
Malaysia	75	74	51	57
South Korea	22	56	82	5
China	8	-	50	15

*Note: 58 percent of Japanese respondents had confidence in Abe to do the right thing in world affairs.

Source: "Chapter 4: How Asians View Each Other (in 'Global Opposition to U.S. Surveillance and Drones, but Limited Harm to America's Image')," Pew Research Center, July 14, 2014, http://www.pewglobal.org/2014/07/14/chapter-4-how-asians-view-each-other.

Moving Forward, Looking Backwards

We may thus ask two separate questions in order to attempt to answer our initial policy puzzle. First, how did (West) Germany and Italy develop an international role without worrying their neighbors? Second, what has worked in Japan's relations with Southeast Asia that might help improve how China and South Korea perceive it? The European context suggests that multilateral organizations like the European Union (and its predecessors) and NATO were critical in rebuilding trust among former foes. Institutions such as the European Coal and Steel Community bound the markets for these strategic resources among continental ex-enemies, defusing what had been one source of tensions prior to 1945. From a multilateral perspective, it was also helpful that a common enemy—the Soviet Union—existed to rally Western European countries, helping shift the focus from the past threat, Germany, to the new one across the Iron Curtain. After the destruction and human loss of two world wars, Western European leaders recognized the need to prevent another such conflict from happening and to bind their liberal democracies together in the future.

Within Germany, there was a will to cut all ties to the Nazi era, and successive governments consistently pursued policies that sought to dismantle the legacy of Adolf Hitler's regime. German leaders committed

themselves to making amends for the country's actions. They issued apologies, condemnations of Nazi German atrocities, investigated and tried war criminals, and paid reparations to numerous (but not all) affected parties. Despite differences between the center-right Christian Democrats and center-left Social Democrats in the intensity and scope of these policies, Germany's stance was unambiguous. Britain, France, and others lauded this process and welcomed Germany as a new and reformed economic power and ally.[14] However, these conditions could not be replicated for Japan as the post-war security architecture in the Pacific Ocean, crafted by the US to contain the Soviet Union and People's Republic of China, relied on bilateral relations between the US and its partners rather than on a concert of states.[15]

Domestically, Japan's approach was more conflicted than Germany's, notwithstanding multiple efforts at reconciliation. Since the 1960s, multiple Japanese prime ministers have issued apologies for Imperial Japan's crimes, especially to China and South Korea. (Notably, China relinquished its demand for reparations in its 1972 agreement to normalize diplomatic ties with Japan.)[16] Yet it was the 1990s that brought a wave of strong statements of remorse and acknowledgment of former atrocities.[17] However, nationalist voices condemning apologies and promoting their warped view of the past tainted these efforts, despite being in the minority.[18] Other events, such as Japanese prime minsters' visits to the Yasukuni Shrine, further eroded Japan's sincerity in the eyes of its neighbors. Only in December 2015 has Japan been able to break the impasse with South Korea on the "comfort women" issue by offering compensation to victims and a new apology from Abe. Despite the promise this shift holds for Korean-Japanese relations, domestic publics have reacted critically (in the case of South Korea) and ambivalently (in the case of Japan), and much remains to be done at the intergovernmental level.[19] Thus, historical wounds have remained open.

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14 Jennifer Lind, "The Perils of Apology," *Foreign Affairs*, May/June 2009.

15 Miller and Wich, *Becoming Asia*, ch. 7.

16 "Joint Communique of the Government of Japan and the Government of the People's Republic of China," news release, September 29, 1972, Ministry of Foreign Affairs of Japan, accessed April 23, 2016.

17 Lind, "The Perils of Apology."

18 Katsuyuki Yakushiji, "Japanese National Security Policy" (lecture, Hiroshima Peace Memorial Museum, Hiroshima, February 21, 2016).

19 J. Berkshire Miller, "No Grand Bargain," *Foreign Affairs*, January 12, 2016; Trevor Kennedy and Misato Nagakawa, "Public Divided Over 'Comfort Women' Agreement," East Asia Forum, January 22, 2016.

Germany and Italy therefore benefited from the creation of economic and military ties with former enemies in postwar years, whereas the US hub-and-spoke approach in the Pacific separated Japan and other countries. At the same time, Germany underwent a far-reaching process of coming to terms with its past, which remains unique in extensiveness and duration. Japan's attempts to achieve similar results were snagged on thorny issues, such as contradictory official behavior and domestic critiques of efforts at reconciliation. Tokyo's policy, never meant to be as encompassing as Berlin's, was ambiguous in its limited nature and domestic inconsistency. Italy was spared the scrutiny of its wartime allies, although it did reach a reparations agreement with Libya in 2008, which then-Prime Minister Silvio Berlusconi called "a complete and moral acknowledgment on Italy's part of the damage it inflicted on Libya during the colonial period."[20]

The Pragmatist's Approach

Further from Japan, but in regions no less affected by the brutality of its wartime behavior, a different experience provides an interesting case study. Singapore, which the Japanese empire seized from the British in early 1942, displays how pragmatism can climb above bitter memories to foster positive relations. Lee Kuan Yew, Singapore's founding and long-time prime minister, describes the "unbelievably cruel" and "callous" actions of Japanese occupying forces in Southeast Asia.[21] Yet Lee settled the historical matter rapidly after Singapore became independent in 1965. After first raising the issue of "blood debt" in a meeting with the Japanese prime minister in 1962, Lee then accepted a reparations plan in 1966. His objective was to secure Japanese investments in Singapore to develop the country's economy. Although Lee laments that Japan "neither repented nor apologized" for its past deeds, he was keen to befriend Japan. The latter's leaders reciprocated, appreciative that Lee no longer raised historical issues.[22]

Lee prioritized securing economic benefits to acknowledgments of guilt. Naturally, Singapore's relationship to Japan was more asymmetric than that of China or South Korea, limiting how assertive a stance he could

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20   "Berlusconi Da Gheddafi, Siglato L'accordo: «Uniti Sull'immigrazione»," (Berlusconi Meets Gheddafi, Agreement Signed: «Unified on Immigration») Corriere Della Sera, August 30, 2008.

21   Kuan Yew Lee, *From Third World to First: The Singapore Story, 1965-2000* (New York: HarperCollins Publishers, 2000), 501-502.

22   Ibid., 502-504.

have taken. However, Singapore was able to achieve both material and moral goals. It took advantage of the growing affluence and importance of Japanese business in Asia. However, it also maintains vivid reminders of the Japanese occupation as evidenced by several memorials and museums. These sites bolster a narrative of a hardy Singaporean spirit that stands proud even without having received formal apologies.

Building off this experience, Singapore has even stepped forward to show China and South Korea the way to reconciliation with Japan. Speaking in May 2015, Singapore's Prime Minister Lee Hsien Loong, son of Lee Kuan Yew, urged Japan to offer wholehearted apologies for its wartime behavior. At the same time, he called on China and South Korea to accept Japan's apologies and move on from their positions, as Southeast Asian states had done.[23] On a similar note, other analysts have argued that, "[if] Japan is to act more like Germany, South Korea needs to act more like France by accepting reconciliation efforts."[24] Shogo Suzuki, a scholar at the University of Manchester, critiqued Japan's neighbors for ignoring past apologies, setting unreasonably high standards, and "moving the goalpost." He holds that Japan's guilt is true and should not be overshadowed by politicians' statements. Ultimately, China and South Korea should also be willing to make their own efforts to overcome the historical disputes rather than continuing to instrumentalize them.[25]

As evidenced in Table 2 above, Singapore's positive disposition towards Japan is not an exception among its neighbors. Another case in which Japan developed friendly post-war relations with a former colony is that of the Philippines. Despite a harsh occupation regime and the destruction Japanese troops wreaked as they retreated from the Philippines, the latter have maintained strong ties to Japan ever since their independence from the US in 1946. Here too, Japan's extensive trade with, and foreign aid and direct investment to, the Philippines secured a mutually beneficial economic relationship. More recently, the partnership has evolved into security ties as the Philippines have sought Japanese support against Chinese moves in the South China Sea.[26] It may also have helped that Emperor Hirohito of

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23   "Lee Urges Japan to Come Clean on WWII Atrocities," *The Japan Times*, May 30, 2015.

24   Jeffrey W. Hornung, "Japan's Discomfort Women," *Foreign Affairs*, January 13, 2015.

25   Shogo Suzuki, "Will Japan's War Apologies Ever Satisfy China?," East Asia Forum, November 5, 2015.

26   Mong Palatino, "Has Manila Forgotten Japan's War Atrocities?," *The Diplomat*, January 29, 2014; Richard Javad Heydarian, "Japan-Philippine Alliance: Transcending Historical Memories," CSIS CogitASIA, August 19, 2015.

Japan reportedly apologized to Filipino president Corazon Aquino when the two met in 1986.[27] Across the region, Japan's role in economic development assistance has tended to overshadow recriminations about Second World War legacies. With the caveat that the experiences of China and South Korea differ from those of Southeast Asian states—Japan colonized the latter for years rather than decades, and in most cases ousted other foreign colonists rather than domestic authorities—it still appears that alternative paths to post-war reconciliation exist amongst possible Chinese and South Korean approaches.

Arrested Development

As far removed as they are from security policy in the twenty-first century, these debates continue to hamper Japan's ability to reform its posture in alignment with current needs. The lack of domestic appetite for these changes does not negate that Japan's post-war stance may no longer be suitable when considering current risks like nuclear proliferation, terrorism, and power-accruing neighbors. However, alarm calls of an unapologetic, threatening Japan from China and South Korea—falling upon sympathetic ears even from Europe and the US—stunt these modest efforts time and again.

Ultimately, Japan's evolution towards becoming a "normal" state in global security policy is not a matter of political liberalism or conservatism, but of pragmatism in light of changing times. Speaking in Singapore, Tokyo University Professor Katsuyuki Yakushiji argued that Japan can accrue greater international responsibilities without developing aggressive capabilities or nationalistic chauvinism, and these—along with Japan's past apologies for its wartime behavior—are facts that its neighbors should recognize. Instead, China and South Korea exploit Abe's defense reforms and historical issues for domestic political gains by painting Japan as a threat, a stance that benefits no party.[28] Likewise, in recent surveys of European attitudes towards Japan, the European Council on Foreign Relations reported that "[the] German public is very skeptical about [the reinterpretation of Article 9] with the media heavily influenced by the image of Abe as a right-wing nationalist. On

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27   "Hirohito's Reported Apology to Aquino over War Atrocities Enters Debate," *Union of Catholic Asian News*, January 11, 1989.

28   Katsuyuki Yakushiji, "Japanese Foreign Policy and Current Relations with Neighbour Countries" (lecture, Lee Kuan Yew School of Public Policy, Singapore, October 2, 2015).

the contrary, German decision makers understand the changes in security laws under Abe administration as a normalization process, similar to the one that Germany went through."[29]

Japan's government struggles to present elements that show that its intentions are not bellicose. The Japan Self-Defense Forces lack significant power projection capabilities.[30] Furthermore, in the words of a Japanese military official, the requirements for intervening in collective self-defense are so drastic that the reform does not change much in practice.[31] Japanese foreign policy itself remains focused on economic power as opposed to military power, and Japanese voters overwhelmingly prioritize economic to security issues.[32] Altogether, these factors suggest that knee-jerk responses to changes in Japanese security policy, especially from its neighbors, depend more on the political affiliation of the Japanese prime minister, domestic instrumentalization of Japanese actions, and nationalism.

