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PRESIDENTIAL PARDONS IN SOUTH KOREA: ANALYSIS OF QUANTITATIVE AND QUALITATIVE TRENDS

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Presidential pardons have caused much controversy in South Korea over the past decade. In particular, many have criticized the abusive practice of special pardons, which allows the president to grant clemency without having to go through any formal legal or political process. Many scholars have argued that legal reforms are necessary to prevent power abuse. This paper points to changing trends in the use of clemency power by recent South Korean presidents. By analyzing both quantitative and qualitative aspects of amnesty grants over time, major changes can be observed. First, it is found that the number of special pardons has declined significantly. Second, it is observed that controversial pardons have become scarcer over time. Finally, it is suggested that a growing negative public sentiment towards corruption and favoritism have influenced a more cautious approach to pardoning among recent presidents.

Characterized by Paul Larkin as “the human version of mercy,”¹ clemency power has stirred much debate in South Korea. The pardon power is plenary and thereby makes it possible for South Korean presidents to grant amnesty to criminal convicts without going through any formal legal or political procedures. As such, the pardon power is vulnerable to arbitrary and abusive practice. In academic literature, the abuse of special pardons by recent South Korean presidents has been extensively criticized, and various proposals for reform have been suggested. Some authors suggest revisions to the constitution,² others suggest the introduction of a review

1 Paul Larkin, Jr., “Revitalizing the Clemency Process,” *Harvard Journal of Law and Public Policy* 39, no. 3 (2015): 843.

2 Hye-jung Choi, Se-young Lee, and Kyu-nam Kim, “Going Back on Another Election Pledge, Pres. Park Pardons Corporate Heavyweights,” *The Hankyoreh*, August 14, 2015, accessed March 23, 2017, http://www.hani.co.kr/arti/english_edition/e_national/704479.html.

committee,³ and some propose a combination of both.⁴ On the other hand, many American scholars argue that reform could potentially threaten the plenary power of presidential pardons by jeopardizing its role as a check on the judicial system and as a prerogative of mercy.⁵ It is also argued that the political process, including factors such as re-election, public opinion, and advice from judicial branches, is sufficient to serve as a check on the pardon power.

A review of the literature on clemency power in South Korea shows that scholars are mainly concerned with the power abuse that comes with the presidential plenary power. What appears to be missing from the analysis of special pardons in South Korea is a comprehensive examination of both the quantitative and qualitative trends in clemency grants over time. Is the number of amnesty grants similar across recent Korean presidents, or has the pardon rate changed over time? Is the nature of pardons changing, or is there a persistent pattern in the characteristics of amnesty recipients and the underscoring rationale for clemency in South Korea? By conducting an analysis of the number of pardons granted by recent Korean presidents, this paper observes a significant decline in both the total number of clemency grants and the specific rate of presidential pardons. However, it is also observed that former President Park Geun-hye reversed the declining trend by granting more pardons than her two predecessors. Also, by analyzing the qualitative aspects of these pardons, this paper observes a tendency towards less controversial use of the pardon power. The number of clemencies granted to personal acquaintances of the president, corrupt politicians, and

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- 3 Chan-Hui Jeon, "A Study on the Limitation and Improvements of the Presidential Pardon Power," *Law & Policy Review* 21, no. 2 (2015): 353–78 [in Korean]; Dong-Ryun Kim, "Study on the Present Condition of Pardon Power and Legislative Policy," *Public Land Law Review* 61 (2013): 257–85 [in Korean]; Seung-Ho Lee, "A Brief for the Reform of Pardon System in South Korea," *Korean Journal of Criminology* 25, no. 1 (2013): 117–50 [in Korean].
- 4 Jong-Dok Kim, "A Study on the Control of Amnesty Right Exercise and Amendment Direction of the Korean Amnesty Act," *Law Review* 59 (2015): 205–29 [in Korean]; Moon-Hyun Koh, "A Way to Control Presidential Pardoning Power through Real State Analysis on Exercise of It," *Korean Comparative Public Law Association Review* 11, no. 2 (2010): 3–31 [in Korean]; Chae-Gyu Moon, "The Study on the Reform of Pardon System in South Korea," *Korean Journal of Criminology* 27, no. 3 (2015): 81–107 [in Korean]; Chan-Geol Park, "A Study on the Appropriate Management of Amnesty System," *Correction Review* 51 (2011): 253–79 [in Korean].
- 5 Jeffrey Crouch, "The Law: Presidential Misuse of the Pardon Power," *Presidential Studies Quarterly* 38, no. 4 (2008): 722–34; Harold J. Krent, "Conditioning the President's Conditional Pardon Power," *California Law Review* 89, no. 6 (2001): 1665–720; Jared Stallard, "Abuse of the Pardon Power: A Legal and Economic Perspective," *DePaul Business & Commercial Law Journal* 1, no. 103 (2002): 103–33; Mark Strasser, "The Limits of the Clemency Power on Pardons, Retributivists, and the United States Constitution," *Brandeis Law Journal* 41 (2002): 85–154.

high-profile businessmen have decreased steadily. Meanwhile, the quoted rationale for granting pardons shows little change, with most arguments referring to public welfare, such as economic growth and national unity.

Presidential Pardons

The Origin of Presidential Pardons

The idea of executive clemency has existed for thousands of years. Traces of the pardon tradition can be found in both ancient Roman law and more recent English law.⁶ Today, there are only a handful of countries in the world that have not constitutionalized executive clemency.⁷ Many modern democracies, such as South Korea and the United States, have borrowed the fundamentals of their clemency structure from the British legal tradition. In medieval England, the king's power to execute clemency was essentially unlimited and justified on the grounds of "mercy" and "justice."⁸ Similarly, most modern practices of presidential pardons are also plenary and justified on grounds such as mercy, justice, and public welfare.

Presidential Pardons in South Korea

The Republic of Korea (hereinafter South Korea or Korea) was established in 1948. The country's first constitution was promulgated in the same year and was last revised when South Korea became a democracy in 1987. Article 79 in the Korean Constitution states that there are two types of pardons that can be executed by the president.⁹ First, general pardons can be granted to convicts with approval from the National Assembly. Second, the president can execute special pardons without parliamentary consent. Special pardons are the focus of study in this paper and will henceforth be referred to as presidential pardons or special pardons. In Korea, the formal responsibility of proposing a list of pardons lies with the Ministry of Justice.¹⁰

6 Larkin, "Revitalizing the Clemency Process," 833–916.

7 Andrew Nowak, "Comparative Executive Clemency: The Constitutional Pardon Power and the Prerogative of Mercy in Global Perspective," *University of Michigan Journal of Law Reform* 49, no. 4 (2015): 817–51.

8 Paul J. Haase, "'Oh My Darling Clemency': Existing or Possible Limitations on the Use of the Presidential Pardon Power," *American Criminal Law Review* 39, no. 3 (2002): 1287–1308.

9 Republic of Korea Const. Ch. IV. Sec. 1. Art. 79.

10 Simon Mundy, "Lee Criticized Over S Korean Pardons," *The Financial Times*, January 29, 2013, accessed November 27, 2016, <https://www.ft.com/content/b7f788e4-69c2-11e2-8d07->

In the case of general pardons, the president can only carry through the process with approval from the National Assembly. On the other hand, special pardons are plenary and thus not subject to any political or legal control mechanisms. Pardons can be granted to individuals who are facing trial, are currently imprisoned, or who have been released.¹¹

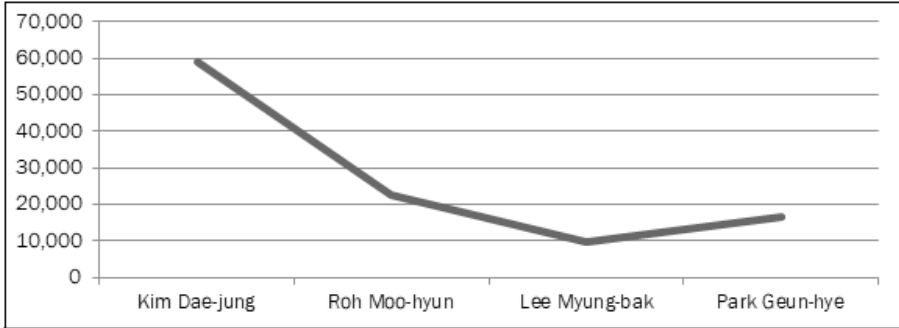
Quantitative Trends

The number of presidential pardons has decreased significantly over the past twenty years in South Korea.¹² Kim Dae-jung (1998–2003) granted 58,930 pardons, Roh Moo-hyun (2003–2008) granted 22,733 pardons, Lee Myung-bak (2008–2013) granted 9,794 pardons, and Park Geun-hye (2013–2017) granted 16,704 pardons.¹³ The number of presidential pardons has decreased by almost 70 percent over the past decade, despite a recent increase by President Park, who granted on average 65 percent more pardons than her predecessor Lee. Park Geun-hye was officially impeached in early 2017, and her term was therefore cut short to four years. This is one year shorter than the regular five-year term. Yet, by calculating the annual average from the total number of pardons granted by each president, major trends become evident. On the one hand, President Park granted, on average, almost twice the number of pardons than her predecessor Lee Myung-bak. On the other hand, she granted around one third of the number of pardons that Kim Dae-jung granted over a decade ago.

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- 11 Si-Soo Park, "Will Jailed Tycoons Get Pardon?" *The Korea Times*, September 26, 2014, accessed November 27, 2016, http://www.koreatimes.co.kr/www/news/biz/2017/03/123_165294.html.
- 12 To the author's knowledge, official data from South Korea are only available from 1997 and onwards. This might be explained due to the country's short history of democracy, which begun in 1987. Ui-chol Kim, Geir Helgesen, and Byung-man Ahn, "Democracy, Trust, and Political Efficacy: Comparative Analysis of Danish and Korean Political Culture," *Applied Psychology: An International Review* 51, no. 2 (2002): 318–53.
- 13 Statistics Korea, "Historical Trends in the Execution of Clemency Power," Statistics Korea, accessed November 5, 2016, http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx_cd=1726 [in Korean].

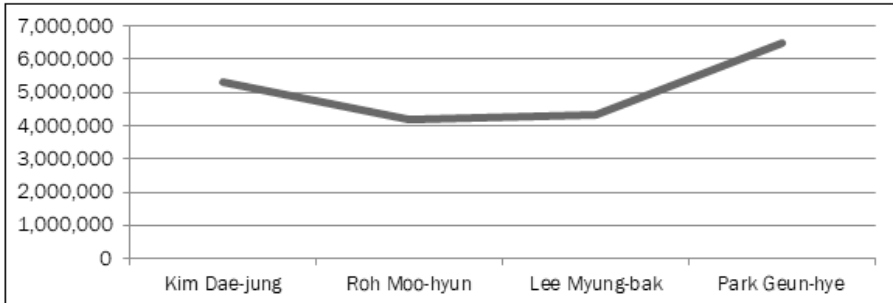
FIGURE 1 Special Pardons (1999–2016)



Source: Statistics Korea, “Historical Trends in the Execution of Clemency Power.”

The number of special pardons largely reflects general clemency trends. In the official government statistics provided by Statistics Korea, the number of special pardons make up the majority of total pardons granted.¹⁴ However, some discrepancies should be noted. Additional reports show that the actual number of total clemencies granted by Korean presidents is far higher than shown above, due to a tradition of pardoning traffic offenders. This tradition first started with the Kim Young-sam government in 1995. Since then, millions of traffic violators have been granted clemency. Kim Dae-jung excused 5.3 million traffic offenders, Roh Moo-hyun excused 4.2 million, Lee Myung-bak excused 4.3 million, and Park Geun-hye excused 6.5 million by her fourth year in 2016.

14 Statistics Korea, “Historical Trends in the Execution of Clemency Power.”

FIGURE 2 Traffic Pardons (1995–2016)

Source: Statistics Korea, “Historical Trends in the Execution of Clemency Power.”

The number of pardons is significantly higher when special clemency grants for traffic violations are included. However, the general trends in clemency grants over time remain similar. The number of pardons granted to traffic violators was reduced in the early 2000s but increased again during the Park Geun-hye government. This is similar to the previously outlined trends in pardon grants, where the number of pardons has been declining before increasing again during the last presidency. In summary, clemency in South Korea has been on a steady decline over the past twenty years but has recently increased under the Park Geun-hye administration.

Qualitative Trends

Controversial Pardons Between 2003–2016

It is a tradition in South Korea that the president grants special pardons in commemoration of national holidays. The most popular day for pardon grants is National Liberation Day, which marks the liberation from Japanese colonial rule in 1945.¹⁵ Occasionally, Korean presidents also grant pardons in the event of Lunar New Year, Buddha’s Birthday, and other national holidays.¹⁶

15 Chang-won Lim, “Special Pardon for CJ Group Chief to Celebrate Liberation Day,” *The Aju Daily Business*, August 12, 2016, accessed December 4, 2016, <http://www.ajudaily.com/view/20160812142509302>; Sang-Ho Song, “Park Grants Special Pardons to More Than 4,870 People Including CJ Chairman,” *Yonhap News Agency*, August 12, 2016, accessed December 4, 2016, <http://english.yonhapnews.co.kr/national/2016/08/12/38/0301000000AEN2016081202653315F.html>.

16 Hong-wuk Ahn, “President Park Expresses Plans for First Press Conference and Special New Year Pardon for Poverty Triggered Crimes,” *The Kyunghyan Shinmun*, December 24, 2013, accessed December 1, 2016, http://english.khan.co.kr/khan_art_view.html?code=710100&a

Presidents Kim Dae-jung and Roh Moo-hyun offered pardons on eight occasions, President Lee on seven occasions, and President Park on three occasions as of 2016.¹⁷ An upcoming event for clemency grants is usually announced to the public in advance, thereby causing much speculation in the media, politics, and business circles. After the presidential pardons have been granted, another round of frenzy follows, during which opponents and proponents voice their respective criticism and support of the president's choices. Over the past decade, Korean presidents have repeatedly stirred controversies by granting pardons to personal acquaintances, high-profile business people, and politicians.

Between 2003 and 2008, Roh Moo-hyun offered amnesty to hundreds of businessmen and politicians. His choice to pardon business tycoons was much welcomed by chaebol companies and their industry federations. Some of those pardoned included Daewoo Corporation Executive Lee Sung-won,¹⁸ Daewoo Motors Vice President Kim Seok-hwan,¹⁹ Doosan Heavy Industries Chairman Park Yong-sung,²⁰ Daewoo Group Chairman Kim Woo-choong, and Halla Engineering and Construction Chairman Chung Mong-won.²¹ Most of the executives were convicted of financial misconduct, but Roh Moo-hyun also granted special pardons to several businessmen convicted of corruption. These included, among others, LG Group Vice Chairman Kang Yu-sig, Hyundai Motor Vice Chairman Kim Dong-jin, Asiana Airlines President Park Chan-bup, and Lotte Shopping President Shin Dong-in.²² In addition to business leaders, President Roh granted pardons to several politicians. Many of these had been convicted of corruption, including Chyung Dai-chul, Lee

rtid=201312241649047; Kyung-un Choi, "Roh Pardons Old Associate for Buddha's Birthday," *The Chosun Ilbo*, May 13, 2005, accessed December 4, 2016, http://english.chosun.com/site/data/html_dir/2005/05/13/2005051361031.html; Whan-woo Yi, "Special Pardon Granted to 4,876 Convicts," *The Korea Times*, August 12, 2016, accessed December 4, 2016, http://www.koreatimes.co.kr/www/news/nation/2016/08/116_211774.html.

- 17 "Stop Abusing Presidential Pardons," *Korea JoongAng Daily*, May 8, 2015, accessed December 4, 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3003951>; Yi, "Special Pardon Granted to 4,876 Convicts."
- 18 Choi, "Roh Pardons Old Associate for Buddha's Birthday."
- 19 Jin-young Hwang, "Kang Geum-won on the Pardon List," *The Dong-A Ilbo*, May 13, 2005, accessed December 4, 2016, <http://english.donga.com/List/3/all/26/241332/1?m=kor>.
- 20 "S Korea Pardons Criminal Bosses," *BBC News*, February 9, 2007, accessed December 3, 2016, <http://news.bbc.co.uk/2/hi/business/6345847.stm>.
- 21 Yon-se Kim, "Roh Commutes Sentences of 6 Death-Row Inmates," *The Korea Times*, December 31, 2007, accessed December 2, 2016, http://www.koreatimes.co.kr/www/news/nation/2016/11/113_16476.html.
- 22 Choi, "Roh Pardons Old Associate for Buddha's Birthday."

Sang-soo, Shin Sang-woo,²³ Choi Do-sool,²⁴ Park Jie-won, Kim Hyeon-cheo, and Kwon Roh-gap.²⁵ Finally, President Roh also released some people who had been sentenced under his tenure, such as Changshin Textile Chairman Kang Geum-won. Chairman Kang was a close associate of President Roh and had been convicted of embezzlement and tax evasion.²⁶

Lee Myung-bak was inaugurated as the president of South Korea in 2008. Similar to his predecessor, President Lee also released numerous politicians and business people who had been found guilty of illegal activities, including economic and corruption-related crimes. Among the business tycoons released by the Lee administration, Hanhwa Chairman Kim Seung-young served a sentence for kidnapping and assault,²⁷ and Samsung Chairman Lee Kun-hee, SK Group Chairman Chey Tae-won, and Hyundai Chairman Chung Mong-koo had been convicted of financial misconduct, such as embezzlement and tax evasion.²⁸ In addition to pardoning business tycoons, President Lee granted amnesty to numerous politicians and public officials.²⁹ Many of those pardoned had been convicted of corruption and election irregularities, including National Assembly Speaker Park Hee-tae, former senior aide Kim Hyo-jae,³⁰ close ally Choi See-joong, and longtime friend Chun Shin-il.³¹ Not only politicians but also businessmen close to President Lee were granted amnesty, including his close acquaintance

23 Jung-wook Kim, "Pardoned Politicians Start Testing the Waters," *Korea JoongAng Daily*, August 14, 2005, accessed December 2, 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=2606281>.

24 Kim, "Roh Commutes Sentences of 6 Death-Row Inmates."

25 Annie I. Bang, "434 High-Profile Convicts Pardoned," *The Korea Herald*, April 5, 2010, accessed December 4, 2016, <http://www.koreaherald.com/view.php?ud=20070210000034>.

26 Choi, "Roh Pardons Old Associate for Buddha's Birthday"; Hwang, "Kang Geum-won on the Pardon List."

27 Nathaniel P. Flannery, "How the Latest Scandal at Explosives-Maker Hanwha Highlights Broader Investment Risks at Major Korean Companies," *Forbes*, February 10, 2012, accessed December 4, 2016, <https://www.forbes.com/sites/nathanielparishflannery/2012/02/10/time-for-change-how-the-latest-scandal-at-explosives-maker-hanwha-highlights-broader-investment-risks-at-major-korean-companies/#724de0e2a8dd>.

28 Sang-hun Choe, "Korean Leader Pardons Samsung's Ex-Chairman," *The New York Times*, December 29, 2009, accessed December 21, 2016, <http://www.nytimes.com/2009/12/30/business/global/30samsung.html>; Jung, "President Pardons Convicted Tycoons."

29 "Biz Execs Pardoned to Stimulate Economy," *The Dong-A Ilbo*, August 13, 2008, accessed December 1, 2016, <http://english.donga.com/List/3/all/26/259742/1>; Myo-ja Ser, "MB's Pardons Outrage Park, Parties," *Korea JoongAng Daily*, January 29, 2013, accessed December 4, 2016, <http://mengnews.joins.com/view.aspx?aid=2966347>.

30 Mundy, "Lee Criticized Over S Korean Pardons"; Choe, "Departing South Korean Leader Creates Furor with Pardons."

31 Min-uck Chung, "Lee Presses on Pardons," *The Korea Times*, January 27, 2013, accessed December 4, 2016, http://www.koreatimes.co.kr/www/news/nation/2017/03/113_129527.html.

Sejoong Namu Tour Chairman Chun Shin-il, who was charged with bribery,³² and the son-in-law of the president's cousin, Hyosung Group President Cho Hyun-joon, who was sentenced for embezzlement.³³ None of those pardoned by President Lee had been convicted during his term at the Blue House.

In 2013, Park Geun-hye became the first female president of South Korea. Like her predecessors, President Park also granted some controversial pardons to businessmen charged with economic crimes, such as embezzlement and tax evasion. Between 2013 and 2016, in total 26 businessmen were pardoned by President Park, including Hanwha Group Vice Chairman Kim Hyun-chung, Yeochun NCC CEO Hong Dong-wook, SK Group Chairman Chey Tae-won, and CJ Chairman Lee Jay-hyun.³⁴ During the first four years of her presidency, Park did not grant pardons to any businessmen, politicians, or civil servants convicted for corruption or election irregularities.³⁵ During her presidency, no controversies had erupted regarding pardons of close friends and allies. As shown, Korean presidents have, over the past decades, issued pardons to businessmen and politicians convicted of economic and corruption-related crimes.

Official Justifications for Presidential Pardons

In contrast to controversial pardons in the United States, Korean presidents usually provide a rationale when pardoning high-profile convicts. A variety have been cited over the years, but some themes appear to be reoccurring. Below follows an analysis of various justifications provided in relation to pardons granted by Korean presidents over the past years. Most of the data cited in this section are collected from media reports because the official statements given on special pardons often did not include elaborative comments about the underlying rationale. Instead, they were announced by the president and its administration at press conferences and through other

32 Choe, "Departing South Korean Leader Creates Furor with Pardons."

33 Ser, "MB's Pardons Outrage Park, Parties."

34 Seung-woo Kang, "Culture is New Growth Engine," *The Korea Times*, February 26, 2016, accessed December 4, 2016, http://www.koreatimes.co.kr/www/news/nation/2016/02/180_199173.html; Lim, "Special Pardon for CJ Group Chief"; Alanna Petroff, "South Korea to Pardon Over 6,500 Convicts to Boost Economy," *CNN*, August 14, 2015, accessed December 5, 2016, <http://money.cnn.com/2015/08/13/news/south-korea-economy-criminal-pardons/>; Yi, "Special Pardon Granted to 4,876 Convicts."

35 Seok-hoon Kim, "2.21 Million Will be Given Special Pardon on Independence Day," *The Economy Hankook*, August 14, 2015, accessed December 4, 2016, <http://www.hankook.co.kr/2-21-million-will-be-given-special-pardon-on-independence-day/>.

types of communications with the press.

Mercy is a common theme in Korean clemency grants. Humanitarian pardons are typically granted to defendants that have health issues, are elderly, or hold a foreign nationality. In 2007, President Roh granted amnesty to thirty-seven former government officials and seven politicians on the grounds of their declining health.³⁶ Later in 2013, President Lee pardoned several elderly prisoners and one foreigner.³⁷ More recently, President Park offered amnesty to CJ Chairman Lee Jay-hyun, whose health had been worsening due to illness.³⁸

Public welfare is perhaps the most widely cited rationale by Korean presidents who grant amnesty. This is true for convicts of various crimes, ranging from petty crimes to serious economic and corruption-related crimes. Felony convicts are usually excluded. Pardons granted on the grounds of public welfare can largely be divided into two interrelated categories: economic stimulus and national unity. Politicians are usually pardoned with reference to “national unity” and “reconciliation.”³⁹ In times of economic slowdown, the release of businessmen has also been considered important in bringing people together. As such, Korean presidents have released businessmen to foster “national cohesion,”⁴⁰ “forge national reconciliation,”⁴¹ “bring the people together,” and “overcome the economic crisis.”⁴² Over the years, businessmen of both small and large companies have been offered amnesty under the pretense of expectations that they will contribute to the public welfare with job creation, increased investment, and economic revival. The Roh administration used terms like “new jobs” and “economic leap forward.”⁴³ The Lee administration followed up with similar terms, such as “investment stimulus,”⁴⁴ “job creation,” “economic reinvigoration,”⁴⁵

36 Bang, “434 High-profile Convicts Pardoned.”

37 Ser, “MB’s Pardons Outrage Park, Parties.”

38 Lim, “Special Pardon for CJ Group Chief.”

39 Chung-un Cho, “Park to Conduct Aug. 15 Pardon,” *The Korea Herald*, July 13, 2015, accessed December 4, 2016, <http://www.koreaherald.com/view.php?ud=20150713001094>; “Pardons in South Korea: Get out of Jail Free!” *The Economist*, August 17, 2010, accessed December 4, 2016, http://www.economist.com/blogs/banyan/2010/08/pardons_south_korea.

