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**PAPERS, ESSAYS, AND REVIEWS**  
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## LETTER

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### FROM THE EDITOR

The twenty-first century that we live in is the era of change and uncertainty. The seemingly invincible unipolar world order dominated by the United States is said to be shifting toward either the US-China bipolarity or the multipolar world. The advanced technology not only expedited globalization, but also introduced us new challenges like privacy invasion, online sexual exploitation, and smartphone addiction. In addition, globalization has become the center of a controversy for its negative influence on climate change and the increasing attention given on migration and refugees. It is an era of uncertainty; the newspaper headlines surprise us every morning with new sets of ideas, problems, and challenges. This is when the role of academics becomes significant. It is the responsibility of contemporary scholars to reflect on the problems of the past to improve the present and the future and to dissect the newly emerging challenges in many different perspectives. In this regard, the Fall/Winter 2018 issue of the Yonsei Journal of International Studies (Papers, Essays, and Reviews) under the theme of "Problems, Challenges, and Perspectives" is the collaborative attempt of international scholars and editors to undertake such responsibility. The "Papers" section starts with Jeremy Corbett's "Korean Public, Green Politics, and the Reluctance to Cooperate on the Northeast Asian 'Yellow Dust' Issue." Corbett points out the lack of environmental institutionalism in the Asia Pacific region and the reluctance of the South Korean government to take the lead in the Northeast Asian environmental cooperation. Then, he blames the lack of the asymmetric information between the South Korean government and the public as a major reason behind such reluctance. Corbett believes that when equipped with the right environmental information, the public

can push a government to make appropriate environmental initiatives in a mature democratic society like South Korea. The second paper is “Industrial Peace in Japan” authored by James Flynn. Flynn investigates the unique phenomenon of the industrial peace in Japan and seeks to identify the factors that discouraged Japanese workers from striking. Refuting the popular claim that the Japanese industrial peace has been reinforced by Japanese cultural traits, Flynn employs the neoclassical economic view that the Japanese industrial peace has been possible due to the individual and institutional incentives of Japanese unions and union members. Then, Jonathan Lim analyzes Xi Jinping’s consolidation of political power after the thirteenth National People’s Congress (NPC) in 2018. Lastly, Solomon Tai Okajare and Abiodun Daniels Famoye explore how the Nigerian government used the international peacekeeping activities of the Nigeria Police Force (NPF) to achieve its own foreign policy objectives. Next, Alexandra Gilliard opens the “Essays” section with her piece “Brokering Yemen’s Humanitarian Crisis: Turning Blood to Profit and Power.” Gilliard illustrates how the humanitarian crisis in Yemen followed by the Yemeni civil war in 2015 has turned into one of the worst nightmares by the hands of the external parties like Saudi Arabia, Iran, and the US. On the other hand, Tashia Shupert turns her eyes on migration issues in her piece “Prohibiting Push-Back at Sea: European Regional Development in the Scope of Non-Reboulement.” Shupert argues how the recent maritime interception attempts of European states to push back incoming migrants has enlarged the legal scope of non-refoulement. Pamela Davila Alvarez delves into the nationalism and intrastate conflicts in Spain through the case studies of Catalonia and the Basque Country. Our junior editor Sue Jeong sat down with Charlotte Arribe, a Sustainable Development Consultant at the United Nations Economic and Social Commission for Asia and the Pacific for East and North-East Asia (UNESCAP-ENE), to have an interview on Arribe’s unique perspectives on the Sustainable Development Goals (SDGs). During her interview, she emphasized South Korea’s exemplary work in promoting “smart cities.”

Rounding off the Fall/Winter 2018 issue is the article review on “The UK Solar Energy Resources and the Impact of Climate Change.” Under the review title of “A Positive Impact of Climate Change? The Growing Potential of Solar Energy Resources in the UK,” the reviewer Francis Kai-Ting Chang introduces us the unique view point of Douglas Burnett, Edward Barbour and Gareth P. Harrison—renowned climate change and energy scholars—on solar energy. The argument is that climate change has an impact on solar energy; climate change affects cloud cover char-

acteristics, thereby affecting the performance of solar energy. But most of all, I would like to thank our dedicated editors of the YJIS editing team—Anthony Hess, Kendra Hodapp, Diana Piscarac, Caroline Mahon, Aimee Beatriz Lee, and Sue Jeong—for being a part of this meaningful journey. I sincerely appreciate all of our editors for taking time from their busy schedule to make this publication possible. In my years at the Graduate School of International Studies of Yonsei University, the experience as editor in chief of the YJIS team is the one memory I will cherish forever. The profound insights from our intellectual contributors broadened my views on the world we live in. I learned a lot about the importance of strong work ethics from our staff editors. I also enjoyed mingling with like-minded people in the Yonsei GSIS community. It has been my privilege and pleasure to serve as the editor in chief of the YJIS, and I look forward to seeing many more YJIS issues to come in the future.

Wishing you annyong 안녕 安寧 [peace and comfort] from Seoul, South Korea,

A handwritten signature in black ink, reading "Se Jeong Choi". The signature is written in a cursive, flowing style.

Se Jeong Choi  
Editor in Chief



## **MEET THE CONTRIBUTORS**

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Jeremy Corbett is a current graduate student at Yonsei University, studying international development with an emphasis on environmentalism. He graduated from Wartburg College (Iowa, United States) with a Bachelor of Arts in biology. Before coming to study at Yonsei University, he completed several riparian biodiversity projects for the Iowa Department of Natural Resources and the Minnesota Forest Service. His main interests lie in environmental protection and natural disaster mitigation, particularly water-related issues. He currently works as an editor for several organizations in South Korea while completing his Master's degree. He hopes to pursue a career related to environmental protection and live a life promoting environmentalism.

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James Flynn is a fourth semester graduate student at Graduate School of International Studies of Yonsei University, currently writing his Master's thesis in Korean Studies and plans to enter a Ph.D program in the field beginning Fall 2019. His research has focused primarily on Korean Modern History with particular areas of interests being the labor and democracy movements, intellectual history, and political economy. He has previously published a paper entitled "Class Cleavages and the Developmental State: The Labor Movement in Yusin Korea" in the Korean Academic Journal *Marŭk'ŭsŭjuŭi Yŏn'gu* (Marxist Research), which explores internal, largely gendered, divisions within labor that diminished its ability to achieve greater solidarity in this period.

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Jonathan Lim is a law student with The Australian National University and holds a Juris Doctor and Bachelor of Arts (International Relations) with Monash University. Having studied at Yonsei University in South Korea and at Mingchuan University in Taiwan, he bears an active interest in international law and the implications of the Asia Pacific region's ever-changing geopolitical landscape. As a geopolitical analyst, he has published with the Global Taiwan Brief, the Australian Institute of International Affairs (AIIA), and China Matters. Also, he is a Young Leader with Pacific Forum, CSIS. His expertise encompasses Chinese law, China's foreign policy, international law, and cyber warfare. He frequently directs at various Model United Nations Conferences, and he is an active member of the AIIA and the Space Generation Advisory Council. His professional ambitions encompass specializations within international diplomacy and international space law as an international lawyer.

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Pamela Dávila Alvarez is a Master's candidate of International Peace and Security Studies at Korea University. Prior to her graduate studies, she obtained a Bachelor of Arts degree in political science and international relations at Universidad Casa Grande, Guayaquil, Ecuador.

In terms of career and activities, she previously worked as a coordinator of the International Relations Department of Universidad Casa Grande, a teaching assistant at Universidad Casa Grande, and a committee member of Human Rights Society in Korea University Graduate School of International Studies. Currently, she works as an intern in International Education Cooperation Unit of Embassy of the Republic of Ecuador in South Korea. In addition, she represented Peru in the Hemispheric Security Committee in the 2012 Washington Model Organization of American States and represented Antigua and Barbuda in the Economic and Social Council in the 2013 National Model United Nations, Washington, D.C.

Her most notable publication is “Interviewing by Internations: A Methodological Discussion to Explore Special Representation in Mali.” Her upcoming Master’s thesis is under the title of “Law and Governance: Exploring a Combined Strategy to Address Sexual Exploitation and Abuse in the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo.

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Frances Chang recently graduated from the Graduate School of International Studies, Yonsei University, specializing in International Trade, Finance, & Management. Prior to her graduate studies at Yonsei University, she earned a Bachelor of Arts degree in political science. Her research interests cover a wide variety of fields including the Sustainable Development Goals (SDGs), international finance, international governance, and renewable energy technology. Her ultimate goal is to contribute back to the community.

## **PAPERS**

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# **SOUTH KOREAN PUBLIC, GREEN POLITICS, AND THE RELUCTANCE TO COOPERATE ON THE NORTHEAST ASIAN “YELLOW DUST” ISSUE**

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*Jeremy Corbett*

*Yonsei University*

*Despite an increase in environmental disasters, regionalism in Northeast Asia is too weak to provide an appropriate response to environmental pollution. This paper uses the “yellow dust” issue to look at the underlying causes of a lack of action by the South Korean government to improve regionalism in Northeast Asia. It argues that although the government does rely on global institutions, it is reluctant to cooperate on the regional air pollution issue. Particularly, it focuses on the South Korean public as a central reason behind the South Korean government’s reluctance to take leadership in creating regional institutions necessary to mitigate climate problems. Due to the disinterest in environmentalism by the South Korean public and the lack of responsibility taken for climate issues, as seen with the “yellow dust” problem, there has not yet been a push for an increase in green politics. Although we do see Green Politics becoming part of the political discourse in South Korea, environmental responsibility needs to occur before Green Politics becomes embedded into the South Korean society. With a lack of true Green Politics, the region’s institutions combatting climate change will remain weak, and the reluctance will remain.*

Countries in the Northeast Asian region, despite considering climate change as a major threat, have failed to create regional institutions to meet the challenge. Unlike in Southeast Asia, where environmental policy is advanced through ASEAN, Northeast Asia lacks such an institution. As a result, there are few major contributions mitigating climatic effects in the region. The Asia Pacific region has a large population living along the coasts and six of the ten countries with the most at-risk populations are found there.<sup>1</sup> Therefore, the threat to Northeast Asia can be considered especially acute. The majority

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<sup>1</sup> Lorraine Elliott, “Environmental Regionalism: Moving in from the Policy Margins,” *The Pacific Review* 30, no. 6 (2017): 952-965.

of the progress in the Northeast Asian region has been through bilateral agreements, global institutions such as the United Nations, or unilaterally from the individual countries themselves. Governments have taken a more “step-by-step and practical approach” as well as the need of consensus before they take any action on climate change.<sup>2</sup> This can easily be seen when approaching the issue of yellow dust or sand in China, Mongolia, South Korea,<sup>3</sup> and Japan. While this issue has been on the radar for years, the actions taken have generally been weak and failed to yield major results. Between China, South Korea, and Japan, there is a major dilemma. Despite yellow sand originating from China, the Chinese government does not want to be solely responsible for the clean-up process. If Korea and Japan want this environmental problem resolved, they will need to commit to assuming part of the responsibility.

Japan experiences the least severe effects of the sand among the three countries involved, but it has been asked to provide the majority of the mitigation funds. Yet to the Japanese, it is not considered a national security threat.<sup>4</sup> Korea is stuck in a precarious position. It has less money available for aid compared to Japan, but also experiences the yellow sand in greater quantities. In Korea, the sand has a clear negative impact on the quality of life of the Korean population. Therefore, Korea needs stronger environmental leadership.

The Korean government is seemingly reluctant when it comes to tackling the transnational environmental issue of yellow sand—the main reason is due to asymmetric information between the state and the people. In economics, informational asymmetries are a major cause for market failure. This same concept can be applied to a population’s knowledge of the leading causes behind environmental problems and government’s failure to respond to them. Informational asymmetries help prevent protests and grassroots efforts for change. Democratic governments respond to the will of the people as people are the agents of change.