Domestic constraints are under Japan's own control to address, whereas foreign responses require cooperation with other states. The German and Italian experiences benefited from a specific geopolitical context that was different for Japan. The German model of "coming to terms with the past" is also highly unique in its extensiveness and vast public support, undermining its applicability to Japan. Moreover, even when Japan has moved in this direction, its efforts have failed to resonate with neighbors. On the other hand, the experience of Southeast Asian states—Singapore, above all—underscores that resolving historical disputes benefits both participants and does not have to come at the expense of erasing a past of victimhood at Japan's hands. Pragmatism, albeit incentivized by a power imbalance favoring Japan, allows states to work together to address the challenges of the future rather than remaining mired in the disputes of the past.

This indicates some potential courses for Japan to improve relations with China and South Korea, thereby allowing it to pursue a modern security policy. First, it should strive to eliminate contradictory expressions of both guilt and support for wartime behavior. Other countries may yet fail to accept apologies, but at least these will be unquestionable. Second, it should highlight to its neighbors that resolving these disputes does not

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29   "Japan And… Germany," European Council on Foreign Relations, December 2, 2015.
30   Dennis C. Blair, "Military Power Projection in Asia," in *Strategic Asia 2008-09: Challenges and Choices*, ed. Ashley J. Tellis, Andrew Marble, and Mercy Kuo (Seattle, WA: National Bureau of Asian Research, 2008).
31   Yakushiji, "Japanese National Security Policy."
32   Ibid.

mean forgetting the past or burying parts of their national identity. Rather, resolution opens up mutually beneficial scenarios and new opportunities for cooperation. Third, Japan should work where the balance is in its favor and where it has more in common with its partner. Specifically, it should prioritize overcoming historical issues with South Korea, and the comfort women agreement is a step in the right direction. This would also isolate China as the final holdover and help Japan gain recognition, particularly in the Western world, that it has truly overcome its awful legacy. Lastly, Japan should send clearer signals with regard to its security posture, and better convey that these reforms do not enable what is a limited military apparatus to suddenly become a regional threat or even simply engage in military action at will. There is no silver bullet for Tokyo to employ and resolving historical issues remains an objective that will take many years to accomplish. However, studying the cases of post-war reconciliation and atonement in Europe and Japan's rebuilding of relations with former colonies creates a potential path forward to grant Japan more room to construct a security policy coherent within the twenty-first century. **Y**

MAKING WAVES: RECENT DEVELOPMENTS OF THE SOUTH CHINA SEA DISPUTES*

Chunjuan Nancy Wei and John Falzerano
University of Bridgeport

A potential crisis of significant magnitude may be imminent on the rocks of the South China Sea (SCS), where state sovereignty and geopolitics converge. These tensions could increase the risk of confrontation, undermine regional stability, and damage neighborly relations. As observed by many, sovereignty disputes in the SCS entail more than simply who owns what particular geologic and geographic features. They involve fishing rights, shipping lanes, oil and natural gas reserves, the maritime environment, and security. These contested maritime zones have led to significant tensions in the region and raise great concerns for nations using the shipping lanes for international trade. These quarrels are also linked to rising nationalism in every claimant nation. Disagreements have proven difficult to resolve, despite decades of attempts to do so. At dispute are both ownership of land features and what rules to apply in resolving the disputes, since rules determine results. The continued tensions have restrained policies among the nations involved, making interactions difficult at times. To further complicate matters, nations have started to reclaim land to expand their control at the expense of others. To more vividly demonstrate how dynamic the "status quo" in the SCS is, this paper surveys the latest developments in the region and analyzes the different attitudes and responses of various capitals to actions in the SCS in recent years. Competing interests are investigated to gauge each claimant's strategies. The complexity of the overlapping claims involved calls for dialogue toward a peaceful diplomatic solution.

A potential crisis of significant magnitude may be imminent on the rocks of the South China Sea (SCS), where state sovereignty and great power politics converge. These tensions could increase the risk of confrontation, undermine regional stability, and damage neighborly relations. As observed by many, sovereignty disputes in the SCS entail more than simply who owns what particular geologic and geographic features. They involve fishing rights, shipping lanes, oil and natural gas reserves, the maritime environment, and

security. These contested maritime zones have led to significant tensions in the region and raise great concerns for nations using the shipping lanes for international trade. These quarrels are also linked to rising nationalism in every claimant nation. These disagreements have proven difficult to resolve, despite decades of attempts to do so. At dispute are both land features and what rules to apply in resolving the disputes, because rules determine results. The continued existence of tensions has restrained policies among the nations involved, making interactions difficult at times.

To further complicate matters, nations have started to reclaim land to expand their control at the expense of others.[1] Most recently, China has begun land reclamation and construction in the disputed area. These efforts have been contested by some of the claimants involved and have caused tensions to escalate with the United States, the guarantor of the regional order. The legality of China's claims aside, the fact remains that Chinese efforts are interfering with its attempts to interact with other nations. Beijing's insistence on establishing its claim runs directly against its other foreign policy strategies, such as the Belt and Road initiatives, which were meant to draw neighbors closer economically and politically. As tensions grow, more nations are making the disputes an issue when dealing with China. It has become a stumbling block for China's regional efforts and led to the unprecedented meeting in mid-February 2016, between President Obama and leaders of the ten Association of Southeast Asian Nations (ASEAN) members in Sunnyland, California, to resist Beijing's assertiveness. To demonstrate how dynamic the status quo in the SCS is, this paper surveys the latest developments in the region and analyzes the different attitudes and responses of various capitals to actions in the SCS in recent years. Competing interests are investigated to gauge each claimant's strategies.

China's South China Sea Policies and Actions

At the heart of Beijing's South China Sea (SCS) claims is the eleven-dashed line drawn by the pre-Communist government in 1947, which included all the features into two groups of islands—the Paracels and Spratlys[2]—plus the

2   Since the 1970s, Vietnam, the Philippines, Taiwan, and Malaysia have reclaimed land on islets and

Scarborough Shoal. Viewed as China's traditional sea boundary (*chuantong haijiang xian*), the line forms the basis of both Taiwan and Mainland China's claims of ownership[3] but has not been recognized by the United States or any neighboring countries. Decades after 1947, neighboring states occupied some of the features; a competing regime was formed under the United Nations Convention on the Law of the Sea (UNCLOS), which allows littoral states 12 nm of territorial sea and 200 nm of exclusive economic zones.[4] Beijing ratified the UNCLOS but with reservations that the regime and its tribunal were not applicable to its disputed territories. The dashed line rule favors Taipei and Beijing while depriving others of their controlled islands. The UNCLOS rule could support neighboring countries and deprive Beijing and Taipei the legal status of their holdings in the SCS. Mainland China signed and approved the treaty with reservations in 1996, while Taiwan remains outside of the UNCLOS.[5]

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reefs under their respective control to build airstrips and other facilities. The Paracels have been under China's control since 1974, while the Spratlys are controlled by five disputants. Beijing's definition of the Spratlys ranges from "3°37' to 11°55' north latitude and 109°43' to 117°47' east longitude, stretching south to north approximately 550 nautical miles, and spreading east to west more than 650 nautical miles; its water-territory area exceeds 800,000 square kilometers." For more, see Daniel J. Dzurek, "The Spratly Islands Dispute: Who's On First?" *IBRU Maritime Briefing* 2, no. 1 (1996): 3.

3   One analysis terms this action as China's "legal annexation via the nine-dashed-line claim." See Mark E. Rosen, "Philippine Claims in the South China Sea: A Legal Analysis," *CNA*, August 2014, 15, https://www.cna.org/CNA_files/PDF/IOP-2014-U-008435.pdf.

4   Typically, the UNCLOS recognizes maritime zones including the territorial sea (TS), the contiguous zone (CZ), the exclusive economic zone (EEZ), and the continental shelf (CS), all measured from the baseline. A littoral state may thus claim a TS for up to 12 nautical miles (nm, or 22 km), over which it exercises sovereignty not only on the waters, but also the air space above, and the seabed and subsoil beneath it. The country may claim an additional 12 nm (22km) CZ adjacent to its TS, in which it may exercise control necessary to prevent and punish infringement of its laws within its territory and the TS. The coastal state may further claim an EEZ beyond and adjacent to its TS up to 200 nm (370 km) from its baselines, within which it has sovereign rights over the natural resources (both living and nonliving) in the waters, the seabed, and subsoil; and other rights provided for by the UNCLOS including establishment and use of artificial islands. Finally, the country may declare up to 200 nm (370 km) of CS from the baseline and gain sovereign rights for exploring and exploiting its natural resources, i.e. mineral resources and living organisms that exist on the seabed and in the subsoil. For a diagram of the zones and their respective rights, see "4.1 International Regulatory Framework," Global CCS Institute, https://hub.globalccsinstitute.com/publications/preliminary-feasibility-study-co2-carrier-ship-based-ccs/41-international-regulatory.

5   After Japan's defeat in WWII, the Republic of China (ROC) government in Nanjing recovered all the SCS islands in 1946. Upon its defeat by the Chinese Communist Party and retreat to Taiwan, the ROC government (now in Taiwan) signed a separate peace treaty with Japan in 1951, and the latter officially handed over the Pescadores, Paracel, and Spratly Islands to Taipei. The cross-Taiwan Strait relation involves disputes over which regime is the legitimate Chinese government that should inherit Chinese rights and claims. For simplicity, this paper leaves out Taipei's claims because it largely mirrors that of Beijing in the South China Sea. For more about the bilateral

No country is more affected by these disputes than China, whose ambition goes beyond the SCS rocks to explicitly include reunification with Taiwan, the last major piece of its territorial irredentism. A rising power poised to challenge the regional supremacy of the United States in East Asia, the Middle Kingdom has been successful in modernizing its outdated economy and military capabilities. According to David Lampton, a long-time China expert, Beijing employed a three-pronged approach to enhance its strength: money, minds, and might.[6] Economically, China has footprints in every corner of the world and has accumulated the most foreign exchange reserves. Its educational policies have focused on science, technology, engineering, research, and development. Massive new investment has produced its first aircraft carrier, albeit a Russian refurbish, and more indigenous carriers are under construction.[7] Chinese military reach has extended to the SCS, where a century-old dispute has existed since the advent of western colonialism.

Lampton's "three faces of Chinese power" have now produced a maritime Great Wall in 2016. In 18 months, Beijing increased the size of its holdings from 5 acres to more than 2,000 acres in the disputed Spratly Islands, a 400-fold increase in acreage, much more than all the other claimants have salvaged in the past 40 years, according to a Pentagon report.[8] Consider the following achievements China's rivals have made: Vietnam built 60 acres over five years, Malaysia 60 acres over 30 years, and Taiwan 5 acres over two years.[9] Beijing's impressive dredging fleet, especially its most powerful dredger *Tianjing* used in manufacturing the islands—which broke six records in Asia in terms of its capability—reflects China's long-term planning and its achievements in science and technology. Jointly designed by China and Germany, the dredger was already under construction in 2008, and was delivered in 2010, four years prior to its employment as a landfill.[10] With its

treaty, see "Treaty of Peace between the Republic of China and Japan," signed at Taipei, April 28, 1952, http://www.taiwandocuments.org/taipei01.htm.