40 Seung-woo Kang, “SK Chief Pardoned,” *The Korea Times*, August 13, 2015, accessed December 4, 2016, http://www.koreatimes.co.kr/www/news/nation/2016/12/116_184806.html.

41 Mundy, “Leading South Korean Tycoon Granted Presidential Pardon.”

42 Yi, “Special Pardon Granted to 4,876 Convicts.”

43 “S Korea Pardons Criminal Bosses.”

44 “South Korea Politics: Pardon Me,” *The Economist*, August 14, 2008, accessed December 4, 2016, <http://www.economist.com/news/asia/21571192-departing-president-proves-extravagantly-forgiving-pardon-me>.

45 “Pardons for Corporate Criminals in South Korea: Pardon Me?” *The Economist*, July 29, 2010,

“entrepreneurial spirit,”⁴⁶ “economic revival” and “employment.”⁴⁷ Finally, the Park administration also cited rationales like “national development” and “economic growth,”⁴⁸ while voicing expectations that those pardoned would “revitalize the economy,” “boost people’s spirits,”⁴⁹ and “contribute to national development.”⁵⁰

Public Debate on Presidential Pardons

Advocates for presidential pardons granted to company executives argue that the large conglomerates are vital to the domestic economy and that the companies require their leaders in order to function.⁵¹ The symbiotic relationship between government and business in South Korea is evident in many of the government’s major projects. The release of many business tycoons might also be due to their expected participation in such projects, as illustrated by the following examples. Hyundai Motor Chairman Chung Mong-koo was granted clemency by President Lee in 2009 and later became honorary chairman of the 2012 Yeosu Expo organizing committee. Samsung Chairman Lee Kun-hee was offered amnesty by President Lee in 2009 and later supported the country’s bid to host the 2018 Winter Olympics. President Park pardoned SK Group Chairman Chey Tae-won in 2015, and one year later they launched the joint project for Hongcheon’s eco-friendly town.⁵² Park also pardoned CJ Chairman Lee Jay in 2016, a year after the launch of the Creative Center for Convergence Culture (CCCC). Located in the CJ

accessed November 20, 2016, <http://www.economist.com/node/16693589>.

46 “The Korea Discount: Minority Report,” *The Economist*, February 11, 2012, accessed November 20, 2016, <http://www.economist.com/node/21547255>.

47 Myo-ja Ser and So-young Moon, “Pardons Granted to Tycoons and Pols,” *Korea JoongAng Daily*, August 13, 2008, accessed December 5, 2016, <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=2893603>.

48 “The Economist Explains: Presidential Pardons,” *The Economist*, November 25, 2015, accessed December 5, 2016, <http://www.economist.com/blogs/economist-explains/2015/11/economist-explains-18>.

49 Mundy, “Leading South Korean Tycoon Granted Presidential Pardon.”

50 Song, “Park Grants Special Pardons to More Than 4,870 People.”

51 Sun-young Lee, “Hanwha Beefs up under Kim Seung-youn,” *The Korea Herald*, August 15, 2016, accessed December 5, 2016, <http://www.koreaherald.com/view.php?ud=20160815000263>; “Governance Reform Still Distant for the Chaebol,” *The Economist*, August 30, 2016, accessed December 5, 2016, <http://www.eiu.com/industry/article/1144555098/governance-reform-still-distant-for-the-chaebol/2016-08-30>.

52 Eun-jung Kim, “CJ to Step Up Global Expansion Following Chairman’s Release,” *Yonhap News Agency*, August 12, 2016, accessed December 5, 2016, <http://english.yonhapnews.co.kr/news/2016/08/12/0200000000AEN20160812006700320.html>.

E&M Center, the Center is run jointly by the CJ Group and the government.⁵³ The CCCC is considered one of the major achievements towards President Park's ambition of a "creative economy."⁵⁴

The Korean government has on several occasions explained that its decisions regarding clemency grants have come about as a result of discussions with various interest groups, including business lobby groups such as the Federation of Korean Industries, the Korea Chamber of Commerce and Industry, Korea International Trade Association, and the Korea Federation of Small and Medium Business.⁵⁵ Industry groups and company officials have also voiced their opinion in media. In 2015, one official argued, "Conglomerates whose top executives are currently imprisoned suffer from a leadership vacuum as they have lost impetus to push new businesses forward."⁵⁶ An executive from the SK Group explained, "A large-scale investment needs a lot of consideration and study. With our chairman behind bars, it's practically impossible to draw up such a plan and carry it through."⁵⁷ Traditionally, family members run these conglomerates, instead of managers hired from inside or outside the company. Control of these companies tends to be highly centralized, which might explain the argument for release of company leaders.⁵⁸

On the other hand, the government's special treatment towards South Korea's elite seems to have become increasingly unpopular among the public. In recent years, the people, media, and opposition parties have paid close attention to special pardons granted in the name of mercy and public welfare. In particular, amnesties granted to business tycoons and politicians have stirred controversy. Local media outlets report an increasing public resentment towards favoritism of criminal business leaders and

53 Sun-ah Shim, "Gov't to Operate Cultural Belt in Full Swing This Year," *Yonhap News Agency*, January 18, 2016, accessed December 5, 2016, <http://english.yonhapnews.co.kr/news/2016/01/18/020000000AEN20160118002551315.html>.

54 Kang, "Culture is New Growth Engine."

55 Cho, "Park to Conduct Aug. 15 Pardon"; Kang, "SK Chief Pardoned"; Kim, "Roh Commutes Sentences of 6 Death-Row Inmates"; Kim, "2.21 Million Will be Given Special Pardon"; Bong-moon Kim, "Presidential Pardons Include SK Chairman Chey," *Korea JoongAng Daily*, August 14, 2015, accessed December 4, 2016, <http://mengnews.joins.com/view.aspx?ald=3007902>; Kim, "CJ to Step Up Global Expansion"; Ser, "MB's Pardons Outrage Park, Parties"; Ser and Moon, "Pardons Granted to Tycoons and Pols"; Yi, "Special Pardon Granted to 4,876 Convicts."

56 Kim, "2.21 Million Will be Given Special Pardon."

57 Park, "Will Jailed Tycoons Get Pardon?"

58 Stephen P. Ferris, Kenneth A. Kim, and Pattanaporn Kitsabunnarat, "The Costs (and Benefits?) of Diversified Business Groups: The Case of Korean Chaebols," *Journal of Banking and Finance* 27, no. 2 (2003): 251-73.

politicians.⁵⁹ Similarly, a national survey by Gallup Korea showed that 79 percent of the surveyed population was against special pardons offered to politicians.⁶⁰ Moreover, 54 percent of these respondents were opposed to pardons granted to business tycoons. In a later poll, significant variation was observed among the different generations. People in their 20s and 30s showed strong opposition, with respectively 80 percent and 69 percent of the respondents being against special treatment of business tycoons. On the other hand, the older generation was mainly in support of pardoning businessmen, with 55 percent and 59 percent of people in their 50s and 60s in favor.⁶¹ Some speculate that slower growth and a perception of rising inequality have changed attitudes towards the culture of political impunity.⁶²

In reflection of public opinion, numerous civic organizations have voiced criticism against controversial pardons. Some of the groups paying close attention to presidential pardons include Solidarity for Economic Reform⁶³ and the People's Solidarity for Participatory Democracy.⁶⁴ Increasingly, media outlets have also voiced discontent with perceived favoritism in the practice of special pardons. Most of the newspapers that have published critical editorials regarding pardon practices are left-wing

59 Yi, "Special Pardon Granted to 4,876 Convicts."

60 The survey by Gallup Korea was carried out in July 2015 and included 1,003 respondents (Kang, "SK Chief Pardoned"), with a sampling error of plus/minus 3.1 percent (Ron Chang, "More Than Half of Country Opposed to Pardons for Businessmen: Gallup Poll," *Traffic Broadcasting System (TBS)*, July 24, 2015, accessed November 20, 2016, http://www.tbs.seoul.kr/news/bunya.do?method=daum_html&typ_800=P&seq_800=10100140.)

61 "Gallup: 54% S. Koreans Oppose Special Pardons for Business Tycoons," *Korea Broadcasting System (KBS)*, July 24, 2015, accessed December 20, 2016, http://world.kbs.co.kr/down.htm?inpage_id=42249&Type=DOC.

62 "South Korean Politics: Pardon Me."

63 Choe, "Korean Leader Pardons Samsung's Ex-Chairman"; Christian Oliver, "South Korea to Pardon Businessmen," *The Financial Times*, August 13, 2010, accessed December 20, 2016, <https://www.ft.com/content/16d3a502-a6a0-11df-8d1e-00144feabdc0>; Jee-yeon Seo, "Business Tycoons Face Growing Calls for Responsible Management," *The Korea Herald*, March 9, 2016, accessed December 21, 2016, <http://www.koreaherald.com/view.php?ud=20160309001067>; Song, "Park Grants Special Pardons to More Than 4,870 People."

64 Choi, Lee, and Kim, "Going Back on Another Election Pledge"; Jane Han, "Pardon Not Impacting Corporate Performance," *The Korea Times*, August 13, 2008, accessed November 20, 2016, http://www.koreatimes.co.kr/www/news/biz/2011/04/123_29301.html; Jung-A Song, "South Korean Leader under Fire for Pardoning Convicts," *The Financial Times*, August 12, 2016, accessed November 21, 2016, <https://www.ft.com/content/fdbd0d10-6057-11e6-ae3f-77baadeb1c93>.

publications, including *The Hankyoreh*,⁶⁵ the *Korea JoongAng Daily*,⁶⁶ *The Kyunghyang Shinmun*⁶⁷ and *The Korea Times*.⁶⁸ Finally, many politicians have protested against controversial amnesty grants. Critical politicians are represented on both sides of the political spectrum, included Na Kyung-won of the former Grand National Party (now Saenuri Party),⁶⁹ Lee Sang-il of the Saenuri Party,⁷⁰ Roh Hoe-chan of the former Democratic Labor Party (now the Unified Progressive Party),⁷¹ Jung Sung-ho, Lee Un-ju, and Park Ki-choon of the Democratic United Party,⁷² and Yoo Eun-hae of the New Politics Alliance for Democracy.⁷³

Analysis

This section will present an analysis of the quantitative and qualitative trends observed in the preceding section. First, it is observed that presidential pardons have halved over the past twenty years, in spite of a small increase under the Park administration. Pardons granted to traffic offenders remain high, but they have also decreased over time and are therefore consistent with the general trend in clemency.

65 “[Editorial] Presidential Pardons Need to be Kept in Check,” *The Hankyoreh*, February 10, 2007, accessed December 15, 2016, http://herstory.hani.com/arti/english_edition/e_editorial/189797.html; “[Editorial] Improper Political Pardons,” *The Hankyoreh*, July 28, 2008, accessed December 15, 2016, http://english.hani.co.kr/arti/english_edition/e_editorial/301109.html.

66 “Pardon with Prudence,” *Korea JoongAng Daily*, July 28, 2009, accessed December 16, 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=2907957>; “Stop Abusing Presidential Pardons,” *Korea JoongAng Daily*, May 8, 2015, accessed December 16, 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3003951>.

67 “[Editorial] President Lee, Give Up Special Pardon of Corrupt Aides!” *The Kyunghyang Shinmun*, January 28, 2013, accessed December 4, 2016, http://english.khan.co.kr/khan_art_view.html?artid=201301281659157&code=790101; “[Editorial] President Park Needs to Keep Her Principle, ‘Do Not Abuse Pardon Power,’” *The Kyunghyang Shinmun*, July 14, 2015, accessed December 16, 2016, http://english.khan.co.kr/khan_art_view.html?code=790101&artid=201507141834317.

68 “[Editorial] Don’t Abuse Pardon,” *The Korea Times*, December 25, 2007, accessed December 4, 2016, http://www.koreatimes.co.kr/www/news/opinion/2013/08/202_16139.html.

69 Su-jin Chun and Sung-tak Kim, “Roh Hands Out Pardons to 434 Convicted Figures,” *Korea JoongAng Daily*, February 10, 2007, accessed December 4, 2016, <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=2872305>.

70 Chung, “Lee Presses on Pardons.”

71 Bang, “434 High-Profile Convicts Pardoned.”

72 Sang-hun Choe, “Departing South Korean Leader Creates Furor with Pardons,” *The New York Times*, January 29, 2013, accessed December 4, 2016, <http://www.nytimes.com/2013/01/30/world/asia/outgoing-south-korean-leader-creates-furor-with-pardons.html>; Ser, “MB’s Pardons Outrage Park, Parties.”

73 Kang, “SK Chief Pardoned.”

Second, the number of controversies stirred by presidential clemency grants have decreased steadily over the last three presidencies, with a particularly noticeable decline between the presidencies of Lee Myung-bak and his successor Park Geun-hye. Presidents Roh and Lee granted hundreds of controversial pardons, but President Park has only granted a few.

Third, the principles applied by the three recent presidents differ greatly from one another, both in terms of the social standing and the crime committed by those who are offered amnesty. Roh Moo-hyun granted pardons to businessmen and politicians, some of them his close aides—all convicted of either economic or corruption-related crimes and convicted before or during his presidency. Lee Myung-bak also granted pardons in a similar manner to that of his predecessor but refrained from granting pardons to people who had committed corruption-related crimes during his presidency. Finally, Park Geun-hye had granted pardons to business tycoons and other businessmen convicted of economic crimes. However, she had steered away from businessmen and politicians convicted of corruption, both before and during her presidency. It can be argued that Korean presidents continue to consider businessmen convicted of economic crimes eligible for clemency, but the skepticism towards individuals with corruption-related convictions has been increasing. The latest president has also shown wariness towards pardoning of politicians and personal acquaintances.

Fourth, an analysis of the media reports on public announcements given by recent Korean presidents for clemency pardons granted over the last decade shows largely persistent trends. First, special pardons are usually accompanied by a justification from the sitting administration. Although the president is not obligated by law to provide any justification, Korean presidents have provided explanations for both controversial and non-controversial pardons. Secondly, presidential pardons have continuously been granted with reference to mercy and public welfare. Humanitarian pardons are mainly granted to individuals with “poor health” and “old age.” Clemencies granted in the name of public welfare mainly refer to “national unity,” such as “reconciliation,” and more commonly to “national development,” including “economic revival,” “job creation,” and “investment stimulus.”

Finally, it is concluded that both the number of clemencies in general and the number of controversial pardons in specific are in decline. Seeing how the underlying rationale for executing special pardons is largely similar among the last three presidents, despite the differences in the principles and frequency behind their principal grants, the declining trend

of controversial pardons might not be so much related to the personal character of the president as it is an outcome of unfavorable public sentiment towards controversial pardons. Surveys of Korean citizens imply increased skepticism about favoritism and corruption. Furthermore, recent political events reflect a public society in demand of more transparency and fairness. In late 2016, the Korean parliament voted for impeachment of President Park Geun-hye.⁷⁴ An independent counsel had investigated and accused the president of bribery and other illegal activities.⁷⁵ In relation to the same scandal, the Samsung heir Lee Jae-yong has been indicted on bribery charges.⁷⁶ It is the first time in history that a Samsung leader has been arrested on criminal charges.⁷⁷

Conclusion

By conducting a combined analysis of quantitative and qualitative data on presidential pardons in South Korea, this paper has observed significant changes in both the number and nature of recent pardons. First, there has been a significant decline in both the total number of clemency grants and in the specific rate of presidential pardons. Second, the underlying reason for executing special pardons overlaps among the last three presidents, but the principles and frequency with which they apply the clemency power largely differs from one another, especially in the Park presidency. At a glance, the pardon power might seem to maintain a strong tradition at the Blue House, as it is being executed at the same day every year, with ruling presidents citing similar rationales. However, as shown in this paper, clemency use has been in strong decline over the past two decades. Particularly, elected leaders appear more sensitive to public sentiment, as they increasingly avoid amnesty grants to controversial recipients such as

74 Ju-Min Park and Jack Kim, "South Korean Parliament Votes Overwhelmingly to Impeach President Park," *Reuters*, December 9, 2016, accessed December 20, 2016, <http://www.reuters.com/article/us-southkorea-politics-idUSKBN13X2JS>.

75 Min-ho Jung, "Park, Choi Colluded to Receive Bribes from Samsung: Counsel," *The Korea Times*, March 6, 2017, accessed March 15, 2017, http://www.koreatimes.co.kr/www/nation/2017/03/251_225161.html.

76 Kyung-min Lee, "Constitutional Court Ruling Looming as Early as This Week," *The Korea Times*, March 5, 2017, accessed March 15, 2017, http://www.koreatimes.co.kr/www/nation/2017/03/251_225062.html.

77 You-kyung Lee, "Head of Samsung Arrested in South Korean Presidential Corruption Scandal," *Chicago Tribune*, February 16, 2017, accessed March 15, 2017, <http://www.chicagotribune.com/business/ct-samsung-ceo-lee-jae-yong-20170216-story.html>.

convicted politicians and businessmen. This finding is confirmative of the previously cited arguments put forward by American scholars, who contend that public opinion is sufficient to serve as a check on the pardon power. Scholarly articles about the Korean clemency power have mostly focused on the issue of abuse and the need for reform. Considering the findings presented in this paper, it would be interesting to see a continuation of the debate on clemency reform in South Korea.

This paper has some limitations. First, reliance on media for data regarding pardon rationales is arguably a disadvantage, but the method appears inevitable as most of the public statements made by recent Korean presidents and their administrations regarding public pardons were not made through official channels but rather at press conferences and in response to questions from journalists and lawmakers. Second, future studies on presidential pardons would benefit from a detailed analysis of the reasons behind both the general decline in clemency grants over time and the more recent decline in controversial pardons. Relatedly, it is also noted that the use of special pardons in treating the society's social elite favorably is becoming unpopular among the public, especially younger generations. Future studies would benefit from a more in-depth analysis of the causes behind this shift in public sentiment, which in turn might help explain the recent changes to trends in controversial pardons granted by Korean presidents.

THE (IR)RESPONSIBILITY TO PROTECT: ARE SMALL-ARMS SUPPLIERS COMPLICIT IN AFRICA'S GENOCIDES?

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Accounting for 40 percent of current global conflicts, the African continent has one of the highest rates of conflicts and conflict-related deaths and accounts for half of the sixteen on-going United Nations Peacekeeping Missions. These statistics mask that Africa produces minimal small arms and light weapons (SALW). The weapons have been used in genocides, politicides, and numerous conflicts, even as the concept of Responsibility to Protect (R2P) takes hold and is supported by many of the arms-supplying nations. Still, statistics show that the major world democracies and economies, as well as the five permanent members (P-5) of the United Nations Security Council (UNSC), are the largest arms exporters. Within the framework of R2P, how do these countries reconcile their arms transfer activities with weapons supply to countries in conflict? Is there an inverse relationship between arms transfers and support for international mechanisms to resolve international conflict? Are most of the arms used in conflict supplied through government-to-government transfers or through non-state actors—businesses, private military companies, and illicit market? Using multiple regression statistics, the research employs arms-transfer data from the Stockholm International Peace Research Institute (SIPRI) and correlates it with indicators of state fragility, democratization, and political violence. It investigates (1) the correlation between arms supplies and state fragility; and (2) the impact of membership in Intergovernmental Organizations (IGOs) on arms transfers and imports. The research finds that neither state fragility nor IGO memberships correlate with significant levels of arms transfers. Some expected correlations hold; military expenditure correlates with higher state fragility, arms transfer, US military aid, lower levels of economic development, and less globalization. Surprisingly, arms-exporting developed nations belong to more IGOs. Countries in

conflict do not import more arms than countries that are not. It appears that the claim that arms exporters adhere less to international norms than other countries is not supported.

In 1991, the first post-Cold War failed state manifested in Africa: Somalia. While an ethnically unified country, Somalia's failure marked the beginning of a nearly thirty-year period of inter-clan conflicts led by warlords. Soon, state failures became a familiar phenomenon in Africa, characterized by armed, frequently ethnic, conflict. Between 1955 and 2009, Africa accounted for 40 percent of global state failures, which includes ethnic wars, adverse regime changes, revolutionary wars, genocides, and politicides.¹ The estimated costs of Africa's armed conflicts and wars range from US\$100 billion² to US\$14 trillion as of 2015.³ As one of the most conflict-prone regions of the world, Africa unfortunately "has the uncanny reputation of being the world's leading theatre of conflict, war, poverty, disease, and instability."⁴ The complexity of the conflicts arises from the breadth of their nature: some are ethnic, some national, and some interstate.

However, conflict in African countries is not inevitable. Donald Rothchild explains, "There is nothing inevitable about destructive conflict between African states and their culturally distinct identity groups."⁵ He notes that while conflict has been widely chronicled, there is a basic framework for accommodation, reciprocity, and negotiation.⁶ Before delving into the nature and trajectory of conflicts in Africa, it is important to contextualize the idea of conflict. According to James Schellenberg, conflict, defined in the social (as opposed to the individual) realm, is "the opposition between individuals and groups on the basis of competing interests, different identities, and/or differing attitudes."⁷ Roderic Alley argues the root cause of conflict is "poverty,

1 Paul D. Williams, *War and Conflict in Africa* (Malden, MA: Polity, 2011), 5.

2 Chris McGreal, "The Devastating Cost of Africa's Wars: £150bn and Millions of Lives," *The Guardian*, October 10, 2007, accessed April 16, 2017, <https://www.theguardian.com/world/2007/oct/11/congo.international>.

3 James Somper, "Global Cost of War Reaches \$14 Trillion, Says Report," *The Telegraph*, June 18, 2015, accessed April 16, 2017, <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/11682594/Global-cost-of-war-reaches-14-trillion-says-report.html>.

4 Eghosa Osaghae and Gillian Robinson, "Introduction," in *Researching Conflict in Africa: Insights and Experiences*, eds. Elisabeth Porter et. al (Tokyo: United Nations University, 2005), 1.

5 Donald Rothchild, *Managing Ethnic Conflict in Africa: Pressures and Incentives for Cooperation* (Washington, D.C.: Brookings Institution Press, 1997), 1.

6 Rothchild, *Managing Ethnic Conflict in Africa*, 1.

7 James A. Schellenberg, *Conflict Resolution: Theory, Research, and Practice* (Albany, NY: State University of New York Press, 1996), 7–8.

political oppression, marginalization, prolonged failure of state functions, and unequal distribution of resource benefits.”⁸ This leads to insufficiencies in inclusiveness by government institutions, rights of subordinate groups, and allocation of society’s resources.⁹

Important questions arise surrounding the nexus of conflict, identities within the state, and transfer of arms. Are Africa’s conflicts more resource-based, or do they arise as a result and manifestation of disparate ethnic identities? Are they religious or, in more recent years, more ideological in nature? Is conflict a manifestation of the African state?¹⁰ Do the perennial ethnic conflicts threaten the viability of the state? Although addressing these questions are relevant in understanding the complexity of these conflicts, the potential complicity of developed countries and arms transfers is the scope of this study. This paper reviews emerging norms in international relations, specifically the Responsibility to Protect (R2P), and states adherence to these international norms. At the same time, major democracies in addition to the members of the UNSC, the very interlocutors of maintaining global peace, account for majority of arms transfers to Africa. The major research question tackles whether countries’ positions on (and support for) the emerging global norm of R2P align with their practices of arms transfers, especially to non-democratic, conflict-prone countries.

Arms Transfers

Few studies have examined the relationship between the role of arms transfers, especially from major powers, and perennial conflict in Africa within the context of the emerging international norm of R2P. Given that Africa is a net importer of the small arms and light weapons (SALW), it is useful to review the dissociation of arms sales from the causation of conflict. In considering the role of arms transfers and their effect on fostering conflict in the context of R2P, this research builds upon Cassidy Craft and Joseph Smaldone’s correlation between arms trade and political violence in the three decades between 1967 and 1997.¹¹

8 Roderic Martin Alley, *Internal Conflict and the International Community: Wars Without End?* (Burlington, VT: Ashgate Publishing Company, 2004), 17.