### Research Framework

Environmental institutionalism is weak or lacking entirely from the Asia Pacific region and when institutionalism exists, it is mainly under the guidance of international institutions rather than regional ones. However, the environment has become a more prominent issue in East Asian politics and discourse, demanding increased international cooperation. International environmental

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<sup>2</sup> Ibid.

<sup>3</sup> The term “South Korea” and “Korea” are hereinafter used interchangeably.

<sup>4</sup> Whasun Jho and Hyunjoon Lee, “The Structure and Political Dynamics of Regulating ‘Yellow Sand’ in Northeast Asia,” *Asian Perspective* 33, no. 2 (2009): 41-72.

cooperation could lead to added economic benefits—for example, by cooperating on environmental standards for automobiles and other technology, it could facilitate inter-regional trade.<sup>5</sup> Matching environmental regulations could remove a significant trade barrier.

Since the Lee Myung-bak administration (2008-2013), green politics first made its way into the national agenda.<sup>6</sup> As such, it is understood in Korea that the environment and drive toward mitigating the negative externalities of pollution are important. However, without environmentalism being a core aspect of the Korean lifestyle, it won't have the motive force necessary to really move the Korean government and lead to improved regionalism in Northeast Asia.<sup>7</sup> The power of the Korean people to move the government was especially prominent during the 2016-2017 President Park Geun-hye scandal and candlelight movement. What was observed was a population with democratic ideals stand together to push for the impeachment of a president embattled in corruption scandals. South Korea's democracy was able to embed itself culturally and emotionally, surpassing its institutional basis on relying directly on people power.<sup>8</sup> If environmentalism was able to consolidate itself into the South Korean culture as the democratic ideals that resonated during President Park's ouster, not only would consumption habits decrease, but the population would push the government for more action-based results. Hence, this research looks at variables preventing social action.

### ***Existing Research on East Asian Environmental Cooperation***

This section explores existing research and where cooperation in Northeast Asia is at today. It will also discuss underlying variables as to why the Korean government is reluctant toward cooperation with Northeast Asian nations on the issue.

When nation's leaders first decide to cooperate with others, it is most likely after having calculated a cost-benefit analysis of the cooperation.<sup>9</sup> The paradigm of coordinating multilateral cooperation must take into account the two level game played by domestic political leaders and the advancing

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5 The World Bank, *Environment Strategy for the World Bank in the East Asia and Pacific Region* (Washington DC: The World Bank, 2005).

6 Duchel Shin, "Political Opportunity Structure and the Institutionalization of Green Movements in Korea: The Case of the Green Party," *Environmental Policy in South Korea: Problems and Perspectives* (Seoul: KAS Journal on Contemporary Korean Affairs, 2015), 7- 44.

7 Matthew A. Shapiro, "Regionalism's Challenge to the Pollution Haven Hypothesis: A Study of Northeast Asia and China," *The Pacific Review*, 27, no. 1 (2013): 27-47.

8 Sang-young Rhyu, "Catastrophe 2016 in South Korea: A Tale of Dynamic History and Resilient Democracy," 63rd EAF Policy Debate, (East Asia Foundation, 2016)

9 Michael Barnett and Raymond Duval, *Power in Global Governance* (New York: Cambridge University Press, 2005).

complexity of increasing the number of participants.<sup>10</sup> Coordination most often occurs through bilateral or multilateral institutions or organizations. Furthermore, when it comes to environmental cooperation on transnational issues, the severity of the problem determines the level of cooperation.

China, Japan, and Korea all participate in “the big three”: the Tripartite Environment Ministers Meeting (TEMM), the North-east Asian Subregional Programme for Environmental Cooperation (NEASPEC), and the Environment Congress for Asia and the Pacific (ECO-ASIA). They also are involved in multi-stakeholder, environmental cooperation NGOs: Atmosphere Action Network East Asia (AANE), the Northeast Asian Forest Forum (NEAFF), and ENVIROASIA. Korea is heavily involved with several climate change organizations and other environmental concerns. Environmental organizations have been multiplying in the region, yet much of their work is limited to the exchange of information. There are several reforestation NGOs and deals between countries working toward improving the yellow sand issue but with limited success.

The nature of environmental problems and the beliefs as to their causes make regional environmental cooperation in Northeast Asia difficult. First, in Southeast Asia cooperation through ASEAN and in Europe cooperation through the EU, regional cooperation is predicated upon a sense of common values associated with participation in the groups. The sense of common values is lacking in the Northeast Asian region. Second, one needs to take responsibility for a problem before taking action to mitigate it. With disasters like the Japanese Fukushima nuclear incident, it was evident that responsibility lay with Japan. With air pollution—a transnational concern—assigning responsibility is often more difficult. While the yellow sand does originate from China, that fact is not enough to mitigate the responsibility by the Korean government for air pollution in Korea. Therefore, the nature of environmental issues like yellow dust creates an added difficulty for cooperating on its mitigation. Without first establishing responsibility, the desire to provide financial assistance toward solving the problems is diminished.

There are two aspects of environmental issues that add to the challenges for cooperation with organizations. First, there are cross-boundary externalities such as air and water pollution. To tackle this, it requires several stakeholders to engage in policy dialogue and create mechanisms for collaboration.<sup>11</sup> This is problematic as stakeholders—particularly from different countries—have varying interests and values. The more stakeholders, the more difficult the coordination and as air pollution, particularly yellow dust, is transnational, many stakeholders are in the mix. The second major problem is the nature

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10 Jho and Lee, “The Structure and Political Dynamics of Regulating ‘Yellow Sand’ in Northeast Asia.”

11 The World Bank, *Environment Strategy for the World Bank in the East Asia and Pacific Region*.

of environmentalism; it requires long-term thinking as opposed to short-term gain. In order for regional environmental cooperation to occur, it must be issue-specific and functional, as well as embedded into the civil society. Short-term concerns may be less likely to take precedent when society is behind the change.<sup>12</sup>

The economic aspects of the 1997 East Asian Financial Crisis have been well covered by academic literature, but coincident environmental issues are oft forgotten.<sup>13</sup> These two events showed the various governments' policy weaknesses, and what was wrong with the institutional framework in the region. However, it did create an opportunity for change with a need to focus on environmental governance and more participation by civil society. Although some cooperation exists within the region, there is an utter lack of institutionalism other than from the global institutions. Much of the focus is centered on issues of national security and interests; this creates too much difficulty for international cooperation as interests do not often align with one another.

Northeast Asian countries rely more on global institutions and lack in regionalism. In short, environmental issues in the region may not get the attention needed to mitigate the problems. A move to increased regionalism is necessary. Lorraine Elliott provides two approaches the region can take. First, is a positive risk model whereby cooperating within the regional sphere, relations and trust can be built.<sup>14</sup> This would require a basic level of trust, which the region lacks due to historical animosities and differences. Therefore, Elliott's negative risk approach model is stronger in the sense that regional security will experience increased threats due to the future negative externalities. Failure to clean the air will create emergencies. Lack of flood protection will lead to catastrophic floods in the future, causing huge damage and the need for major funds for repair. The negative risks involved with a lack of regionalism and action on climate change will push the Northeast Asian governments to act. But can governments afford to wait until negative externalities force them to? Although this is a stronger rationale for cooperation, climate change in the short-term is a high-cost problem. Prevention methods and building protection systems or limiting economic growth through climate change regulations may be costly in the short run. Although, in the long-run, they are supposed to pay off by protecting the population and preventing major damage in the future. The real problem lies in the fact that climate change is unpredictable and the investment cost is high. Despite this, more countries are beginning to take

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12 Elliott, "Environmental Regionalism: Moving in from the Policy Margins."

13 The World Bank, Environment Strategy for the World Bank in the East Asia and Pacific Region.

14 Elliott, "Environmental Regionalism: Moving in from the Policy Margins."

the issue seriously, as signs of change have become more common and the effects are being felt.

Increased pressure from the public is causing governments to change. In Europe, often seen as the leaders in combating climate change, the demand for increased regulation came from the bottom-up. However, the argument that European countries have more money than Korea may be valid, and it plays a role in Europe's focus on environmentalism. One could also argue that Japan may be focusing more on environmentalism due to having experienced major environmental disasters as of late. While money and major disasters may add increased gravitas to environmental concerns, the public needs to be the main effector of change. For example, the United States has a large amount of money, and experienced major natural disasters on a yearly basis, yet push for environmentalism from the federal government has not been consistent. If the American public was more uniform in their opinion on environmentalism, the federal government would follow suit. Hence, the question remains, is the Korean civil society actively involved in promoting environmental change within the country, particularly when it comes to its air pollution? While specific state interests make cooperation more difficult, Korea has not necessarily taken a strong stance for improving air quality, and this could very well be due to less pressure at home.

### ***Korean Economic Data and Current Energy Information and Policy Goals***

In recent years, there has been growing concern amongst the Korean public over air pollution on the peninsula. This can be seen through the rise in protective measures such as a 380 percent increase in sales of nasal sanitizers and a 213 percent rise in nose masks from year to year.<sup>15</sup> In fact, with the closing of the 10 oldest coal-fired power plants and a decrease in nuclear energy (eleven of twenty-four nuclear reactors were shut down), Korea's demand for energy will need to be met through other methods.<sup>16</sup> While the government does currently have the 3020 plan – by the year 2030, twenty percent of their energy source is supposed to be from renewable energies – the current amount of energy produced by renewable sources is only five percent. Therefore, while the government attempts to achieve that goal, there will most likely be an increase in output from the current main energy sources, including coal and liquid natural gas.<sup>17</sup> And this is exactly what has happened in 2017. Coal-fired

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15 David Josef Volodzko, "Why South Korea Needs to Fix Its Own Polluting Ways," South China Morning Post, April 15 2017, <https://www.scmp.com/week-asia/politics/article/2087447/china-blame-koreas-pollution-really>.

16 Darrell Proctor, "Coal Generation Reaches New High in South Korea," Power, April 1, 2018, <https://www.powermag.com/coal-generation-reaches-new-high-in-south-korea/>.

17 Volodzko, "Why South Korea Needs to Fix Its Own Polluting Ways."

capacity increased by 35 million kilowatts in 2016, contributing to an increase of 3.6 percent of the nation's energy production.<sup>18</sup> After a NASA study by Hu, they concluded that over half of the Korean air pollution is caused internally.<sup>19</sup> Additionally, how much countries spend on environmental protection as a percentage of GDP is important. Based on OECD data, While in 2016, Japan spent 1.18 percent of their GDP on environmental protection—ranking number four in the OECD—Korea spent 0.77 percent of their GDP, positioning it in the middle.<sup>20</sup> Direct comparisons with China's non-market economy are difficult, but since 2013 China has drastically increased its efforts pollution control. China imposed a nationwide cap on coal usage, banned new coal burning capacity, and sped up the use of filters and scrubbers in existing coal-fired plants. The government delayed or cancelled large construction projects, imposed output controls on steel and aluminum smelters and created a new environmental protection agency.<sup>21</sup> The result was a drastic reduction in Chinese air pollution in northern China. Therefore, there are grounds for change within Korea. While international cooperation is necessary, much can be done at the national level; this includes policy changes and increased expenditure on environmental protection.

### **Research Variables**

Korea has much responsibility for its air pollution, but despite there being multilateral institutions, bilateral deals and NGOs specifically working toward improved environmental conditions, the government's actions are not truly effective. Political green movements in Korea have not been institutionalized, and this is a factor in why the government doesn't move toward increased action. There is also major information asymmetry. The Korean public often blames China for the issue of air pollution, while the government spreads information to keep blame away from the Korean industry and focused on China. As a result, the Korean people feel that the causes of air pollution are China and consumer behavior. When environmentalism is embedded within the country's politics and society, the government is more likely to take action on environmental issues. But when they are not, the government will become more reluctant to strive for change (see Figure 1).