6   David Lampton, *The Three Faces of Chinese Power: Might, Money, and Minds* (University of California Press, 2008).

7   Koh Swee Lean Collin, "China's Aircraft Carrier Ambitions," *The Diplomat*, January 18, 2016, accessed January 22, 2016, http://thediplomat.com/2016/01/chinas-aircraft-carrier-ambitions/.

8   David Alexander, "China accelerates land reclamation in disputed islands – Pentagon," *Reuters*, May 9, 2015, accessed January 2, 2016, https://uk.news.yahoo.com/china-accelerates-land-reclamation-disputed-islands-pentagon-130329555.html#tzgn1IP.

9   Andrew S. Erickson and Kevin Bond, "South China Sea and Beyond: Why China's Huge Dredging Fleet Matters," *The National Interest*, August 12, 2015, http://nationalinterest.org/blog/the-buzz/south-china-sea-beyond-why-chinas-huge-dredging-fleet-13562.

10   "Zhongguo shou sou chaodaxing wanichuan 'Tianjinghao' jiao chuan" [China's first super-dredger "Tianjing" delivered], *China News*, January 19, 2010, accessed December 19, 2014, http://www.chinanews.com/gn/news/2010/01-19/2080822.shtml; "Yazhou zuida zihang jiaoxi wanichuan

huge capabilities, Beijing is able to add more implements to its sandbox. Before January 2014, the Chinese presence in the Spratlys only comprised of outposts made of concrete blockhouses perched atop seven coral atolls. Satellite images in late 2014 proved the impressive scale and speed of this extensive island building project.[11] Outposts on stilts grew from reef-based constructions into full islands, with two of them having lighthouses and three of them having airstrips.[12] None of Beijing's reclaimed lands have been tested by the elements, such as the area's periodic typhoons and rising sea levels. Rival airstrips built by Malaysia, Vietnam, and the Philippines in the 1970s and 1980s cannot compare with Beijing's in size or capabilities.[13] This again demonstrates the extent of China's will, resolve, and national capabilities, all in a long game played by Beijing's decision makers in this multi-layered competition.

What does China pursue in the SCS? How are the disputes framed in China's political discourse? In 2011, China published a white book titled *China's Peaceful Development*, in which six core national interests were articulated, with "state sovereignty" coming first.[14] But for Beijing, the South China Sea disputes are not only about sovereignty; they also concern "territorial integrity" (the third core component) and relations with southern neighbors and Taiwan. Beijing views the SCS not only as a concern of the country's territorial integrity; its image is also on the line. It wants neighbors to respect its growing capabilities, as well as its historical interests. To

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'Tianjinghao' jiaofu shiyong" [Asia's Largest Self-propelled Cutter Suction Dredger "Tianjing" Ready for Use], *Xinhua*, January 19, 2010, accessed December 19, 2014, http://www.tj.xinhuanet.com/2010-01/19/content_18809559.htm.

11 Victor Robert Lee, "South China Sea: China's Unprecedented Spratlys Building Program," *The Diplomat*, April 25, 2015, accessed January 2, 2016, http://thediplomat.com/2015/04/south-china-sea-chinas-unprecedented-spratlys-building-program/.

12 By February 2015, lighthouses had been erected on the Cuarteron and Johnson South reefs. The three reefs with airstrips built on them are the Fiery Cross, Mischief, and Subi reefs. Fiery Cross Reef is known as *Yongshu Jiao* in Chinese, *Kagitingan* in Filipino, and *Đá Ch Thp* in Vietnamese. Mischief Reef is known as *Meiji Jiao* in Chinese, *Panganiban* in Filipino, and *Đá Vành Khăn* in Vietnamese. Subi Reef is known as *Zhubi Jiao* in Chinese, *Zamora* in Filipino, and *Đá Xu Bi* in Vietnamese.

13 Beijing's reclaimed land is larger in acreage than all the other Spratlys claimants' natural territories combined. For more on Beijing's strategies, see Chunjuan Nancy Wei, "Beijing's Formidable Strategy in the South China Sea," *The Diplomat*, May 21, 2015, accessed January 9, 2016, http://thediplomat.com/2015/05/beijings-formidable-strategy-in-the-south-china-sea/.

14 These six "core interests" include the familiar "state sovereignty, national security, territorial integrity, and national unification (with Taiwan)." They also encompass the safety of China's political system and social stability, and conditions for sustainable economic and social development. For details, see Huang Huaguang and Luan Jianzhang, *The Roadmap of the 18th CPC National Congress and the Chinese Dream* (Beijing: Foreign Languages Press, 2013), 301-303.

safeguard these interests, Beijing advanced Lampton's three-pronged approach to enhance its comprehensive national power. The massive land reclamation project was a test of the shrewd effectiveness of this three-pronged strategy.

On a different level, China seems driven to expand because of perceived injustices related to the international settlement of its maritime territories at the San Francisco Peace Conference of 1951. In Beijing's perspective, China had fought the Japanese longer than any other state; they suffered the highest level of casualties and destruction compared to anywhere else in Asia, which left in its wake such tragedies as the Nanjing Massacre and Unit 731, the Imperial Japanese Army's horrible human experiment for biological weaponry.[15] Thanks to the Korean War, however, China—already divided into two hostile governments a year before the war started—was not invited to the post-WWII settlement dealing with legal matters concerning Japan's surrender, of which the SCS was a part. In fact, neither of the Chinese governments across the Taiwan Strait had been given an invitation; the Republic of China (ROC, then in Taipei) concluded a separate Treaty of Peace with Japan in 1952, implicitly returning Taiwan and Penghu, as well as the Spratlys and the Paracel Islands, to Taipei.[16] Western powers established the East Asian order in China's absence, a result that Beijing has refused to accept then and now. Designed by the United States, the San Francisco Peace Treaty purposefully left Asian frontier territories without owners, partially responsible for most of Asia's territorial disputes.[17] "It would be totally unfair to ask China to give up its legitimate rights and give in to the unjustifiable demands of certain parties,"[18] Chinese Ambassador Cui Tiankai said in a keynote speech at Washington. He warned against any "illusion" that a unilateral status quo could be imposed upon China. That statement does not mean that China wanted to go to war over the rocks. Rather, Beijing prefers disputes be handled directly by the countries involved

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15 To read more on the perceived unfairness of the Tokyo trial and its consequences, see Jerry Delaney, "Hiroshima, My Father, and the Lie of U.S. Innocence," *Foreign Policy*, May 9, 2016, accessed May 12, 2016, http://foreignpolicy.com/2016/05/09/the-japanese-war-crime-trials-and-the-lie-of-u-s-innocence-hiroshima-bombing/.

16 For details, see "Treaty of Peace between the Republic of China and Japan," signed at Taipei, April 28, 1952, accessed January 12, 2016, http://www.taiwandocuments.org/taipei01.htm.

17 Kimie Hara, *Cold War Frontiers in the Asia-Pacific* (Routledge, 2012); John Price, "A Just Peace? The 1951 San Francisco Peace Treaty in Historical Perspective," *JPRI Working Paper*, No. 78, June 2001, accessed January 2, 2016, http://www.jpri.org/publications/workingpapers/wp78.html.

18 "China's Activities in South China Sea Good for Maintaining Security, Navigation Freedom: Ambassador," *English.news.cn*, April 17, 2015, accessed January 8, 2016, http://news.xinhuanet.com/english/2015-04/17/c_134160336.htm.

without participation of extra-regional countries like the United States.

However, Beijing's claim and actions pitted it directly against several of its neighbors, including Brunei, the Philippines, Malaysia, Indonesia, and Vietnam. These messy claims have also dragged China into rows with several extra-regional powers that use the sea-lanes as international trading routes, including Japan, Australia, and the United States, who support a multilateral negotiation under the framework of the UNCLOS. Since America's pivot to Asia policy in 2011, a policy designed to counter Beijing's growing ambition in the region, these differences have proven an obstacle for China's efforts at foreign policy with not only the nations involved, but with the global community as well. The following sections will review Beijing's relations with each of its neighbors on a regional level. Analysis of the nuanced stances of both major and minor players will follow.

Regional Disputes: Divergent Responses to China's Assertiveness

Malaysia: Passive and Cooperative, to an Extent

Malaysia is an island nation in the South China Sea, whose claim to the SCS came later than China's and is based on the UNCLOS, which came into effect in 1994. To China's distress and relief, Malaysia claims 11 features in the SCS, half of which Kuala Lumpur has physically occupied. Out of the rest, three remain unoccupied; Malaysia disputes with Beijing, Hanoi, and Manila on three additional reefs.[19] The existence of multiple claimants means that it is possible for China to maintain a non-zero-sum relationship with Malaysia.

Of the dozen features, the most valuable to Malaysia is the Swallow Reef (Pulau Layang Layang), being the eleventh largest natural feature among the Spratly Islands, where Kuala Lumpur conducted reclamations by shipping earth to build an airstrip, a hotel, and a scuba diving resort.[20] The main bones of contention between China and Malaysia are in two areas:

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19 The five features under Malaysian control include Ardasier (*Guangxingzai Jiao*), Dallas (*Guangxing*), Mariveles (*Nanhai*), Royal Charlotte, and Swallow (*Danwan*) reefs. The Erica, Investigator, and Luconia reefs are claimed by Malaysia but are unoccupied. The Commodore (Rizal) Reef is occupied by the Philippines but disputed by Malaysia and China. The Amboyna Cay (the thirteenth largest natural feature among the Spratly Islands, with a lighthouse built in 1995) and the Braque Canada Reefs are occupied by Vietnam but disputed by Malaysia, the Philippines, and China.

20 Ralf Emmers, *Geopolitics and Maritime Territorial Disputes in East Asia* (New York: Routledge, 2010), 74.

the James Shoal and the South Luconia Shoals, both important to Chinese nationalists. They were also included in the initial list of the SCS features published by Chiang Kai-shek's Republican government in 1935.[21] The Chinese textbooks in both Taiwan and Mainland China have identified the James Shoal (called *Zengmu Ansha* in Chinese), a submerged feature just north of the Malaysian coast, as China's southern-most point of "territory." The Chinese navy visited the shoal in May 1983 and again in 1994.[22] In recent years, it has conducted high-profile patrols and exercises off the James Shoal, one of the most prominent being in 2013.[23] The South Luconia Shoals (*Nankang Ansha*) have become important, because a mini-island of 30x8x3 meters has formed naturally in recent years. Strategically significant and unoccupied, the Luconia Breakers (Hempasan Bantin in Malaysian, and *Qiongtai Jiao* in Chinese) is about 100 kilometers north of the James Shoal and coveted by Chinese netizens, who viewed the islet as China's "southern-most territory" and called for effective occupation to establish a foothold in the region.[24] At the time of writing, Beijing has refrained from doing so, fearing the move could worsen its relations with Malaysia. A scholar noted that since January 2013, Beijing has maintained a near permanent presence in the region, which is extraordinary in the PRC's history of using maritime law enforcement ships to advance its claims.[25] Yet, it is precisely in this area that Kuala Lumpur has extensive economic and security interests: it runs active oil and gas operations, including the Central Luconia Gas Field. [26]

Unlike Hanoi and Manila who are vocal and aggressive in defending their claims, Kuala Lumpur has adopted "a more nuanced strategy, courting China while also preparing for the worst."[27] On one hand, China has been

21 For a story on how the list was made and its relation to the dashed line of 1947, see Bill Hayton, *The South China Sea: The Struggle for Power in Asia* (New Haven: Yale University Press, 2014), 55-56.