9 Alley, *Internal Conflict and the International Community*, 17.

10 Bruce D. Porter, *War and the Rise of the State* (New York: The Free Press, 1994), 2.

11 Cassidy Craft and Joseph P. Smaldone, “The Arms Trade and the Incidence of Political Violence in Sub-Saharan Africa, 1967–97,” *Journal of Peace Research* 39, no. 6 (2002): 693–94.

Although some African countries have obtained licenses to produce their own weapons, most weapons are imported. While Africa is perceived as receiving an influx of thousands of weapons each year, it has one of the smallest global markets in terms of dollar value, with an estimated value around US\$15 million to US\$25 million.¹² However, most of the arms transfers within this estimate may include only the legally imported arms. Conflicts in the Middle East, in addition to rogue governments, have made it possible for significant quantities of weapons to be brought into Africa by international arms dealers, corrupt officials, African middlemen, and cooperating governments.¹³

Onyinka Onwuka identifies seven major factors that influence the proliferation of SALW in Africa, which include the surplus of colonial and Cold War stockpiles, redistribution of stocks from older post-colonial conflicts, and supplies by governments to private armies, paramilitary forces, armed factions, and certain tribes. Other sources include leakages from government inventories, smugglers, and black market syndicates due to porous borders, diversions from inadequate controls, and supplies from local manufacturers and blacksmiths, such as the weapons used in the Hutu-Tutsi massacre in 1994.¹⁴ These factors pose challenges to the state and cause instability even after peace is achieved.¹⁵

African countries are cognizant of the problems posed by SALW proliferation and their role in exacerbating the numerous, violent conflicts. In 1999, the problem prompted a continent-wide declaration during the thirty-fifth Organization of African Unity (OAU) meeting, which supported a “commitment to combating the illicit proliferation, circulation, and trafficking of small arms, light weapons, and landmines at both sub-regional and continental levels.”¹⁶ This led to the First Continental Meeting of Experts on Small Arms and Light Weapons in Addis Ababa in May 2000.¹⁷

Governments generally regulate arms transfers. Edmund Byrne

12 Mathurin Hounnikpo, “Small Arms and Big Trouble,” in *African Security and the African Command: Viewpoints on the US Role in Africa*, eds. Terry F. Buss et. al (Sterling, VA: Kumarin Press, 2011), 170.

13 Hounnikpo, “Small Arms and Big Trouble,” 171.

14 Onyinka Onwuka, “Territoriality, Arms Trade and Sub-Regional Security,” in *Governance and Border Security in Africa*, eds. Celestine Oyom Bassey and Oshita O. Oshita (Lagos, Nigeria: Malthouse Press Limited, 2012), 182–83.

15 Nicholas Marsh, “Taming the Tools of Violence,” *Journal of Public Health Policy* 28, no. 4 (2007): 401–09.

16 Marsh, “Taming the Tools of Violence,” 401.

17 Ibid.

attributes this primacy of arms transfer by governments to the “centuries-old assumptions about political sovereignty, including the nation-state’s absolute authority and responsibility regarding war and weapons.”¹⁸ Unlike other commercial enterprises, governments often use strict criteria to allow for the transfer of arms, closely regulating the arms suppliers. Because governments are often susceptible to domestic audience pressures and international sanctions, they often regulate the provision of such arms. While weapons restrictions are not easy to put in place, the UN does regulate arms transfers to conflict areas through sanctions and arms embargoes.

Who Transfers Arms?

Between 1945 and 1990, the Cold War superpowers dominated the global arms trade, almost “evenly split about three fourths” of it.¹⁹ After the collapse of the Soviet Union, the United States’ share remained at under 50 percent, while Russia’s share fell to about 15 percent.²⁰ On average, military arms transfers can be directed to governments or to sub-government groups. Arms transfers to governments fall into the broader category of geopolitical power and capabilities contest; whereas to sub-national groups, the arms sellers often attempt to influence present or subsequent governments.²¹

Some of the largest, coordinated, and regulated arms transfers occurred during the Cold War, sanctioned by the US and the USSR. As David Kinsella notes, the rivalry—and therefore arms—ended up benefitting local military rivalries. Reflecting the small arms and light weapons transfer, Kinsella argues client states were not recipients but were still able to acquire weapons, becoming an extension of the superpowers’ competition.²²

Because of this rivalry, the enforcement of arms transfer standards was lax. Arms transfer control mechanisms and prohibitions, or lack thereof, could be violated or disregarded without significant sanction due to UNSC veto power. Post-Cold War, other potential violations occurred through sale and transfer through a second country and through alliances, such as Russia’s actions in the Syrian civil war. The war in Iraq demonstrated, for example,

18 Edmund F. Byrne, “Assessing Arms Makers’ Corporate Social Responsibility,” *Journal of Business Ethics* 74, no. 3 (2007): 202.

19 David Kinsella, “Rivalry, Reaction, and Weapons Proliferation: A Time-Series Analysis of Global Arms Transfers,” *International Studies Quarterly* 46, no. 2 (2002): 209.

20 Kinsella, “Rivalry, Reaction, and Weapons Proliferation,” 209.

21 *Ibid.*, 210.

22 *Ibid.*, 213–14.

how the US military, private military contractors (PMCs), businesses, and individuals facilitated arms transfers. In countries with rampant corruption, companies will promote the illegal arms trade and benefit from increased conflict; whereas in countries with low corruption, companies will rely on legal arms trade and are hindered by threats of conflict.²³

Small arms and light weapons often find their way to African conflicts by circuitous routes. In some instances, weapons belonging to the government become available to militias and civilians; while in others, they are procured for the express purpose of use in wars that often have regional implications. Goose and Smyth, for example, illustrate the complexity of the 1994 Rwandan genocide, tracing its occurrence to historic grievances and independence-era massacres. After Yoweri Museveni's 1986 rise to power in Uganda and following a seven-year civil war, the Rwandan Patriotic Front (RPF) invaded Rwanda. A sizable portion of RPF forces were from the Ugandan army, who also provided a trove of small arms and other weapons systems.²⁴

The Rwandan government turned to its former colonizer, Belgium, which declined to provide arms since Rwanda was technically "at war." On the other hand, France, who wanted to keep Rwanda within the bloc of twenty-one Francophone African nations, provided weapons, advisors, and combat troops.²⁵ In addition to fueling the conflict that would become one of the worst genocides in Africa, the weapons purchases by the Rwandan government effectively bankrupted Rwanda.

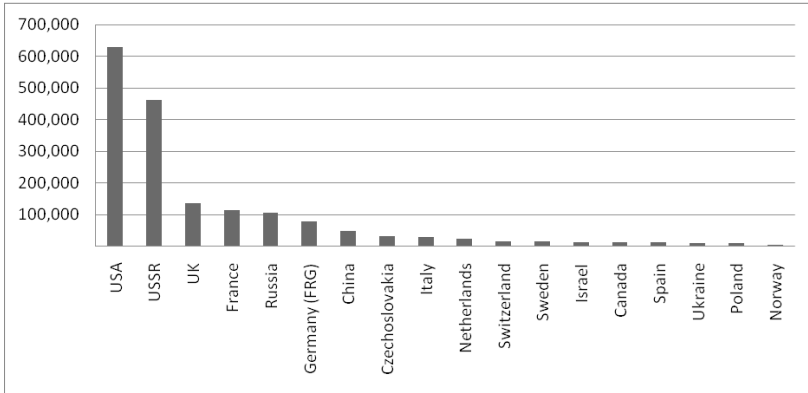
The largest arms exporters are the US, the USSR (until 1991), the UK, France, Russia, Germany, China, the former Czechoslovakia, Italy, the Netherlands, Switzerland, Sweden, Israel, and Canada (see Figure 1). In the SIPRI list of the top 75 arms exporters worldwide, there are four African countries: South Africa, Libya, Egypt, and Ethiopia. One can confidently assert then that most of the SALW that make their way into the conflicts in Africa originate from developed countries. Majority of the top weapons suppliers are also democracies.

23 Vigna and Ferrara, "Detecting Illegal Arms Trade," 28.

24 Stephen D. Goose and Frank Smyth, "Arming Genocide in Rwanda," *Foreign Affairs* 73, no. 5 (1994): 88.

25 Goose and Smyth, "Arming Genocide in Rwanda," 89.

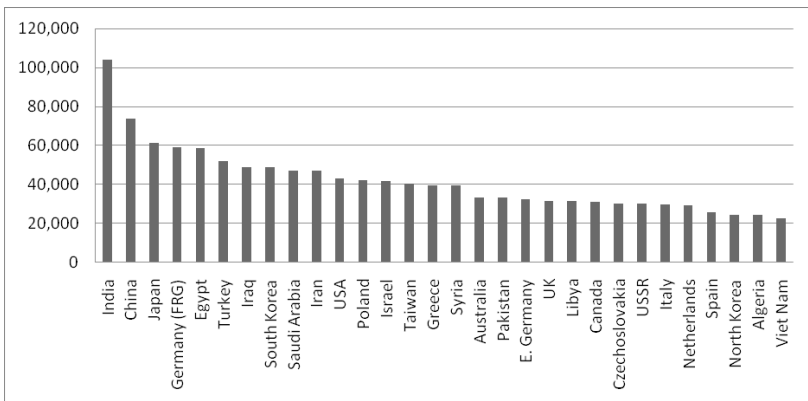
FIGURE 1 Top Arms Suppliers (1950–2012)



Source: “Top Arms Suppliers,” Stockholm International Peace Research Institute (SIPRI), 2013.

Conversely, in Figure 2 below, only nine African countries are in the top seventy-five arms importers, accounting for 12 percent of total imports. Additionally, four of these, Egypt, South Africa, Ethiopia, and Libya, are also arms exporters. It would appear, therefore, that for the number of conflicts that rage in Africa and given the arms exported/imported into the continent, there is a disconnect in how arms contribute (or do not) to the exacerbation of armed conflicts.

FIGURE 2 Top Arms Importers (1950–2012)



Source: “Top Arms Importers,” Stockholm International Peace Research Institute (SIPRI), 2013.

A Different Approach to Arms Transfers

The end of the Cold War was paralleled by rapid globalization, which facilitated access to information. With the collapse of the old order, client states began to fail. Some of the states' failures were characterized by intense local, regional, and interstate conflicts. US hegemonic reign concurrently occurred as the number of states increased, with the Commonwealth of Independent States (CIS) and the subsequent breakups of Yugoslavia and Czechoslovakia. More states meant more sources of weapons (and conflict); at the same time, issues that had not been as salient, such as regulating arms transfers, took on greater importance. For example, Goose and Smyth show the different reactions to the Rwandan government's affiliated militia's massacre of Tutsis: Belgium withdrew its ambassador while France apologized for the massacres.²⁶ Arms sales and transfers to countries in conflict often bears consequences, from embarrassment to electoral defeat. For example, when the proof of arms sales between Belgium and Nepal—a country in conflict and with a poor human rights records—surfaced in 2002, the Finance Minister Magda Alvoet was pressured to resign.²⁷

Perhaps among the worst offenders, the US quickly shifted its rhetoric: from containing Soviet expansion and unequivocally supporting allies including non-democratic regimes to paying more attention to human rights and democratic reforms.²⁸ Towards this end, the US changed its approach towards recipients of arms transfers, especially governments that were considered human rights violators or non-democratic. It was a significant shift for the US, who had been previously subsumed by the threat of communism. The US now premised foreign aid, alliances, and arms transfers on human rights and democracy records.²⁹ For example, after the overthrow of the democratically elected government in Nigeria in 1999, the US blocked government arms transfers to the military regime.³⁰

These new developments and increased scrutiny in arms transfers paralleled other global political developments. These included, but were not limited to, the fall of the Soviet Union, the increased democratization

26 Goose and Smyth, "Arming Genocide in Rwanda," 91.

27 Lerna K. Yanik, "Guns and Human Rights: Major Powers, Global Arms Transfers, and Human Rights Violations," *Human Rights Quarterly* 28, no. 2 (2006): 357–88.

28 Shannon Lindsey Blanton, "Foreign Policy in Transition? Human Rights, Democracy, and U.S. Arms Exports," *International Studies Quarterly* 49, no. 4 (2005): 648.

29 Blanton, "Foreign Policy in Transition," 648.

30 *Ibid.*, 649.

(for example, close to forty African countries became democratic between 1989 and 1991), and greater scrutiny on use of foreign and military aid. This was also the period when IGOs and NGOs were agitating for increased state responsibility towards their people, re-conceptualizing the relationship between citizens and the polity. This would later evolve into the doctrine of the Responsibility to Protect, or R2P.

The Responsibility to Protect

The R2P doctrine is a major modification to the largely uncontested idea of state sovereignty. Traditionally, sovereignty outlined the rights but was not conceived to encompass the states' responsibility to protect its citizens.³¹ This has gradually changed, although history is littered with mass atrocities and massacres. More recent cases have included the Rwandan genocide, the Janjaweed militia killings in western Sudan, and the ongoing conflict in the Great Lakes region, which has often been characterized as having elements of a genocide.³²

The role of the state in protecting its citizens—and more broadly its responsibility to its citizens—is not entirely new. Recorded history of the obligations of the state towards its citizens includes Justinian (sixth century), the moral codes of most major religions, and the written works of sixteenth to nineteenth century philosophers such as Grotius, Hobbes, and Locke. For example, Locke argued:

Part of God's natural law was that no one may harm anybody else in their health, life, liberty, or possessions. No one could be subjected to another's rule unless they consented, and a government's responsibility was to protect natural rights.³³

Over time, various documents, treaties, and covenants, including the Geneva Conventions of 1899 and 1949, the Treaty of Versailles, and the Universal Declaration of Human Rights (1948), paved the way for greater

31 Gareth J. Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, D.C.: Brookings Institution Press, 2008), 15.

32 Evans, *The Responsibility to Protect*, 18.

33 John Janzekovic and Daniel Silander, *Responsibility to Protect and Prevent: Principles, Promises, and Practicalities* (New York: Anthem Press, 2013), 12.

recognition of the role of states in assuring human rights. During the World Summit in 2005, leaders of 192 countries affirmed the Guiding Principles for the protection of Internally Displaced Persons (IDPs) and the extension of these guidelines to the intractable issues of genocide, war crimes, ethnic cleansing, and crimes against humanity. In a further nod to the importance of the concept of R2P, its principles and definitions were widely accepted and then adopted by both the UN General Assembly and the UNSC in 2009.³⁴

R2P holds that states have the primary responsibility for the protection of their citizens from the four categories of crimes against humanity. It further tasks the international community with the duty to assist states (especially those unable to) fulfill this responsibility using appropriate diplomatic, humanitarian, and other peaceful means to protect populations from potential harm.³⁵ States that failed to carry out their responsibilities faced intervention from the international community. For individual states, R2P entails prevention (warnings to address root causes of potential atrocities), responsibility to react (military, economic, political and diplomatic sanctions), evidence collection, and military intervention as a last resort, and the responsibility to rebuild (full assistance with recovery, reconstruction, and reconciliation).³⁶ As a result of R2P, a formal, collective agreement between the states over the treatment of citizens has been established, precipitating an international response to domestic violations.³⁷

Weapons sales and arms transfers have implications for R2P and how countries assure that their actions are consistent with halting, or at minimum, not facilitating genocide. International arms transfer entails perils even to friendly nations. For example, during the First Gulf War, France could not use their Mirage fighter jets because Coalition forces “could not distinguish the French Mirages from ‘enemy’ Iraqi Mirages sold to Iraq by France.”³⁸ Additionally, the Iraqi radar jamming systems purchased from the British posed a great danger to Coalition forces.³⁹

Even though the Iraqi government had a record of gross human

34 Sarah E. Davies and Luke Glanville, “Introduction,” in *Protecting the Displaced: Deepening the Responsibility to Protect*, eds. Sarah E. Davies and Luke Glanville (Leiden: Brill, 2010), 4–5.

35 International Coalition for the Responsibility to Protect, “Summary of the Responsibility to Protect: The Report of the International Commission on Intervention and State Sovereignty (ICISS),” World Federalist Movement – Institute for Global Policy, accessed August 20, 2013, <http://www.responsibilitytoprotect.org/index.php/about-rtop/learn-about-rtop>.

36 Ibid.

37 Janzekovic and Silander, *Responsibility to Protect and Prevent*, 46.

38 Yanik, *Guns and Human Rights*, 358

39 Ibid.

rights violations, they still managed to acquire these sophisticated weapons. A nation's capacity to acquire modern weapons and maintain them, even when its ideology and support by the arms supplier shift (e.g. the US-supplied Iranian F-14s during the reign of Reza Shah Pahlavi), demonstrates the problems of arms supplied by friendly governments. The arms can then be used later for purposes for which they were not intended. The supply of weapons to Rwanda by South Africa, Israel, Albania, France, and Bulgaria illustrates legal weapons sales later used for nefarious purposes.

Governments need to be cognizant of unintended consequences of arms trade. Trade produces "security externalities" by increasing the recipient's military capacity; therefore, exporters may limit sales to even allies and stop sales to enemies.⁴⁰ For Iran and Rwanda, the arms were delivered to friendly governments, so it is not always evident that governments will later turn on its citizens in violation of R2P.

Lingering Issues

Reviewing relevant literature on the increasing recognition of the role of countries in limiting the occurrence of conflicts and genocide and the states' responsibility to intervene when the countries in question cannot halt atrocities, some inconsistencies are found in countries' positions. For example, there is a disconnect between the foreign policy positions of a number of OECD countries regarding their commitment to the reduction in conflicts, and the total amount of weapons shipped to foreign countries—especially those experiencing conflict—by these committed OECD countries.

Research Questions

This research addresses the following main question: Do countries' positions on the emerging global norm of R2P align with their practices of arms transfers, especially to non-democratic, conflict-prone countries? The research develops several hypotheses to test the relationships between weapons transfers, countries' democratization, state fragility, economic development, and other factors, such as how much countries spend on their

40 Shannon L. Blanton, "Promoting Human Rights and Democracy in the Developing World: U.S. Rhetoric versus U.S. Arms Exports," *American Journal of Political Science* 44, no. 1 (2000): 123–31.

militaries as a percentage of their GDP. Additional questions that this paper explores include: Do countries experiencing internal conflict import more arms to sustain and further their conflicts? Where do they acquire their weapons? Are politically fragile countries concentrated in certain regions or equally distributed across the globe? What other relationships exist between fragile states and other variables such as military expenditure, democratization, and levels of economic development?

Data and Methods

Based on data from 1961 to 2010, this research uses quantitative, multivariate regression statistics to determine the correlation between the rhetoric of adherence to and support for international norms—such as peaceful settlement of disputes and memberships in international organizations—and arms transfers. The data covers the 192 member states of the United Nations, excluding South Sudan since it was not covered by the period under review. The starting point of 1961 was selected since it denotes the beginning of independence declarations in African countries.⁴¹

The research uses several data sources for different indicators that were later compiled into a database. From the World Bank, data on per capita GDP, net ODA received, and military expenditure (percent of GDP) were obtained. Data on the membership of IGOs were obtained from the Pevehouse, Nordstrom, and Warnke's Correlates of War, and IGO Data (v2.1) dataset.⁴² From COW IGO data, the variable, *igounit*, represents the total IGO membership of a country per year. The research includes *netmilaid*, the net US military aid provided to different countries. The variable is included based on the notion that the US is more likely to provide military aid to countries that are cooperative and democratic.

Data for the former Soviet Union republics, now members of the Commonwealth of Independent States (CIS), are available from the years 1990–2000. For Germany's IGO membership, the research uses West Germany's membership from 1961 to 1990, given that West Germany had

41 Data from "Growth in United Nations Membership, 1945-present," United Nations, accessed September 26, 2013, <http://www.un.org/en/members/growth.shtml#text>. In addition to the original 51 members who signed the UN Charter, most of the next group of 32 members came from Asia. The first group of African countries to join the United Nations totaled 17 and joined in 1960.

42 Jon C. Pevehouse, Timothy Nordstrom, and Kevin Warnke, "The COW-2 International Organizations Dataset Version 2.0," *Conflict Management and Peace Science* 21, no. 2 (2004): 101–19.

belonged to more than four times as many IGOs as East Germany. To measure the effect of conflict on a state and its stability, the research eliminated the use of the Major Episodes of Political Violence (MEPV) dataset with the *ACTOTAL* variable (the sum of civil violence, civil wars, ethnic violence, ethnic wars, and interstate wars). Between 1961 and 2010, there were 9,408 observations available, but only 1,537 of them are valid data points (16.34 percent of the cases).⁴³

Results

State Fragility and Arms Transfers

From the first omnibus model, the adjusted R^2 of 0.491 indicates that the model accounts for about 50 percent of the variation in state fragility given different model variables, which is not a robust fit. Ten of fifteen variables in this model are statistically significant, seven of which are statistically significant at the 90, 95, and 99 percent confidence levels. They include year, per capita GDP, level of globalization, military spending as percentage of GDP, South America regional variable, arms transfer, and membership in IGOs. US military aid, North American regional variable, and Africa are statistically significant at the 95 percent confidence level. Per capita GDP, level of globalization, and South America variables are negatively signed. (See Appendix, Table 1).

As expected, state fragility correlates negatively with per capita GDP; richer countries are politically more stable than poorer countries. The same finding holds for globalization; state fragility correlates negatively with higher levels of development (which in turn potentially correlates with wealth). For comparison purposes, the South America variable is included since both Africa and South America experienced some conflict in the twentieth century. The variable correlates negatively with state fragility, indicating that South American nations are more stable than the African nations.

State fragility measures are time limited with the available data. For example, the Fund for Peace started tracking failed states in 2005, while the Polity IV data tracked state fragility beginning in the 1980s. US military aid correlates positively with state fragility. It may be concluded that countries receiving US military aid have higher state fragility rates than countries

43 Monty G. Marshall, "Major Episodes of Political Violence (MEPV) and Conflict Regions, 1946–2012," Center for Systemic Peace, accessed September 26, 2013, <http://www.systemicpeace.org>.

that do not. It is not clear why this might be the case, although countries in conflict may be bigger arms importers. Military expenditure as a percentage of GDP also correlates positively with state fragility. This is an expected and hypothesized finding. Countries experiencing internal or external conflict may be more prone to spending more on their military as they attempt to put down insurrections and challenges to the state. As expected, the African regional variable correlates positively with state fragility. According to the Fund for Peace and Foreign Policy's Failed States Index, 70 percent of the top 10 failed states are in Africa.⁴⁴ Also, 63 percent of the top 30 failed states are in Africa.⁴⁵ These results help explain the positive correlation between state failure and the African region. The IGO membership coefficient correlates positively with the state fragility variable. Countries experiencing conflict have higher fragility scores and belong to fewer IGOs. States in civil wars, such as Somalia, often do not have relationships with or representation at multilateral bodies due to the contestation of government.

Arms Transfers around the World

Having arms transfers with the SIPRI Arms Transfer as the dependent variable produces an interesting finding. The omnibus model has an adjusted R^2 of 0.881; the model explains a robust 88 percent of the variation in arms transfers. The variables' correlations further add to our understanding of the relationship between arms-originating countries and recipients. In the omnibus model that has arms transfer (countries arms' sales) as the dependent variable, ten of the thirteen variables are statistically significant. Of these, four variables are positively signed (constant, state fragility, North American regional variable, and per capita GDP), indicating a positive correlation between these variables and global arms exports. Coefficients for year, level of globalization, military expenditure as percentage of GDP, South American and European regional variables, FDI outflows, and US net military aid are statistically significant but negatively signed, indicating a negative relationship between the variables and arms transfers across the world. (See Appendix, Table 2.)

The negatively signed globalization index variable is curious, given that developed countries are the largest arms exporters. Yet, since

44 Fragile State Index, "The Failed States Index 2013," The Fund for Peace, accessed September 26, 2013, <http://fsi.fundforpeace.org/rankings-2013-sortable>.

45 Ibid.

only a few countries account for a high percentage of arms exports, the relationship between developed countries and arms export is not robust. Indeed, major arms exporters include the USA, USSR (now Russia), UK, France, and China. Although European countries export arms, their arms sales are far behind the US, Russia, and China. European countries do not transfer arms to countries experiencing conflict at significantly higher rates than other countries. One expects that countries' arms imports to positively correlate with military spending as percentage of GDP.

From the results of this model, state fragility positively correlates with military spending, possibly on arms. One can surmise that countries attempting to maintain control of legitimate violence and countries experiencing internal dissent are likely to increase their arms imports, thus spending more on the military to keep their military supportive of the government.