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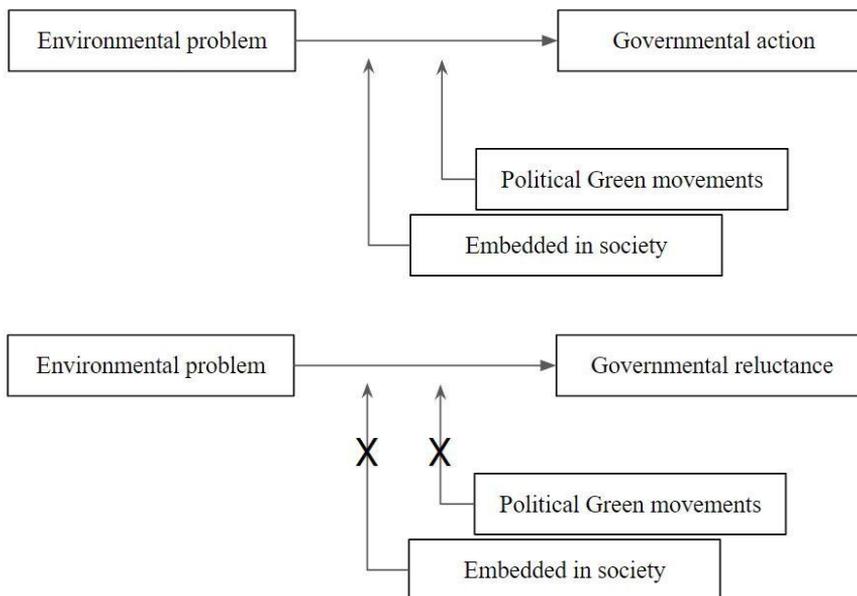
18 Proctor. "Coal Generation Reaches New High in South Korea."

19 Elise Hu, "Armed with NASA Data, South Korea Confronts Its Choking Smog," *NPR*, October 10, 2017, <https://www.npr.org/sections/parallels/2017/10/10/552264719/armed-with-nasa-data-south-korea-confronts-its-choking-smog>

20 OECD, "General Government - General Government Spending - OECD Data," 2016.

21 "How China cut its air pollution," *The Economist*, January 25, 2018, <https://www.economist.com/the-economist-explains/2018/01/25/how-china-cut-its-air-pollution>

**Figure 1. Conceptual framework for environmental change in Korea. ‘Embedded in society’ refers to environmentalism being an important factor for the population.**



### Main Arguments and Findings

This paper must begin with a disclaimer: Not all air pollution in Korea is the yellow sand that originates in China and Mongolia, with local emissions playing a significant role according to the KORUS-AQ report.<sup>22</sup> While present, it is not a year-round issue, and therefore the entirety of South Korea’s air pollution cannot be caused by that one source. Hence, while yellow sand does indeed come from China, it is incorrect to assume that all Korean air pollution is “yellow sand.” This idea most definitely stems from asymmetry or lack of information.

When looking at which organizations leading the region in terms of environmental protection, Korea is a participant in each of them (Table 1). They are involved in multilateral organizations with China, Japan, and other countries in the region. They also help NGOs, and provide funding for the operational costs. However, the actual accomplishments of these organizations are more or most important.

<sup>22</sup> US Environmental Protection Agency, “KORUS-AQ: An International Cooperative Air Quality Field Study in Korea,” (Washington DC: US Environmental Protection Agency, 2016).

**Table 1. Major East Asia multilateral and NGO organizations<sup>23</sup>**

<i>Name</i>	<i>Type</i>	<i>Participants</i>	<i>Main objectives</i>
TEMM	Multi-lateral	The Republic of Korea (ROK), China, Japan	information sharing monitoring pollution, restoration projects
NEASPEC	Multi-lateral	ROK, The Democratic People's Republic of Korea, China, Japan, Russia, Mongolia	Monitoring/collecting pollution data
ECO-ASIA	Multi-lateral	24 Asia Pacific countries	Information exchange
AANEA	NGO	ROK, Japan, Russia, Hong Kong, China, Taiwan, Mongolia	Study atmosphere pollution
NEAFF	NGO	ROK, China, Mongolia	Forest management and information exchange
ENVIROASIA	NGO	ROK, China, Japan	Information exchange
KFEM	NGO	ROK, China	Educational environmental exchange

Source: Whasun Jho and Hyunjoo Lee, "The Structure and Political Dynamics of Regulating 'Yellow Sand' in Northeast Asia," 2009.

The goals for each organization or meetings are to include an exchange of information, such as environmental technology and air pollution data. While this is necessary to promote coordination between countries, it is not enough to show results. Participation in each of these organizations creates the idea that the country is doing a lot toward addressing climate change, and really cares about environmental issues. It shows the Korean public that they are taking action toward improving air pollution by working with Japan and China by monitoring and data collection. But, this is merely a facade. It perpetuates the idea that China is the main cause for air pollution on the peninsula. It maintains a distance between Korean industry and the problem to prevent the public from assigning blame to the Korean industrial and energy sectors. While the government pursues regional information exchange, there is asymmetric information between the government and the public. As long as the Korean public believes China is to blame for air pollution, it will not demand change from the government. However, if the public is made fully aware that over half of the air pollution is internally-created, the demand for cleaner air from the government would more likely change. There would no longer be a "there is nothing you can do about it" attitude.

<sup>23</sup> Jho and Lee, "The Structure and Political Dynamics of Regulating 'Yellow Sand' in Northeast Asia."

One way in which environmental problems could bring about governmental action is through green politics. A party running on environmental issues is not enough to create the necessary change. Change requires inclusion of environmental issues in the major party platforms. Once the major parties include environmental issues as part of their platforms, the action will truly begin to take place. Green movements must become politically internalized in order for them to begin affecting environmental policies and remain part of the discourse each year. Green movements in Korea began around the time of the democratization, but in both the 2012 and 2014 elections, they were unable to effectively gain enough power. As a result, they failed at institutionalizing their platforms into the political system.<sup>24</sup> Although, in 2010, the three political parties, the Progressive, the Democratic, and the Former Grand National parties' environmental policies did include either increased regulation or aid to businesses (Table 2).<sup>25</sup> This shows that environmentalism is making its way into political groups. Even the Conservative party is beginning to consider some "green" initiatives, but for this to effectively institutionalize a green agenda, it must permeate through all parties. Looking to the United States as an example, the current administration's environmental policy is very weak and doesn't even consider climate change to be a real issue. This is the case, despite the Democratic Party having stronger environmental policies because the same is not true for the currently governing Republican party. Therefore environmentalism must be a part of every major political movement for it to have a long term effect on society. As this topic continues to gain importance to Korean society, the issue will increase in size and envelop more than simply environmental protection but become part of Korean politics and society itself, following a parallel process with Korean democracy.

**Table 2. Korean political parties and environmental policies in 2010.**

Party Name	Progressive	Democratic	Former Grand National	Conservative
Environmental Policy	Increased governmental regulation	Government regulation-support	Business support	"Green initiatives"

Source: Min-jeong Kim, "Liberal Politics and Green Politics-Based on Review of Green Policies of Progressive Parties," 2010.

The second variable to consider is public opinion and knowledge. News articles, public discourse, and surveys show that the Korean public often

24 Shin, "Political Opportunity Structure and the Institutionalization of Green Movements in Korea: The case of the Green Party."

25 Min-jeong Kim, "Liberal Politics and Green Politics-Based on Review of Green Policies of Progressive Parties," *Environment and Life*, Spring Edition 63, (2010): 28-47.

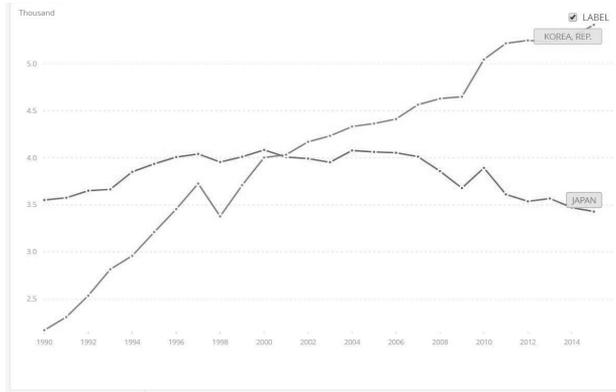
blames a few key actors for the year-round pollution in the country: China and automobiles. Interestingly enough, the governments often state both as reasons for the high level of air pollution in the country. Returning to Table 1., there are several non-governmental organizations that Korea either takes part in or leads. The specified NGOs are involved in combating climate change and facilitating information exchange, but much of the work occurs abroad in China and Inner Mongolia. Therefore, while tackling transnational issues and attempting to help mitigate the air pollution by addressing the source of yellow dust, it effectively continues the narrative that the pollution is caused in China, and is not a domestically induced problem. Civil society actors—mainly corporations—are also involved through investments made in companies and organizations combating climate change.<sup>26</sup> However, much of the investment is made abroad in China.

The continued belief that China is the cause for air pollution is also reflected in consumer behavior. When people believe that China is to blame and not their own actions, they are unlikely to change their behavior to help mitigate domestic energy demand and the resulting pollution. Japan offers an appropriate comparison for Korea's energy consumption as both countries import almost all of their primary energy sources and Korea's only land border—with North Korea—is effectively closed to land transport, making Korea like an "island." Although Japan's total energy consumption exceeds that of Korea due to its significantly larger population, when energy consumption is measured on a per capita basis, the numbers tell a different story. According to the World Bank's statistics, Korea leads Japan in both, total energy consumed per capita (measured in kilograms per oil equivalent) (Figure 2) and electric power per capita (measured in kilowatt-hours) (Figure 3).

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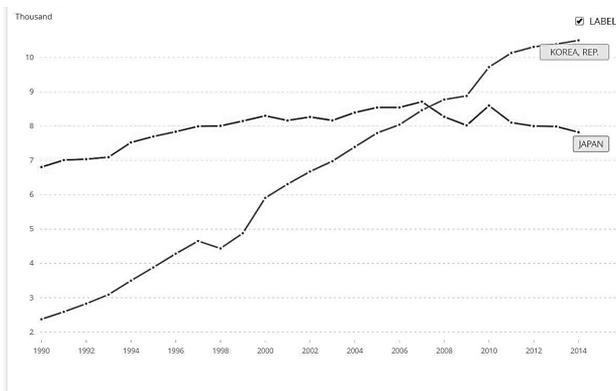
26 Michael Vodrazka, "From Dust to Trust: Environmental Peacemaking in Northeast Asia," MA Thesis, (KDI School of Public Policy and Management, 2009).

Figure 2. ROK vs. Japan in total energy consumed per capita (kilogram per oil equivalent) from 1990 to 2015.



Source: the World Bank.

Figure 3. ROK vs. Japan in total electric power per capita (KWh) from 1990 to 2015.



Source: World Bank.

These signs show very different consumer behavior within the two nations. While there may be several reasons why the Japanese consume less than the Koreans, one thing is for certain, the Korean population does not have strong beliefs that the air pollution is domestically caused. Until they begin to accept this fact, the consumption behavior of Koreans will most likely not move towards the level of the Japanese people. For the change to occur, the narrative must switch from China, into one which accepts Korean responsibility.

### Conclusion

The Asia Pacific region, like the rest of the world, is not immune to the rising number of environmental problems. Whether a transnational issue such as

air pollution and climate change, or a national problem such as deforestation, countries in the region must coordinate to take action. Each country faces similar issues and a joint effort is necessary to successfully tackle the major environmental concerns. Despite Korean presence in multilateral deals and NGOs on climate change and pollution, the majority of it is more focused on monitoring, collecting, and sharing data. There is a lack of results coming from participation in the organizations, despite appeasing the public demand for environmental change. Simply participating in organizations and institutions does not mean change will occur. And the agents of action are the countries themselves. However, until environmentalism becomes truly embedded within the Korean public and politics, it will not become a driving force pushing the Korean to take an action at mitigating the negative externalities from their internal polluters. The current discourse in Korean society is heavily focused on China and the government echoes these thoughts, keeping accountability at a minimum. On top of this, the government blames most domestic pollution on the public, such as cooking habits and automobiles.<sup>27</sup> While there may be factual evidence to these claims, it further removes the government from taking responsibility and protects the polluting industries. It should be noted that President Park's administration strayed away from the "green" initiatives initiated by the previous administration, but the current Moon administration is returning to the green concept more than the Park government.