22 Hayton, *The South China Sea*, 80.

23 Andrew Chubb, "Luconia Breakers: China's New 'Southernmost Territory' in the South China Sea," *South Sea Conversations Blog,* June 16, 2015, accessed February 2, 2016, https://southseaconversations.wordpress.com/2015/06/16/luconia-breakers-chinas-new-southernmost-territory-in-the-south-china-sea/.

24 Chubb, "Luconia Breakers."

25 "China's Navy Has Edge Over US Through Sheer Weight of Numbers in Dispute Over South China Sea, Say Analysts," *South China Morning Post*, October, 30, 2015, accessed March 10, 2016, http://www.scmp.com/news/china/diplomacy-defence/article/1874043/chinas-navy-has-edge-over-us-through-sheer-weight.

26 Chubb, "Luconia Breakers."

27 Phoebe De Padua, "Malaysia's New Engagement on the South China Sea," cogitASIA, December 18, 2013, accessed January 2, 2016, http://cogitasia.com/malaysias-new-engagement-on-the-south-china-sea/.

Malaysia's biggest trading partner since 2009. Two-way trade has exceeded $100 billion annually, and Malaysia earns $20 billion in trade surplus.[28] The Southeast Asian nation has signed onto Beijing's "Silk Road" initiatives and is a founding member of the Beijing-led Asian Infrastructure Investment Bank (AIIB).[29] Malaysians also view China most favorably compared to their other neighbors. In 2014, a Pew survey found that 74 percent of Malaysians and 66 percent of Indonesians viewed China favorably, while only 38 percent of Filipinos and 16 percent of Vietnamese did so.[30] Yet, with disputes over the Luconia Shoals heating up, and the deputy Prime Minister calling for a more aggressive response to China's maritime incursions, Malaysian businesses could grow suspicious of China's maritime intentions. In an attempt to lessen tensions, China has pledged to increase investment in Malaysia and has attempted to distract the latter from the issue by flaunting the benefits of the "Silk Road."[31]

In this multifaceted relationship, Malaysia has more than the SCS disputes to worry about in regards to its relationship with China. On the other hand, as stated above, Beijing is not Malaysia's only concern in the territorial disputes. Malaysia has other nations to worry about when it comes to the SCS disputes, because rivals like the Philippines and Vietnam also have disputes with Kuala Lumpur. As stated by Malaysia's defense minister at a meeting of ASEAN, "enough level of trust" existed between Beijing and Kuala Lumpur. The minister even warned other ASEAN ministers who tried to build a united front against China that "just because you have enemies doesn't mean your enemies are my enemies."[32] China and Malaysia held their first joint military exercises in 2014. The latter even allowed Beijing

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28 "China Retains as Malaysia's Largest Trading Partner in 2015," *Xinhua*, February 5, 2016, accessed May 11, 2016, http://news.xinhuanet.com/english/2016-02/05/c_135078498.htm; "Malaysia to Benefit from China's Maritime Silk Road," *The Star*, June 23, 2015, accessed May 11, 2016, http://www.thestar.com.my/business/business-news/2015/06/23/malaysia-to-benefit-from-chinas-maritime-silk-road/.

29 "Malaysia's Ambassador to China Signed the Articles of Agreement of the Asian Infrastructure Investment Bank (AIIB)," AIIB webpage, August 21, 2015, http://www.aiib.org/html/2015/NEWS_0821/14.html.

30 "Chapter 2: China's Image," *Pew Research Center*, July 14, 2014, accessed March 2, 2016, http://www.pewglobal.org/2014/07/14/chapter-2-chinas-image/.

31 "Malaysian Deputy PM: We Must Defend Sovereignty in South China Sea Dispute," *Newsweek*. November 14, 2015, accessed March 12, 2016, http://www.newsweek.com/malaysian-deputy-pm-we-must-defend-sovereignty-south-china-sea-dispute-394421.

32 Sharon Chen, "Malaysia Splits with ASEAN Claimants on China Sea Threat," *Bloomberg*, August 29, 2013, accessed March 18, 2016, http://www.bloomberg.com/news/articles/2013-08-28/malaysia-splits-with-other-asean-claimants-over-china-sea-threat.

to use one of its facilities at Kota Kinabalu.[33] Malaysia's low-key approach draws sharp contrast to that of its northeastern neighbor.

Philippines: Weak, but Vocal and Aggressive

While Malaysia has remained cooperative in regards to the disputed area, Beijing's relation with the Philippines seems far more tenuous. Since the 1970s, Manila has continuously occupied Thitu Island, on which it has built an airstrip, a military garrison, and a small thriving town, with hospitals, schools, and even a kindergarten.[34] Headquartered in the Thitu, the second largest natural island in the Spratlys, Manila named its holdings collectively as the Kalayaan Island Group (KIG).[35] Combined, it occupied the largest total area in the Spratlys (prior to China's massive reclamation). Upon losing the Mischief Reef (unoccupied then) to China in 1995, Manila occupied the neighboring Second Thomas Reef in 1999, completing its ninth holding in the region. Starting from 2011, it officially refers to the South China Sea as the "West Philippine Sea."

Today the Kalayaan is viewed by some as "the submerged Saudi Arabia of the Philippines," implying its richness in oil and gas potential.[36] Manila is actively defending its hold through a combination of military, diplomatic, and legal means. The Achilles heel to the Philippine strategy is its relatively weak military power vis-à-vis China, which can be seen from the Scarborough Shoal incident of 2012. With its newly acquired second-hand warship from the US Coast Guard, Manila had aimed to cement its control in the disputed "West Philippine Sea." Despite that, the country is militarily

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33 Prashanth Parameswaran, "Malaysia, China Begin First Joint Military Exercise," *The Diplomat,* December 24, 2014, accessed November 11, 2015, http://thediplomat.com/2014/12/malaysia-china-begin-first-military-exercise/.

34 "China Wants PH to Vacate Pag-asa Island: Analyst," *ABS-CBN News,* May 07 2015, accessed May 10, 2016, http://news.abs-cbn.com/nation/05/07/15/china-wants-ph-vacate-pag-asa-island-analyst; Eric Campbell, "Reef Madness," *ABC* [Australian], May 20, 2014, accessed March 21, 2016, http://www.abc.net.au/foreign/content/2014/s4008035.htm.

35 In 1978, President Ferdinand Marcos annexed eight islands to create the Kalayaan (Freedomland) Municipality under the Province of Palawan. Thitu Island, known in the Philippines as Pag-asa, is outside its 200 nm exclusive economic zone (EEZ). However, the status of the Kalayaan is challenged by both China and Vietnam. A 2014 analysis published by the Center for Naval Analyses in Washington found that two islets in the KIG—Thitu (Philippine name: Pagasa) and Loaita (Philippine name: Kota)—were the legal property of Vietnam; Mark E. Rosen, "Philippine Claims in the South China Sea: A Legal Analysis," *CNA*, August 2014, https://www.cna.org/CNA_files/PDF/IOP-2014-U-008435.pdf.

36 Campbell, "Reef Madness."

unprepared. Funded by the Department of Energy rather than the National Defense, the BRP Gregorio del Pilar warship[37] was deployed and tasked to protect the country's fishing and oil interests. Yet, only a couple days into the standoff with Chinese maritime surveillance vessels in the Scarborough Shoal, the warship had to be withdrawn, possibly because of depletion of fuel.[38] There were also reports on misuse of military funding.[39] Eventually, Manila had to accept a humiliating retreat from the Scarborough Reef.

The other confrontation occurred in the Second Thomas Reef (Ayungin in the Philippines; *Ren'ai* in China). Strategically important, the Ayungin sits halfway along a vital supply route from Palawan to Thitu, and to the oil-rich Reed Bank. Unlike other KIG islands, the cash-strapped Manila has not built any structures on the reef, and a dozen soldiers guard the reef aboard a deliberately grounded former US cargo ship that serves as a base.[40] In 2013, Beijing sent fishing vessels and warships to the area to frustrate the Philippine effort to strengthen the rusting and sinking ship.[41]

Unlike Kuala Lumpur, however, Manila has been far more proactive in staring down China by legal means. Beijing's assertiveness emboldened Manila to seek adjudication on the nature of China's SCS claims from the Hague-based International Tribunal for the Law of the Sea (ITLOS).[42] Expressing its disinterest, China refused to join the arbitration case and warned that Manila's approach could backfire. Despite the limitation stated on its website that "the Tribunal has no means of enforcing its decisions,"[43] the ITLOS' willingness to hear the case constitutes a blow to China.[44] Beijing

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37 Named after its "Boy General" who died at the Battle of Tirad Pass during the Philippine Revolutionary War, the BRP Gregorio del Pilar warship was meant to be the vanguard in Manila's confrontation with other claimants in the region; Joel C. Atencio, "Introducing: PHL Navy's Cutter BRP 'Gregorio del Pilar'," *U.S. News*, May 16, 2011, accessed May 18, 2012, http://www. usnewslasvegas.com/national/introducing-phl-navys-cutter-brp-gregorio-del-pilar/.

38 "Philippines 'Withdraws Warship' amid China Stand-off," *BBC*, April 12, 2012, accessed May 11, 2016, http://www.bbc.com/news/world-asia-17686107; Rigoberto Tiglao, "Scarborough Fail: How Aquino Blew it," *The Inquirer*, May 3, 2012, accessed May 11, 2016, http://opinion.inquirer. net/27985/scarborough-fail-how-aquino-blew-it.

39 Atencio, "PHL Navy's Cutter BRP 'Gregorio del Pilar.'"

40 Campbell, "Reef Madness."

41 Jeff Himmelman, "A Game of Shark and Minnow," *New York Times*, October 27, 2013, accessed May 10, 2016, http://www.nytimes.com/newsgraphics/2013/10/27/south-china-sea/.

42 Haryo Budi Nugroho and Damos Dumoli Agusman, "Why South China Sea Arbitration Matters," *The Malaysian Insider,* December 6, 2015, accessed January 12, 2016, http://www. themalaysianinsider.com/sideviews/article/why-south-china-sea-arbitration-matters-damos-dumoli-agusman-and-haryo-budi.

43 "General Information," *International Tribunal for the Law of the Sea*, accessed March 14, 2016, https://www.itlos.org/general-information/.

44 Jane Perlez, "In Victory for Philippines, Hague Court to Hear Dispute Over South China

has often worked to solve such disputes bilaterally, so the Philippines' decision to forgo negotiations in favor of a legal approach stands practically as an insult to the Chinese government. The Philippines has even taken it a step further, and requested military aid from the United States, in order to strengthen its position in the SCS. Filipinos have requested that the US provide satellite data of the region and provide enough of a presence to discourage China from interfering in their naval operations.[45] Apparently, China has attempted to block Philippine ships during troop rotations in the past.[46] The dispute between the two sides has reached a point where neither Beijing nor Manila seems willing to negotiate further. With an ongoing legal case over the standing of islands both natural and manmade, as well as the Philippines seeking aid from military allies, Sino-Philippine relations have been drastically damaged. Chinese Foreign Minister Wang Yi has said that it would be up to the Philippines to fix the relations.[47]

Indonesia: Confused But Resolute

Taking a more measured approach, Indonesia stands somewhere in between Malaysia and the Philippines in its response to China's claim. This stance is mostly due to confusion over whether or not Indonesians actually have a dispute with China. Indonesia controls the Natuna Islands, which do not fall into China's dashed line, but their waters could overlap with the range of China's claim. Indonesia requested Beijing to clarify its dash line claims. China responded that the Natuna Islands belong to Indonesia, and that its status is not under dispute.[48] This public statement was intended to

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Sea," *The New York Times,* October 30, 2015, accessed May 10, 2016, http://www.nytimes.com/2015/10/31/world/asia/south-china-sea-philippines-hague.html?_r=0.