Membership in IGOs and Arms Sales

Next, the regression statistics attempt to explain the determinants of arms transfers especially to the least developed countries particularly in Africa. This model examines selective variables: US net military aid (expected to be low since the countries are experiencing conflict), SIPRI arms transfer (hypothesized that developed countries transfer more arms even as they belong to IGOs), year, levels of globalization, levels of democracy, per capita GDP, and membership in IGOs. Wealthier countries have the financial ability to maintain membership in many IGOs, are more likely to give aid (net ODA), and will invest more in other stable countries (FDI outflows). Likewise, African countries that are hypothesized to have higher levels of conflict should spend more on their military. The adjusted R^2 of 0.120 in the model is not robust enough to explain arms transfers.

From this model, the coefficients for year, Asia, IGO memberships, net ODA, and US military aid are statistically significant, despite the low explanatory power. The expectation for higher IGO membership to correlate negatively with arms exported does not hold; there is a positive correlation between IGO memberships and arms transfers. Despite their membership in IGOs, countries in regions experiencing conflict such as Asia continue to import arms even and participate in IGOs. For example, even as the conflict raged on against the Khmer Rouge during the 1980s in Cambodia, both factions were represented at the UN General Assembly in New York.

Military aid from the US correlates positively with the value of arms received. Perhaps, this reflects both the collinear relationship with military assistance and the possibility that it is in the form of arms. Also, the US is one of the primary sources of arms transfers around the world. Interestingly, the value of arms received correlates negatively with net overseas development aid (Net ODA), suggesting that countries that import more arms are less likely to receive foreign aid of the economic nature. It is therefore possible that as they become more conflictual, countries restrict aid even as they export more arms.

IGO Membership and Arms Transfers

The next model investigates arms transfers by countries that have multiple memberships in IGOs. One expects that a country with multiple IGO memberships is more likely to have fewer arms transfers especially to war-torn and conflict zones. Here, IGO memberships represents concurrence with IGOs and their norms, support for multilateral actions such as arms embargoes, adherence to UNSC resolutions banning transfer of weapons, limiting arms provision to foreign countries embroiled in conflict, and, more generally, engaging in and supporting diplomatic efforts.

Previously, the research found that the top arms exporters are members of UNSC, followed by many OECD countries. These countries are mainly liberal democracies that have often pushed for international norms such as the R2P. While these countries may limit their arms transfers to foreign countries, the leading net arms importers are not necessarily countries experiencing conflict. This leads to the question of how democratic countries with IGO membership end up transferring arms to foreign countries. Is there a disconnect between the countries' rhetoric and membership in international organizations?

With an adjusted R^2 of 0.319, the model explains a paltry 32 percent of the variation in arms transfers and is thus not a strong indicator of the factors explaining arms transfers. Although the model's explanatory power is quite low, several variables are statistically significant: year, per capita GDP, level of globalization, North America, and total arms received. (See Appendix, Table 3.) These variables are also positively signed, indicating a positive correlation between membership in IGOs and these variables. Apart from the total arms received, the other correlations are to be expected. Wealthier and highly developed countries, which are in Europe and North America,

join more IGOs over time. Membership in IGOs is correlated negatively with military expenditure as a percentage of GDP and the regional variables of Europe and Asia. Given the low R^2 value, the model cannot be a reliable indicator for explaining membership in IGOs.

IGO Membership, Global Norms (R2P), and Arms Exports

In the final model, the coefficients for year, per capita GDP, globalization, military expenditure, regions (North America, Asia, and Europe), and arms imports are statistically significant. Most Western democratic countries, which tend to belong to more IGOs, are also the leading arms exporters. Bearing in mind the weak overall explanatory relationship (as evidenced by the low adjusted R^2 value), the data do not support the claim that countries participating in a greater number of IGOs (and therefore, more likely to support international norms such as R2P) transfer fewer arms to countries experiencing conflict, particularly in Africa, than to all other countries. (See Appendix, Table 4.)

Wealthier countries, which are also on average more democratic, belong to more IGOs. Military expenditure as percentage of GDP correlates negatively with membership in IGOs. Countries that spend more on the military may experience more conflict, and thus more fractured, and be less likely to adhere to international norms. This pattern is evident even in examination of raw data: the former East Germany belonged, on average, to about half as many IGOs as the former West Germany.

Even as these findings portend avenues for further research, alternative explanations hold. As shown previously, the US, Russia, China, and major European powers are the main producers and suppliers of weapons; as their own national defense budgets indicate, this leads to a surplus in arms sales. For instance, the US is the largest net arms exporter, and the US defense budget spending accounts for approximately 37 percent of the US\$1.6 trillion spent on defense around the world in 2015.⁴⁶

Additionally, due to the higher levels of technological development, these countries can export arms because they develop the most advanced weapons and weapons technologies. Membership in IGOs may be a point of prestige, particularly in institutions whose membership is either regional,

46 Anup Shah, "World Military Spending," *Global Issues*, June 30, 2013, accessed April 22, 2017, <http://www.globalissues.org/article/75/world-military-spending>.

geographical, or exclusive, rather than inclusive (such as the UN). Thus, countries, such as North Korea, may be less likely to adhere to international norms and will join IGOs as a way to avoid pariah status.

Analysis and Conclusions

This research sets out to understand whether countries' positions on the emerging global norm of R2P align with their practices of arms transfers, especially to non-democratic, conflict-prone countries. The data used in this research did not conclusively support this argument. The US ranked first in arms transfer, followed by several developed countries; at the same time, countries like India, Israel, and Turkey were major recipients of the arms transfers. The correlation between arms transfer and conflict particularly in Africa is very weak. Some of the explanations include the nature of the weapons used in many conflicts in Africa, ranging from domestically produced weapons (machetes, bows, and arrows) to non-domestic, commercially produced weapons (SALW like the AK-47), primarily originating from Russia and China.

Independently, the state fragility and IGO membership variables do not explain arms transfers. The regression statistics found several interesting results: the negative correlation between state fragility and per capita GDP, globalization, and the South American region. State fragility correlates positively with Africa, arms transfer, North America, military expenditure, and US military aid. Other important results include a negative correlation between arms transfers and the year, level of globalization, military expenditure as percentage of GDP, South America, and Europe, FDI outflows, and US net military aid.

These results reflect some expected correlations: a small number of the more developed countries, located in North America, Latin America, and Europe, export fewer SALWs. Therefore, it appears that weapons in African conflicts largely come from non-democratic countries. Military expenditure as percentage of GDP correlates negatively with arms transfers; again, this may be indicative of fewer major arms importers and countries in conflict do not import significant amounts of weapons. Even when countries import arms, their levels of wealth (measured by per capita GDP) make it difficult to import sizeable amounts of arms.

Major powers, some of them democracies and also UNSC members, are the leading arms suppliers to different countries. Developed countries

have a higher level of participation in IGOs and should, therefore, adhere more to international norms such as R2P. The major arms importers are also some of the emerging powers; contrary to initial hypotheses that countries in conflict will import more weapons, countries in Latin America, Southeast Asia, and Africa import fewer arms than would be expected given the levels of conflict.

Accurate data on illegal arms exports is often difficult to find. Even if it is accessible, the trends in arms sales do not suggest that governments are involved in the illegal arms export business. Nonetheless, governments may also export arms without official sanction or for clandestine purposes, as evidenced in the Iran-Contra affair.⁴⁷ It is also plausible that conflicts often arise independently from arms exports. For example, France was one of Rwanda's major sources of arms up to and until the Rwanda genocide broke out in 1994. Prior to that, France may have exported arms to a legitimately elected Rwandan government, only cutting off the arms exports when conflict broke out.

The major finding of this research is that major powers are the most significant arms exporters. They are also active in IGOs, which often set conditions for both war and peace and arms sales, including embargoes. These countries are also active in promoting international rules and regimes, including those espoused in the R2P doctrine. However, there is no correlation between these major countries' arms sales and transfers to African countries and their support for global norms, as measured by their membership in IGOs. Failing states do not join IGOs at a significant rate but spend more on their military perhaps to quell rebellions. Thus, countries with membership in IGOs are neither more nor less likely to sell arms to countries that are not meeting their responsibilities to the R2P doctrine.

47 Mark Gasiorowski, "Islamic Republic of Iran," in *The Government and Politics of the Middle East and North Africa*, eds. David E. Long, Bernard Reich, and Mark Gasiorowski (Boulder, CO: Westview Press, 2011), 62.

Appendix

Table 1 State Fragility: Omnibus Model and Table of Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig	Correlations		
	B	Std. Error	Beta			Zero-order	Partial	Part
(Constant)	-1798.13	64.312		-27.959	.000			
Year	.906	.032	.852	28.108	.000	.528	.584	.511
GDP per capita	-.001	.000	-.579	-12.199	.000	-.296	-.298	-.222
Globalization	-.095	.013	-.188	-7.281	.000	-.117	-.183	-.132
NetODA	.067	.055	.024	1.224	.221	.166	.031	.022
FDI Outflows	6.85E-012	.000	.021	.800	.424	-.112	.021	.015
Democracy	.010	.024	.009	.424	.671	-.127	.011	.008
US Military Aid	.001	.001	.036	1.901	.057	.023	.049	.035
Exp. on Mil % GDP	.123	.047	.052	2.635	.009	-.003	.067	.048
N. America	2.232	1.156	.064	1.931	.054	-.215	.049	.035
S. America	-1.163	.417	-.066	-2.789	.005	-.163	-.071	-.051
Europe	-.924	.689	-.028	-1.341	.180	-.119	-.034	-.024
Africa	.729	.351	.050	2.074	.038	.251	.053	.038
SIPRI Arms Xfer	.002	.000	.480	12.422	.000	-.206	.303	.226
SIPRI Arms Rcd	.000	.000	-.024	-1.216	.224	-.009	-.031	-.022
IGO memberships	.048	.006	.206	7.873	.000	-.302	.198	.143
Predictors: State fragility								

Table 2 Arms Transfer: Table of Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
	B	Std. Error	Beta			Tolerance	VIF
(Constant)	205233.586	19678.310		10.429	.000		
Year	-102.997	9.904	-.203	-10.399	.000	.346	2.891
Globalization	-6.733	2.763	-.039	-2.436	.015	.525	1.904
Exp. on Mil. % GDP	-37.691	8.656	-.055	-4.354	.000	.813	1.230
Region - N. America	1671.907	231.896	.158	7.210	.000	.275	3.638
Region - S. America	-220.452	84.645	-.038	-2.604	.009	.614	1.629
Region - Europe	-1267.425	151.704	-.111	-8.355	.000	.743	1.345
Region - Asia	48.554	75.130	.009	.646	.518	.716	1.397
Democracy	-4.737	5.332	-.013	-.888	.375	.633	1.580
Fragility Polity IV	45.489	5.104	.144	8.913	.000	.508	1.970
IGO memberships	-1.785	1.612	-.014	-1.107	.268	.785	1.273
GDP per capita	.335	.011	.790	29.806	.000	.188	5.326
NetODA	14.610	11.822	.015	1.236	.217	.887	1.128
FDI Outflows	-3.94E-009	.000	-.028	-1.766	.078	.526	1.903
US Net Military Aid	-.278	.112	-.030	-2.495	.013	.888	1.126
Dependent Variable: SIPRI Arms Xfer							

Table 3 IGO Members: Table of Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Correlations		
	B	Std. Error	Beta			Zero-order	Partial	Part
(Constant)	-1324.323	393.331		-3.367	.001			
Year	.688	.198	.176	3.477	.001	.057	.119	.098
GDP per capita	.001	.000	.166	1.805	.071	.281	.062	.051
Globalization	.220	.051	.166	4.272	.000	.288	.146	.121
NetODA	-.005	.226	-.001	-.020	.984	-.056	-.001	-.001
FDI Outflows	-1.564E-011	.000	-.015	-.376	.707	.198	-.013	-.011
Democracy	.044	.101	.015	.435	.664	.200	.015	.012
US Net Military Aid	.002	.002	.029	.920	.358	.082	.032	.026
Exp. on Mil % GDP	-.790	.161	-.153	-4.892	.000	-.213	-.167	-.138
N. America	13.809	4.416	.173	3.127	.002	.287	.107	.088
America	-1.519	1.635	-.033	-.929	.353	.097	-.032	-.026
Europe	-14.665	2.896	-.171	-5.064	.000	-.105	-.172	-.143
Asia	-12.389	1.440	-.292	-8.601	.000	-.204	-.285	-.243
Fragility Polity IV	.084	.101	.034	.825	.410	.056	.028	.023
SIPRI Arms Xfer	.000	.001	-.032	-.385	.700	.247	-.013	-.011
SIPRI Arms Rcd	.018	.002	.322	10.397	.000	.230	.338	.294
Dependent Variable: COW - IGO memberships								

Table 4 Arms Exports: Table of Coefficients

Model	Unstandardized Coefficients		Standardized Coefficients	t	Sig.	Collinearity Statistics	
	B	Std. Error	Beta			Tolerance	VIF
(Constant)	-14808.117	5391.944		-2.746	.006		
Year	7.404	2.706	.134	2.736	.006	.239	4.192
Globalization	.254	.906	.010	.281	.779	.478	2.091
Exp. on Military % GDP	2.575	3.186	.021	.808	.419	.839	1.192
Region - N. America	-25.542	79.206	-.014	-.322	.747	.301	3.326
Region - S. America	-7.224	27.321	-.008	-.264	.792	.633	1.580
Region - Europe	6.454	46.668	.004	.138	.890	.768	1.302
Region - Asia	241.119	23.226	.291	10.381	.000	.727	1.375
Democracy	1.609	1.656	.028	.971	.331	.713	1.402
Fragility Polity IV	-2.127	1.749	-.041	-1.216	.224	.504	1.982
IGO memberships	1.998	.425	.164	4.698	.000	.472	2.118
GDP per capita	-.004	.004	-.061	-.933	.351	.134	7.463
NetODA	-8.861	3.749	-.060	-2.364	.018	.891	1.122
FDI Outflows	-1.504E-010	.000	-.009	-.257	.797	.478	2.093
US Net Military Aid	.296	.040	.182	7.342	.000	.935	1.069
SIPRI Arms Transfer	.009	.010	.047	.885	.376	.202	4.958
Dependent Variable: SIPRI Arms Received							

WHY NORTH KOREAN FOREIGN POLICY IS RATIONAL: AN APPLICATION OF RATIONALITY THEORIES

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This article discusses whether the accusations against North Korea for pursuing irrational foreign policy are justified. To do so, the article will seek to define rational as well as irrational behavior. Rationalist behavior will be divided into two categories: strict rationality (rational choice theory) and loose rationality (constructivism, prospect theory, and cognitive models). These definitions will be applied to two case studies: the Agreed Framework of 1994 with the United States and South Korea's Sunshine Policy during its early phase from 1998 until 2003. Each case study will consider rationalist and irrational explanations of North Korean foreign policy separately and then comparatively assess their explanatory merits. This analysis will indicate the conclusion that rationalist explanations are best able to account for North Korean foreign policy in a consistent manner. Based on the information currently available, it will be argued that North Korea is a rational actor in its foreign policy.

Kim Jong-il,² the late former leader of the Democratic People's Republic of Korea (DPRK), was often accused of being irrational. In particular, the Western media often portrayed him—and by extension, the DPRK's foreign policy—as wildly haphazard. Policy-making circles have emulated such a view. In her autobiography, Condoleezza Rice, the former US Secretary of State, relates an anecdote employed by President George W. Bush to explain North Korean foreign policy: "He [Kim Jong-il] throws his food on the floor, and all the adults run to gather it up and put it back on the table. He waits

1 My thanks go to my thesis supervisor, Dr. Lee Jones of Queen Mary University of London, whose guidance and encouragement made this article possible.
2 The last name Kim will be used hereinafter to refer to Kim Jong-il unless otherwise specified.

a little while and throws his food on the floor again.”³ By characterizing Kim as a child throwing a tantrum, Bush implied a lack of self-reflection in Kim’s behavior. Thus, according to this viewpoint, North Korean policy is based on temporary mood swings rather than long-term strategic goals. Above all, the country’s leadership is continually guilty of failing to consider the consequences of its actions.

To determine if this perspective is valid, this article will attempt a structured application of rationality theories. While the question of North Korea’s (ir)rationality has already been addressed by a multitude of authors, this article hopes to contribute to the debate by engaging more deeply with theories of rationality. Understanding North Korea’s behavior could scarcely be of greater importance given the continuing disputes between North Korea and the West and East Asia. Although some policies have changed under the current leadership of Kim Jong-un, the analysis conducted here is equally applicable to DPRK foreign policy today.

The theoretical groundwork of this article will take the following form: rational choice theory will be defined by strictly rational explanations based on cost-benefit analyses. To complement certain inadequacies of rational choice theory, the article will draw upon “loosely rational” theories, in particular constructivism, prospect theory, and cognitive models. Finally, an attempt to find a useful description of what constitutes irrational behavior will be made.

In subsequent sections, these theories will be applied to two case studies: the Agreed Framework of 1994 and the Sunshine Policy during its early period of 1998 to 2003. The Sunshine Policy will only be considered from its inception until the end of ROK President Kim Dae-jung’s term in office in 2003 to ensure that sufficient attention to detail can be given within the limits of this article.

These two case studies were chosen because they provide the strongest claims for the argument of irrational DPRK foreign policy. On both occasions, Kim Jong-il was presented with an opportunity to end the isolation, which the so-called “hermit kingdom” remained in since the end of the Cold War. Yet, both times, he startled the international community by failing to take advantage of these opportunities. However, on closer inspection, evidence of rational reasons behind Kim’s actions exist. An additional benefit of these two case studies is that they provide a broader basis for analyzing DPRK foreign policy. While many accounts focus exclusively on nuclear policy or

3 Condoleezza Rice, *No Higher Honor* (New York: Simon & Schuster, 2011), 158.

US-DPRK relations, this article hopes to avoid such an imbalance.

In the case studies, all three categories—strictly rational, loosely rational, and irrational—will be examined on their own merits. At the end of each case study, a comparative evaluation will be conducted to determine which theory is most convincing in explaining DPRK foreign policy. The article assumes that there is no distinction between behavior that, for example, can be rationally explained and behavior that is actually rational. This assumption is necessary to avoid the problem of *post-facto* rationalization of irrational behavior, a problem that will be addressed in greater detail below.

One problem with this assumption is that all behavioral theories are subject to what might be bending the facts to make them fit the theory. As analysis of the facts naturally takes place after they have originated, events can be rationalized, just as they can be interpreted to fit the irrational thesis.⁴ However, while this certainly constitutes a considerable weakness in the argument, there is little that can be done to prevent it.

Finally, it should be noted that this analysis is based on the information currently available about the DPRK. It is likely that new information may change the results of the analysis.

Theoretical Framework of Foreign Policy Decision Making

This first chapter will focus on theoretical approaches to rationality and what it means to be a rational actor. This article will employ a rather narrow definition of rationality, pertaining to cost-benefit analysis, rather than the more substantive one offered by Sidney Verba, which focuses not only on the expected utility of an actor but also on the actor's awareness of his own reasoning process.⁵ This narrow focus was chosen because, from the perspective of an external analyst, awareness is difficult to determine. Moreover, it seems possible for a rational decision to occur without the actor being aware of his reasoning process.

Rational choice theory was developed by micro-economists, such as John von Neumann and Oskar Morgenstern,⁶ and applied to the study

4 David Kang, "International Relations Theory and the Second Korean War," *International Studies Quarterly* 47, no. 3 (2003): 311.

5 Sidney Verba, "Assumptions of Rationality and Non-Rationality in Models of the International System," *World Politics* 14, no. 1 (1961): 96.

6 John von Neumann and Oskar Morgenstern, *Theory of Games and Economic Behavior* (Princeton: Princeton University Press, 1944).

of political actors by neo-realist scholars, such as Stephen Krasner and Joseph Grieco,⁷ and neo-liberal institutionalists, such as Joseph Nye and Robert Keohane.⁸ Rational choice theory, which this paper shall call “strict rationality,” is a very precise model of rationality. It is based on means-ends relations and the assumption of utility maximization. Such a limited view of rationality renders it somewhat insufficient when seeking to explain rational behavior. Certain chains of action-reaction behavioral patterns can be logically explained and intuitively do not appear irrational, even though they do not fit into the strict definition of rationality provided by rational choice theory. Thus, the second category shall be termed “loose rationality.” It comprises theories such as constructivism, cognitive models explored by Janice Gross-Stein,⁹ and prospect theory, initially developed by Daniel Kahneman with Amos Tversky¹⁰ and subsequently transferred to foreign policy analysis by Jack Levy.¹¹ The final section of the theoretical chapter will discuss irrationality and will attempt to provide a useful definition based on the limited available literature.

Strict Rationality

In general, strict rationality is understood in this article to be synonymous with a game-theoretical approach, which is based on cost-benefit analyses. The static decision-making process is one whereby certain inputs, such as effects and side-effects of actions, are categorized as costs or benefits with a certain degree of (dis)utility. These inputs are weighed against one another to determine whether the benefits of an action outweigh the costs. If they do, this leads to a positive decision in favor of the action.¹² Rationalist

7 Stephen Krasner and Carlos Pascual, “Addressing State Failure,” *Foreign Affairs* 84, no. 4 (2005): 153-63; Joseph M. Grieco, “Realist Theory and the Study of World Politics,” in *New Thinking in International Relations Theory*, eds. Michael Doyle and John Ikenberry (Boulder: Westview Press, 1997).

8 Joseph Nye and Robert Keohane, *Power and Interdependence: World Politics in Transition* (Boston: Longman, 2000).

9 Janice Gross-Stein, “Foreign Policy Decision-Making: Rational, Psychological, and Neurological Models,” in *Foreign Policy: Theories, Actors, Cases*, eds. Steve Smith, Amelia Hadfield, and Tim Dunne (Oxford: Oxford University Press, 2012).

10 Daniel Kahneman and Amos Tversky, “Prospect Theory: An Analysis of Decision Under Risk,” *Econometrica* 47, no. 2 (1979): 263-91.

11 Jack Levy, “Prospect Theory, Rational Choice, and International Relations,” *International Studies Quarterly* 41, no. 1 (1997): 87-112.

12 Joshua Goldstein and Jon Pevehouse, *International Relations* (New York: Pearson Longman, 2007), 68.

theories differ with regards to the factors flowing into this cost-benefit analysis. The first theory to be examined, rational choice theory, takes a straightforward utilitarian approach and thus falls into the category of strictly rational theories. Rational choice theory was developed as an integral part of methodological individualism, which seeks to explain social phenomena through the motivations of individual actors.¹³

Dynamic decision-making is comparative: rational choices occur when an actor reviews the options available, considers the consequences of each available option, and then chooses the utility-maximizing option.¹⁴ To maximize utility, the *homo oeconomicus* must be aware of his preferences and, in case of conflict, must be able to rank these. Preferences are assumed to be (1) complete for any possible choice and the actor is aware of preferring one option over the other; (2) reflexive in which each option is at least as preferred as itself and simply indicates consistency; and (3) transitive in which option A is preferred to option B and option B is preferred to option C, then option A must also be preferred to option C (if $A > B$ and $B > C$, then $A > C$).¹⁵

Once an actor has determined his or her preferences, two main factors will influence the actor's decisions: the availability of resources and the available information.¹⁶ One problem is limited knowledge which renders decision makers incapable of predicting the exact utility which they will obtain from an action. Actors will therefore use expected utility as the basis for their decision.

Knowledge can also be problematic when unevenly distributed amongst several actors. The problem of asymmetric information was first explored by George Akerlof, who argued that, in the case of uncertainty, actors attach probability estimates to the occurrence of particular events and then attempt to maximize their utility based on these probabilities.¹⁷ The analysis is particularly relevant for repeated games, such as interaction between the DPRK and the US. Thus, the DPRK might attach a 60 percent probability to the US keeping a particular negotiated commitment ("cooperation") and a

13 Andrew Kydd, "Methodological Individualism and Rational Choice," in *The Oxford Handbook of International Relations*, eds. Duncan Snidal and Christian Reus-Smit (Oxford: Oxford University Press, 2010), 429.

14 Graham Allison and Philip Zelikow, *Essence of Decision: Explaining the Cuban Missile Crisis* (London: Longman, 1999), 26.