As history has shown, in democratic societies, the way to bring about major change is from solidarity within the population. Civil society in Korea evolved from decades of subordination from a powerful central government and may, therefore, be seen as weaker when it comes to democracy being consolidated. However, in Korea, the collective effort of the people had a major effect on the impeachment of President Park in 2017, showing democracy has planted its roots within the society. If the public begins to truly stand behind environmentalism, and it seeps into political movements, increasing green politics, then the government will take more action toward its internally-caused pollution and demand for greater regional environmental institutions. When voters begin to choose candidates who use environmentalism as a major platform, a push for great regionalism will most certainly follow. The first step is acceptance of responsibility, followed by action. As the demand for cleaner air increases, the Korean government will continue to take further steps toward improving the current conditions. The 3020 project is a result of increased demand and a step in the right direction for improving air quality on the Korean peninsula. After, the country can truly stand behind the claim that

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27 Volodzko, "Why South Korea Needs to Fix Its Own Polluting Ways."

pollution is from abroad, and it will be stronger in dealing with the problem at the transnational level.

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# INDUSTRIAL PEACE IN JAPAN

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*James Flynn*

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*Industrial relations in postwar Japan have persistently exhibited collaboration between labor and management, operating within a larger corporatist political-economic framework. This industrial peace is often cited as a major contributing factor to both Japan's rapid re-industrialization following the wartime destruction of its industrial core and its emergence as a major economic power in the later-half of the twentieth century. Laying aside the merit of such claims, this work instead traces the postwar development of Japanese industrial relations in the order of: 1) the heated labor-management confrontations in the period of American occupation, 2) the rise of conservative enterprise unions within the context of a gradually developing system of collaborative industrial relations during Japan's economic ascendancy, 3) the subordination of Japanese unions to state and national capital, the compromise of its institutional independence, and the decision to sacrifice a certain contingent of its membership's interests, facing the challenges of Japan's lost-decade(s) and liberalization. In doing so, this work challenges the notion that a lack of industrial conflict is the result of a transhistorical Japanese cultural trait rooted in ie, "family" and mura, "village" forms of traditional social organization. Instead, employing neo-classical economic theory, the paper argues that the behaviors of Japanese unions and union members shaped by individual and institutional incentives have sustained Japanese industrial peace.*

## **Introduction**

### ***Industrial Peace in Japan***

The conditions that led to the successful and rapid development of postwar Japan are many. Analysts have identified numerous unique characteristics of the Japanese political economy that expedited the reindustrialization. For some, that source was the active role Japanese bureaucratic institutions like the Ministry of International Trade and Industry (MITI) have played in the economy.<sup>1</sup> For others, the integrated

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<sup>1</sup> Chalmers Johnson, *MITI and the Japanese Miracle: The Growth of Industrial Policy, 1925-1975* (Stanford, CA: Stanford University Press, 1982), 1-393.

networks among business, political, and bureaucratic organizations that have developed over the years was the one.<sup>2</sup> The active intervention of the bureaucracy in the economy and the importance of close-knit networks in Japanese society can help explain the emergence of corporatist behavior among the stakeholders in Japan's political economy, where instead of confrontation and class-conflict, differences are resolved among the major actors (i.e., business, labor, and the state) through negotiation, bargaining, and consensus. While it is not the goal of this work to determine whether Japan, either now or at certain points in the past, indeed did fit within the framework of a corporatist polity, it will seek to trace the development of important elements of corporatism, industrial peace, and the relative absence of confrontational and economically disruptive conflicts between labor and management.

Industrial peace can provide a crucial advantage to an economy like Japan's because Japan chose export-oriented industrialization as its preferred postwar development strategy. Industrial peace lowers transaction costs that might otherwise emerge in a system of more confrontational industrial relations. These transaction costs have two primary sources: the interruption of the production process during strike activity or lockouts, and expensive litigation and legal service fees expended in the course of mediating and resolving disputes between labor and management. If labor is willing to forego strike activity and management doesn't resort to lockouts, the production process continues with little disruption and export competitiveness can be maintained. It is no wonder then that both Japanese policymakers and businesses had an interest in encouraging and maintaining an environment of industrial peace.

But industrial peace is never a foregone conclusion, nor does the absence of industrial conflict indicate satisfaction with the status quo. Striking and the threat of strike are powerful and necessary strategic tools that can be used by labor to gain leverage against management, which possesses a far greater array of political and financial assets in the negotiating process. If a strike or credible threat of one is absent, management is given a far greater control over the production process, compensation levels, and overall working conditions. When the conditions for workers deteriorate beyond what they are willing to tolerate and management appears dismissive to the issues they raise, workers are

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<sup>2</sup> Shumpei Kumon, "Japan as a Network Society," in *The Political Economy of Japan: Cultural and Social Dynamics*, vol. 3, Shumpei Kumon and Henry Rosovsky, eds. (Stanford, CA: Stanford University Press, 1992), 109-141.

highly likely to strike given the proper incentives and organizational capabilities. However, if these incentives and organizational capabilities are found to be lacking, even a workforce with numerous grievances will find it difficult to pursue a strike to resolve its conflicts with management. What were the conditions in the Japanese political economy and its system of industrial relations that were able to sustain its industrial peace for such a long stretch? Why have Japanese unions and their members traditionally neglected to use the strike to leverage negotiations with management, and what can be inferred about the historical and current state of Japanese industrial relations from the absence of striking? It seems unlikely that workers and their unions would be satisfied with their current conditions, which leaves us with the question of what mitigating factors discourage the use of a strike as a means of resolving disputes with employers.

To gain a better understanding of the phenomenon of Japanese industrial peace, the questions of culture, institutional structures, and rational economic motivations of the relevant stakeholders in labor, business, and government will be examined and assessed on the basis of their relevance. Two culturally specific forms of organization unique to Japan affecting its various formal and informal institutions are *ie*, “family” and *mura*, “village.” The *ie* form is described as a hierarchical grouping with a strong sense of identity and is driven by the primary goal of continuity and expansion as motivating factors.<sup>3</sup> If the idea that such cultural forms are deeply embedded in the Japanese society to the point that workers actively accept their assigned roles in the firm hierarchy holds true, then the idea of industrial peace seems like a foregone conclusion. While the *ie* model may indeed reflect the reality of intra-firm industrial relations to a certain degree, it is important to note important exceptions that complicate this understanding. Similarly, models focusing on institutional structures provide insight into the complex negotiations between relevant stakeholders. Japanese enterprise unions and their confederations maintained a degree of leverage in negotiations with the firms whose workers they represented throughout much of the postwar era. Such privileges provided labor market insiders, those with skills prized by employers and strongly represented by enterprise unions, both considerable leverage for pressing their demands and a forum in which they could feel their voices would be heard. However, diversity

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<sup>3</sup> Yasusuke Murakami, “The Japanese Model of Political Economy,” in *The Political Economy of Japan 1: The Domestic Transformation*, eds. Kozo Yamamura and Yasukichi Yasuba (Stanford: Stanford University Press, 1987), 35-36.

and internal conflict within these institutional structures must be taken into account, and conceptualizing them as concrete wholes should be avoided. To better grasp the diverse elements that make up the various organizations examined, this work utilizes neo-classical economic theory in reflecting on the rational self-interest of atomized individuals operating within their representative organizations. Though workers might nominally belong to the same class and share a number of mutual interests, only rarely do they display the solidarity necessary to achieve broader class interests. Workers in different industrial sectors and different positions within the production process will have different ideas about how to press their demands. All these topics will be explored in further detail below.

### ***Undermined Foundations, but Persistent Peace***

Whatever the foundations of industrial peace in Japan might have been, it is clear that they have been under great strain over the past three decades. Labor market liberalization has aggravated precarity for both labor market insiders and outsiders, broadly defined as nonregular workers generally lacking union representation, secure contracts, and the generous benefits that usually accompany union representation. In the past, though limited in their organizational capacity due to the constraints of the enterprise union structure, labor could rely on institutions like *shuntō*, the “Spring Bargaining Offensive” in which affiliated unions would coordinate with one another to press for better wages.<sup>4</sup> But the constraints of restructuring and international competition have rendered this once powerful strategy almost completely irrelevant. Indeed, it seems the privileges awarded to labor, which afforded it a considerable say in the process of labor market liberalization, have granted it a hand in the undermining of its own bargaining position. The result is a labor leadership that has become progressively coopted by business and government prerogatives and increasingly aloof from its hard-pressed membership. Given the weakened state of labor’s bargaining power through these formal institutions and the increasing pressures on its members and the broader working class, why has industrial peace persisted throughout each stage of the liberalization process? To answer this question, rather than looking at cultural factors alone, the paper discusses how businesses, government, unions, their membership and the broader working class have acted in ways that maintain the status quo in industrial relations while considering economic disincentives and organizational barriers that prevent the strike

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<sup>4</sup> Marcus Rebick, *The Japanese Employment System: Adapting to a New Economic Environment* (New York: Oxford University Press, 2005), 77.

from becoming a viable tool toward resolving industrial conflicts and resisting the further deterioration of working conditions. It is the goal of this research then to accomplish the following. First, it will explain a traditional model of industrial peace in Japan and provide a conceptual framework for understanding its function. It will then trace how this model has changed in neoliberal Japan, accounting for the effects of reform on Japanese workers and their representative institutions. Finally, it will conclude by critiquing the Japanese labor movement's inability to bring worker issues to the forefront while revealing several limitations to the enterprise union model that have resulted in an ossified industrial peace.

## **Research Framework**

### ***Critical Review***

Several texts and articles from academic journals of labor and Japan studies have covered the topics of the Japanese labor market and industrial relations in Japan. A prominent comparative political scientist, Ikuo Kume provides an excellent overview of the historical progression of Japan's postwar labor movement in all its diversity in his work *Disparaged Success*. Far from resorting to cultural determinism, this book provides keen insights into instances of both collaboration and confrontation between labor, government, and businesses in political and economic context. However, its favorable treatment of the labor movement and the Japanese corporatist model gloss over the outsiders of Japanese corporatism such as nonregular and female laborers. Further, the overall optimistic tone of the book and forecast of enduring strength and independence of the labor movement have not withstood the repeated rounds of liberalization since its publication in 1998. A more critical perspective might have emphasized the prevailing contradictions in the system of Japanese industrial relations and reached more realistic conclusions. "The Japanese Employment System" by Marcus Rebick—an empirical labor economist specializing in Japanese economy—highlights the key features of the Japanese labor market and changes it underwent during the "Lost Decade". This text was useful in identifying general long-term characteristics in the Japanese labor market institutions, their interactions, and changes to them over the years. Rebick takes note of the prevalence of enterprise unions, longer tenure and tenure-based wage scales, worker participation in the decision-making process through Joint Labor-Management Committees (JLMCs), and the presence of internal training and labor markets (13-15), as contributing to an overall collaborative

rather than confrontational tendency in Japanese labor-management relations. However, Rebeck's work is fundamentally an economic text, largely ignoring political elements. More nuance is required to understand the reasoning behind the actions taken by various stakeholders. The final text consulted in this research was Jiyeoun Song's comparative work on the process of labor market reform in Japan and Korea. Despite being a comparative work, it treats both nations as separate cases identifying similar and divergent patterns. In *Inequality in the Workplace*, Song outlines how labor market insiders in both nations were protected from more drastic reforms at the expense of outsiders, thus widening the gap between the two. In Japan, labor's official involvement in the tripartite (labor-management-government) policymaking process led it to forego the interests of its diverse and divided base preventing it from advocating on behalf of all workers. Instead, organized labor's participation in the reform process produced a strategy of retrenchment characterized by the sacrifice of labor market outsiders in exchange for temporary guarantees of protection for privileged insiders. While bringing to light how the process of labor market reform aggravated divisions within the working class and the labor movement, the work lacks insight into the links between union leadership and its members or whether members felt their interests were being fairly represented by union officials.