45 Franz-Stefan Gady, "Philippines Asks for US Military Assistance in South China Sea," *The Diplomat*, August 31, 2015, accessed November 11, 2015, http://thediplomat.com/2015/08/philippines-asks-for-us-military-assistance-in-south-china-sea/.

46 Ibid.

47 Sui-Lee Wee and Manuel Mogato, "China Says Philippines Must Heal Rift Over South China Sea as Indonesia Speaks Out," *Reuter,* November 11, 2015, accessed May 10, 2016, http://www.reuters.com/article/us-southchinasea-china-philippines-idUSKCN0T007F20151111; Hong Zhao, "Sino-Philippines Relations: Moving Beyond South China Sea Dispute?" *Journal of East Asian Affairs,* 2012, 57-76; Emma Kingdom, 2015, "A Case For Arbitration: The Philippines' Solution for the South China Sea Dispute," *Boston College International and Comparative Law Review, 129-157*.

48 In response to a question, Chinese foreign ministry spokesperson responded that "the Indonesian side has no territorial claim to China's Nansha [Spratly] Islands, and the Chinese side has no objection to Indonesia's sovereignty over the Natuna islands." See Zhu Xi, "China Holds No Objection to Indonesia's Sovereignty Over Natuna Islands," *People's Daily Online*, November 13,

clear all misperceptions between Beijing and Jakarta.

In the lead up to the clarification, Indonesia wanted to approach the issue from a point of strength. The first step Jakarta undertook was to increase naval patrols to the Natuna Islands, which served as a reminder to China that mistrust existed. Its next step was asking Beijing to make a clearer statement specific to the Natuna Islands. By asking for clarification, Indonesia prevented China from hiding behind ambiguous wording in regards to the dispute. If China stated clearly that the islands belong to Indonesia, then the problem would be easily resolved. If not, the following step, which Indonesia has already expressed a willingness to pursue, would have been to follow the Philippine example and use legal means to counter China's claim.[49] As with Manila, resorting to legal means would likely sour relations with China; however, if Beijing failed to provide a definitive answer, the relationship may have become more strained. With one case already coming before an international tribunal, China may not have wanted to risk a second. Letting a second dispute appear in court would greatly hurt China's image, especially if the Chinese refused to be part of it. Alienating a second neighbor in the region may be enough to turn others against Beijing. At the very least, it would likely push the two to work together to counter China's spreading influence.

If the Natuna Islands were not an issue, as verified by Beijing, and Indonesia and China appear to have a joint understanding of the situation, how could the two countries have locked into one of the most serious conflicts after a Chinese law enforcement ship rammed into an Indonesian vessel, causing a diplomatic crisis in March 2016? The answer is two-fold: the unclear maritime economic zone between the two countries coupled with Indonesia's vigorous policy of scuttling ships. The area where the conflict occurred was "traditional Chinese fishing ground," which is linked to China's controversial nine-dashed line claim. Under President Joko Widodo, all ships confiscated for illegal fishing were to be destroyed. It was believed that the Chinese Coast Guard rammed to prevent the vessel from being

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2015, http://en.people.cn/n/2015/1113/c90000-8975641.html; Miles Yu, "Et tu, Jakarta?" *Washington Times*, November 19, 2015, accessed January 2, 2016, http://www.washingtontimes.com/news/2015/nov/19/inside-china-china-concedes-natuna-islands-to-indo/?page=all; Steve Mollman, "Indonesia is the Next Challenger to Beijing in the South China Sea," *Quartz,* November 12, 2015, http://qz.com/547796/indonesia-may-be-the-next-challenger-to-beijing-in-the-south-china-sea/.

49 Sara Schonhardt and Ben Otto, "Indonesia Invokes International Tribunal in South China Sea Dispute," *The Wall Street Journal,* November 12, 2015, accessed January 2, 2016, http://www.wsj.com/articles/indonesia-invokes-international-tribunal-in-south-china-sea-dispute-1447260065.

confiscated and destroyed by Indonesian authorities.[50] Further, Indonesian buildup of a military presence in the Natuna Islands could also lead to future confrontations with China or other SCS neighbors.

Brunei: Quiet and Peaceful

Being the smallest and youngest, yet richest, nation among the SCS disputants, Brunei's geography renders its exclusive economic zone extremely important for its trade with the rest of the world.[51] Gaining independence from Great Britain in 1984, Brunei inherited the British-drawn boundaries in the SCS. Unlike other nations involved in the SCS disputes, Brunei has the smallest jurisdictional claim in the Spratlys and has been almost completely silent. Brunei claims jurisdiction over Louisa Reef (Chinese name *Nantong Jiao*), but it has not occupied the feature. The unclear status of Louisa Reef—whether it is an island, a rock, or a low tide elevation—could determine whether it has a valid claim with China. Louisa Reef was under Malaysian control, but in 2009 Brunei and Malaysia signed a treaty in which the latter dropped its claim.[52] However, China's dashed line overlaps with a large portion of Brunei's maritime boundary claim, and both nations claim the Louisa.[53] Brunei's claim overlaps with that of Vietnam and China, both nations having shown a willingness to use military means to defend their claims. Brunei has made no effort to resolve the dispute with either claimant. It is possible that any such efforts have taken place behind closed doors, hidden from the public and the media.

Perhaps Brunei sees the conflicting claims of those two nations as more pressing than its dispute with China and has chosen to ignore China for the time being. Similarly conceivable is that Brunei has chosen not to make a public outcry over the dispute because of its inability to defend itself should China or Vietnam resort to military means. Brunei has maintained close relations with foreign powers, including its former colonial master the

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50 Joe Cochrane, "China's Coast Guard Rams Fishing Boat to Free It From Indonesian Authorities," *New York Times*, March 21, 2016, http://www.nytimes.com/2016/03/22/world/asia/indonesia-south-china-sea-fishing-boat.html?_r=0.

51 Kallol Bhattacherjee, "India, Brunei Discuss South China Sea Dispute," *The Hindu*, February 3, 2016, accessed April 2, 2016, http://www.thehindu.com/news/international/india-brunei-discuss-south-china-sea-dispute/article8185345.ece.

52 J. Ashley Roach, "Malaysia and Brunei: An Analysis of their Claims in the South China Sea," *CNA Analysis & Solutions*, August 2014, accessed May 9, 2016, https://www.cna.org/CNA_files/PDF/IOP-2014-U-008434.pdf.

53 Ibid.

United Kingdom and the United States, the latter of which has provided Brunei with security in the region.[54] As long as China is weary of foreign involvement in the regional disputes, it likely will not attempt to force the issue with such a small nation, especially when other disputes in the region are more volatile.

Vietnam: Adamant and Armed

Of all the claimants, China has the most to lose to Vietnam if the latter were to gain what it seeks. With both claiming the Paracel and Spratly groups, Beijing and Hanoi have engaged most violently by far. Two naval skirmishes in 1974 and 1988 concluded with the Vietnamese losing their foothold on six features in the Spratlys, in addition to the western half of the Paracels.[55] In May 2014, China moved an oil rig in the Paracels, which quickly led to small confrontations and deadly rioting in Vietnam.[56] The incident may have contributed to the heightened unfavorability of China to the Vietnamese, as captured by a Pew survey. As stated previously, the Vietnamese view the Chinese least favorably. In 2014, the same Pew research found that 71 percent of Vietnamese viewed China's growing economic might as a bad thing for their country, compared to 57 percent of Filipinos, 28 percent of Indonesians, and only 8 percent of Malaysians.[57]

In October 2015, Hanoi accused Beijing of sinking one of its fishing boats near the Paracel Islands. It was apparently the twentieth such incident that year, and while no one was killed, it was just one more instance of hostility between the two communist neighbors.[58] The fishing boat was sunk on September 29, 2015, before Hanoi's authorization of its Coast Guard to use live weapons to keep foreign incursions out of its self-designated

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54 "Brunei Maintains a Low Profile in Pressing Its South China Sea Claims," *World Politics Review,* January 28, 2016, accessed April 29, 2016, http://www.worldpoliticsreview.com/trend-lines/17799/brunei-maintains-a-low-profile-in-pressing-its-south-china-sea-claims.

55 Hayton, *The South China Sea*, 73-77; 82-84. For a YouTube video featuring the 1988 conflict, see "China vs Vietnam: Johnson South Reef Skirmish of 1988," published on June 1, 2012, accessed May 11, 2016, https://www.youtube.com/watch?v=uq30CY9nWE8.

56 Trung Nguyen, "Vietnam to Visiting Xi: Don't 'Militarize' South China Sea," *Voice of America,* November 15, 2015, accessed January 2, 2016, http://www.voanews.com/content/chinese-presidetn-mends-fences-in-vietnam/3037906.html.

57 "Chapter 2: China's Image," *Pew Research Center*, July 14, 2014, accessed January 2, 2016, http://www.pewglobal.org/2014/07/14/chapter-2-chinas-image/.

58 Frances Martel, "Report: Chinese Ship Sinks Another Vietnamese Fishing Vessel in South China Sea," *Breitbart,* October 16, 2015, accessed April 9, 2016, http://www.breitbart.com/national-security/2015/10/16/chinese-ship-sinks-another-vietnamese-fishing-vessel-in-south-china-sea/.

borders went into effect on October 20.[59] After a year of being harassed, Vietnam stated its intent to respond with potentially lethal methods. The size difference between the two navies is drastic, but having fought the French and the Americans, Vietnam is famous for defying overwhelming odds. Now that geopolitics has brought the US and Vietnam together, and with US aid in terms of modern weapons and ships, such a battle could be devastating for the two communist states. In fact, with Vietnam's recent military purchases from the US and Russia, Hanoi does not expect the confrontations to end any time soon.

Unlike other nations involved in SCS disputes with China, Vietnam asked China "not to militarize"[60] the "East Sea," its preferred name for the SCS and authorized a military response toward further encroachments. The violent protests against China took place in Vietnam in the wake of Chinese ships hitting Vietnamese vessels and forcing the placement of an oil rig within the disputed waters. Violent disputes like these hurt China's image whether or not they end well. Losing to Vietnam would destroy Beijing's claims in the region. A devastating victory would ruin China's international reputation, painting it as nothing more than a violent bully in the eyes of the international community. A drawn out confrontation risks having others join Vietnam's side, further tarnishing China's chances in the disputes and its international standing.

Vietnam seems poised to force a violent confrontation over its dispute with China. The risk that such a confrontation could hurt China is quite high. The only real option is to work out a peaceful resolution and negotiate an outcome that prevents bloodshed. However, any such agreement will likely require conceding much of its claim to Vietnam, which would encourage other nations to push for similar agreements. This dispute, more than any other local disputes, has the potential to cause huge complications for Chinese foreign policy. The Chinese do not seem to have real good options. Giving in would weaken all of their claims elsewhere, going to war could ruin their efforts across the planet, and trying to ignore the problem risks playing into Vietnam's hands. Stuck in a very precarious position, China has to navigate its way carefully if it wants to achieve its stated goals.