15 Hal Varian, *Intermediate Microeconomics* (New York: Norton & Company, 2006), 34–48.

16 Goldstein and Pevehouse, *International Relations*, 68.

17 George Akerlof, "The Market for 'Lemons': Quality Uncertainty and the Market Mechanism," *The Quarterly Journal of Economics* 84, no. 3 (1970): 488–500.

40 percent probability to it breaching the commitment (“defection”). In a game theory analysis, the optimal action for the DPRK would involve a mixed strategy equilibrium, meaning randomly choosing to cooperate in six out of ten cases and defecting on the other four occasions.¹⁸

The benefit of rational choice theory is that it is intuitive and linear. The disadvantage of the theory is that reality is often not that straightforward. Therefore, while amendments to the initial theories of Neumann and Morgenstern, such as repeated games and games with uncertainty, have enhanced the explanatory powers of game theory, the actual use of game theory in international relations is debatable. The simplifying assumptions made here may render it inapplicable to reality. For example, how does one determine the utility level attached to the normalization of diplomatic relations between two countries? Moreover, while the rational actor model is predicated on the unitary actor assumption, governments may not be unitary actors with one opinion and one decision-making process and instead be more complex.¹⁹

Loose Rationality

To accommodate those human imperfections which defy the strictly rational model, alternative models have been developed. This article shall term these “loosely rational” because they show that some behavior might be logically explicable, even when it does not meet the strict requirements of rational choice theory. The three loosely rational theories to be explored here are constructivism, prospect theory, and cognitive models.

Constructivism proposes that social phenomena are created through constructions of the material world, just as actors’ perceptions of the world are shaped by their values, norms, and assumptions. These influence actors’ decision-making behavior by factoring into their cost-benefit analyses.²⁰ Actors are thus rational as long as they adhere to the result of such an analysis, even if this result is different to the one they would have reached, had the inputs been merely external factors (i.e. the rational choice approach).

The main tenet of prospect theory is that actors do not evaluate their

18 Avinash Dixit and Susan Skeath, *Games and Strategy* (New York: Norton, 1999), 136–38.

19 Goldstein and Pevehouse, *International Relations*, 69.

20 Karin Fierke, “Constructivism,” in *International Relations Theories: Disciplines and Diversity*, eds. Tim Dunne, Milja Kurki, and Steve Smith (Oxford: Oxford University Press, 1994), 179.

options based on final outcomes, as rational choice theory would have it, but rather in relation to a certain reference point.²¹ This is because actors tend to accept gains much more quickly than losses. Thus, a state which has lost a certain territory will not adapt to the new status quo easily and be much more risk-accepting in seeking to regain that territory than it would be in attempting to gain new territory of an equal size. Conversely, a state which has gained new territory will adapt to the new status quo very quickly and be risk-accepting in defending it.²² The same principle applies to rights, negotiating power, and other facets of state power.²³

Cognitive models gained popularity amongst psychologists in the 1950s as a method for explaining how humans process information. According to cognitive theory, humans employ heuristics to make sense of the vast amount of information they confront. While cognitive models do not follow a clear cost-benefit structure of reasoning, they can still be included in the loosely rational category because the reasoning process is logically discernible and follows a generalizable pattern. As everyone uses heuristics in their decision-making process, any particular actor doing so will be just as rational as all others.

There are four heuristics that cognitive psychologists use. First, humans are “limited capacity information processors,”²⁴ and simplify the world around them to gain a sense of order. One way this can be achieved is through reasoning by analogy. Reasoning by analogy highlights the human failure to obey rational choice theory when it dictates the maximization of current utility levels while ignoring sunk costs.²⁵ Second, humans desire consistency and tend to disregard or underestimate the importance of information which does not fit in their worldview. The implication is a tendency to disregard nuance and complexity in favor of a cohesive narrative.

Third, people think causally. They overestimate the probability of aggression if they can comprehend why it might occur. They make estimations based on available information, which is unlikely to constitute a viable probability analysis given the rarity of a repetition of similar events in history. Therefore, humans are very poor estimators of probabilities and

21 Miles Kahler, “Rationality in International Relations,” *International Organization* 52, no. 4 (1998): 927.

22 Jack Levy and William Thompson, *Causes of War* (Oxford: Wiley-Blackwell, 2010), 153.

23 *Ibid.*

24 Philip Tetlock and Charles McGuire, Jr., “Cognitive Perspectives on Foreign Policy,” *Political Behavior Annual* 1 (1986): 150.

25 Paul MacDonald, “Useful Fiction or Miracle Maker: The Competing Epistemological Foundations of Rational Choice Theory,” *The American Political Science Review* 97, no. 4 (2003): 556.

frequently fail to assess situations correctly. Finally, cognitive theory argues that humans are loss-averse actors, so that “loss is more painful than a comparable gain is pleasurable.”²⁶ Given these distortions in people’s perception of reality, cognitive models try to explain deviations from rational choice theory. It is also worth noting that all of these distortions are amplified in crisis situations²⁷ where there is a severe threat to important values and limited time in which to respond to that threat.²⁸

All three loosely rational theories are vulnerable to similar criticism as rational choice theory, namely that they lack verifiability. Determining which actor’s initial reference point or which heuristic is most used in any decision-making process remains difficult. Furthermore, prospect theory and cognitive theory do not so much try to provide an alternative to rational choice theory as they “accept rationality as a default position and then explain its boundaries.”²⁹ They are a collection of contingent models rather than individually coherent theories.

Irrationality

Finally, there is the idea of irrationality. One possible way of acting irrationally is through a completely random approach, whereby decision-making processes are equivalent to throwing a dice. However, it is very unlikely that people, let alone large organizations such as governments, act in this way.

Beyond complete randomness, irrationality seems to be defined by default in international relations and political science literature as that which evades rational explanation. Resources outside the discipline take a similar approach. The *Oxford Dictionary of Philosophy*, for example, defines irrationality as, “A view which releases the deliverance of some faculty, such as faith, or intuition, from the critical scrutiny of reason.”³⁰ A decision is thus irrational if it is reached without consideration of costs and benefits arising from the action.

26 Ibid., 104–09.

27 Levy and Thompson, *Causes of War*, 155–56; Barry Buzan and Lene Hansen, *International Security Studies* (Cambridge: Cambridge University Press, 2009), 31–32.

28 Richard Lebow, *Between Peace and War* (Baltimore: Johns Hopkins University Press, 1981), 7–12.

29 Gross-Stein, “Foreign Policy Decision-Making,” 104.

30 “Oxford Dictionary of Philosophy,” Oxford University Press, accessed November 24, 2012, www.oxfordreference.com.ezproxy.library.qmul.ac.uk/view/10.1093/acref/9780199541430.001.0001/acref-9780199541430-e-1704?rskey=iIMaLM&result=1466&q=.

Introduction to the Empirical Analysis

These theories will now be applied to the two case studies. Each case study will begin with a historical survey, followed by arguments for irrational, strictly rational, and loosely rational behavior. Each case study will conclude with a comparison of the explanatory value of these three theories.

As far as rationalist explanations are concerned, a hierarchy of preferences needs to be established. It will be assumed that the primary goal of the DPRK regime is regime survival.³¹ Relevant considerations are internal threats, such as popular, military, or ideological challenges to the leadership, and external threats, such as absorption into the ROK or military conflict with the United States.

It is assumed that welfare is the main secondary goal of the DPRK regime. This goal influences foreign policy in that the regime seeks to obtain as much food, monetary, or other aid from abroad as possible as long as it does not perceive its primary goal of regime survival to be threatened by the aid. In terms of domestic policy, welfare may be conducive to regime survival (by garnering public support for the regime) or contrary to it (as a certain level of welfare, especially in terms of food, is historically required to sustain a popular uprising). Obtaining these two goals requires bargaining power vis-à-vis foreign countries. Therefore, bargaining power can be seen as a means to these ends or as an underlying, intermediate goal of DPRK foreign policy.

Case Study I: The Agreed Framework of 1994

Case Study I: History

The first case to be considered is the Agreed Framework (AF) of 1994 between the United States and the DPRK. The development of the AF can be viewed within three distinct periods: the lead-up to the AF, its signing and initial workings, and its ultimate breakdown.

The first period arguably began in 1991 with the end of the Cold War and ended in the fall of 1994 with the signing of the AF. After the collapse of the USSR, the DPRK's security situation became precarious, which induced the DPRK to intensify its work on a nuclear program. The situation reached a crisis point in March 1993 when the DPRK threatened to leave the

31 Kang, "International Relations Theory," 311.

Nuclear Non-Proliferation Treaty (NPT) within ninety days. To avoid a military confrontation, the Clinton administration consented to negotiations, which led to the signing of the AF on October 21, 1994.³²

The second period covers from October 1994 until 1996 during which both sides complied with the AF. The AF stipulated that the DPRK would freeze its nuclear production and allow International Atomic Energy Agency (IAEA) inspections, which the DPRK indeed did.³³ The DPRK was also expected to ultimately dismantle its nuclear reactors. In return, the US ended economic sanctions against the DPRK and headed an international consortium, the Korean Peninsula Energy Development Organization (KEDO), which would provide the DPRK with two light-water reactors (LWR) for the civilian nuclear energy production and other sources of energy (such as heavy oil) until the completion of the LWR in 2003.³⁴

Between 1996 and 2003, the final period covers the time when the AF was officially still in place but no longer adhered to by either side. Owing to a lack of congressional support and funding from the other KEDO members, President Clinton was unable to secure sufficient funds and some of the promised fuel shipments were delivered late between 1996 and 1999.³⁵ Moreover, the construction of the promised LWR was severely delayed. It only began in 2002 and was put on indefinite hold at the end of that year, clearly not to be completed by the 2003 deadline.³⁶ In the meantime, the DPRK restarted its nuclear program, perhaps as early as 1998.³⁷ Interpretations of the reasons behind this failure vary. The DPRK points to Washington's tardiness in fulfilling its end of the bargain, whereas the US argues that it acted in good faith and blames the DPRK for violating the AF by restarting its nuclear program.³⁸

32 Michael Seth, *A Concise History of Modern Korea* (Plymouth: Rowman & Littlefield, 2010), 222–24.

33 James Sterngold, "North Korea Reports Fulfilling a Nuclear Promise," *The New York Times*, November 20, 1994, www.nytimes.com/1994/11/21/world/north-korea-reports-fulfilling-a-nuclear-promise.html?scp=2&sq=north+korea+inspect&st=nyt.

34 IAEA, *Agreed Framework of 21 October 1994 Between the United States of America and the Democratic People's Republic of Korea* (Geneva, 1994).

35 U.S. GAO, *Heavy Fuel Oil Delivered to North Korea Under the Agreed Framework* (Washington, 1999), 3.

36 Sung-joo Han, "North Korea: A Season for Carrot and Stick," *The New York Times*, November 22, 2002, www.nytimes.com/2002/11/22/opinion/22iht-edhan_ed3_.html.

37 David Sanger, "North Korea Site an A-Bomb Plant, U.S. Agency Says," *The New York Times*, August 17, 1998, www.nytimes.com/1998/08/17/world/north-korea-site-an-a-bomb-plant-us-agencies-say.html.

38 Victor Cha and David Kang, "Can North Korea Be Engaged?" *Survival* 46, no. 2 (2004): 98–99.

In order to move from one period to the next, the DPRK took three key decisions that need to be explained. The first two decisions involve the engagement with the US: first in escalating the nuclear crisis and then agreeing to the AF. Instead, the DPRK might have decided to develop its nuclear program while refusing to negotiate. The likely outcome would have been a military confrontation with the US which would be unfavorable for the DPRK. It is also conceivable that the DPRK could have developed its nuclear program in silence without threatening to leave the NPT. In this event, the US would have suspected the program's existence, but no immediate confrontation from either party was foreseeable at that point.

The third decision made by the DPRK was to allow the AF to fail. Why did it not take this opportunity to advance economically and politically by proving to be a trustworthy partner and "rejoining the international community"? This leads to the question of what were North Korea's intentions when signing the AF. Some argue that the DPRK never intended to maintain the AF, while others believe the DPRK eventually disapproved of the AF terms and hence decided to breach it.

Case Study I: Irrational?

Several proposed reasons support the claim that Kim Jong-il is irrational, but some of these reasons may actually bolster the rationality argument. To expand upon the irrationality argument, Michael Breen contends that Kim was indeed acting irrationally because of two particular personality traits. First, Breen argues that Kim was a "malignant narcissist."³⁹ This assessment is based on a psychological profile created by Jerrold Post and Laurita Denny for the CIA.⁴⁰ It concluded that Kim's childhood as the son of the Great Leader Kim Il-sung, with access to great riches compared to everyone else, led him to become self-absorbed and lacking in empathy.⁴¹ For this reason, Kim not only failed to empathize with others but was also incapable of viewing his own actions through someone else's perspective, which represents the US in this case.⁴² The failure of the AF could then be

39 Michael Breen, *Kim Jong-il – North Korea's Dear Leader* (Singapore: John Wiley & Sons, 2004), 92.

40 Jerrold Post and Laurita Denny, "Kim Jong-il of North Korea: A Political Psychology Profile," Political Psychology Associates, accessed January 23, 2013, <http://www.pol-psych.com/downloads/KJI%20Profile%20-%20Final.htm>.

41 Post and Denny, "Kim Jong-il of North Korea: A Political Psychology Profile."

42 Ibid.

attributed to Kim's failure to understand the political difficulties faced by the Clinton and Bush administrations in keeping US promises—for example congressional unwillingness to fund oil shipments—and deciding to “throw a tantrum” for not having his demands met.

However, this line of argument attributes a very benign role to the US for not meeting specified deadlines. Indeed, given the psychological profile assessment, it fails to consider Kim's perspective. The latter was justified in viewing America's failure to fulfill its promises as a breach of the AF.

Breen continues that this narcissism led to security paranoia and an exaggerated perception of existing threats. Given past attempts on his life and given that he had sent agents to attack South Korean targets, Kim was paranoid about his security.⁴³ James Laney and Jason Shaplen take this argument one step further in comparing DPRK's isolation in the international system to Kim effectively transferring his personal paranoia onto the entire country.⁴⁴ This would explain why Kim was unwilling to terminate the DPRK's nuclear program and violate the *juche* ideology of self-reliance by receiving economic benefits from the US.⁴⁵ Instead, he allowed the AF to fall apart.

According to Breen, this paranoia was compounded by Kim's leadership style. Breen used leadership profiles, originally developed by James Barber to assess various US presidents, to classify Kim as an “active-negative” leader.⁴⁶ Such individuals are active leaders that ambitiously drive toward implementing their policy goals but are ambitious to the point of being compulsive. As a result, they pursue their most important policy goals, regardless of how many minor ones have to be sacrificed. This approach renders such leaders inflexible. The final outcome may diverge significantly from the product of a rational cost-benefit analysis.⁴⁷ In Kim's case, the primary goal which he pursued obsessively was the development of nuclear weapons.

However, Kim became so focused on this goal that he failed to identify the opportunity offered by the AF: to gain international legitimacy. According to this argument, Kim acted irrationally in letting the AF fail because compliance would have benefited him more than the development

43 Breen, *Kim Jong-il*, 94.

44 James Laney and Jason Shaplen, “How to Deal with North Korea,” *Foreign Affairs* 82, no. 2 (2003): 19–20.

45 Grace Lee, “The Political Philosophy of *Juche*,” *Stanford Journal of East Asian Affairs* 3, no. 1 (2003): 105–12.

46 Breen, *Kim Jong-il*, 97.

47 James Barber, *The Presidential Character: Predicting Performance in the White House* (New Jersey: Prentice Hall, 1992), 9–11.

of nuclear capability.⁴⁸ Such apparent short-sightedness is often treated as proof of DPRK irrationality. Yet, it may in fact have constituted rational behavior because it ensured regime survival *in the short run*. In other words, from Kim's point of view, what is the advantage of being integrated into the international system if he is no longer in power to enjoy these benefits?

Case Study I: Strictly Rational?

Kim's decision to enter the AF and then let it fail may in fact have constituted rational behavior. First, the timing of the AF is telling. As Kyoung-ae Park argues, it was no "coincidence that North Korea approach[ed] the United States in the early 1990s, at a time when its former allies, Russia and China, normalized their relationships with South Korea."⁴⁹ At the time, the DPRK regarded re-engagement with the US, the newly crowned global hegemon, as an opportunity to enhance its security.⁵⁰ In this sense, the AF represented a victory for the regime: the US pledged not to attack the DPRK in exchange for its termination of its nuclear program. If Kim had not acted at this time, the DPRK's security situation could have been more insecure than it was at the end of 1994.

Second, Kim may have hoped to gain economic and political concessions by seeking to engage the US. While this outcome was by no means guaranteed, scholars have speculated that short-term economic aid, such as fuel shipments from the US, explained Kim's approach.⁵¹ This argument becomes all the more credible when considering that the DPRK was in economic crisis and beset by famine from 1993 to 1998, following the cessation of trade in agricultural products with the USSR in 1991. Financial support from China was insufficient to stave it off, and inaction would have further threatened regime stability, certainly an issue after Kim Il-sung's death in July 1994. Thus, Park argues that Kim Jong-il was willing to enter international negotiations on the off chance of obtaining external economic aid to solidify his domestic position.⁵² Indeed, he was successful

48 Breen, *Kim Jong-il*, 101–02, 174–75.

49 Kyoung-ae Park, "North Korean Strategies in the Asymmetric Nuclear Conflict with the United States," in *Nuclear North Korea: Regional Dynamics, Failed Policies, and Ideas for Ending a Global Stalemate*, ed. Su-hoon Lee (Seoul: Kyungnam University Press, 2012), 94.

50 *Ibid.*

51 Victor Cha, "Hawk Engagement and Preventive Defense on the Korean Peninsula," *International Security* 27, no. 1 (2002): 42.

52 Philip Park, *The Dynamics of Change in North Korea: An Institutional Perspective* (Changwon:

in doing so and managed to improve diplomatic relations with other states and to gain economic aid by signing the AF.⁵³

Yet, even if the DPRK was desperate to engage with the United States in the early 1990s, why do so through escalating the nuclear crisis? Such escalation was perceived by outsiders as dangerous and irrational, demonstrating that the regime could not be trusted. Several scholars have argued that for the DPRK, “it pays to provoke,”⁵⁴ when compared to other, less threatening negotiating techniques. The success of this “crisis-oriented negotiating style”⁵⁵ was first tested with the AF and has established a long, successful track record since.⁵⁶

Engaging the US through nuclear escalation was, in fact, a relatively low-risk strategy on the part of the DPRK. While the Clinton administration was sufficiently alarmed to contemplate a military strike, the likelihood of US military action was rather low given that the DPRK was within China’s sphere of influence.⁵⁷ Moreover, the DPRK could always count on the ROK to rein in its American ally. The South Korean public’s sympathies tend not to lie so much with the DPRK regime but rather with the North Korean people.⁵⁸ South Korean President Kim Young-sam protested against US plans for a military strike and thus provided a rather ironic security guarantee through which the DPRK could engage the US.⁵⁹

This type of strategic thinking was also evident with regards to China. In 1995, a DPRK official told a visiting US delegation that to counter-balance Chinese power, a closer relationship with the DPRK would be beneficial to the US.⁶⁰ This remark revealed an acute awareness of international politics

Kyungnam University Press, 2009), 25–27.

53 Jung-ho Bae and Sung-chull Kim, “Japan’s North Korea Policy,” in *Engagement with North Korea: A Viable Alternative*, eds. Sung-chull Kim and David Kang (New York: SUNY Press, 2009), 76.

54 Lee Sung-Yoon as quoted in Sang-hun Choe, “North Korea Gets Ready for Launching,” *The New York Times*, December 6, 2012, http://www.nytimes.com/2012/12/07/world/asia/07iht-north-korea07.html?ref=world&_r=0.

55 Scott Snyder, “Negotiating on the Edge: Patterns in North Korea’s Diplomatic Style,” *World Affairs* 163, no. 1 (2000): 8.

56 Sung-chull Kim and David Kang, “Introduction: Engagement as a Viable Alternative to Coercion,” in *Engagement with North Korea*, 8.

57 Bonnie Glaser, Scott Snyder, and John Park, “Keeping an Eye on an Unruly Neighbor,” Center for Strategic and International Studies, January 2008, <https://www.usip.org/sites/default/files/Jan2008.pdf>.

58 KINU, 통일1993 전국설문조사결과 [1993 National Poll Results in the Matter of National Re-Unification] (Seoul: KINU, 1993), 32, 42.

59 Young-shik Bong, “Waiting to Reap the Final Harvest: U.S. Engagement Policy to Denuclearize North Korea,” in *Engagement with North Korea*, 30.

60 Nayan Chanda, “Lesser Evil: After Chinese Brush-Off, North Korea Courts U.S.,” *Far East Economic Review* 158 (1995): 17–18.

realities, as well as a strategy to play the US and China against one another for the DPRK's gain.⁶¹

The next question to be addressed is whether it was rational for the DPRK to break the AF from 1996 onwards. Park argues that the economic crisis drove the DPRK into negotiations, but to survive long-term, nuclear weapons were essential to deter South Korean or US attacks. Moreover, the delays in fuel shipments between 1996 and 1999 were interpreted by the DPRK as the US reneging on its promises. Finally, while the DPRK has a large military in terms of troop size, most of its military is engaged in civilian construction projects.⁶² As most North Korean workers are low skilled, soldiers are needed for civilian jobs, and a nuclear program would ensure security while freeing soldiers for other work.⁶³ In this sense, the DPRK nuclear program might even be regarded as an Asian version of Eisenhower's New Look. Therefore, breaking the AF can be rationally explained from the DPRK perspective.

Case Study I: Loosely Rational?

While the strictly rational approach explains the DPRK's decisions to enter into and then abrogate the AF, the argument can be augmented by loosely rational theories, particularly with regards to the decision to breach the AF.

Prospect theory qualifies the argument that Kim's behavior was irrational because integration into the international system would have been more beneficial for the DPRK in the long run. This theory contends that Kim was not looking at the long run but trying to survive in the short run by maximizing DPRK utility relative to the economic deprivation and isolation which the country found itself in 1993.⁶⁴

The situation is also supported by cognitive models. Part of Kim's alleged paranoia may be explained through the heuristics of causal thinking. Listing the reasons for aggression against himself or the DPRK (such as Washington's frustration at the dissolved AF or ROK's fear of a DPRK attack) may have increased Kim's sense of insecurity and thus led to the intensification of the "Korean Cold War" through isolation and renewed

61 Taekyoon Kim, "Strategizing Aid: U.S.-China Food Aid Relations to North Korea in the 1990s," *International Relations of the Asia-Pacific* 12 (2012): 47-49.

62 Bruce Cumings, *North Korea: Another Country* (New York: The New Press, 2004), 1-2.

63 Park, *The Dynamics of Change in North Korea*, 34-35.

64 Kahneman and Tversky, "Prospect Theory: An Analysis of Decision Under Risk," 263.

nuclear aspirations.⁶⁵

Moreover, constructivism may provide additional justification for why the DPRK allowed the AF to fail. Laney and Shaplen believe that the DPRK never intended to give up its nuclear program.⁶⁶ Thus, the discontinuation of the AF can be attributed to two factors. First, a nuclear weapon was perceived as a sign of “anti-Americanism,” which forms part of the DPRK’s national identity⁶⁷ and is driven by the cabinet, the Party, and the military.⁶⁸ Second, in its competition with the ROK, nuclear capabilities are a source of “national pride” for the DPRK.⁶⁹ In this sense, nuclear capabilities have intrinsic value for the regime, which exceeds mere defense or deterrence strategies.⁷⁰ Thus, abiding by the AF would ultimately have resulted in immeasurable losses for the nation and was thus never seriously contemplated. Constructivist viewpoints help illustrate how Kim may have taken other factors such as national identity and pride into account during his cost-benefit analysis of the AF.