### **Conceptual Framework**

Consideration of the following three concepts will assist in the formation of a standard model of Japanese labor relations, assess changes to it and provide insights as to why industrial peace has prevailed despite changes to that model.

*Corporatism.* While there may exist some debate over whether the postwar Japanese state and society can fairly be described as corporatist, corporatist practices among Japanese business, labor, and government institutions have contributed to industrial peace over the long term and its ossification in the post-reform era. Corporatism can be conceptualized as nonideological and from the standpoint of praxis as, "a system of interest...representation, a particular modal or ideal-typical institutional arrangement for linking the associationally organized interests of civil society with the decisional structures of the state."<sup>5</sup> In Japan, it can be observed in the collaborative efforts among conservative enterprise unions, firms, and businesses throughout the postwar era, the JLMCs

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5 Philippe C. Schmitter, "Still the Century of Corporatism?," *The Review of Politics* 36, no. 1 (1974): 86-87.

in many of the nation's firms, and labor leadership involvement in the tripartite committees organized by the Ministry of Labor to discuss the crafting of labor market flexibility reform policy. The tendency towards collaboration gave labor a chance to promote its interests as a nominally equal player, but ultimately led to its capture by business and government interests as the reform process progressed.

*Union Leadership—Membership Disconnect.* There are a number of obstacles at the firm, industrial, and national levels of Japanese unions that filter out, dilute, and diffuse the interests of union membership as they pass through communication channels operated by union officials. Also problematic is the atomized nature of enterprise unions which produces fissures in the labor movement that develop along the fault lines of industry and firm, preventing solidarity among workers as a whole and weakening the resolve of union leaders with influence over the policymaking process, who must sacrifice some of their members' interests in favor of others. After decades of reform it seems unions have been sapped of the vitality that originates in the rank-and-file. Unions now seemingly operate as a matter of formality or in some cases an appendage of management. Such lassitude renders the thought of industrial action unthinkable for most.

*The Lost Art of the Strike.* Strike activity reached its peak in the mid-1970s arising from greater pressures on workers during the dual oil-shocks of that decade. Gradually tapering off in the 1980s, they nearly disappeared as market liberalization progressed. Rebeck attributes this to the rise of conservative Dōmei unions after 1970,<sup>6</sup> and the disuse of the strike was compounded by the increasing number of potential strikebreakers made available through lifting regulations on the Worker Dispatch Law. In the neoliberal era, there are significant financial constraints placed on unions due to declining membership and the accompanying loss of union dues over the past decades.<sup>7</sup> Thus, resources necessary to conduct a strike are severely limited. Furthermore, the very fact that strikes have declined makes it unlikely that they can be revived as a legitimate means of resolving disputes since both union officials and management are inexperienced with the form.<sup>8</sup> Under such conditions, even if workers had motivation to strike, they would be unlikely to do so. It is in this way industrial peace has proceeded.

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6 Marcus Rebeck, *The Japanese Employment System: Adapting to a New Economic Environment*, 85

7 Hiroaki Richard Watanabe, "The Struggle for Revitalisation by Japanese Labour Unions: Worker Organising after Labour-Market Deregulation," *Journal of Contemporary Asia* 45, no. 3 (2015):516.

8 Hiroyuki Fujimura, "Japan's Labor Unions: Past, Present, Future," *Japan Labor Review* 9, no. 1 (2012): 8.

## Labor Relations Institutions and Their Incapacitation

### *From Conflict to Collaboration*

Before the corporatist model of industrial relations took hold in Japan, a history of antagonism existed between the labor movement and business that 'democratization and wage improvements.<sup>9</sup> The general strike of January 1947 would represent the high-water mark of this period of industrial conflict in the immediate post-war era. The preceding months had seen the foundation of the radical trade union Sanbetsu formed by the Japanese Communist Party and representing some 1.5 million members in public enterprises and the civil service.<sup>10</sup> Public sector workers had been pressing the Yoshida government for wage increases to a level on par with that of workers in the private sector. But met with the prime minister's intransigence, these workers represented by Zentō (a national union council) as well as other major union confederations, including Sanbetsu and Sōdōmei, called for a general strike.<sup>11</sup> The period leading up to the strike was a turbulent one, with Sanbetsu's president severely wounded in an assassination attempt. The general strike was only prevented by the direct intervention of SCAP. This is hardly the image of industrial peace for which Japan would later become known.

However, an important demand was made by workers in this period that would set the stage for a more collaborative approach in the future. A primary demand had been the elimination of status distinctions between blue-collar (*kōin*) and white collar (*shokuin*) workers<sup>12</sup> When these status distinctions were implemented, it helped lead to the development of a community-like atmosphere in the factory that maintained the appearance of egalitarianism. Firms were quick to grant these concessions as a means of partially diffusing the antagonistic attitude widespread throughout the labor movement at the time. Such antagonism was further dampened with help from SCAP's reversal in policy course regarding leftists in the Japanese labor movement and a reactionary counteroffensive led by the Japanese Federation of Employers' Associations (*Nikkeiren*). The more moderate enterprise unions were given a boost, and in lieu of general strikes across industrial sectors, wage negotiations were confined within

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9 Ikuo Kume, *Disparaged Success: Labor Politics in Postwar Japan* (Ithaca, NY: Cornell University Press, 1998), 56.

10 Robert A. Scalapino, *The Japanese Communist Movement, 1920-1966* (Berkeley: University of California Press, 1967), 68.

11 Kume, 56.

12 *Ibid.*, 51.

the firm and labor's influence over management decisions was scaled back.<sup>13</sup>

One of the key strategies pursued by Japanese unions in their bargaining strategies with management was *shuntō*, the "Spring Bargaining Offensive." *Shuntō*, grew out of a need to overcome the obstacles inherent to enterprise-level union organizational structure, which was accomplished by synchronizing wage negotiations to occur simultaneously. Through this process industry-wide wage standards were set, which worked to prevent a fractious, drawn out, and disruptive bargaining process as this institution became routinized.<sup>14</sup> While *shuntō*, began as a labor pressure tactic to force management to provide wage increases that kept pace with productivity increases, through annual repetition it became a semi-formalized institution with a set of unwritten but mutually understood rules whose timing both labor and management could anticipate. This was the pattern followed by the moderates taking leadership positions in Japan's Metalworkers Federation, whose members were employed in the steel, auto, shipbuilding, and machine industries. Demands for wage increases were kept within limits that wouldn't provoke management opposition, but were also accepted by the union base because they kept pace with inflation and productivity improvements.<sup>15</sup> Incrementally, a solid foundation for labor–management cooperation was being built.

### ***Patterns of Labor–Management Cooperation***

Industrial peace cannot proceed without the willing support or acquiescence of labor, and so enterprise unions, because of their conservative ethos and tendency to use the strike only as a last resort, have had an important part in seeing that production goes undisturbed by frequent disruptions which might erupt from more confrontational strategies. Currently, the largest union confederation in Japan is Rengō (at 11 million members in the early 2000s), formed in 1989 from elements of the activist Sōhyō and the more conservative Dōmei, which was prevalent in Japan's export-oriented manufacturing industries. However, the emergence of this national union confederation obscured the fact that the real center of gravity for Japan's industrial relations has long been limited to the enterprise or local level. Rather than forming an industry or federation-wide consensus over bargaining strategies, local

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<sup>13</sup> Ibid., 47.

<sup>14</sup> Rebick, 77.

<sup>15</sup> Charles Weathers, "Shuntō and the Shackles of Competitiveness," *Labor History* 49, no. 2 (May 2008): 178-79.

union chapters have in reality been more closely integrated with the firms in which their members are employed. Unions at this level participate in joint consultation groups with their employers, a corporatist practice that stymies grassroots initiatives among the rank-and-file. Whereas in the past, union–management committees might have served as a forum for discussion of improvements in pay, they have since become a conduit for the management of firms undergoing restructuring to pressure unions into accepting wage restraints and submit candidates for layoffs or early retirement.<sup>16</sup>

The situation hardly differs from firms without unions, where Joint Labor–Management Committees (JLMCs) serve to promote communication and share information between the two parties. Ideally, the JLMCs, or *keieikyōgikai*, should provide workers a chance to participate in managerial decisions over the production process and foster a sense of community in the firm. However, the influence workers have had in these committees is limited and they have mostly served as a way for management to deflect worker discontent away from the company by allowing a nominal say in factory management without granting labor any formal power in the management of the firm.<sup>17</sup> But even if JLMCs are nothing more than a management tool, they represented a desire on the part of the firm to engender a sense of shared community and identity.

Regardless of the role enterprise unions and the JLMCs had in fostering feelings of community within the firm, there are other reasons why individual workers might feel a strong affinity with their employers based on their rational self-interest and opportunity for promotion within the company and its affiliates. Many workers in Japan receive their training on the job, which requires their employers to make long-term commitments to their regular employees and protect them from job losses. Incorporating new employees into the company system would require training and transactional costs as the workers adjust to a new environment.<sup>18</sup> The Japanese training system and the intra-firm or intra-business group hiring practices have given rise to *shushin koyō* “permanent employment.”<sup>19</sup> According to this hiring practice, as tenure increases, so does pay with compensation levels roughly tied to age.<sup>20</sup> This employment system can be described as exhibiting the characteristics

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16 Rebeck, 23-24.

17 Kume, 53.

18 Jiyeoun Song, *Inequality in the Workplace: Labor Market Reform in Japan and Korea* (Ithaca, NY: Cornell University Press, 2014), 68-69.

19 Rebeck, 17.

20 *Ibid.*, 14.

of the *ie*, “family,” organizational form in Japanese culture where one’s relationship to the group is considered permanent. However true this claim might be, it encourages observers to overlook the actual incentives provided to employees by the firm, ignores larger macroeconomic factors, and erases labor market outsiders who experience a much higher rate of turnover and weaker ties to their employers. Therefore, it cannot be used to describe the behavior in the Japanese system of industrial relations as a whole.

As has been made clear, the conditions that brought about industrial peace in Japan were not determined at the outset. On the contrary, the historical and legal circumstances of the early postwar period gave rise to a labor movement that pursued a confrontational strategy, which did not hesitate using the strike when it felt necessary. The collaborative approach came about only after the reaction from Nikkeiren and SCAP against labor militancy, which in turn provided leverage that the conservative unions could exploit to enhance their leadership in the labor movement. Far from being an accident of culture, workers, unions, and firms all faced economic and structural incentives which made collaboration seem natural. But how would these actors, government, business, and labor negotiate changes to the employment system brought about by liberalization? And to what extent was labor complicit in the dismantling of its own institutional power?

### ***Liberalization, Cooptation, and Capture***

Minor steps taken in the 1980s toward liberalization and globalized market competition notwithstanding labor were able to maintain the modest leverage gained in the period of rapid postwar development. However, following the asset bubble burst and the ensuing decades of economic stagnation, labor proved unable to withstand the mounting pressures for reform. In a textbook case of corporatism, officials in the major labor union federation Rengō were invited by the government, specifically the Ministry of Labor, to partake in the process of crafting labor market flexibility reform bills alongside major business groups such as Nippon-Keidanren, albeit in a somewhat reduced role.<sup>21</sup> Noticeably excluded from this arrangement was Zenrōren (National Confederation of Trade Unions), Japan’s second largest union confederation representing some 1.2 million workers. Zenrōren traces its origins to the communist-supported, Sanbetsu (mentioned above) and other leftist unions from that

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<sup>21</sup> Song, 91-92.

time period, and has maintained a commitment to a militant, class-based organizing strategy.<sup>22</sup> For this reason it was unwilling to participate in the labor market liberalization process and its presence was not welcome by the Ministry of Labor and Keidanren-dominated committee. Labor market outsiders, were also left without a voice as the unions and large businesses colluded to protect their own interests. Ultimately, organized labor's ideological and tactical disagreements and Rengō's desire to maintain its institutional privileges kept unions from representing a viable challenge to liberalization as it fell victim to retrenchment and capture in the reform policymaking process.