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59 Steve Miller, 2015, "Asia News Weekly - Vietnam Authorized Weapons Use in the South China Sea and Other Regional News," *Japan Today,* September 18, accessed January 2, 2016, http://www.japantoday.com/category/podcast/view/asia-news-weekly-vietnam-authorized-weapons-use-in-the-south-china-sea-and-other-regional-news.

60 Nguyen, "Vietnam to Visiting Xi," 2015.

Regional Organizations and Extra-Regional Powers

ASEAN: In Disarray

The ASEAN, an economic and political association of ten Southeast Asian countries all trading with China, Japan, and the United States, includes all five previously analyzed nations. Of the ten-country group, Malaysia is China's largest trading partner.[61] Normally, when ASEAN meets, Southeast Asian defense officials meet as well, and a joint declaration is issued regarding regional security. Operated in the so-called "ASEAN way," the organization has survived nearly 50 years of integration, playing a leading role in politico-economic affairs, as well as in regional security. At a past meeting in October 2015, however, no such declaration was made, thanks entirely to disagreement among ASEAN members on whether to mention the SCS disputes in the declaration.[62] These disputes have marred what was otherwise meant to be a show of unity and peace. The fact that defense leaders found themselves unwilling to make a declaration speaks volumes about how important China's neighbors view the issue. China could try to blame the US and Japan for the missing declaration, and in fact was doing just that, but that does not take away from the fact that it was the ASEAN members who chose to stay silent rather than let the issue become highly visible.[63]

China hopes to turn the ancient Silk Road into modern-day prosperity trade routes that would run from Europe all the way to China, before branching off across the sea to numerous maritime neighbors. Evidently, the South China Sea spat has served to split Asia into pro-Washington and pro-Beijing camps becoming a roadblock for Beijing in improving its relationships with neighbors. It is no surprise that in the pro-US camp are all the Southeast

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61 "China retains as Malaysia's largest trading partner in 2015," *Xinhua*, February 5, 2016, accessed May 11, 2016, http://news.xinhuanet.com/english/2016-02/05/c_135078498.htm.

62 Yeganeh Torbati and Trinna Leong, "ASEAN Defense Chiefs Fail to Agree on South China Sea Statement," *Reuters,* November 4, 2015, accessed January 2, 2016, http://www.reuters.com/article/us-asean-malaysia-statement-idUSKCN0ST07G20151104.

63 Torbati and Leong, "ASEAN Defense Chiefs Fail to Agree on South China Sea Statement;" Prashanth Parameswaran, "China Blocked ASEAN Defense Meeting Pact amid South China Sea Fears: US Official," *The Diplomat,* November 4, 2015, accessed January 12, 2016, http://thediplomat.com/2015/11/china-blocked-asia-defense-meeting-pact-amid-south-china-sea-fears-us-official/; "ASEAN Talks End without Statement amid South China Sea Row," *BBC,* November 4, 2015, accessed January 2, 2016, http://www.bbc.com/news/world-asia-34718196.

Asian claimants in the SCS, along with Japan and Australia.[64] The row also provided an opportunity for Washington to host its first ever summit in California to draw the ASEAN members closer for its "pivot" to Asia, one of President Obama's most ambitious geopolitical projects. It was meant to reproduce the relaxed "shirt-sleeves summit" Obama had with Chinese leader Xi Jinping in 2013, but the Sunnyland meeting with a divided ASEAN did not seem very successful.[65]

Japan and Australia: Firm with the United States

Neither Japan nor Australia has territorial claims in the SCS; however, both have expressed belief in free travel through the region and rejected the legitimacy of China's claims. China has faulted Japan for "hyping up" the SCS tensions, while Tokyo and Canberra both accused Beijing of attempting to impede freedom of navigation (FON).[66] Both nations have well-developed economies and established themselves in the regional and global systems via alliances with the United States. Unlike some of the nations who are directly in dispute with China, Tokyo and Canberra host US military on their land and will not simply be cowed in the face of Chinese aggression. In September 2015, Japan adopted a security bill allowing its military to fight in overseas missions. Tokyo is also pondering the deployment of a Terminal High Altitude Area Defense (THAAD) system on its soil.[67] In the same month, China's military expert Colonel Li Jie complained about America's forward

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64 Hiroyuki Akita, "Sea Spats Splitting Asia into Pro-US, Pro-China Camps," *The Nikkei Asia Review*, November 25, 2015, accessed January 2, 2016, http://asia.nikkei.com/Politics-Economy/International-Relations/Sea-spats-splitting-Asia-into-pro-US-pro-China-camps.

65 Mark Landler, "An Asia Summit Meeting is Overshadowed by Scalia," *New York Times*, February 15, 2016, http://www.nytimes.com/2016/02/16/us/politics/an-asia-summit-meeting-is-overshadowed-by-scalia.html?_r=0; Marga Ortigas, "Questioning Obama's ASEAN Rebalancing Act," *Aljazeera*, February 21, 2016, accessed February 22, 2016, http://www.aljazeera.com/blogs/asia/2016/02/questioning-obama-asean-rebalancing-act-160221053234368.html.

66 Ian Storey, "Japan's Maritime Security Interests in Southeast Asia and the South China Sea Dispute," *Political Science,* 2013, 135–156; Shannon Tiezzi, "Can China Rebuild Its 'Special Relationship' With Malaysia?" *The Diplomat,* November 18, 2015, http://thediplomat.com/2015/11/can-china-rebuild-its-special-relationship-with-malaysia/; Brinda Banerjee, "South China Sea Raises Debates Between China, Australia," *Value Walk,* December 5, 2015, accessed January 2, 2016, http://www.valuewalk.com/2015/12/china-australia-hash-out-south-china-sea-concerns/.

67 "Deployment of U.S. Missile Defense System could Reshape Security in East Asia," *Japan Times*, February 8 2016, accessed May 11, 2016, http://www.japantimes.co.jp/news/2016/02/08/asia-pacific/deployment-of-u-s-missile-defense-system-could-reshape-security-in-east-asia/#.VzPjX2OwNSU.

deployment in Darwin, Australia, for targeting China in the SCS. While warning that Australia should not "follow the United States blindly," Li also said that the SCS was China's "backyard, [in which it] can decide what vegetables or flowers [it] want[s] to grow."[68]

The fact that China's SCS claim has involved ASEAN members and American allies demonstrates that China is doomed to be alone and lonely. China has a history of setting aside certain disagreements during negotiations and focusing only on the topic at hand. This method may no longer work in the SCS. The disputes do not really involve Japan or Australia, but both have exhibited willingness to participate in talks and negotiations with China. The two nations are not willing to simply back down when faced with threats or hostility. This allows those directly involved to do the same, knowing that larger countries readily support their stance.[69] A recent example was when Washington, Tokyo, and Manila concluded military exercises near the China-controlled Scarborough Shoal.[70] Ironically, this would make it even more difficult for neighboring countries to sit on the negotiating tables with Beijing. If the most powerful country and its allies were willingly backing them up, who would have incentives to make concessions? The eventual contest in East Asia is between China and the United States: Will the two superpowers clash or cooperate in their competition for wealth and power?

United States: Beijing's "Multiple Personalities"

With the rise of China, East Asia's existing alliance-based security order, molded by the United States in the 1950s, has been aggravated. Thanks to sequester at home and commitments in the Middle East, Washington's "pivot" to Asia—involving renewed diplomatic activity and military redeployment— has not proceeded smoothly. Most recently, the US and China have collided

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68 Lisa Murray and John Kerin, "Beijing Warns Australia Over Disputed South China Sea Islands," *Financial Review*, September 16 2015, accessed January 2, 2016, http://www.afr.com/news/world/china-building-airstrip-on-3rd-artificial-island-images-show-20150916-gjnucb#ixzz40j0gMDkB.

69 As explained on the Department of Defense website, "Activities conducted under the DoD FON Program are deliberately planned, legally reviewed, properly approved, and conducted with professionalism," (US Department of Defense Freedom of Navigation Program, Fact Sheet, March 2015, accessed January 25, 2016, http://policy.defense.gov/Portals/11/Documents/gsa/cwmd/DoD%20FON%20Program%20–%20Fact%20Sheet%20(March%202015).pdf).

70 Prashanth Parameswaran, "Japan, Philippines Hold First South China Sea Naval Exercises," *The Diplomat*, May 13, 2015, http://thediplomat.com/2015/05/japan-philippines-hold-first-south-china-sea-naval-exercises/.

over Beijing's reclamation because Washington is suspicious that Beijing's land development bears profound security implications. In reply, Washington dispatched naval destroyers and bombers to sail and fly over artificial islands in the Spratlys and Paracels, the latest time being near the Fiery Cross Reef.[71] To the United States, it was simply embracing the right to freely transit through international waterways, meant as a reminder that the US does not recognize Beijing's territorial claims. To China, it was a measured insult and a violation of its sovereign rights. There is no more blatant display of tensions than that. As far as both sides are concerned, the deliberate challenges and resistance worked.[72] Washington achieved its objective of sending a strong signal; Beijing demonstrated its resolve by building radars, runways, and deploying missiles and fighter jets to the islands.

To further complicate matters, citizens in China are growing tired of this constant bickering. "Stop Boasting and Fight" scream Chinese netizens.[73] Though they do not constitute a powerful enough force to truly push for war, the fact that people in China are unsatisfied with Beijing's response is cause for alarm. Many have taken to mocking the government for what they perceive as a weak response to American aggression. Yet on maritime encounters between Chinese and American shipmates, there does not seem to be much tension. Reports from US vessels state that in previous passes through, they had perfectly friendly conversations and interactions with their counterparts on Chinese ships. When speaking of a past encounter, the Chinese shipmates apparently told them: "Hey, we're not going to be with you anymore. Wish you a pleasant voyage. Hope to see you again."[74] Such differing reactions across the Chinese populations can only complicate matters for decision makers.

71   Michael Martina, Greg Torode, and Ben Blanchard, "China Scrambles Fighters as U.S. Sails Warship Near Chinese-claimed Reef," May 11, 2016, accessed May 12, 2016, http://www.reuters.com/article/us-southchinasea-usa-china-idUSKCN0Y10DM.

72   "Beijing's New South China Sea Airstrips a Potential Headache for Neighbors, U.S," *The Japan Times,* December 7, 2015, accessed January 2, 2016, http://www.japantimes.co.jp/news/2015/12/07/asia-pacific/beijings-new-south-china-sea-airstrips-potential-headache-neighbors-u-s/#.VmXRoPmDFBd.

73   Bethany Allen-Ebrahimian and Fergus Ryan, "'Stop Boasting and Fight'," *Foreign Policy,* October 27, 2015, accessed January 2, 2016, http://foreignpolicy.com/2015/10/27/china-south-china-sea-nationalism-united-states-navy-lassen/.

74   Yeganeh Torbati, "'Hope to see you again': China warship to U.S. destroyer after South China Sea patrol," *Reuters,* November 6, 2015, accessed February 21, 2016, http://www.reuters.com/article/us-southchinasea-usa-warship-idUSKCN0SV05420151106; Mohd Aminul Karim, "The South China Sea Disputes: Is High Politics Overtaking?" *Pacific Focus,* 2013, 99–119.