Case Study I: Section Conclusion

DPRK foreign policy during the time of the AF can be well explained by rational choice theory and supplemented by loosely rational models. The argument for irrationality is not convincing. While Kim may have possessed certain narcissistic and paranoid character traits, evidence to demonstrate that these characteristics were decisive for DPRK foreign policy is scarce. Moreover, in focusing solely on Kim’s behavior, the argument proposing DPRK irrationality is rather one-sided and one-dimensional. While the testimonies of Kim’s security guards—some of whom managed to defect to the ROK—somewhat corroborate the paranoia thesis, the irrationality argument fails to consider that this paranoia may have been justified fear.⁷¹

The rationalist explanations are convincing because the DPRK initially benefited from the AF. It received economic aid and improved

65 Rob Ranyard, Ray Crozier, and Ola Svenson, eds., *Decision-Making: Cognitive Models and Explanations* (London: Routledge, 1997).

66 Laney and Shaplen, “How to Deal with North Korea,” 22.

67 Kim and Kang, *Engagement with North Korea*, 8–14.

68 Patrick McEachern, “North Korea’s Policy Process: Assessing Institutional Policy,” *Asian Survey* 49, no. 3 (2009): 539–44.

69 Bong, “Waiting to Reap the Final Harvest,” 27.

70 Laney and Shaplen, “How to Deal with North Korea,” 9.

71 Breen, *Kim Jong-il*, 94.

diplomatic relations, pulled out in time to keep its nuclear program, and did not have to integrate into the international community to an extent which would threaten its core values, such as the cult of the leader or its *juche* ideology.

It must be acknowledged that a key flaw in rationalist viewpoints is to assume a large amount of knowledge and foresight on Kim's part. Yet, it nonetheless seems rather unlikely that such a positive outcome could have been achieved through pure luck and on the whim of a paranoid, narcissistic leader. Far more realistic, though, is to criticize a rational viewpoint of North Korean behavior based on its short-term nature and essential short-sightedness. This is where loosely rational arguments compensate for certain deficiencies of the strictly rational explanation. However, it should be noted that loosely rational explanations are unable to stand on their own, and are only convincing as a supplement to the strictly rational argument.

Case Study II: The Sunshine Policy

Case Study II: History

The second case study is the DPRK's reaction to the Sunshine Policy (SP), initiated by former ROK President Kim Dae-jung in February 1998. Deriving its name from Aesop's lesson that persuasion is better than force,⁷² the SP follows a neo-functionalist approach, offering the DPRK integration into the international community in hopes of causing regime change through inducement rather than force.⁷³ The SP consisted of three main principles: no armed provocation would be tolerated, no absorption of the DPRK would be set as a goal, and inter-Korean cooperation would be promoted.⁷⁴ The SP was official ROK policy under Kim Dae-jung and his successor, Roh Moo-hyun, until the end of the latter's term in 2008. However, given the complexities of inter-Korean relations during this time and because the later period is distorted by the DPRK's policy toward the United States, only the 1998 to 2003 period will be considered here.

72 Aesop, *The North Wind and the Sun*. In this Ancient Greek fable, the North Wind and the Sun compete against each other, trying to get a traveller to remove his coat. The North Wind fails with force, but the Sun is successful through persuasion.

73 Hyun-joon Chon, "The Inter-Korean Summit: Evaluation and Tasks Ahead," *East Asian Review* 14, no. 2 (2002): 4–5.

74 Samuel Kim, "North Korea in 2000: Surviving through High Hopes of Summit Diplomacy," *Asian Survey* 41, no. 1 (2001): 14.

Periodizing the DPRK's foreign policy during these six years is somewhat more difficult than in the case of the AF. The periodization which seems to meet with general consensus goes as follows: the first period lasted from February 1998 until March 2000 when the DPRK was extremely skeptical of the SP and largely ignored it. In August 1998, the DPRK even launched a Taepodong-1 test rocket over Japan.⁷⁵ Yet, what is often ignored is that the DPRK was far from isolationist during this time. This period oversaw the onset of diplomatic relations with sixteen EU states,⁷⁶ the reception of US Secretary of State Madeleine Albright in Pyongyang in October 2000,⁷⁷ and South Korean tourist visits to Mount Kumgang starting in 1998.⁷⁸

The second period was initiated by Kim Dae-jung's March 2000 speech in Berlin, in which he promised economic aid to the DPRK and support for improvements in infrastructure and electricity supply.⁷⁹ The DPRK became much more interested in inter-Korean relations and engaged more actively with the ROK. While taken as a positive sign, the period of engagement was short-lived.⁸⁰ It culminated in summer 2000 with the signing of the South-North Joint Declaration (SNJD) on June 15 and the summit meeting of Kim Dae-jung and Kim Jong-il in Pyongyang in August. The SNJD outlined the conditions for Korean unification as dependent upon the Korean people rather than outside powers and found common ground in the ROK's concept of "confederation" and the DPRK's concept of "federation" around which to structure the future of the two Koreas. The SNJD also laid the groundwork for family visits across the DMZ, the reopening of the Kyungui railway, and a steady dialogue between government officials.⁸¹

The historic Summit Meeting represented the first face-to-face meeting between leaders of the two Koreas since the 1950s. Moreover, as with the signing of the SNJD, that a North-South meeting took place at all

75 Kyung-ae Park, "North Korea's Defensive Power and U.S.-North Korea Relations," *Pacific Affairs* 73, no. 4 (2001): 536.

76 Kim, "North Korea in 2000," 19–21.

77 Jane Perlez, "Albright Greeted with a Fanfare by North Korea," *The New York Times*, October 24, 2000, www.nytimes.com/2000/10/24/world/albright-greeted-with-a-fanfare-by-north-korea.html?pagewanted=all&src=pm.

78 "To Hyundai's Chagrin, Few Want to Tour North Korea," *The New York Times*, January 17, 2001, <http://www.nytimes.com/2001/01/17/business/worldbusiness/17iht-hyundai.t.html>.

79 *Le Monde Diplomatique*, "Address by President Kim Dae-jung of the Republic of Korea, Lessons of German Reunification and the Korean Peninsula," March 9, 2000.

80 Hwa-seon Lee, "Korea Highlights," *Australian Quarterly* 72, no. 4 (2000): 9.

81 "South-North Joint Declaration," United States Institute of Peace, June 15, 2000, accessed March 1, 2017, www.usip.org/files/file/resources/collections/peace_agreements/n_skorea06152000.pdf&sa=U&ei=n2slUeH7AonP0QXxroCYDw&ved=OCB8QFJAB&usg=AFQjCNEiolVboHUG7ZOVf-WUya6T8j_32Q.

entailed an implicit recognition of both countries' separate existence.⁸² The two Koreas struck an agreement for the construction of a joint industrial complex in Kaesong, where North Korean workers would be employed by South Korean companies and thereby deliver income and tax revenue to the DPRK.⁸³ Another achievement was closer economic ties between the two Koreas, although the DPRK stopped short of recognizing ROK companies as domestic and instead granted them Most Favored Nation (MFN) status.⁸⁴

The final period was marked by increasing tension and brinkmanship and arguably began with the DPRK canceling of ministerial level meetings scheduled for March 2001 for no apparent reason.⁸⁵ Several talks and meetings were resumed and then abruptly canceled by the DPRK in an apparently haphazard, on-off style. The uncertainty was compounded by the DPRK removing all personnel from the Kyungui railway project in March 2001⁸⁶ and naval skirmishes on the west coast of the border in June 1999 and again in June 2002.⁸⁷

Case Study II: Irrational?

The most convincing justification for the idea of irrationality, in what was also discussed in the AF section, stems from the regime being presented with an opportunity to engage with the outside world and join the international community. On both occasions, the regime initially embraced this to some extent, only to let it slip away after merely temporary gains had been achieved. Such behavior is plainly contrary to strictly rational views of long-term utility maximization.

Again, with Kim Jong-il's possible paranoia being so severe, he simply did not want to engage with the outside world for fear that increased contact would lead to internal uprisings and end his rule. This theory is supported by his frequently hostile and wildly exaggerated behavior. For example, in 2000, he yet again threatened to cancel ministerial level talks between the Koreas,

82 Nam-koong Young, "Similarities and Dissimilarities: The Inter-Korean Summit and Unification Formulae," *East Asian Review* 13, no. 3 (2001): 59.

83 Chon, "The Inter-Korean Summit," 3-4.

84 Kim, "North Korea in 2000," 18.

85 Young-chool Ha, "South Korea in 2001: Frustration and Continuing Uncertainty," *Asian Survey* 42, no. 1 (2002): 56-66.

86 *Ibid.*, 57.

87 Dae-won Koh, "Dynamics of Inter-Korean Conflict and North Korea's Recent Policy Changes: An Inter-Systemic View," *Asian Survey* 44, no. 3 (2004): 436.

because of an “antagonistic”⁸⁸ view expressed in Seoul’s 2000 Defense White Paper. Kim was so offended at the White Paper’s suggestion that his government still posed a major security threat to the ROK that he moved “500 short-range missiles and other artillery near the border with South Korea,”⁸⁹ thereby turning the assessment into a self-fulfilling prophecy.

In the process, Kim incidentally forgot his own naval provocations of 1999, not to mention his regime’s continued official goal of “‘communizing’ South Korea,”⁹⁰ at a point when the ROK had scrapped its own goal of absorbing the DPRK. Similarly, the DPRK appeared to wildly overreact to allegedly hostile comments by the head of the South Korean Red Cross, which was involved in the coordination of the family visits.⁹¹ This behavior reinforces the narcissistic and paranoid traits discussed in the first case study.

Another oft-cited argument for irrationality is the constant back and forth between engagement and isolationism, or brinkmanship, outlined above. Kim’s alleged paranoia is emphasized by his interpretation of the Sunshine Policy as a “sunburn policy,”⁹² which he regarded as subversive and aimed at undermining the regime by giving its people greater access to the ROK’s economic and cultural success and thus instigating a rebellion.

This may indeed have constituted paranoia at the outset of the SP, when Kim Dae-jung envisioned a relationship of “loose...reciprocity”⁹³ in which both Koreas would have equal standing. However, it was fed by a particular understanding of history within the DPRK, which assumes the Soviet bloc did not collapse because of internal faults—military, political, or economic—but rather because of contact with the West, which exposed the people to “imperialist ideological and cultural poisoning.”⁹⁴

It is both ironic and rather telling then that the DPRK only began seriously engaging with the ROK after Kim Dae-jung’s speech in Berlin, in which he abandoned the loose reciprocity standard and instead promised that “[t]he Government of the Republic is ready to respond positively to any North Korean request [for economic and humanitarian assistance]”⁹⁵ without any expectations in return. When this is juxtaposed against Kim

88 Kim, “North Korea in 2000,” 20.

89 Ibid.

90 Ibid.

91 Ibid., 19–20.

92 Ibid.

93 Chon, “The Inter-Korean Summit,” 13.

94 Koh, “Dynamics of Inter-Korean Conflict,” 434.

95 *Le Monde Diplomatique*, “Address by President Kim Dae-jung.”

Jong-il's supposed "subverting by good will" theory, the new approach should have seemed even more threatening to him. Moreover, a certain amount of paranoia on Kim Jong-il's part may well have been justified, given that one of Kim Dae-jung's goals was to achieve a "soft-landing"⁹⁶ for DPRK's breakdown rather than a sudden collapse, which would force South Korea to conduct a costly absorption of the North.⁹⁷

Case Study II: Strictly Rational?

Arguments for rational behavior are largely based on the timing of certain DPRK decisions and Kim Jong-il's negotiating strategy which led to positive returns for the DPRK. During the initial phase of the SP in 1998 and early 1999, it may have seemed prudent for the regime to be suspicious of the radically new approach adopted by the ROK. During the course of the engagement phase—from 1999 (if considering international diplomatic engagement) or 2000 (if considering ROK-DPRK relations only) until 2001—the benefits for the DPRK can be placed into four categories: diplomatic relations, economic relations, aid, and image improvement for Kim (both domestically and internationally). In all these areas, the strictly rational argument proposes that the regime acted to reap the greatest benefits possible, while not compromising the central goal of system maintenance. Ultimately, "[t]he fundamentals of the North Korean system remain[ed] unchanged."⁹⁸ Regime survival remained a core issue as evidenced by DPRK's interest in receiving economic aid more so than improving relations with the ROK or allowing family contact across the DMZ.⁹⁹

In 1999, the DPRK began a diplomatic initiative to normalize relations with several European and a few Asian countries. The timing was ideal. Internationally, it depicted the regime as moving away from its isolationist stance.¹⁰⁰ Kim Dae-jung, hoping to elicit a positive reaction to his SP, certainly treated it that way. Accordingly, he pleaded with the US to also engage the DPRK. While the Clinton administration was not prepared

96 Han Park, "North Korean Perceptions of Self and Others: Implication for Policy Choices," *Pacific Affairs* 73, no. 4 (2001): 512.

97 Koh, "Dynamics of Inter-Korean Conflict," 426.

98 Kim, "North Korea in 2000," 25.

99 Koh, "Dynamics of Inter-Korean Conflict," 438.

100 Calvin Sims, "North Korea, Apparently Seeking to End Its Isolation, Agrees to Resume Talks With Japan," *The New York Times*, December 4, 1999, www.nytimes.com/1999/12/04/world/north-korea-apparently-seeking-end-its-isolation-agrees-resume-talks-with-japan.html.

to normalize relations entirely, it did lift some of the economic sanctions.¹⁰¹ Moreover, with these delaying tactics, the DPRK was able to obtain a lot of aid. Pressing the ROK to prove it was serious about the SP, Kim Jong-il called on Kim Dae-jung to deliver the support for infrastructural improvement that Kim Dae-jung promised in his Berlin speech.¹⁰² In addition to keeping its promise, the ROK donated 1.6 million tons of food¹⁰³ and 200,000 tons of fertilizer.¹⁰⁴

Despite the cooperation and aid offered by the ROK, the DPRK refused to label South Korean companies operating within the DPRK as “domestic” firms. Instead, to the great dismay of the ROK, the DPRK merely conferred MFN status upon ROK firms, subjecting them to high taxes as “foreign” firms.¹⁰⁵ Here again, the regime displayed its talent for choosing the most favorable path for its interests, in full awareness that Kim Dae-jung had staked his reputation and political career on the success of the SP and would accept MFN status for the ROK.

The same tendency was visible in Kim Jong-il’s insistence on holding the first Summit Meeting in Pyongyang and subsequent refusal to attend the scheduled return visit in Seoul, where he would not have home advantage.¹⁰⁶ These negotiating and stalling tactics, as well as media controls during the negotiating phase, can be interpreted as clear indicators of the tactical thinking of the North Korean leader. Entering negotiations enabled Kim to improve his image, both in the ROK and internationally. He also strengthened perceptions of himself at home as a gracious leader who could procure food and other aid from abroad for his people—a reputation that had been damaged by the Arduous March of the famine years—and as adept leader in foreign policy by proclaiming that the Pyongyang summit would prove the “superiority of the DPRK in the eyes of all Koreans living in the South and abroad.”¹⁰⁷

101 Kim, “North Korea in 2000,” 23–24.

102 James Foley, “‘Sunshine’ or Showers for Korea’s Divided Families?” *World Affairs* 165, no. 4 (2003): 180.

103 Kim, “North Korea in 2000,” 17.

104 Aidan Foster-Carter, “Kim to Kim,” *The World Today* 56, no. 6 (2000): 18–19.

105 Kim, “North Korea in 2000,” 18.

106 *Ibid.*, 15.

107 Jordan Weissman, “How Kim Jong Il Starved North Korea,” *The Atlantic*, December 8, 2011, www.theatlantic.com/business/archive/2011/12/how-kim-jong-il-starved-north-korea/250244/.

To further enhance the North Korean leader's domestic image, the Korean Central News Agency (KCNA, DPRK state media) proclaimed that "[a]t the request of President Kim Dae-jung, he will visit Pyongyang from June 12 to 14, 2000."¹⁰⁸ Moreover, while Kim Jong-il's voice was clearly audible on all internationally shown news footage, he was never heard speaking during the Summit on KCNA news. He was thus able to present himself domestically as having granted a visit requested by a foreign leader, without committing to his agenda, while appearing cooperative abroad.¹⁰⁹ This media strategy reveals the extent of the calculations on Kim's part.

The provocation and brinkmanship which intensified from March 2001 onwards was interpreted by many North Korea experts as a tactic to extort further aid and concessions from the ROK and other countries.¹¹⁰ This strategy was successful to the extent that the DPRK maneuvered itself into the position of greatest aid receiver from the US on the Asian continent, while simultaneously denouncing the US for its "imperialist" foreign policy.¹¹¹ Similar contradictions applied to the DPRK-ROK relationship illustrates how Kim was able to reap multiple advantages from his policy of engagement and tension without sacrificing much in terms of DPRK strategy or ideology.

In sum, an "engagement-only" policy would have left the DPRK with the initial aid proposals and the benefits laid out in the SNJD and Summit Meeting. Yet, a cost-benefit analysis reveals that the "engagement plus provocation" policy was more beneficial for the DPRK, giving it the upper hand in negotiations and enabling it to obtain more aid than would have been possible otherwise.

Case Study II: Loosely Rational?

Loosely rational theories can add to the rationalist argument laid out above. Constructivism explains the DPRK's limited perspective while cognitive models point to the order of Kim's priorities which may not be intuitive to the outside observer. As with the AF, prospect theory can explain the apparent short-sightedness of DPRK policy: aimed at short-term maximization of aid rather than the long-term benefits of improved foreign relations.

108 "North-South Agreement," Korean Central News Agency, April 10, 2000, accessed March 1, 2017, www.kcna.co.jp/item/2000/200004/news04/10.htm.

109 Lee, "Korea Highlights," 11.

110 Chon, "The Inter-Korean Summit," 9–10.

111 Kim, "North Korea in 2000," 27.

Constructivism again points to the importance of ideology in the formation of policy. Self-reliance and military first were the two core values in DPRK ideology. This would explain its aversion to cooperation with the ROK, which is viewed as threatening DPRK independence.¹¹² Although this accounts for the provocations during 2001–2002, it fails to explain why the DPRK chose to engage the ROK through the summit meetings and other talks in the first place. This shortcoming of constructivism demonstrates yet again that loosely rational theories cannot stand by themselves but need to be combined with strictly rational explanations.

Another question is the extent to which Kim was the driver of DPRK ideology, or if he was in fact *driven* by it. In an interview, he pointed towards certain “radical and militant expressions”¹¹³ within the DPRK leadership, which prevented him from further engaging with the outside world. Kim seemed to be fully aware of the need to maintain his father’s ideology in order to sustain his own rule, but this inevitably entailed a certain amount of isolation, which, if taken too far, could result in internal collapse.¹¹⁴

Furthermore, cognitive models propose that humans are loss-averse, willing to sacrifice large potential gains for the sake of preventing (arguably) small losses. Kim feared that opening up his country to the ROK would mean admitting defeat in the “legitimacy competition” over whether the ROK or the DPRK was the legitimate national government.¹¹⁵ For this reason, he was willing to give up any long-term prospects of joining the international community, which would have granted the DPRK many more long-term benefits.

Finally, it could be argued that another heuristic, the disregarding of information which contradicts an individual’s world view, also applied to Kim. As Park has suggested, Pyongyang disliked both the SP of Kim Dae-jung’s administration and the Clinton administration’s engagement policy because it considered them to be one-sided. Through these policies, “only North Korea is to be engaged with the United States and the West. Pyongyang observes that the policy does not guarantee US engagement with North Korea, as evidenced by the lack of economic investments by US firms.”¹¹⁶

If representing Kim’s thinking, it was rather selective. It completely

112 Koh, “Dynamics of Inter-Korean Conflict,” 433.

113 Kim, “North Korea in 2000,” 26.

114 Ibid.

115 Scott Snyder, “North Korea’s Challenge of Regime Survival: Internal Problems and Implications for the Future,” *Pacific Affairs* 73, no. 4 (2001): 519–20.

116 Park, “North Korean Perceptions of Self and Others,” 512–13.

ignored the fact that US and ROK aid to the DPRK was also one-sided. The cognitive explanation for this, though, would be that the distrust felt towards the Western capitalist system—specifically the idea that it seeks to exploit other countries for its own benefit—is so ingrained that the concept of non-reciprocal aid is downplayed when the bigger picture of foreign relations is considered. However, as Park does not provide direct citations, it is difficult to determine the extent to which this unilateral theory is representative of DPRK policy.

Case Study II: Section Conclusion

When reading through existing scholarly literature on the SP, the vastly different authors' interpretation of facts is striking. Some point to the constant cycle of back and forth between engagement and provocation in DPRK foreign policy, viewing this approach as undecided at best and irrational at worst. Other authors, however, dig deeper and identify an underlying pattern in DPRK foreign policy, which does seem to maximize utility for the regime in terms of its survival, economic aid, and security goals.

Of these wildly differing positions, the rationalist interpretation seems more convincing in explaining the motivations behind DPRK foreign policy. The irrationality argument fails to provide clear causal connections, perhaps even by definition. The argument is based on an apparent randomness in DPRK foreign policy and seeks to explain this through analysis of the leader's personality traits, which chief amongst them is paranoia. The irrational viewpoint implies that it makes little sense to search for rational motivations when the actor is known to be irrational. However, in doing so, assumptions, rather than evidence-based arguments, are entered into and fail to consider rational accounts of DPRK foreign policy. Thus, while both Kim and the regime may be influenced by some irrational factors, these are outweighed by the evidence suggesting rational behavior. This assessment is supported by the success of the DPRK which has engaged in:

Brinkmanship diplomacy with nuclear or missile security threats. At the same time, North Korea has been seeking economic benefits through expanded cooperation with foreign countries, sending up to forty-three delegations overseas in 1999 in an attempt to diversify its diplomatic channels, *rather*

than changing its basic foreign policy.¹¹⁷ [Emphasis added.]

In this case study, like the previous one, loosely rational explanations are useful and augment understanding of the DPRK's policy but are insufficient to stand on their own. While prospect theory and cognitive models were designed as supplements to rational choice theory to begin with, constructivism is also an insufficient explanation by itself. It can only convincingly explain part of North Korean behavior.

Conclusion

The evidence from both case studies suggests that rationalist explanations are more convincing in explaining North Korean foreign policy than the claims of irrationality. Rationalist explanations aim, quite literally, to follow the reasoning which the DPRK may have gone through in its foreign policy decisions. This is the greatest shortcoming of the irrational explanations: they fail to consider the regime's motivations and instead focus on one-sided perceptions of apparently haphazard changes in policy. As the two case studies have shown, these changes can be justified if rationalist models are applied. In Robert Bedeski's words, "North Korea has used its adversaries' (i.e. most of the world) aversion to conflict to extract maximum advantages with great effectiveness."¹¹⁸ Thus, the DPRK appears to have strategically engaged in seemingly erratic, contradictory behavior to maximize its utility.

Loosely rational explanations are helpful in explaining some of the behavior which strictly rational explanations cannot account for. The main benefit of loosely rational theories can be found in their ability to explain short-term rather than long-term utility maximization. However, these theories cannot stand on their own; they are plainly insufficient if the changes in DPRK foreign policy are to be explained substantively and consistently. Yet, it may prove that loosely rational theories gain in explanatory power if more information of the internal workings of the DPRK regime were to become available.

The greatest weakness of the rationalist explanations, though, lies in the risk of *post-hoc* rationalization. It is difficult to determine whether the DPRK really underwent the proposed reasoning processes, or if instead,

117 Robert Bedeski, "Peace and Neutrality on the Korean Peninsula: A Role for Canada?" *Pacific Affairs* 73, no. 4 (2001): 559.

118 *Ibid.*, 554.

these processes have only been retrospectively ascribed to the regime. Moreover, rational explanations fail to address how utility is assigned to certain outcomes. The theory assumes certain utility assignments as a given but loses explanatory power because it does not explain why. In other words, rational choice theory itself makes many assumptions which, very often, are impossible to test empirically.