In the early-to-mid-1990s, labor deliberative councils (*rōdō shingikai*) were organized so that union and business interests could debate and construct reform bills with the Ministry of Labor (MOL) acting as neutral arbiter. At this time, Rengō held much sway in these tripartite committees, and if the parties were unable to reach consensus, the MOL was unwilling to press forward with legislative proposals. A more substantive development came in 1994 when the Deregulation Subcommittee was formed. It was chaired by IBM CEO Shiina Takeo (later replaced by Orix CEO, Myauchi Yoshihiko a year later), and composed of sixteen members among business and academia, with only one union representative.<sup>23</sup> The Deregulation Subcommittee might have been the catalyst which transformed labor's role in liberalization from reluctant collaborator to coopted conspirator.

Under worsening economic conditions in the late 1990s and under the more politically resolute and centralized Obuchi cabinet (1998-2000), business began pressuring the government and labor leaders to support adjustments to the "Worker Dispatch Law" that would allow the lifting of restrictions regarding the hiring and scheduling of dispatch workers. Rengō, lacking a unified base and seeing little interest in defending workers who represented only a small minority of its membership, relaxed their opposition as long as union insiders were promised employment protection in the event of restructuring.<sup>24</sup> Ultimately however, labor was dropped entirely from the tripartite committee under the Koizumi administration (2001-2006).<sup>25</sup> In sacrificing labor market outsiders, Rengō and the labor movement at large had unwittingly undermined their bargaining positions in the long-term by allowing the growth in the number of available non-

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22 Keisuke Fuse, "Zenroren Labor Federation," *The International Encyclopedia of Revolution and Protest* (Malden, MA: Wiley Blackwell, 2009).

23 Song, 101.

24 *Ibid.*, 104.

25 Watanabe, 514.

regular workers in the labor market, thereby placing downward pressure on wages overall, and losing possible future dues-paying union members.

The center-left wing of the labor movement had willingly entered the tripartite arrangements at the behest of government and business and was complicit in the remaking of the Japanese economy that took place over the “Lost Decade.” The leaders of the recently expanded Rengō could not have known that they were making a deal with the devil which would leave it robbed of its spirit, wearily wandering the neo-liberal wasteland of the new millennium in search of its lost soul. Not only had the corporatist institutions that had given it so much say in the postwar political economy been gradually eroded, but its membership was now depleted, aged, and resigned to an uncertain fate. Can such a situation be described as industrial peace?

### Increased Pressures Vanishing Remedies

Even for regular workers represented by the major unions, working conditions and employee satisfaction in the post-reform era is a far cry from what it had been during Japan’s boom years. Career pathways into secure long-term employment are increasingly harder to come by, and workers find little institutional support in resisting management pressures to work longer and more intensely than in the past. Workers are registering dissatisfaction with unions that seem to provide few benefits to their members while failing to forward their grievances to management. Union activity has reached a nadir and the movement no longer forms an important part of workplace culture. Confrontation with management is simply not viable. It’s not so much that workers *won’t* strike—indeed they have good cause too—but that they *can’t* and *don’t know* how to strike.

The marginalization of regular workers has proceeded in tandem with nonregular workers. Management’s implementation of performance-based salaries has intensified the labor process and pushed workers into performing overtime duty without proper compensation.<sup>26</sup> A new phenomena *karoshi*, “being worked to death,” has become so common that the Ministry of Health, Labor, and Welfare (MHLW) established a standard procedure for awarding compensation to the family of victims in such cases.<sup>27</sup> These tragedies should act as a wake-up call to the labor movement, but it lacks the willpower and means to respond.

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<sup>26</sup> Ibid., 515.

<sup>27</sup> Tony Royle and Edson Urano, “A New Form of Union Organizing in Japan? Community Unions and the Case of the McDonald’s ‘McUnion’,” *Work, Employment and Society* 26, no. 4 (2012): 614.

Union members have expressed higher levels of dissatisfaction with their organizations because of their failure to prevent continued deteriorations in working conditions and job stability.<sup>28</sup> The movement leadership in organizations like Rengō has repeatedly failed to represent the working class as a whole by cooperating with business on reforms despite widespread and public opposition from the movement's base.<sup>29</sup> A survey conducted by the Institution for Industrial Relation and Labor Policy in the late-2000s suggested that workers who become union officials do not actively pursue the position and after being selected, view it more as a duty or chore than a chance to represent and advocate for fellow members. Results from this same survey suggest that even management perceives union officials as having failed to take charge in the workplace, with only 7.9 percent responding in the affirmative to the question, "workplace officials understand what is occurring in the workplace and have an accurate grasp of these problems."<sup>30</sup> This would suggest that union officials possessed little prior interest in becoming advocates for their members before taking their positions and instead perform their duties as a mere formality. It seems that unions have lost a sense of direction and purpose by having abandoned their function of airing worker grievances and leveraging management for improvements.

In a more confrontational setting, the strike could restore a sense of solidarity and reinvigorate the rank-and-file as they pursue their shared interests in opposition to management. But strikes have fallen so deeply into disuse that both union leaders and management would have no clue as to how to conduct or respond to one.<sup>31</sup> In addition, strikes require sufficient financial resources to compensate participating members for lost wages during their inactivity, and union finances have been stretched to the limit as the government places greater burdens on unions to provide pension, training, family, and mental healthcare services, which the state cannot or will not provide.<sup>32</sup> A final factor mitigating striking is the large number of strikebreakers made available through deregulation of the "Worker Dispatch Law." Dispatch workers are not represented by unions which might make them less likely to sympathize with striking workers, and more importantly their immediate need for income outweighs the

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28 Ibid., 607.

29 Jeffrey P. Broadbent, "Social Capital and Labor Politics in Japan: Cooperation or Cooptation?," *Policy Sciences* 33, no. 3 (2000): 186.

30 Fujimura, 15-17. The survey targeted enterprise union officials and managers in both clerical and technical divisions of Japanese industry.

31 Ibid., 8.

32 Tatsuru Akimoto & Yōichi Sonoda, "Labor Welfare in Japan: Social Change and Enterprise Unionism," *Journal of Workplace and Behavioral Health* 24, no. 1 (2009): 250-55.

increasingly weakening deterrent of being labeled a strikebreaker. It is these practical and economic difficulties, more than underlying cultural tendencies, that make Japanese workers unwilling to strike.

Japanese in the post-reform era work under conditions that actors in different settings would find intolerable. But, through failures in communication, interest, and leadership among union officials, labor has been sapped of its livelihood. A strike might reawaken the movement, but the absence of previous strike experiences, financial resources, and the likelihood of replacement by dispatch workers make striking impractical. The labor movement has lost both its institutional power and sense of purpose, making industrial peace an unavoidable outcome rather than the result of collaboration between a competent union leadership and flexible management.

### **Conclusion**

Japanese labor hardly resembles its postwar self. The momentous struggles that emerged in the chaos of Japan's industrial reconstruction are hard to imagine given the current silence among workers today. Such relics are also out of step with the popular understanding in academia of a Japanese society that prizes social harmony and in-group consensus. The received images that essentialize Japanese culture disguise a history of conflict and confrontation, ignore groups that do not fit the model, and reduce its social institutions to mere holograms of culture. Of course, this is not to say that culturally unique modes of social networking and in-group identity do not have a special influence on the Japanese society, and should not be considered as useful frames of analysis, but they should always be considered in the proper historical and economic contexts.

If this work assumed cultural determinist explanations of industrial peace in Japan at the outset, it would miss a complex history of the labor movement, which took on radically different appearances according to various structural incentives, historical events, and changes to its relative power vis-a-vis government and business. Also, the loss would have been the negotiated compromises, sacrifices, and betrayals made by union organizations divided both among themselves and internally, throughout its ascension and decline. Considering labor's internal tensions and conflicts with government and business, it's a wonder that industrial peace was maintained at all. And yet, it was.

The institutions in the corporatist model succeeded to integrate and ameliorate a working class with a significant contingent hostile to the

interests of business and the dirigiste state, and directed its energies to what for a long time seemed like mutually agreed upon interests. Still not all workers were comfortable with collaborative industrial relations, such as those represented by Sanbetsu and Zenrōren, which perceived and claimed to advocate for their membership based on its class interests rather than from the standpoint of institutional survival. Rengō, the largest, and institutionally most powerful confederation, took the latter approach and found that it would have to sacrifice protections for some of its most vulnerable members in order to maintain a say in policymaking and protecting the interests of its core membership. For various reasons, not least among them the labor movement's internal divisions, corporatist collaboration devolved into cooptation as the shared goal shifted from industrial development to liberalization. In the post-reform era of a weakened and divided labor movement, the strike became a lost art, and unions, failing to find other alternatives became merely an appendage of management. The ossification of industrial peace proceeded apace.

To sum up, Japanese industrial peace was not a predetermined outcome based on transhistorical culturally specific forms of organization. Throughout the postwar era, Japanese unions and membership, regardless of ideological background or organizational model, acted in personal, class, and organizational self-interests and even expressed those interests through militant confrontation at times. Even the function of JLMCs can be better understood by considering the perceived practical benefits they offer workers and management rather than through the lens of *ie* and *mura*. These cultural models can serve as descriptive tools and be useful in conceptualizing patterns of behavior repeated over time. But they are dangerous when assumed to function as a constant throughout historical epochs. To properly grasp the industrial relations in Japan and account for cases that do not fit the standard model, the only alternative is to abandon the assumption of causal force in the model itself and substitute it with a historical analysis that accounts for the dynamic set of strategies used by these actors in pursuing them.

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# LEADERSHIP OUTLOOK – CHINA’S NEW PARAMOUNT LEADER XI JINPING

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*The manuscript seeks to examine the nature of Xi Jinping’s political ascendancy following the passage of amendments at the 13th National People’s Congress, removing term limits for the position of President of the People’s Republic of China and opening the opportunity for Xi to rule over China for decades to come. The manuscript considers China’s Constitutional Law background, examines the composition of the 13th National People’s Congress, contextualizes the Chinese Communist Party’s grip on the legislative body, interprets the underlying rationale behind the amendments, and advances the implications of the amendments on China’s policies. The removal of Presidential term limits has solidified Xi’s position within the Party as China’s new paramount leader - following Deng Xiaoping and Mao Zedong - and upturned the political order imposed by Deng over the past several decades. This paper is valuable to Chinese political commentators and students of Chinese Constitutional Law -by presenting an overview of the composition of the 13th National People’s Congress and a foundational understanding of China’s grand strategy under Xi Jinping, as attributed to domestic legislative developments. It also presents an extensive analysis of the composition of the National 13th People’s Congress and the scope of the Chinese Communist Party’s domination over the Chinese government.*

*Keywords: Xi Jinping, CCP, National People’s Congress, Mao Zedong, Term Limit, Constitution*

## **Introduction**

Xi Jinping’s consolidation of political power within China, culminating with the removal of presidential term limits from the Chinese Constitution, heralds his ascendancy as China’s third paramount leader, with profound implications for China and the Indo-Pacific region over the following decades.

On March 5, 2018,<sup>1</sup> the national legislative body of China, known as the National People's Congress (NPC), convened their annual session - an event attended by 2,980 deputies and representatives<sup>2</sup> from across China.<sup>3</sup> The annual session is typically held in March and provides an opportunity for policy review, the passage of new bills, budgetary approval, and the endorsement of personnel nominations by the Chinese government. Despite its significance, the event is commonly interpreted as a "rubber stamp" for the ruling Chinese Communist Party (CCP) to reinforce its authority.<sup>4</sup>

During this session of the 13th NPC, the CCP adopted an amendment to the Constitution of the People's Republic of China (the Constitution), which removed the longstanding two-term limit for the President and Vice-President per Article 79<sup>5</sup> - which has been in existence since the 1982 Constitution.<sup>6</sup> On March 11, 2018, this amendment (entitled "Constitutional Amendment")<sup>7</sup> was passed in collection with several other amendments within the NPC with an overwhelming majority, marking a watershed moment in modern Chinese political history.