But there are issues deeper than simple artificial islands. Speaking at the Tokyo-based CSIS/Nikkei Symposium,[75] Richard Armitage, former US Deputy Secretary of State, likened China's policies to "multiple personality disorder." In his view, China bears three "personalities," a syndrome making it difficult for the United States to approach. Firstly, Beijing behaves like "a nation state in the finest Westphalian traditions" that defends fiercely its sovereignty and independence. China's second personality is the pursuit of "the interconnected global economy," manifested in the Belt and Road Initiatives. The last personality disorder is that China still sees itself as "an empire" entitled with special rights, in which Armitage alluded to China's behaviors in the South China Sea. To find a common ground with China, he believes that Washington has to deal with the three "syndromes" simultaneously. From its own perspective, Washington erroneously believed that "as more Chinese people became prosperous, there would be a liberalization of the political sphere, and that this would make China behave in a benign way on the world stage."[76] Instead, China proposed to the United States "a new model of major-country relationship,"[77] seeking to have the existing superpower respect its "core national interest" in the South China Sea, where it had built artificial islands to undermine Washington's credibility in the region.

Except for China, every nation involved in these disputes has security ties to the United States, which has publicly provided support and aid in numerous instances. Vietnam has purchased American weapons and ships, and both Indonesia and the Philippines have requested US aid or have purchased US military hardware.[78] Brunei, like others, has its own security relying on the US, and prosperity on China.[79] The FON operations are conducted in the area of a major trade route for the US, and keeping it open is in their national interest. Like it or not, China has to accept that the US is involved. As long as the issue remains, the success of any future

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75   The symposium was organized by the Center for Strategic and International Studies, a Washington think tank where Armitage serves as a trustee, and Nikkei Inc.

76   Shotaro Tani, "China's 'Multiple Personalities' Giving US Headaches, Says Armitage," *The Nikkei Asia Review*, November 24, 2015, accessed January 2, 2016, http://asia.nikkei.com/Politics-Economy/International-Relations/China-s-multiple-personalities-giving-US-headaches-says-Armitage.

77   China first included the South China Sea as part of its "core interest" in 2010. For more about the new major power relation concept, see Xi Jinping, *The Governance of China* (Beijing: Foreign Languages Press, 2014), 306-08.

78   Cochrane, "China's Coast Guard Rams Fishing Boat to Free It from Indonesian Authorities."

79   "Brunei Maintains a Low Profile."

Chinese dealings with the US becomes questionable. The US is unlikely to end its military presence in the area because of its own interests in regional leadership. Furthermore, the US only has more reason to maintain a presence when its regional allies keep requesting it, further increasing the risk of a violent outcome. A war between China and the US would be disastrous for both, as well as for the region. Two nuclear superpowers battling each other would devastate the entire region and risk pulling the rest of the world into conflict. Given the many friction points present, a war with a rising China in its vicinity would be easy to start, but difficult to conclude.

Conclusion

The overlapping claims to sovereignty in the South China Sea contribute to tensions involving a variety of stakeholders, with global political, military, and economic importance. As China's economic rise facilitates growing military capabilities, its neighbors are also experiencing their own rise in nationalism and military capability. Considering the complexity of the overlapping claims involved, increased use of the contested waters by China and its neighbors augment the risk that miscalculations by sea captains or political leaders could trigger an armed conflict in the region.

　　The United States no doubt finds the "expansionist" China a headache to deal with, given the "multiple personality disorder" syndrome articulated by Richard Armitage. Targeting China, President Obama declared at Sunnyland that his administration aimed at promoting a "shared vision of a regional order where rules and norms, including freedom of navigation, are upheld, and where disputes are resolved through peaceful, legal means."[80] So far the US has not been successful in achieving this goal.

　　The People's Republic seems to be playing games, with the apparent aim of reducing US presence in its neighborhood, while the US is trying to perpetuate the status quo. Violent conflicts benefit no players, and the new crop of ASEAN leaders have resisted becoming pawns in the game that the US and China are playing. China, a rising competitor with an arsenal of cash and guns, is ASEAN's largest trading partner, but Washington is able to exert a far superior sway in security-related issues over the ten-member bloc. The ground interactions in the SCS increasingly resemble a zero-sum geopolitical game between Beijing and Washington. The latter's security

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80   Landler, "An Asia Summit Meeting is Overshadowed by Scalia."

alliances could draw the United States into an unwanted conflict. America's traditional dominance and alliance structures in the region have heightened its role in the disputes.

This paper updates the competitive engagements between Washington and Beijing, as well as between Beijing and its SCS rivals, over the South China Sea. The analysis of various attitudes in the SCS issues indicates that the ASEAN members, minus Vietnam and the Philippines, see no reason to jump on the anti-China wagon. For East Asia's security, prosperity, and dignity, it is high time that the policy community in various Asian capitals contemplates diplomatic solutions to prevent further escalation of the SCS disputes. **Y**

INTERVIEW

THE NEXT CHAPTER IN US-ASIAN RELATIONS:
WHAT TO EXPECT FROM THE PACIFIC
Interview with Michael H. Fuchs

THE NEXT CHAPTER IN US-ASIAN RELATIONS: WHAT TO EXPECT FROM THE PACIFIC

Interview with Michael H. Fuchs

Michael H. Fuchs is a senior fellow at the Center for American Progress and a senior policy advisor at J Street. From 2013-2016 he served as Deputy Assistant Secretary of State for the US State Department Bureau of East Asian and Pacific Affairs, where he directed US policy regarding the South China Sea, regional security issues, and ASEAN. Mr. Fuchs also served as Special Advisor to the Secretary of State for Strategic Dialogues, Special Assistant to the Secretary of State, and a member of the secretary's policy planning staff from 2009 to 2013. Prior to joining the State Department, Mr. Fuchs served as deputy national security director for Hillary Clinton's 2008 presidential campaign and focused on foreign policy and energy and environment issues at the Center for American Progress. He co-authored, with Morton H. Halperin, The Survival and the Success of Liberty: A Democracy Agenda for U.S. Foreign Policy and is a graduate of Columbia University.

Y: Please briefly tell us what your current position as Senior Fellow at the Center for American Progress entails.

I primarily conduct research on issues related to US policy in East Asia, as well as a variety of other foreign policy issues, and write op-eds, long articles, and reports on issues in the South China Sea and regional institutions in Asia.

Y: You served in the State Department under Secretary of State Hillary Clinton for quite a few years, most recently as Deputy Assistant Secretary of State for Strategy and Multilateral Affairs in the Bureau of East Asian and Pacific Affairs. What led to your career in the State Department?

I've had a long time interest in foreign policy. I think it probably started with an interest in history and current events and trying to figure out how I could apply this interest to something that would help improve the world and help

people. I began to do internships in foreign policy organizations and it quickly became a passion and an obsession. After a series of jobs, one thing led to another and I got a dream job working at the State Department, which was a really fantastic experience.

Y: A deep level of mistrust has historically existed between the US and China. Given this context, is it possible that President Obama's "pivot to Asia" may actually be exacerbating the trust issues between the two countries?

I don't think that it's the policy of the Obama administration that is exacerbating certain issues. I'd take a step back first. I'd say that the relationship that the United States has had with China, even since normalization, has been a mixture of what we now would characterize as both cooperation and competition, and the areas in which we cooperate and compete have sort of ebbed and flowed over the years. Part of the Obama administration's rebalance policy, an essential part of it, has been to build strong ties with China. I think the Obama administration, the president himself, has repeatedly said publicly that we welcome China's rise and that a US-China relationship is essential, and so one of the priorities for the Obama administration has been to strengthen that relationship and make sure that it's positive. Now, obviously there are areas in which we have certain disagreements with China and some of those areas have without a doubt exacerbated in recent years. I believe that that is in large part, if not entirely in part, due to new behavior by China in certain realms. One of the most illustrative is the maritime disputes in the South China Sea. I think that for years, aside from the occasional flare-up and spat, the territorial disputes have been calm or stable, and that it's a series of activities that have exacerbated the situation. What the US is trying to do is to ensure that it can protect its interests and those of its allies and friends in the region. It's definitely true that as both sides take steps with respect to the maritime disputes, or some other areas as well in terms of regional policies, that both sides increasingly see one another as doing something that is inimical to their interests, and that of course enters you into a realm where you have a potential security dilemma. So it's not that one side is one hundred percent to blame or not, but it's increasingly a series of actions that China has been taking, and I think the US has been taking prudent, necessary steps to protect US interests.

Y: The use of the term "pivot" connotes an element of transition which inherently lacks a long-term outlook. How can the US move beyond the rebalance and what do you see as the next chapter in US-Asian relations?

I think this is the huge challenge going forward. It's often times easier in US foreign policy to talk about a policy initiative that is launched, has a series of steps undertaken to achieve it, and then it's done and wrapped up. I think the rebalance is an initiative of a whole different nature, and the goal here is to fundamentally rethink policy in the region in a way that enables the United States to be best positioned to take advantage of the opportunities, mostly economic, that engagement in the region affords us but, similarly to our conversation on China, be able to deal with the potential contingencies and challenges in the region. So it's a long-term endeavor. I think that's just a fact. There are different things, different aspects, different policies that are within the rebalance that could be undertaken as a next step/ next phase in a variety of different areas, but they're all part and parcel of the overall project, which is basically to recognize that we need to invest diplomatic, economic, and security resources, and time and energy into building relationships in the region and making sure that we're adapting to what is a rapidly changing region.

Y: The US has made the Trans-Pacific Partnership a key piece of its rebalance. Meanwhile, China and the Association of Southeast Asian Nations, many of whom are TPP signatories or potential members, have been negotiating the Regional Comprehensive Economic Partnership. Does the RCEP present a challenge to the TPP or can these two agreements coexist peacefully?

I'm not an economist, but my perspective on this is that these regional trade agreements can absolutely coexist. We have had for many years and decades a variety of regional and bilateral trade agreements, the United States has and countries in this region have, that have been overlapping with one another. Everyone in the region basically has a trade agreement with ASEAN, for instance. I don't think those necessarily had an overall negative effect. Growth has continued relatively rapidly in recent decades, in no small part because of these liberalizing regimes of trade in the region. So the RCEP and the TPP are different types of agreements and they can absolutely live together.

Y: Certain US presidential candidates have recently stirred up controversy on the Korean peninsula by demanding more financial compensation for the US troops stationed in the South and offering to open direct lines of communication with the North Korean leader Kim Jeong Eun. How realistic is the idea that these policy approaches may be implemented?

I will say first that I only speak for myself and I don't speak for any campaign or anybody other than myself. My view on this is that there is a very strong bi-partisan consensus in the US in support of our treaty alliances in Asia and around the world. Without a doubt, there are strains of thinking in the US, and there always have been, that pursue a much more isolationist approach to the world, but relatively consistently for at least the last 70 years, the US has been firmly committed to our allies, and to a very proactive and engaged role in the world. I believe that there will always be a vigorous debate within the US about the type of foreign policy we should pursue, and that frankly is a good thing. I do believe, regardless of whatever statements are being made right now that are critical of the alliances, that there is now and there will continue to be a broad-based bi-partisan level of support for alliances. With respect to North Korea, despite some comments, there is a very strong consensus in the United States for the current approach to North Korea, for pushing North Korea harder, and ensuring that we and others, like China, implement the recent [United Nation] Security Council sanctions. The offer of dialogue with the North Koreans has been on the table for a number of years now, but North Koreans just seem unwilling and uninterested in actually talking about the key issue, which is denuclearization.

Y: The Philippines recently elected a new president, Rodrigo Duterte, who has signaled his interest in closer relations with Beijing while also criticizing what he sees as a weak commitment from the US on South China Sea territorial disputes. How damaging are these statements to the US-Philippines alliance and will we see a shift in alignment from the Philippines?