Given this analysis, the question remains of why accusations of North Korean irrationality have persisted so thoroughly. Four reasons appear to explain this school of thought. First, the DPRK regime is a poor communicator and does little to help the outside world understand its policies. Its lack of external communication makes its foreign policy vulnerable to misinterpretation, especially when compounded with propaganda about Kim Jong-il, which could scarcely be more different in tone in the press generated by Western governments when they seek to explain their policies.¹¹⁹

Another factor is methodological. If rational behavior is based on a cost-benefit analysis to achieve a certain goal, the definition of the goal is crucial to the analysis. Some scholars seem to equate the greatest benefit for the DPRK regime with that of the North Korean people. Whenever this is not the case and the regime acts in its own best interest rather than that of its people, accusations of irrationality are easily wielded. Yet, this is again indicative of a failure to examine a particular situation from the perspective of the DPRK leadership, as opposed to that of a democratically-elected government, which has an inherently different level of dependency on the general public for electoral support.¹²⁰

This points to another shortcoming of the irrationality argument. Often, North Korean ideology itself is accused rather than the irrational behavior. In the words of Breen, "There are in the world, it hardly need be said, a number of unpleasant states ruled by rather unpleasant people. North Korea is one."¹²¹ Thus, the DPRK invariably stands accused of possessing an ideology which is uncivilized, abhorrent, and could scarcely run more contrary to human rights or human progress. Yet, the failure of many commentators to move beyond this fact in analyzing DPRK foreign policy leaves wide open the possibility that, within its ideology, the DPRK is actually acting perfectly rational.

119 Il-bok Li and Sang-hyon Yun, *The Great Man Kim Jong Il* (Pyongyang: Foreign Languages Publishing House, 1989).

120 James Fearon, "Domestic Political Audiences and the Escalation of International Disputes," *The American Political Science Review* 88, no.3 (1994): 577-92.

121 Breen, *Kim Jong-il*, 171.

Finally, a more cynical interpretation of the irrationality accusation is that it is politically motivated. Michel Foucault criticized the concept of “madness” as an invention of society to label and confine those who do not conform and are perceived as posing a threat to the generally accepted order through such non-conformity.¹²² Irrationality, in his view, is thus not a valid concept of evaluating behavior but rather serves as a label attributed to those actors who fail to “play by the rules of the game.” The DPRK represents the ultimate example of an “outsider” in the international community and is thus labeled as irrational. Actual facts, as this article argues, do not support this label. More importantly, if the international community seeks to successfully engage the DPRK in the future, such labels are not helpful.

122 Michel Foucault, *Madness and Civilization* (London: Routledge, 2001), 213.

CHINA'S ENCOUNTER WITH THE WEST: SINO-FRENCH RELATIONS BEFORE THE ARROW WAR

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This paper explores the evolution of Sino-French relations from the first diplomatic contact in the late seventeenth century to the outbreak of the Arrow War (Second Opium War) in 1856. Most research concerning modern Sino-French relations begins with the Arrow War of 1856-60, when French forces joined a punitive British-led expedition that thrashed the Chinese army and sacked Beijing. Prior to this dramatic turning point, however, French diplomatic policy towards China had gradually undergone significant modifications, shifting its emphasis from missionary activities to commercial interests before finally transforming France from a bystander in Chinese affairs to an active imperial power. This article will systematically explore modern Sino-French relations before the Arrow War in order to clarify how and why this evolution in French policy took place. It will highlight China's desire to establish cordial relations with France, evidenced by the Qing dynasty's willingness to grant deeper concessions than those given to Britain or the United States, and the aggressive turn in French foreign policy in the Far East that came with Louis-Napoléon's ascension to the throne in 1852. France had cultivated China's hope for a strong bilateral relationship, but in the end it preyed on Chinese weakness in much the same manner as all of the other Western powers.

In recent years, China has firmly cemented its status as one of the world's superpowers. It has enjoyed four decades of peace and robust economic growth, transforming into a country that would now be mostly unrecognizable to those who had last seen it during the mass deprivation of the Mao Zedong years. Western nations, including those that once took advantage of the Qing Dynasty's weakness in the nineteenth century to carve out their own

spheres of influence in China, now anxiously seek out Chinese investors that will help them maintain their high standard of living. At the same time, China's growing military assertiveness in areas such as the South China Sea has sent a clear message that Beijing will fight to defend its interests if necessary. The asymmetrical power relationship that existed at the time of China's first encounters with Western nation states has not exactly been reversed, but it most definitely has been eliminated. China deals with the West today with a confidence that could not contrast more greatly with its vulnerability of two centuries ago.

Historians have long been fascinated by early Sino-Western engagements, but this subject matter has renewed importance given China's leading role and the shifting power balance in our contemporary world. They have focused the lion's share of their attention on Britain's role in forcing the Qing to open its doors to the West during the Opium Wars, creating opportunities for secondary European powers, the United States, and Japan to ride in on its coattails. We can, however, gain more insight into this fascinating turn of events—not to mention both British and Chinese policy considerations—by exploring France's role in opening China in the nineteenth century. Historians of modern Sino-French relations typically choose to open with the Arrow War of 1856-60, a joint Anglo-French military campaign that culminated in a decisive victory over Chinese forces and the fall of Beijing to the western invaders. By choosing this starting point, historians have overlooked a very significant, but gradual, evolution of French policy towards China. France's stance was very much reactive, based on its relationship with Britain and a desire not to fall behind its long-time rival. At the same time, France was also very cognizant of its relative weakness in the region. As a result, France carefully shifted its focus from religious penetration, then trade, and ultimately, at the time of China's greatest vulnerability, to military intervention. This paper will examine France's most important strategic decisions in China prior to the Arrow War.

France played a long, clever game in China that enabled it to gain maximum concessions from Beijing at minimal cost. Paris first used missionaries to gain a presence in the Far East while it was preoccupied with European affairs in the eighteenth and early nineteenth centuries. Then, it remained astutely neutral—while feigning a sympathetic position towards China in conversations between French and Chinese diplomats—during the era of the Sino-British Opium War. France held out the prospect of Sino-French cooperation to exploit China's lack of potential foreign allies against Britain and, in doing so, secured deeper trade concessions than

any other foreign power. At the same time, French foreign policy under Napoleon III took an increasingly bellicose turn and was often coordinated with Britain, the strongest imperial power of the era. France augmented its military presence in the Far East during this period, but it did not have the ability to intimidate China into opening the entire country to French trade on its own. Thus, it waited for a pretext, which came with the brutal murder of French missionary Father Chapdelaine in 1856, then joined Britain in a punitive expedition that forced the desired trade concessions on Beijing. China was naive to assume that France would behave any less rapaciously than the other Western powers, but it had no alternative but to hold on to the faint hope of French cooperation against Britain given its lack of other cards to play.

Early Contact: French Activity in China

France and China, the greatest powers of the time in their respective regions, established relations with one another in the final years of the Ming Dynasty (1368–1644) and contacts between the two deepened during the early Qing Dynasty (1644–1911). In 1665, the Sun King Louis XIV sent a number of learned French Jesuits, including Joachim Bouvet and Joan Franciscus Gerbillon, to China for missionary work.¹ Louis XIV's empire expanded in Canada, the Caribbean, West Africa, and South Asia over the course of the seventeenth century. The French East India Company was founded a year earlier to challenge British and Dutch trade in Asia, where France lagged behind its competitors. Direct Sino-French trade began shortly thereafter when the *Amphitrite*, a ship under the French East India Company, departed for its first voyage to China and arrived in Guangzhou in November 1689.²

Successive French rulers presided over a rapidly growing empire, and the hyper-competitive environment of the era meant that events in one colony could quickly spill over into global wars with other European rivals. France fought no fewer than six major wars with England (later Great Britain) from Louis XIV's reign to Napoleon's, which meant that French commercial interests in China grew slowly as developments in Europe, the Americas, and to a lesser extent, South Asia, took precedent. Nevertheless, the lure of

1 John F. Cady, *The Roots of French Imperialism in Eastern Asia* (Ithaca: Cornell University Press, 1967), 7.

2 Paul Pelliot, *Le Pronies Voyage de L'amphitrite en Chine: l'origine des relations de la France avec la chine* (Paris: Librairie orientaliste P. Geuthner, 1930), 7.

Chinese trade prompted the French East India Company to establish a trading factory in Guangzhou in 1725,³ and in 1776 France established a consulate there.⁴ Despite these auspicious beginnings, Sino-French relations failed to develop in a meaningful manner before the First Opium War between China and Britain in 1840 due to developments back in Europe.

French missionary influence in China ground to a halt thanks to the infamous “Chinese Rites Controversy” in the 1720s, a highly divisive internal church debate between Jesuits on one hand and Dominicans and Franciscans on the other over whether certain Chinese practices were compatible with Christianity.⁵ Jesuits had been the champions of accommodating elements of Confucianism as a means of winning over more Chinese converts, while their Dominican and Franciscan rivals saw native practices as incompatible with Christianity. Pope Alexander VII sided with the Jesuits in 1656, which enabled Catholic missionaries to win the support of the Kangxi Emperor (1654–1722), who issued an edict of toleration towards Christianity in 1692.⁶ This goodwill evaporated when Pope Clement XI reversed course in 1704, condemning Chinese rites, a move that subsequently prompted the Kangxi Emperor to crack down on Catholic missionaries in his country in 1721.⁷ While Catholic France waffled over whether it should tolerate or suppress long-standing Confucian and imperial rites in China, Sino-French trade lagged while that of China and Protestant Britain—mercifully free from this counterproductive Catholic squabble—grew at a healthy rate.⁸

The unfavorable conclusion of the Chinese Rites Controversy for France was soon followed soon by a series of large-scale global military conflicts between the British and French empires. Paris spilled much blood and expended considerable treasure in the War of Spanish Succession (1701–14), the War of Austrian Succession (1740–48), the Seven Years War (1756–63), and the American War of Independence (1778–83), which meant that its attention was mostly consumed by events in Europe and the Americas until the end of the eighteenth century. France’s preoccupation

3 Zhongping Cao, *Dongyayutaipingyangguoji guanxi: dongxi fang wenhua de zhuangji, 1500–1923* [International Relations between East Asia and the Pacific: The Cultural Impact between the East and the West, 1500–1923] (Tianjin: Tianjin University Press, 1992), 40.

4 Taishen Wei, *China’s Foreign Policy: 1839–1860* (New York: Columbia University, 1932), 24.

5 Cady, *The Roots of French Imperialism in Eastern Asia*, 8.

6 David E. Mungello, *The Forgotten Christians of Hangzhou* (Lanham, MD: Rowman & Littlefield, 2015), 62.

7 Kejia Yan, *Catholic Church in China* (Beijing: China Intercontinental Press, 2004), 45.

8 Robert Maillard, *L’influence Française en Chine aux points de vue historique et économique* (Paris: Imprimerie Chaix, 1900), 44.

with European matters became so pronounced during the Napoleonic era that the French consulate in Guangzhou was cancelled in 1804.

Decades after the spectacular collapse of Napoleon's empire in 1815, the French government began the process of reconsidering its passive policy towards the Far East. This reevaluation was driven in large part by the growing intensity of conflicts between China and Britain at the end of the 1830s. During this period, Britain had surpassed France to establish itself as Europe's most formidable power and an uneasy coexistence developed between the two historic enemies. France had chosen a path of rapprochement with London during the reign of Louis Phillippe I (1830–48) by pursuing a more subdued, cooperative foreign policy to assuage fears of French revanchism. Nevertheless, Paris reasserted that France was at the center of the global developments despite its recent misfortunes and could not be allowed to fall behind any other nation.⁹ In order to make good on this pledge, France sent its first new consul, M. Gernavert, to Guangzhou in 1832 after a nearly thirty-year hiatus.¹⁰

On the eve of the Opium War, Théodore-Adolphe Barrot, a French consul in Manila, kept close watch on the Sino-British conflict and promptly reported on pertinent developments to the French government in Paris. He convinced his superiors to put more diplomatic resources in China to collect more detailed information for decision makers in Paris, which led to the reopening of the Guangzhou consulate in July 1839.¹¹ On the heels of this bureaucratic shuffling, A. S. Bellée twice proposed to Adolphe Thiers, who doubled as the French Prime Minister and Foreign Affairs Minister, in March and April 1840 that the French government should send out a diplomatic mission to China to restore France's former status and influence.¹²

After the Sino-British Opium War broke out in March 1839, France implemented a new Chinese policy aimed at better understanding the rapidly changing situation in the Far East. In March 1841, the French government decided to dispatch Adolphe Dubois de Jancigny (1795–1860), a soldier during the Napoleonic era who later spent a decade in Southeast Asia and

9 "Note sur la Mission en Chine," *Archives du Ministère des Affaires Etrangères, Mémoires et documents*; see Fuping Ge, "Faguoyuyapianzhanzheng [France and the Opium War]," *Shijielishi* 5 (2000): 50.

10 R. Montgomery Martin, *China; Political, Commercial and Social; in an Official Report to the Majesty's Government* (London: 1847), 397.

11 Henri Cordier, *La Mission Dubois de Jancigny dans l'Extrême-Orient, 1841-1846* (Paris: Champion & Larose, 1916), 30–33.

12 A. S. Bellée, "Programme d'une Mission en Chine, Les 19 mars et 16 avril 1840," *Archives du Ministère des Affaires étrangères, Affaires divers politiques, Chine* 1: 2-15.

was widely regarded as one of France's most knowledgeable experts on the Far East,¹³ as an imperial envoy to China. The objective of this expedition was threefold. First, it was designed to obtain firsthand information on the political situation in China and on the prospect of extending French trade in the greater Far East. Second, it set out to draft a series of recommendations regarding the role which France might play in the area in the future given recent developments. Finally, it was a measure that would show the French flag in a region where France's historic rival Britain was aggressively using the Royal Navy to assert its geopolitical interests. This mission carried no diplomatic credentials and was not authorized to enter negotiations, severely limiting its ability to chart a new course for France in the region. Nevertheless, the squadron sailed from Brest harbor on April 28, 1841, and reached Chinese waters the following December.¹⁴

Given the lack of reliable information from the Far East, prudence was the overriding aim of French policy towards China at this time, an approach that dictated neutrality and non-interference in the Sino-British conflict. The French government adopted this position because the battlefield situation of the Sino-British War was still not clear when the observation mission was dispatched, and it was not possible for Paris to make a reasonable predication as to whether Britain would end up the victor. After the war broke out, Barrot reported to the government in an urgent document that he doubted the British expeditionary force could defeat the Chinese given popular determination to fend off the invaders.¹⁵ He was ultimately proven wrong. Furthermore, the French government decided against participating in the Sino-British conflict as much as possible to avoid inflaming British opinion or creating misunderstandings that had the potential to lead to more tension between France and Britain in Africa, the Near East, and Europe.¹⁶ France still stung from its long series of painful conflicts with Britain and did not want to risk action that would jeopardize efforts to reconsolidate its empire.

13 Henri Cordier, *Histoire Générale de la Chine et des relations avec les Pays Etrangère* (Paris: Geuthner, 1921), 10.

14 Cady, *The Roots of French Imperialism in Eastern Asia*, 33–34; Dubois de Jancigny, "Note sur la Mission projetée aux Indes Orientales et en Chine, Paris, March 24, 1841," *Archives du Ministère des Affaires étrangères, Mémoires et documents, Chine* 24: 5–6.

15 "Barrot au Duc de Maréchal Dalmatic," *Archives des affaires Etrangères, Correspondance Politique, Chine* 1: 26; Shuyuan Li, "The Jancigny Mission and Sino-French Relations during the Opium War," *Collected Papers of History Studies* 4 (2003): 20.

16 Qinghua Huang, *France's Missionary Policy towards China* (Beijing: China Social Sciences Press, 1991), 202.

Nevertheless, Jancigny and Jean Thomas Médeé Cécille operated independently of one another rather than coordinating their efforts. They both shared a desire to open China and assert French influence, which translated into a willingness to take bold actions that far exceeded those authorized by the French government.¹⁷ In late January, Cécille advised the Chinese to make peace as quickly as possible and suggested that Beijing should send a special envoy to Paris to formally request an alliance with France if that was what it sought. Sensing an opportunity, Cécille made two further requests of the Qing government: canceling the special tax on French merchantmen and the release of a French missionary. Nearing the end of the meeting, Cécille then indicated that the Qing officials might contact the special envoy sent by the French King.¹⁸

In meetings held in late March and early April, the French suggested seven principles for Sino-British negotiations that would satisfy the Western powers' position. This included: the permanent ceding of Hong Kong to Britain, British surrender of parts of China it occupied, opening of several Chinese ports for friendly nations' merchantmen, permission for foreign ministers to enter Beijing, a Chinese war indemnity in silver to Britain, Chinese compensation for British economic losses during the disruption of the opium trade, and a more flexible Chinese position on the issue of opium imports. Jancigny expressed his belief that the conclusion of a peace treaty on these terms would not only benefit China but also all "civilized" nations.¹⁹

These were indeed weighty overtures, but existing materials do not confirm whether Jancigny or Cécille actually had the right to negotiate with China in the name of France given that neither clarified their diplomatic status during their respective conferences with the Chinese. This was a deliberate subterfuge; they intentionally concealed their position in order to use the Qing officials' ignorance of international diplomatic protocol to France's advantage during the negotiations. There was little risk in this to France. If the Qing were willing to accept all of France's requests, a properly accredited diplomat could build on the work of Jancigny and Cécille, and Jancigny and Cécille could be rebuked for breaching protocol if the Qing denied the requests. After these conferences, both Frenchmen travelled separately north by water and began to carry out their next task: learning more about the situation on the ground in the Sino-British War.

17 Ibid., 34.

18 Ge, "Faguoyuyapianzhazheng," 51–52.

19 "Jancigny au Ministre des Affaires étrangères, Macao, 15 mai 1842," *Archives du Ministère des Affaires étrangères, Mémoires et documents, Chine* 24: 67.

New French Priorities

Events on the ground moved quickly, and the French government was forced to reconsider its new policy towards China following the conclusion of the Treaty of Nanjing between China and Britain on August 29, 1842. The Jancigny mission had only been in country for roughly a year and a half, but major decisions had to be made swiftly.

Before long, the French government adopted new measures and sent Benoît-Ulysse-Laurent-François de Paule, Comte de Ratti-Menton, a high-ranking Italian-born diplomat with extensive experience, to Guangzhou to strengthen France's influence in China.²⁰ Comte de Ratti-Menton arrived in July of 1843, at which point he provided sound advice for Paris. He observed that in view of Britain's tendency to enlarge its circle of dominion in Asia that extended from Turkey to China, an intensification of the rivalry between Britain and Russia, which was caught in the British pincers, was inevitable. He argued that such a development would afford France new opportunities to exploit the British-Russian rivalry, recommending that Paris should prepare a long-term policy of aggrandizement in eastern Asia and the establishment of a shorter and more secure line of communications with the homeland. He identified a harbor or an island in the Red Sea, the Gulf of Siam, and Tonkin as particularly valuable stepping stones for French colonial ventures in Asia.²¹

During his meeting with Qi Ying, the Qing imperial envoy in Guangzhou, on September 6, Comte de Ratti-Menton requested that France be granted the same trade privileges as Britain. Four days later, Qi Ying clarified French merchants did indeed enjoy equal rights to British and other Western competitors in China. Qi also praised the efforts of Comte de Ratti-Menton as a positive step towards the successful conclusion of Sino-French negotiations.²² Still, France's complicated diplomat shell game continued as the note he delivered from François Guizot, the foreign minister, stipulated that Comte de Ratti-Menton was not authorized to negotiate with China

20 Cordier, *La Mission Dubois de Jancigny dans l'Extrême-Orient*, 92–93.

21 "Ratti-Menton à Guizot, Ministre des Affaires étrangères, Macao, 29 juillet 1843," *Archives du Ministère des Affaires étrangères, Correspondance politique, Chine 1*: 182–87.

22 "Ki-Ying, Haut-Commissaire Impérial et Ki-Koung, Vice-Roi de la Province des Deux Kouang, à M. Guizot, Grand Ministre de France chargé du Département des Affaires étrangères, 23e année de Tao Kouang, 7e lune Intercalaire, 17e jour (10 septembre 1843)" in *La Mission Dubois de Jancigny dans l'Extrême-Orient*, 81–83.

given his rank of consul in Guangzhou.²³

Despite his best efforts, Jancigny was unable to keep pace with his compatriot in the competition to see which diplomat could secure the greatest package of concessions for France in China. However, Jancigny did represent the French government in signing the “Provisional Project of a Convention between France and China” with Qi Ying on July 5, 1843. The proposed treaty contained fifteen articles, the fifteenth of which was to remain a secret. In disregard of the “open door” principles that granted all foreign trades equal access to the Chinese market, several articles proposed granting special import privileges to French manufactured items and also to make provision for the export of raw silk to France outside of regular Chinese tariff requirements. The secret article provided that arms and ammunition of war of all sorts carried to China by French ships would be exempt from duty, which would be of great benefit to both parties in the event of the resumption of Sino-British hostilities.²⁴ China badly desired European weaponry to resist further British encroachment, while France saw an opportunity to profit from China’s weakness and to curtail Britain’s ability to gain further concessions through military pressure.

While Cécille, Jancigny, and Ratti-Menton disagreed with each other and took separate measures, they all shared the common goal of obtaining an agreement similar to the Sino-British Treaty of Nanjing, which would grant the same privileges to France as Britain enjoyed in China. Although their activities overstepped the boundaries of rank and the official instructions they had been provided by the French government, their policy proposals were nevertheless adopted by the government after the fact and contributed to its decision to deploy the Lagrené Mission to China. France was finally preparing itself to actually commit to a new direction.

The Lagrené Mission signaled a major transformation of French policy towards China. This mission was headed up by Théodose de Lagrené, an experienced career diplomat who was instructed by his government to focus on expanding French commerce. Following the Opium War, France dispatched two destroyers and three small escort ships to China, but its trade came nowhere close to matching its ability to project force in the region. Sino-French annual trade still amounted to only two million francs (the equivalent

23 *Journal des Débats*, 29 mai 1844.

24 J. M. Callery, *Journal des Opérations Diplomatiques de la Légation Française en Chine* (Macao, 1845), 30; Cady, *The Roots of French Imperialism in Eastern Asia*, 39. Regarding the detailed protocol, see “Projet d’une Convention provisoire entre la France et la Chine,” in *La Mission Dubois de Jancigny dans l’Extrême-Orient*, 62–66.

of roughly US\$383,000 today), which lagged far behind that of Britain and the United States. The most important condition for growing future French commercial interests was securing equal treatment for French merchants. Therefore, Lagrené was directed to negotiate a treaty with China following the British model. Lagrené's mission was also ordered to collect commercial and shipping data which might be useful to French commercial interests. Along with promoting business interests in China, Guizot also requested that Lagrené ensure political privileges, such as consular jurisdiction.²⁵

In his secret instructions, Guizot emphasized the need to acquire a territorial foothold for France somewhere in the vicinity of China. Such a base was required to free French vessels from dependence on the hospitality of the Portuguese- (Macau), British- (Hong Kong), or Spanish-held (Manilla) East Asian ports and to provide facilities for extending political and commercial contacts with the people of the area. Guizot suggested that the base should possess a large and enclosed harbor and have a healthy climate with abundant supplies and water at hand. These instructions finally directed Lagrené to explore the possibility of acquiring a base from Spain in the Sulu Archipelago, situated between Spanish Mindanao and Borneo, and to consider the island of Basilan.²⁶

The Lagrené Mission arrived in Macao on August 13, 1844. Before Lagrené met with Qi Ying, he received cordial direction and help from both the American negotiator, Caleb Cushing, and the British representative in Hong Kong, J. F. Davis. Davis wrote a letter to Lagrené before the arrival of the French mission to express his willingness to provide help in France's policy towards China and sent a copy of the Sino-British treaty and regulations to Lagrené as a reference.²⁷ Cushing sent Lagrené a copy of the Sino-American Wangsha Treaty, highlighting the differences between the Sino-British and Sino-American treaties in detail, and educated him on how to negotiate with the Qing officials. Lagrené admitted that Cushing gave him a great deal of useful information.²⁸

25 "Instructions du Guizot, Ministre des Affaires étrangères à Lagrené, envoyé extraordinaire et ministre plénipotentiaire de France en Chine, Paris, 9 novembre 1843," *Archives du Ministère des Affaires étrangères, Mémoires et documents, Chine* 4: 130–39.

26 "Note Confidentielle, 9 novembre 1843," *Archives du Ministère des Affaires étrangères, Mémoires et documents, Chine* 4: 140–43.

27 "M. Davis, Minister Plenipotentiary, Governor and Commander in Chief of Hong Kong to M. Lagrené, Victoria, Hong Kong, 19 July 1844," *Archives du Ministère des Affaires étrangères, Mémoires et documents, Chine* 6: 32.