Over the past several decades, the CCP has adhered to the leadership succession framework established by Deng Xiaoping, which aimed to prevent the revival of Maoism and one-man dictatorships through a "collective leadership" system centered on consensus building, power sharing, and an orderly leadership transfer mechanism.<sup>8</sup> Consequently, the events of the 13th NPC reveal that China has moved beyond the power succession framework established under Deng and now risks repeating the leadership mistakes of the Mao Zedong era.<sup>9</sup>

1 Nathan King, "The Heat: China's Two Sessions Preview," *CGTN*, March 2, 2018, <https://america.cgtn.com/2018/03/02/the-heat-chinas-two-sessions-preview>.

2 Xinhuanet "中华人民共和国第十三届全国人民代表大会代表名单 (2980名)" *Weixin*, February 2, 2018.

3 Josh Horowitz, "China's Annual Communist Party Shindig Is Welcoming of new Tech Tycoons," *Quartz*, March 5, 2018, <https://qz.com/1221265/chinas-annual-communist-party-gathering-welcomes-a-handful-of-new-tech-tycoons/>

4 Reuters, "Factbox: China's National People's Congress Explained," *Reuters*, March 1, 2007. <https://www.reuters.com/article/us-china-parliament-facts/factbox-chinas-national-peoples-congress-explained-idUSSP1553120070228>.

5 Christopher Bodeen, "Xi term-limits controversy looms at China political meeting," *The Washington Post*, March 4, 2018, [https://www.washingtonpost.com/politics/congress/xi-term-limits-controversy-looks-at-china-political-meeting/2018/03/04/85d71360-200c-11e8-946c-9420060cb7bd\\_story.html?utm\\_term=.2ef76491b456](https://www.washingtonpost.com/politics/congress/xi-term-limits-controversy-looks-at-china-political-meeting/2018/03/04/85d71360-200c-11e8-946c-9420060cb7bd_story.html?utm_term=.2ef76491b456).

6 USC US-China Institute, "Constitution of The People's Republic of China, 1982," *USC US-China Institute*, March 22, 2004, <https://china.usc.edu/constitution-peoples-republic-china-1982>.

7 Xinhua, "(两会受权发布) 中华人民共和国宪法修正案," *Xinhua*, March 11, 2018, [http://www.xinhuanet.com/politics/2018lh/2018-03/11/c\\_1122521235.htm](http://www.xinhuanet.com/politics/2018lh/2018-03/11/c_1122521235.htm).

8 Cary Huang, "'President For Life' Xi Risks Repeat of China's Mao-Era Mistakes," *South China Morning Post*, March 11, 2018, <https://www.scmp.com/week-asia/opinion/article/2136255/president-life-xi-risks-repeat-chinas-mao-era-mistakes>.

9 Tom Phillips, "This could destroy China': parliament sets Xi Jinping up to rule for life," *The Guardian*, March 11, 2018, <https://www.theguardian.com/world/2018/mar/11/this-could-destroy-china-parliament-sets-xi-jinping-up-to-rule-for-life>.

Western commentary has criticized the leadership amendment to the Constitution,<sup>10</sup> assuming that Xi will extend his term indefinitely<sup>11</sup> and warning of Xi's transformation into a draconian dictator reminiscent of Mao Zedong.<sup>12</sup> Conversely, academics and Chinese media have sought to counter such assertions. Professor Tom Plate highlights the prevalence of authoritarian governance models in Asia, and advances how Singapore and Malaysia demonstrate that strong-armed leaders provide a contemporary gold standard for governance.<sup>13</sup> Professor Dennis V. Hickey further advanced that many other democracies around the world do not possess set term limits on their leaders (i.e. the UK, Japan, Australia)<sup>14</sup> and that the criticisms being leveled against Xi demonstrate a modicum of hypocrisy and ignorance of the Chinese political system.<sup>15</sup> Herein, the existence of term limits on bureaucratic positions has been interpreted as enabling corruption within the government.

Despite international criticisms, examining these developments from both a legal and Chinese perspective reveals the broader rationale underlying the actions of Xi and the CCP and provides an insight into how China's grand strategy will unfold over the following decades. Understanding the implications of the 13th NPC's amendments to the Constitution requires an overview of China's Constitutional history and process, an interpretation of the underlying factors supporting the amendments, and an analysis of how this event will shape China's development for years to come.

## Context

While the seat of power in China rests within the CCP, the changes instituted by the CCP over the past 12-month period must be carefully considered. At the 19th National Congress of the Communist Party of China (CCP Congress) on

10 Gwynn Guilford, "Xi Jinping's latest power grab is bad news for China's economy," *Quartz*, March 1, 2018, <https://qz.com/1217559/xi-jinpings-increasingly-limitless-power-is-bad-news-for-the-chinese-economy/>.

11 Gordon Watts, "Xi Jinping could end up being President for life in China," *Asia Times*, February 25, 2018, <http://www.atimes.com/article/xi-jinping-end-chinas-president-life/>.

12 Matthew Carney, "China's National People's Congress Will Open the Way To A Dictatorship for President Xi Jinping," *ABC News*, March 5, 2018, <http://www.abc.net.au/news/2018-03-05/china-npc-moves-xi-jinping-towards-dictatorship/9504680>.

13 Tom Plate, "Xi Jinping As President Beyond 2023 May Be Good for China – though the West won't believe it," *South China Morning Post*, February 26, 2018, <https://www.scmp.com/comment/insight-opinion/article/2134754/xi-jinping-president-beyond-2023-may-be-good-china-though>.

14 Mike Steketee - "Four Year Terms Could Be The Key to Political Stability," *ABC News*, October 9, 2015, <http://www.abc.net.au/news/2015-10-09/steketee-four-year-terms-could-be-key-to-political-stability/6839864>.

15 Dennis V. Hickey, "PacNet #29 - Xi Jinping and the Removal of Presidential Term Limits in China," *CS/S* April 20, 2018, <https://www.csis.org/analysis/pacnet-29-xi-jinping-and-removal-presidential-term-limits-china>.

October 18 to 24, around 2,300 delegates of the CCP convened at its pentennial meeting to outline the future of the party.<sup>16</sup> CCP members under Xi's leadership voted unanimously to amend the CCP Constitution,<sup>17</sup> a document separate and distinct from the national Constitution, to include Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era (Xi Jinping Thought) as a central component of the CCPs guide for action.<sup>18</sup> This act marks the third such instance of a Chinese leader being incorporated into the operative clauses of the CCP Constitution, equating Xi Jinping Thought on the same standard as Mao Zedong Thought and Deng Xiaoping Theory.<sup>19</sup> This vote and its results enabled Xi to challenge and distinguish himself from past CCP leaders Jiang Zemin and Hu Jintao,<sup>20</sup> to quell internal party disputes, enforce group-think, and fortify his dominance through direct reference to the CCP Constitution.<sup>21</sup> The effects of this are illustrated through the dogmatic reference by senior government officials to Xi Jinping Thought within matters of development,<sup>22</sup> administrative reform,<sup>23</sup> and foreign policy.<sup>24</sup>

Following the introduction of the revised seven-member CCP 19th Politburo Standing Committee, a potential successor was not presented, as deduced from the appointment of older leaders in their 60s to the Standing Committee.<sup>25</sup> The 10-year leadership transition cycle instituted successfully across 1992, 2002, and 2012 is governed by the 68-year old age limit for members of the Politburo Standing Committee and involves planting a new younger leader in

16 Goh Sui Noi, "19th Party Congress: Xi Jinping's name written into Chinese Communist Party charter," *The Straits Times*, October 24, 2017, [www.straitstimes.com/asia/east-asia/19th-party-congress-xi-jinpings-name-written-into-chinese-communist-party-charter](http://www.straitstimes.com/asia/east-asia/19th-party-congress-xi-jinpings-name-written-into-chinese-communist-party-charter).

17 China.org.cn, "Constitution of the Communist Party of China," *China.org.cn*, October 24, 2017, <http://www.china.org.cn/20171105-001.pdf>.

18 Ying, "Backgrounder: Major Previous Revisions to CPC Constitution," *Xinhuanet*, October 24, 2017, [www.xinhuanet.com/english/2017-10/24/c\\_136702366.htm](http://www.xinhuanet.com/english/2017-10/24/c_136702366.htm).

19 USC US-China Institute, "Constitution Of The Communist Party Of China," *USC US-China Institute*, November 14, 2012, <https://china.usc.edu/constitution-communist-party-china>.

20 Salvatore Babones, "What 'Xi Jinping Thought' Stands For," *Forbes*, October 22, 2017, <https://www.forbes.com/sites/salvatorebabones/2017/10/22/what-does-xi-jinping-thought-mean-and-how-does-it-compare-to-america-first/#2ab818e63262>.

21 AFP, "Explainer: What is 'Xi Jinping Thought'? China's Leader Makes the Constitution," *Hong Kong Free Press*, October 25, 2017, <https://www.hongkongfp.com/2017/10/25/explainer-xi-jinping-thought-chinas-leader-makes-constitution/>.

22 Xinhua, "Senior Legislators Hold Study Session on Reform, Opening Up," *Xinhua*, October 9, 2018, [http://www.xinhuanet.com/english/2018-10/09/c\\_137521557.htm](http://www.xinhuanet.com/english/2018-10/09/c_137521557.htm).

23 Xinhua, "Top Legislator Stresses Xi's Thought in Advancing People's Congresses System," *China Daily*, September 28, 2018, <http://www.chinadaily.com.cn/a/201809/28/WS5bad941fa310eff30327ffc9htm>

24 Xinhua, "Senior Chinese official stresses Xi thought on Taiwan affairs," *China Daily*, February 3, 2018, <http://www.chinadaily.com.cn/a/201802/03/WS5a74f712a3106e7dcc13a85e.html>

25 BBC News, "China congress: No heir apparent as Xi reveals top leadership," *BBC News*, October 25, 2017, <http://www.bbc.com/news/world-asia-china-41743804>

his 50s to the Politburo during the mid-point of the current leader's reign.<sup>26</sup> However, none of the new appointees were considered young enough to be a realistic candidate for President and Secretary General by the next CCP Congress, and these leaders are expected to retire at the end of this five-year term.<sup>27</sup>

These developments represent the cumulative consolidation of Xi's dominance within the CCP since 2012 and illustrates his accumulation of political power to heights unseen since the last Paramount Leader Deng Xiaoping. Xi's decision to enshrine his name in the Chinese Constitution and avoid selecting a successor indicates his desire to foster a cult of personality, to elevate his status as a core CCP leader equal to Mao,<sup>28</sup> and to serve beyond the 10-year term limit as President.<sup>29</sup> With his authority being recognized throughout the party through amendments to the CCP Constitution, the next logical step was consolidating national recognition through direct amendments to the 1982 Constitution. Subsequently, on February 25, 2018, the 205-member CCP Central Committee introduced the proposal to amend Article 79 of the Constitution – eliminating the wording where the President and Vice-President of China “shall serve no more than two consecutive terms”<sup>30</sup> - which would then be presented at the upcoming 13th NPC. While this move was unsurprising given the cementing of Xi Jinping Thought into the CCP Constitution during the 19th CCP Congress, its timing was interpreted as early and overly aggressive – a move which reinforced predictions that Xi and the CCP will continue to dominate the Chinese government for decades to come.<sup>31</sup>

## Background of the Chinese Constitution

### *History of Amendments*

26 Zhengxu Wang and Anastas Vangeli, “The Rules and Norms of Leadership Succession in China: From Deng Xiaoping to Xi Jinping and Beyond,” *The China Journal*, no.76 (May, 2016): 31.

27 Ting Shi and Keith Zhai, “China’s Xi Promotes No Clear Heir, Opening Door to Stay in Power For Decades,” *Bloomberg*, October 25, 2017, <https://www.bloomberg.com/news/articles/2017-10-25/xi-promotes-no-clear-china-heirs-opening-door-to-stay-in-power>

28 CCTV News, “央视快评：人民领袖人民爱,” *Weixin*, February 25, 2018.

29 Alan Feischmann, “Xi on the Rise: Outcomes From The 19th Chinese Communist Party Congress,” *Forbes*, November 9, 2017, <https://www.forbes.com/sites/alanfeischmann/2017/11/09/xi-on-the-rise-outcomes-from-the-19th-chinese-communist-party-congress/#29f82e41573c>.