We've obviously just had the election. President Duterte hasn't even taken office yet, so we need to wait and see what kind of policies he actually pursues when in office. He has also made statements in support of the US alliance, as well as statements defending vigorously the Philippines' claims in the South China Sea and its position. So I'd say two things: first, there is actually very broad-based support in the Philippines for the US-Philippines alliance. Public opinion polling in the Philippines is astronomical

in terms of support for the US, based on my last recollection of it, and the recent conclusion of the Enhanced Defense Cooperation Agreement is an important step forward. There is a vigorous debate in the Philippines, which is a healthy thing, but there is a broad base of support for the alliance and I don't think that that will change. With respect to the South China Sea, I absolutely hope that the Philippines continues its willingness to engage diplomatically with Beijing, as well as others, in the South China Sea. The US's interest is in peace and stability in the upholding of international law in the South China Sea. With respect to what President Duterte decides to do, my sense, based on my experience in Manila and in the Philippines, is that the issue of the South China Sea has become one, is one, that is an issue of nationalism, an issue of national pride and sovereignty, in addition to one of security. They are also having a very vigorous debate about what their policy should be with respect to the South China Sea. The US very much supports, as do I, the Philippines engaging in diplomacy with Beijing over it, but it needs to also ensure that they are protecting their own interests while they do that, which I think is part of what this arbitration case is about.[1]

Y: This month cyber officials from the US and China gathered for a Senior Experts Group in Washington to discuss state behavior related to cyber security. What are the biggest obstacles to overcome in tackling cyber security and how might they best be handled?

This is, obviously, an incredibly tough issue, not just between the US and China. The realm of cyber security, just as an issue in state-to-state relations and beyond, is relatively new. It's incredibly complex and it's presenting a wide variety of new challenges for states, for businesses, and for non-state actors of all stripes, and the issues that the US and China are having with one another are but one example of a very long, potentially increasing, list of challenges that we all face in the cyber security realm. So while the cyber security issue between the US and China has caused tension, and likely will continue to cause tension, the agreement that President Obama and President Xi struck last year on cyber security is a good step forward and a good example of how the two countries need to address this issue going forward. It doesn't mean they're necessarily going to see eye to eye on it, but I think they both recognize that this is the sort of issue that could get in the way of

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1   A United Nations arbitration court is currently deciding a case, brought by the Philippines in 2013, regarding whether or not China's actions in the South China Sea have violated UN conventions.

the overall relationship and that they both need to find ways to address it. Setting up the Expert Working Group and setting up the high level dialogue at the cabinet level with relevant ministers have been important components and mechanisms put in place to help the two sides be able to figure out how to deal with the more technical issues at play here, but it's going to continue to be an ongoing challenge. **Y**

REVIEW

AMERICAN DREAMS OF CHINA
Fateful Ties: A History of America's
Preoccupation with China:
Jordan DeWeger

AMERICAN DREAMS OF CHINA

Jordan DeWeger
Yonsei University

Gordon H. Chang, *Fateful Ties: A History of America's Preoccupation with China* (Cambridge: Harvard University Press, 2015); 314 pages; $32.95.

In recent years, the "Rise of China" has dominated discussions and preoccupied policymakers in the United States. China has drawn both the interest and ire of many Americans as it seemingly offers endless economic opportunities on the one hand, but significant threats to American interests and values on the other. In this vein, a plethora of books and articles have been written about the implications of China's rise for the United States and the rest of the world, many of which deem the United States and China to be on a "collision course."

In *Fateful Ties*, however, Gordon H. Chang resists this trend by delving into the rich history of US-China relations to provide a clearer picture of how and why America is so concerned with China today. Chang deftly weaves together a historical narrative of US-China relations and asserts that America's supposedly recent obsession with China is, in fact, not so recent. Indeed, Chang argues that since the founding fathers, and even well before them, China has held a special place in the imagination of Americans and continues to do so today.

To convey this overarching argument, the book utilizes a thematic framework with a chronological flow to trace how China has played a central role not only for US foreign policymaking, but for how Americans construct their own identity. Chang first contextualizes China's centrality in American history by linking European dreams of the Orient, punctuated by the search for a new route to the Far East by Columbus and others, to American convictions that China was "essential for America's fate." Yet according to Chang, Americans went beyond the "China mystique" of Europeans as "the idea of 'China' became an ingredient within the developing identity of America itself" and the national destiny of America "became ineffably linked to that of China."

Covering the eighteenth and nineteenth centuries, Chang skillfully interweaves the more familiar historical events and characters of American history with fascinating threads of Chinese influence and involvement. The dumping of Chinese tea at the Boston Tea Party, the image of Confucius next to Moses in the U.S. Supreme Court, and George and Martha Washington's collection of Chinaware are but a few interesting examples used to illustrate China's presence in American history.

After fleshing out how early Americans held glowing or glaring views of China and its material opportunities, Chang proceeds to highlight the spiritual connection between the US and China. It was the missionaries, not the military or merchants, who had "the most enduring effect on China and on Americans back home" as "millions of Americans formed their opinions about the Chinese for the next 100 years" based on missionary accounts of China. And despite the failure to convert significant numbers of Chinese to Christianity, it was the missionaries who helped create the "westernized, liberal, professional elite" that would shape China in the twentieth century. Politics between China and the United States, says Chang, followed only after missionaries and merchants. Compared to the European powers, American power in East Asia was limited before the twentieth century. This led the Chinese to assume that the United States "was a different sort of foreign power." Yet the early positive and equitable relations with China, symbolized by the Burlingame Treaty of 1868, began to deteriorate at the end of the nineteenth century. The ostensible moral high ground the United States occupied in its defense of an Open Door policy in China was actually more an ambiguous "mix of idealism and political calculation" that would shape American foreign policy for the next few decades. Chang highlights how Qing China's demise coincided with the United States' emergence at the turn of the century, as Americans asserted their political and economic interests in China by expanding across the Pacific and establishing the United States as a world power.

While necessarily engaging in "grand politics," Chang does not limit his analysis to political machinations but refreshingly details the numerous ways in which Chinese culture caught the attention of early Americans. Chinese arts and crafts, luxurious clothing, Chinese paintings, dinner ware, and even mahjong penetrated the daily lives of many Americans, not just the elites. American intellectuals "caught a China fever in the early twentieth century" and engaged deeply in Chinese learning. Chang's assertion that "the cultural turn toward Asia... was pronounced and formed an important part of America's abiding interest in China" adds another layer to US-China

relations that is often left out of the discussion.

The remaining section of *Fateful Ties* examines how wars and revolutions in the mid-twentieth century ushered in an era of chaotic, but evolving, relations between the United States and China. Using a variety of intriguing portraits of both well-known and obscure figures, Chang illustrates how Americans in China and at home perceived and portrayed China and its leaders. Chang cites former US ambassador to China, John Leighton Stuart, who, like other leading Americans, held an "abiding belief in the deep importance of China to America and that China could be remade in America's image." Through such figures, Chang argues that "the U.S. position had very little to do with any existing material stake in China but everything to do with America's attitude, developed over many years, of simultaneously coveting China and considering itself China's special protector and benefactor." This assumption once again points to the theme of the book: American attitudes toward China, not simply policies, are crucial to understanding US-China relations.

From 1949 to 1979, the United States and China lacked diplomatic relations, but Americans continued to hold "both nightmares and dreams" about China. Open and repeated threats to use nuclear weapons against the "Red and Yellow Peril" were contrasted by the praise given to revolutionary China by many African-Americans, including prominent thinkers such as W.E.B. Du Bois. Chang thus recognizes the variance in American views as some "believed China was the greatest danger to peace and civilization," while others such as the Black Panthers "hailed Mao as their great revolutionary inspiration." Chang notes that the lack of ties during this period created gaps in the American understanding of China, which presented the opportunity for the careers of individuals like John K. Fairbank to flourish. And after the once-ardent Cold Warrior Richard Nixon paved the way to re-establishing diplomatic relations with China, the opening of China "woke dormant wells of fascination" among Americans. Chang claims that Nixon and his successor Reagan went "beyond economics and geopolitics" and led Americans to develop "a powerful psychological connection between everyday Chinese and Americans."

Chang concludes by arguing that "American views of China have always been quixotic," and whether "peril or profit," China has inspired the imagination of Americans for centuries. Chang makes a compelling argument that "no other country has so inspired American imaginations over so long a time, from the beginning of the country to the present." Although persuasive, Chang relentlessly hammers away with this theme to the point

of overstating his argument. The cases for the centrality of other countries in the American imagination could surely be made along similar lines. Moreover, his rather feeble assertion that other countries' importance to the United States "have been episodic and tied to contemporary concerns" remains unsubstantiated, as this could arguably apply to China, as well.

In addition, many of the fears and hopes regarding China seem applicable to Asia as a whole, and Japan, in particular. China may indeed be at the center of American curiosity and fears of Asia, but Chang conveniently uses examples regarding Asia, in general, to refer to China, specifically. By interpreting all American interactions in Asia through the lens of US-China relations, Chang risks doing a disservice to the importance of other Asian countries to the United States and their place in the American imagination.

Finally, Chang's liberal use of the term "American" is problematic, at times. Chang presents a wide range of individual American views on China, but when speaking more generally it remains unclear *which* Americans he is referring to. A portion of one chapter is dedicated to how African-Americans viewed China, but the rest of the book fails to clearly establish the views of other "minority groups." Ironically, almost lost in his analysis are the views of Asian (particularly Chinese) Americans, with little more than a paragraph exploring their views. Comparing and contrasting their voices with those presented in the book could have further illuminated how Americans struggle to conceptualize China in different ways.

These minor snags notwithstanding, *Fateful Ties* provides an insightful look into US-China relations and draws attention to the multiple layers of interest Americans have had in China. The engaging and thorough analysis provided by Chang is undoubtedly an invaluable introduction to Sino-American relations, as well as a thoughtful examination of how Americans have viewed China, and indeed themselves, throughout history.

An accessible and engaging read, *Fateful Ties* allows the average reader with any interest in China to dive into the depths of US-China relations without feeling bored or overwhelmed. At the same time, Chang offers tremendous depth in his work, providing an impressive variety of sources and levels of analysis that grapple with "the intangible, feelings, and will, as well as the promise or potential of the relationship" between the US and China. Going beyond the typical diplomatic history, Chang analyzes the cultural history of US-China relations and utilizes literature, art, philosophy, psychology, and media to bring life to his arguments and make *Fateful Ties* a fascinating read with lots to chew on for students and experts alike. **Y**

GUIDELINES

FOR SUBMISSION

PEAR (Papers, Essays, and Reviews) welcomes submissions from all scholars, most notably graduate students, regarding the diverse field of International Studies, particularly those topics that challenge the conventional wisdom of any given issue. Each issue of the printed Journal will contain the following three sections:

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The following guidelines should be adhered to for all submissions to the Journal:

1. All submissions must be sent as a Microsoft Word file.
2. Citations should appear as endnotes as per the *Chicago Manual of Style, 16th Edition.*
3. Pages should not be numbered or marked with the author's name.
4. Papers should include an abstract of no longer than 250 words.
5. A short biography of the author should be included with each submission.
6. American spelling should be used in all submitted pieces.
7. Foreign words should be Romanized according to the following systems:
   Japanese: Revised Hepburn
   Korean: Revised Romanization
   Chinese: Pinyin

Submissions that neglect these guidelines will take longer to review and may be sent back to the author for revisions.

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