28 Lavollée, *France et Chine*, 32–34.

Negotiations Begin

Plans for negotiations were carefully laid during the month of September while Lagrené awaited Qi Ying's announcement of the opening of a formal Sino-French conference.²⁹ On October 5, formal negotiations finally started. Lagrené critiqued China's domestic and foreign policies repeatedly over the course of the conference, following with suggestions on how best to modify them as a precursor to establishing a mutually beneficial Sino-French friendship. According to the records from Lagrené and J. M. Callery, Lagrené focused on several main themes.³⁰ His first was that China should draw a lesson from its defeat to the British, abandon its policy of isolation, and seek a Western ally. Second, he proposed that France and China exchange diplomatic embassies and set up cultural institutes in their respective capitals to strengthen Sino-French relations. Third, he emphasized that France did not have any territorial claims in China, but it would be helpful for China to permit France a base—his suggestion was Humen in the Zhujiang River Estuary in close proximity to Macau and Hong Kong—from which France could assist China in the event of another war. Fourth, he suggested that China could express its respect and friendliness by permitting the spread of France's ethics and religion in China,³¹ reconsidering the punishment of Christians for criminal acts, and consenting to the legalization of Christianity.³² All in all, China readily made these concessions.³³

On the morning of October 6, the Chinese representative, Qi Ying, sent a formal note including copies of the Sino-British and Sino-American trade regulations and customs tariff transcripts to Lagrené to indicate that he agreed to negotiate similar terms with France. That afternoon, Qi Ying and Lagrené continued to negotiate. At this point, they exchanged plenary

29 Cady, *The Roots of French Imperialism in Eastern Asia*, 48.

30 J. M. Callery was an interpreter and translator in the Lagrené Mission. Callery was a Turin-born naturalized Frenchman who had studied Chinese in Macao under the Portuguese Father Gonzalez during the 1830s. He had resigned as a missionary in 1840 and returned to France. His connections appear to have been with the Paris Society. See Cady, *The Roots of French Imperialism in Eastern Asia*, 43.

31 In 1692, Emperor Kangxi enacted a toleration edict, which avoided any mention of the missionaries themselves in order to obviate any embarrassing counter demand on the part of the Chinese that France accepted responsibility for preventing furtive missionary penetration into the interior of China. See Cady, *The Roots of French Imperialism in Eastern Asia*, 49.

32 Angelus Crosse-Aschhoff, *The Negotiations between Ch'i-Ying and Lagrené, 1844-1846* (St. Bonaventure, NY: Franciscan Institute, 1950), 57-59; Louis Wei Qingxin, *France's Missionary Policy towards China* (Paris: Nouvelles Editions Latines, 1960), 263-66, 340-41.

33 Wei, *France's Missionary Policy towards China*, 267.

power certificates and decided to continue working out the text of the treaty the following day. China assigned Huang Entong, Pan Shicheng, and Zhao Changling as representatives, while France assigned Th. de Ferrière Le Vayer, Bernhard d'Harcourt, and Callery.³⁴

These negotiations proceeded smoothly, with seven meetings split between the dwellings of Qi Ying and Lagrené. Lagrené prepared the content of the protocol, while the Chinese representatives generally agreed to his draft without careful inspection, though there were a pair of exceptions. They rejected the French request to exchange envoys between Beijing and Paris and refused to cede territory for a French base. This was not enough to scupper the treaty, which Qi Ying and Lagrené signed on the French battleship *Archimedes* on October 24, 1844. In accordance with international practice, this Sino-French treaty was titled the Huangpu (Whampoa) Treaty, named for the locale where it was signed.

It is significant to note that while the Huangpu Treaty mirrored the Sino-British and Sino-American treaties, it also extended more privileges to the French and had its own characteristics. For example, this treaty text was the first to use the title of “emperor” for the French king, which Lagrené thought was possibly the first exception in the Chinese empire’s glorious tradition.³⁵ This simple matter of title—referring to a Western ruler and nation in the same breath as the Chinese empire—signaled that the Chinese government was coming to realize that China was not a superior nation in the world nor was it the only nation to possess great influence and be an advanced civilization. This acknowledgement indicated that there should not be differences or distinctions in Sino-Western relations.³⁶

When it came to trade, there were more advantageous stipulations for France than for other Western powers. For example, Article 2 specified that in the event of an incident of smuggling or bargaining in unopened ports, the punishment would be confiscation of the offending cargo followed

34 J. M. Callery, *Correspondence Diplomatique Chinoise: Relative aux Négociations du Traité de Whampoa Conclu entre la France et la Chine le 24 Octobre 1844* (Paris, 1879); see Zhang Jianhua, “Zhong Fa ‘huangpotiaoyue’ jiaoshe—yi Lagrenéyu Qi Ying zhijian de laiwangzhaohuihanjianweizhongxin” [The Sino-French Negotiation of the Whampoa Treaty – Focusing on the Note Documents between Qi Ying and Lagrené], *Lishiyanjiu* 2 (2001): 86.

35 “M. de Lagrené à M. Guizon, Macao, 29 octobre 1844,” *Archives de Ministère des Affaires étrangères, Mémoires et documents, Chine* 6: 289. Regarding the appellation of France’s King, see Tiewa Wang, ed., *The Compilation of the Old Sino-Foreign Regulations* (Beijing: Shanglian Shudian, 1957), 58.

36 “M. de Lagrené à M. Guizon, Macao, 29 octobre 1844,” *Archives de Ministère des Affaires étrangères, Mémoires et documents, Chine* 6: 261–79.

by a note to the relevant consul. By contrast, it was expressly stipulated in the Sino-British and Sino-American treaties that these crimes would be punished by the confiscation of the offending ships, a far costlier deterrent. Later, Article 6 stated that the Chinese government could not add any injunction on different varieties of cargo in its tariff regulations. Article 35 postulated that only France was authorized to request revisions to the treaty after twelve years and explicitly specified that China could not impose duty on French goods on behalf of other third-party countries. Moreover, China would reduce its clove, liquor, and tobacco customs duties to the benefit of French exporters.³⁷

China made a reasonable explanation for its concerns on consular jurisdiction and warship anchorage that were meant to address France's needs. Article 23 stipulated that Frenchmen arrested for illegal penetration of China's interior would be transferred to the nearest consulate, but they should not be physically mistreated or harmed by the Chinese authorities. This treaty granted even further privileges in the realm of cultural promotion, which was arguably the one sphere where France could reasonably be expected to outperform the British and Americans. In Article 22, China conceded the right of foreigners in the treaty ports to establish schools and asylums. The former would be key to promoting the French language and by extension cultivate Francophile elements within China. Article 24 permitted foreigners at the treaty ports to hire teachers, buy and sell books, and engage in scientific and literary work.³⁸ In its entirety, the Huangpu Treaty was not only the first Sino-French treaty but also the most comprehensive of the first batch of unequal treaties China signed with the Western powers. It seemed that arriving late had produced certain advantages for France.

Lagrené also deliberately planned to expand the French missionary presence in China as a means of countering France's inferior economic and military position compared to Britain. On November 1, 1844, Lagrené explicitly pointed out in a report to French Minister of Foreign Affairs Guizot that "in the commercial trade aspect, the British and Americans left nothing for us to do; but in the spiritual culture aspect, I thought it was time for France and the French government to take action by turns."³⁹ In his earlier correspondence in October, Lagrené explained to Qi Ying that it would be difficult for France, a civilized country with cultivated tastes and little

37 Ibid., 280–316.

38 Lavollée, *France et Chine*, 132–33.

39 "M. de Lagrené à M. Guizot, Macao, 1er novembre 1844," *Archives du Ministère des Affaires étrangères, Mémoires et documents, Chine* 6: 317–63.

interest in the commercial aspects of the treaty, to be convinced of China's friendship so long as the religion professed by Frenchman was proscribed as a criminal offense in China.⁴⁰ Thus, Lagrené and Callery tempted Governor Huang Entong to persuade the Qing government to permit the free exercise of Christianity.⁴¹ Still, Qi Ying sent a confidential report on the negotiations to Beijing outlining his belief that China's legalization of Christianity would not guarantee any assistance in the form of a French alliance.⁴²

Surprisingly though, imperial approval was accorded on December 28 to the effect that the Chinese accepted the religion of the Lord of Heaven for good purposes and that it would thereafter be exempt from legal culpability. Lagrené was still not satisfied with this measure because the edict did not overrule previous anti-Christian laws and had merely suspended their application on the grounds that Christianity was now judged to be a moral religion. The reply from the Chinese representative indicated that he dared not antagonize the Beijing mandarins by again raising the subject of religious toleration.⁴³ Undeterred, Lagrené negotiated with Qi Ying once again in August 1845 on religious issues and proposed new demands after obtaining the French government's support. These included having China separate Christianity from other religions that did harm under the pretext of missionizing, having local officials post notice of the Emperor's edict to make it widely known, releasing Christians that were in custody, and granting permission from the government to permit Chinese Christians to build churches. Under pressure from Lagrené, the Qing government conceded to all of these demands except the third. Later in October 1845, Emperor Daoguang issued the second sacred edict which announced that Christians were permitted to build churches and consecrate the cross. Every one of Lagrené's demands had been met.

And still Lagrené pressed for more. There was great tension in Sino-British relations in December following the withdrawal of British forces from the island city Zhoushan and their redeployment to the mainland port at Guangzhou, giving Lagrené a golden opportunity to exact further concessions from Qi Ying.⁴⁴ As a competent diplomat, he chose to take advantage of the situation by adding new requirements. It had already been agreed that the

40 Cady, *The Roots of French Imperialism in Eastern Asia*, 50.

41 Wei, *France's Missionary Policy towards China*, 340–561.

42 Cady, *The Roots of French Imperialism in Eastern Asia*, 55.

43 *Ibid.*, 56–60.

44 Regarding the Zhoushan Island evacuation and French attitude on this affair, please refer to Cady, *The Roots of French Imperialism in Eastern Asia*, 65–68.

Sino-French Treaty would include a supplementary sacred edict to be issued explaining the toleration policy and to be distributed to local officials in every province. Lagrené pressed further; he now requested that any old church buildings dating from Kangxi's time, if still standing and not otherwise in use, be restored to Christian ownership. Obtaining Beijing's approval of an edict like this was far from easy. When persuasion failed, Qi Ying finally told the Emperor bluntly that the new French demands, coupled with the appearance of a greatly augmented French fleet, were an ominous threat to China that signaled treacherous designs. French war vessels had been brought to China at great cost to support Lagrené's demands and China could not afford to sacrifice the friendship of France in the face of British hostility.⁴⁵ Thus, the Emperor Daoguang bowed to French pressure and issued the third sacred edict to ratify these demands in February 1846.⁴⁶

In summary, the visit of the Lagrené Mission and the ratification of the Sino-French Huangpu Treaty signified that France's policy towards China had shifted from its 'wait-and-see' attitude to an active scramble for influence and concessions in line with that of other Western powers. French negotiators had not only won the same privileges as the British and Americans, but they also secured protection for Christians and firmly established France's position and influence in China.

French China Policy under Napoleon III

France originally intended to extend Christian influence in China rather than pursue commercial opportunities and additional territory. Accordingly, over the following half decade after the completion of the Lagrené Mission, French activities in the Far East were very heavily associated with an aggressive surge of the Catholic missionary movement and with naval and other measures taken to support it. France was, by contrast, extremely cautious in terms of geopolitical matters, and its commercial interests were almost nonexistent, particularly when compared to those of Britain.⁴⁷

The appearance of a relatively low level of interest in the region concealed the fact that France was waiting for a fortuitous opportunity before dispatching a powerful fleet to the Far East once again. This shrewd approach was rooted in an understanding that the status quo was unlikely

45 Ibid., 62–64.

46 *Qing Dai Chouban Yiwu Shimo: Daoguang Chao*, Vol. 75, 2936, 2964.

47 Cady, *The Roots of French Imperialism in Eastern Asia*, 70.

to last given China's deep dissatisfaction with the humiliating concessions it had to make at the end of its war with Britain along with London's appetite and willingness to take advantage of Chinese weakness to press for more gains. The moment Paris had been waiting for came with the outbreak of the Arrow War, also known as the Second Opium War, which was the byproduct of France's aggressive intent.⁴⁸ In February 1856, the news of Father Auguste Chapdelaine's death was destined to become a pretext for the French government to initiate a war with China.

The French thought that the "Father Chapdelaine Incident" was a tangible and flagrant challenge to French political prestige as well as an attack on the missionary cause. Father Chapdelaine was the first representative of the Missions Etrangères in China since 1815 to suffer death by order of a Chinese magistrate. In 1852, he had left France to join the Christian mission in the Guangxi province, then relocated to nearby Guangzhou for a brief spell before settling in Guiyang, the capital of the Guizhou province, in the spring of 1854. In December of that year, he travelled to Yaoshan village in Guangxi's Xilin County with Lu Tingmei to meet with the local Christian community of around 300 people. This was a relatively remote interior settlement where Chinese had made little contact with outsiders, much less Europeans. Father Chapdelaine celebrated his first mass in the community on December 8, 1854, but was arrested by the local authorities on trumped up charges and thrown into the Xilin county prison ten days after his arrival. He was released after a hearing, but this was not the end of his trouble with the law in the Xilin County. On February 22, 1856, he was again denounced on charges of dividing families and causing a public disturbance by those who resisted his missionary activities and the challenge they posed to traditional Chinese beliefs. On February 25, he was arrested once again in Yaoshan, with several Chinese Christians by orders of Zhang Mingfeng, the new local mandarin. Zhang handled the issue terribly; under his command, Chapdelaine was severely beaten and locked into a small iron cage, which was hung at the gate of the jail as though he were a medieval thief. He was already dead when Zhang had him beheaded for good measure on February 29, 1856.

Father Chapdelaine's tragic death could well have been a minor incident had France genuinely been interested in a productive relationship of

48 Research on France's role in the origins of the Second Opium War is still thin. Although almost all scholars in China note that the death of Father Chapdelaine was a pretext for the French war with China, they seldom elaborate further.

equals with China, which had after all already freely conceded to virtually all previous requests from Paris. So why then did it balloon into an international crisis, and what were France's true motives?

The peculiarities of French domestic politics provide a major explanation for Paris's decision to go to war. Louis-Napoléon Bonaparte (Napoleon III) had been assiduously courting Catholic support as part of his preparations for his successful coup d'état on December 2, 1851. This directly brought religious interests to the heart of French overseas policy and contributed to an aggressive posture in the Far East, which, as outlined earlier, was of a region of high priority to missionaries.

During the presidential election in 1848, Louis-Napoléon had established a political union with the Catholic party in order to bring some conservatives into a coalition with his primary supporters amongst the poor and the left. To satisfy the demands presented by Comte Charles Forbes René de Montalembert, the leader of the Catholic party, Louis-Napoléon issued a manifesto on November 27, 1848, acclaiming religion, family, and property as the basis of society and pledged his support for freedom of worship and liberty of instruction and for the restoration of papal authority in Rome.⁴⁹ As a result, Louis-Napoléon got his share of the religious vote without shedding support from his base on the left-leaning end of the political spectrum. After his electoral triumph, Louis-Napoléon moved to bind the Church closely to his cause and took a series of actions to enhance the Catholic Church's political position in France, such as appointing Alfred de Falloux as the new education minister and dispatching an army to Rome in 1849 to restore Pius IX as the head of the papal state.

Clerical backing was a crucial element in obtaining popular acquiescence in Louis-Napoléon's coup d'état of December 1851 that transformed him from a president to an emperor.⁵⁰ The Catholic party not only voted for Louis-Napoléon but also persuaded farmers and other social strata to support his election. Thereafter, the symbiotic relationship between Napoleon III and the Catholic party deepened. Therefore, when the news of Father Chapdelaine's death made its way to Paris, Napoleon III saw a rare opportunity to please the domestic Catholic party through a bold foreign policy that delivered revenge. He soon began raving about the prospect of sending forces to China to demand payment on the blood debt for the dead

49 Cady, *The Roots of French Imperialism in Eastern Asia*, 89–90.

50 *Ibid.*, 90–91.

missionary.⁵¹

On the other hand, Napoleon III also considered using Chapdelaine's death as a tool to enhance his domestic reputation, national glory, and prestige of the dynasty, which was consistent with his actions after entering the political stage. He stoked nationalism through a series of aggressive wars closer to home in the 1850s and 1860s. In Africa, France conquered Algeria and established a Senegalese colony; in North America, France dispatched troops to Mexico in support of Archduke Ferdinand Maximilian of Austria's claim to the throne (a terrible miscalculation in hindsight); in Asia, France seized Cochin China and brought Cambodia under its protection; in the Near East, France joined the Crimean War against Russia and took on a leading role in the Middle and Near East together with Britain; while in Europe, Napoleon III personally commanded troops against Austria in Italy. Participating in the invasion of China during the Arrow War was consistent with France's aggressive foreign policy of the era.

Certainly, the capture of overseas markets and raw materials for French industry was a great motivating factor behind Napoleon III's decision to deploy his expeditionary force to China. France's economy could not compare with Britain's, but the gross value of its industrial output nearly doubled from the 1830s to the 1840s. Also, the country had basically completed its own Industrial Revolution during the Second Empire. As an active participant in the forcible opening of the Chinese market, France saw great benefits for the continued development of its domestic economy. These factors led France to support British and American demands for treaty revisions with China during the 1850s, with the anticipation that this would further weaken Beijing. The French government concluded that France's economy would grow even more quickly if France's commercial trade could expand to all coastal areas of China rather than being limited to the five treaty ports.⁵² At the end of 1856, France's Foreign Minister Alexandre Florian Joseph Walewski instructed M. Alphonse de Bourboulon, the French ambassador to China, that France's activities in China should not only be based on their "own dignity" but also on the needs of "commercial interests." He further requested that Bourboulon use his influence to spread French commercial trade further inland.⁵³ In May 1857, after making the official decision to send an expedition to China, the French government emphasized

51 Ge Fuping, "Faguoyu di er ci yapianzhanzheng [France and the Second Opium War]," *Jindaishiyanjiu* 1 (1997): 98.

52 Cordier, *L'Expédition de Chine de 1857-58*, 8-10.

53 *Ibid.*, 96-101.

in a letter to plenary power envoy Baron Gros that the goal of treaty revisions with China was to “make our merchants navigate along China’s rivers and freely pass in and out all harbours.”⁵⁴ Thus, it can be seen that France joined the Arrow War not only for “France’s honor” or “pure religious benefit” but mainly for substantial commercial interests that had hitherto been absent from calculations of France’s China policy.

Moreover, French participation in the Arrow War should be understood in respect to the European situation of the period, especially the obligations of the Anglo-French alliance. France, long feared by its neighbors because of its hegemonic ambitions in Europe, wanted to break out of its international isolation and had been making a concerted effort to coordinate its foreign policy with London. Anglo-French cooperation first manifested itself in a shared, favorable position towards Belgian independence from the Netherlands in 1831 and 1832. Then in 1834, France officially allied itself with Britain, Spain, and Portugal. While suspicions between historic enemies France and Britain remained on both sides, collaboration continued unimpeded in war and peace. Just prior to the Arrow War, Britain and France triumphed over Russia in the Crimea War, which was the high-water mark in Anglo-French cooperation in the nineteenth century. Across the continent in Asia, France had located its main forces in Annam (northern Vietnam), but these were still insufficient to carry off a major military action in China alone. Most of the officers in the Foreign Affairs Ministry and Army Department believed that allying with Britain against Beijing was a golden opportunity to expand France’s influence in China and gain wealth in East Asia.⁵⁵

Finally, French participation in the Arrow War was also the inevitable result of France’s policy towards China after the First Opium War. The Huangpu Treaty had made France one of the great powers in the Far East by granting France the same political and commercial privileges as Britain and the United States. From this turning point, France swiftly modified its formerly hesitant approach and began actively cooperating with Britain to intimidate China into making further concessions. In January 1847, France cancelled its consulates in Manila and Guangzhou and separately established an embassy and consulate in Macau and Shanghai respectively. In 1849, following Britain’s lead, France also obtained a concession area in Shanghai. Then in 1851, the French government appointed Alphonse de Bourboulon as ambassador to China to cooperate with British and American representatives

54 Ibid., 145–51.

55 Ge, “Faguoyu di er ci yapianzhanzheng,” 100.

on forcing the Qing government to revise old treaties and protect missionary activity in China.⁵⁶ In 1856, when Britain suggested that France join it in combined action in China, the French government immediately consented. That December, the French government instructed Bourboulon that it had already consulted with Britain and the United States on its policy towards China and had decided to gather the requisite battleships along the Chinese coast to ensure that it had enough power to influence negotiations from the very beginning of hostilities.⁵⁷

Conclusion

France's conduct in China was based on nothing more than pure national interest, and it was unrealistic of the Chinese to expect French assistance against Britain without any tangible benefits for Paris that would mitigate the risk of antagonizing its powerful neighbor. That said, given France's long-standing rivalry with Britain, it was unfathomable to expect the country to stand back and allow London to secure a significant economic and military advantage in the Far East. In fact, if France had enjoyed Britain's resources, it too almost certainly would have pursued an aggressive, predatory policy in China much earlier than it did. Its relative limitations dictated a policy of caution and opportunism. China was willing to grant France many privileges, but the temptation to secure a better deal at gun point was too difficult for Paris to resist. In the end, China was vulnerable, and France manipulated it masterfully to its advantage.

France's resources in the Far East—be they military, religious, cultural, or economic—were never sufficient for Paris to establish the sort of colonial control in China that it had with such success in the Americas and Africa. By the early nineteenth century, France was active in China to a certain extent, but its limited trade and a relatively small number of Catholic missionaries meant that it played a much smaller role in the country than Britain and perhaps even the United States. France's empire had become terribly overextended by the reign of Napoleon III, who should have been more focused on continental affairs than imperial expansion with the great German threat looming, yet a deep desire remained to establish France as an East Asian power to be reckoned with. This could not have happened

⁵⁶ Wei, *France's Missionary Policy towards China*, 638.

⁵⁷ Cordier, *L'Expédition de Chine de 1857-58*, 96-100.

without the opportunity provided by the British, who were determined to break down all barriers to the Middle Kingdom and graciously invited other European imperial powers to join in their scramble to pick over the bones of the Qing Dynasty, coupled with cunning diplomacy.

France at no point during the pre-Arrow War period had a genuine interest in allying with China and astutely played Sino-British tensions in the 1840s and 1850s to win maximum cultural and commercial advantage at minimal cost. Shrewd, boundary-pushing diplomats such as Jancigny, Cécille, and Lagrené feigned sympathy towards China in conversations with the Qing dynasty's emissaries, who came away with the impression that France might well offer some degree of support in a future Sino-British conflict. These diplomats played their role in concealing the true nature of the French threat to China, giving Paris time to prepare for a military intervention on favorable terms. Meanwhile, Napoleon III imposed upon France his daring foreign policy vision of war and imperial expansion as a means of shoring up legitimacy for his regime. When it came to China, he wed aggression with patience, cautiously building up French military strength in the Far East, coordinating policy with London, and waiting for a pretext to act. This process culminated in the murder of Father Chapdelaine and the war Napoleon III launched in conjunction with Britain to avenge him. The Treaty of Tianjin that concluded the fighting opened even more ports to France and international trade, removed travel barriers for foreigners in China's interior, opened the Yangtze to foreign shipping, and allowed for the establishment of foreign legations in Peking. Napoleon III had won a stunning military victory on the far side of the world, while French missionaries and traders had unfettered access to a huge new market of potential souls and customers. For France, this was the culmination of a game well played.

China, by contrast, was naïve to assume that France would behave any less rapaciously than the other Western powers that had so rudely announced their presence in the Far East, but it cannot exactly be faulted for holding on to the faint hope of French cooperation against Britain given its ignorance of European great power politics and lack of other cards to play. In summary, France's policy towards China during the period from the Sino-British Opium War to the Arrow War underwent a significant transformation. It shifted from a limited emphasis on missionary activities to the voracious pursuit of commercial interests that fit with an era that saw the high-water mark for European colonial empires. France shifted to a more active policy in China when it enjoyed peace on the home front and could divert more resources to the Far East. Over time, France abandoned its bystander role to

become an imperialist power with direct interests in China. This foreseeable perfidy meant that France, despite pretenses to culture and high civilization that had strong echoes in the Middle Kingdom, would be lumped in with the rest of the villains during China's century of humiliation.