30 Liangyu, “CPC proposes change on Chinese president’s term in Constitution,” *Xinhua*, February 25, 2018, [http://www.xinhuanet.com/english/2018-02/25/c\\_136998770.htm](http://www.xinhuanet.com/english/2018-02/25/c_136998770.htm).

31 Jeremy Goldkron, “China’s Xi Jinping set to abolish term limits, rule indefinitely,” *SupChina*, February 26, 2018, <https://supchina.com/2018/02/26/chinas-xi-jinping-set-abolish-term-limits-rule-indefinitely/>.

The two-term limit on the President and Vice-President of China is stated in Article 79 of the 1982 National Constitution,<sup>32</sup> which exists as the country's fifth and most recent constitution since its foundation in 1949.<sup>33</sup> The history of Article 79 and its associated term limits on the leadership positions can be traced back to 1980 when Yan Jiaqi, then-political adviser to Premier Zhao Ziyang, published his article Lifelong Tenure is an Ancient Form of System within the People's Daily. Yan encapsulated the sentiment in China at the time by criticizing the concept of lifelong tenure as a regression in political development, one which presages the restoration of a monarchy.<sup>34</sup> The concept of "term limits" under Article 79 was influenced by the hardships and calamities wrought upon China under Mao Zedong's lifelong premiership. The creation of China's fourth Constitution under Deng Xiaoping in 1982 saw the concept of term-limits adopted under Article 79.<sup>35</sup> This Article was perceived as an affirmation of the theory of building socialism with Chinese characteristics by providing a stable environment for the concentration of State efforts toward socialist modernization.<sup>36</sup> At the same time, it also sought to prevent the re-emergence of a destructive cult of personality and one-man-rule by ensuring that leaders would relinquish power when their term lapsed or when they reach the specified age limit.

The inclusion and observance of Article 79 has since been interpreted by academics as an indication of the CCPs dedication to the 1982 National Constitution as the law of the land—one which has been uniformly enforced by the CCP since its adoption 36 years ago across three separate leadership transitions.<sup>37</sup> The constraints set forth by the 1982 Dengist Constitution were held as essential in the modernization of China through its enforcement of social stability, economic development, and open-door policy.<sup>38</sup> Accordingly, Xi's immediate predecessors - Jiang Zemin and Hu Jintao - both served two

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32 Joyce Huang, "China to Discuss Constitutional Amendments, But How Far Will Xi Jinping Go?," *Voice of America*, January 18, 2018, <https://www.voanews.com/a/china-to-discuss-constitutional-amendments/4213388.html>.

33 China.org.cn, "Political System & State Structure – Constitution," *China.org.cn*, July 13, 2000, <http://www.china.org.cn/e-china/politicalsystem/constitution.htm>.

34 David Bandurski, "'New era': How China Hailed the Abolition of 'Lifelong Tenure' for Leaders... in 1980," *Hong Kong Free Press*, February 27, 2018, <https://www.hongkongfp.com/2018/02/27/new-era-china-hailed-abolition-lifelong-tenure-leaders-1980/>.

35 Shanghaiist.com, "White House Says Scrapping Term Limits for Xi Jinping is China's Business, Not Theirs," *Medium*, February 27, 2018, <https://medium.com/shanghaiist/white-house-says-scrapping-term-limits-for-xi-jinping-is-chinas-business-not-theirs-f7d52fa0de57>.

36 National People's Congress, "Amendment to the Constitution of the People's Republic of China," *The National People's Congress of the Republic of China*, March 29, 1993, [http://www.npc.gov.cn/englishnpc/Constitution/node\\_2828.htm](http://www.npc.gov.cn/englishnpc/Constitution/node_2828.htm).

37 Thomas Kellogg, "Xi Jinping Is About to Face a Constitutional Crisis," *Foreign Policy*, September 7, 2017, <http://foreignpolicy.com/2017/09/07/xi-jinping-is-about-to-face-a-constitutional-crisis/>.

38 Chen Jianfu, "The Revision of the Constitution in the PRC – A great leap forward or a symbolic gesture?," *China Perspectives*, May, 2004, <https://journals.openedition.org/chinaperspectives/2922>.

five-year terms, providing for a stable succession process conducive to stable economic development and predictability in government policy while also preserving unity and stability in the CCP.<sup>39</sup>

Prior to the 13th NPC, the Constitution has undergone four previous amendments in 1988, 1993, 1999 and 2004. The last amendment in 2004 was approved by the 10th NPC at its 2nd Session<sup>40</sup> and included provisions which ensured that the government would protect private property and respect human rights.<sup>41</sup> Amendments to the Constitution to incorporate the ideologies of Chinese leaders have only been enacted posthumously for past leaders Mao Zedong and Deng Xiaoping — two Core Leaders (Lǐngdǎo héxīn) whose legacies were founded upon their immeasurable contributions to the founding and development of modern China and who are still widely respected among members of the CCP.<sup>42</sup> Mao's legacy was enshrined by inclusion of "Marxism-Leninism-Mao Zedong Thought" as the guiding principle of the People's Republic of China (PRC) within the 1978 Constitution and within each subsequent National Constitution.<sup>43</sup> Deng's legacy was enshrined through the 1999 amendments to the Constitution, declaring Deng Xiaoping Theory as a guiding principle of the country.<sup>44</sup>

On March 11, 2018, the 13th NPC considered and adopted the following series of amendments advanced by the CPC into the Constitution.<sup>45</sup> The amendments ultimately adopted were near identical in substance to the proposals submitted by the CCP, and can be summarized into the following eleven points:<sup>46</sup> first, a provision advocating for the inclusion of Xi Jinping Thought into the Constitution; second, the inclusion of a united front — one which encompasses democratic parties and people's organizations under

39 Laurent Thomet, "Emperor Xi Jinping? – China Gambles On Return to Lifetime Rule," *Hong Kong Free Press*, February 26, 2018, <https://www.hongkongfp.com/2018/02/26/emperor-xi-jinping-china-gambles-return-lifetime-rule/>.

40 National People's Congress, "Constitution Of The People's Republic Of China, 1982," *University of Southern California*, 2018, <http://china.usc.edu/constitution-peoples-republic-china-1982>.

41 Chen Jianfu, "The Revision of the Constitution in the PRC - A Great Leap Forward or a Symbolic Gesture?" *Open Edition*, May, 2004, <http://journals.openedition.org/chinaperspectives/2922>.

42 Kirsty Needham, "Xi Jinping Joins Mao in China's History Books," *The Sydney Morning Herald*, October 24, 2017, <https://www.smh.com.au/world/xi-jinping-joins-mao-in-chinas-history-books-20171024-gz77vt.html>; Tom Mitchell, "China to Look at Changing its Constitution," *Financial Times*, December 27, 2017, <https://www.ft.com/content/647c0610-eadf-11e7-bd17-521324c81e23>.

43 USC US-China Institute, "1978 Constitution Of The People's Republic Of China," USC US-China Institute, March 5, 1978, <https://china.usc.edu/1978-constitution-peoples-republic-china>.

44 CGTN, "History of Amendments to China's Constitution," CGTN, January 18, 2018, [https://news.cgtn.com/news/784d6a4d79677a6333566d54/share\\_p.html](https://news.cgtn.com/news/784d6a4d79677a6333566d54/share_p.html).

45 China Daily, "Communist Party of China Central Committee Offers Several Changes," *China Daily*, February 25, 2018, <http://www.chinadaily.com.cn/a/201802/25/WS5a927386a3106e7dcc13dece.html>; Pengying, "China Focus: Proposed constitutional amendment package unveiled," *Xinhua*, February 25, 2018, [http://www.xinhuanet.com/english/2018-02/25/c\\_136999410.htm](http://www.xinhuanet.com/english/2018-02/25/c_136999410.htm).

46 Changhao Wei, "Translation: 2018 Amendment to the P.R.C. Constitution," *NPC Observer*, March 11, 2018, <https://npcobserver.com/2018/03/11translation-2018-amendment-to-the-p-r-c-constitution/#more-9075>.

the leadership of the CCP; third, a provision promoting harmonious socialist relations among ethnic groups, where the State protects the lawful rights and interests of ethnic minorities; fourth, the inclusion of the phrase “a community with a shared future for humanity,”<sup>47</sup> linking China’s aims with the people of the world; fifth, a provision stressing the CCPs leadership as the defining feature of Chinese socialism; sixth, the addition of core socialist values into an existing clause.; seventh, a requirement that all state functionaries take a public oath of allegiance to the Constitution when assuming office; eighth, the amendment of the term limits of the President and Vice-President to be the same as that of the NPC;<sup>48</sup> ninth, a listing of ecological advancement as a new function and power of the State Council or Cabinet, tenth, the granting of Chinese cities with the power to make local laws and regulations, provided they do not contradict superior legislation; and, eleventh, the listing of supervisory commissions as a new type of state organ.

Where the prior 2004 Constitutional amendments were tailored to suit the ideological agenda of the Chinese leadership, the present amendments should be interpreted as the ideological agenda of both Xi and the CCP as well as a necessary process in ensuring that the constitution is well adapted to the changing times.<sup>49</sup> There appears to be broad support from NPC deputies consisting of lawmakers, political advisors, and the public in amending the Chinese constitution in this way. It is thus conceivable that the adoption of amendments to remove Presidential term limits accord with present circumstance, the needs of China’s development, and the aspirations of the CCP and Chinese people.<sup>50</sup>

### **Constitutional Amendment Process**

The formal legal procedures to be followed in amending the Constitution are provided by Article 62 of the constitution, which grants the power to amend the constitution to the NPC –the national legislature which includes various parties including the CCP. Article 64 provides the power to propose constitutional amendments to the NPC Standing Committee or by more than one-fifth of the deputies to the NPC. The amendment is then adopted following approval by a

47 Xinhua, “Xi Jinping Thought Proposed To Be Included In Constitution,” *People’s Daily Online*, February 25, 2018, [en.people.cn/n3/2018/0225/c90000-9429834.html](http://en.people.cn/n3/2018/0225/c90000-9429834.html).

48 Xinhua, “CPC proposes change on Chinese president’s term in Constitution,” *People’s Daily Online*, February 25, 2018, <http://en.people.cn/n3/2018/0225/c90000-9429831.html>.

49 Bill Ide and Joyce Huang, “China to Discuss Constitutional Amendments, But How Far Will Xi Jinping Go?,” *VOA News*, January 18, 2018, <https://www.voanews.com/a/china-to-discuss-constitutional-amendments/4213388.html>.

50 Xinhua, “China’s Draft Constitutional Revision Wins Extensive Support,” *People’s Daily Online*, March 9, 2018, <http://en.people.cn/n3/2018/0309/c90000-9435254.html>.

supermajority of more than two-thirds of all the NPC deputies. By comparison, statutes and resolutions are adopted by a simple majority vote of more than one half of all NPC deputies. The law does not require public consultation on any amendments nor advanced distribution of draft amendment to the NPC delegates.<sup>51</sup> By convention, the means for submitting and passing amendments in the NPC follows a more restrictive process, which is heavily regulated by the CCP.<sup>52</sup>

First, the CCP Central Committee adopts and submits proposals for amending the constitution to the NPC Standing Committee. The NPC Standing Committee, to date, has only accepted amendments that have been adopted and submitted by the CCP Central committee. This means that only the CCP can initiate Constitutional amendments. Second, the NPC Standing Committee studies the proposals over the course of a single session before drafting appropriate amendments based on the proposals, which is then approved unanimously and sent to the next NPC session. Here, the NPC Standing Committee has rarely deviated from the wording of the proposals submitted by the CCP. Rarely is there any opportunity for public comment.<sup>53</sup> Third, at the NPC itself, NPC delegates listen to an explanation on the draft amendment at the plenary meeting before dividing into smaller working groups to discuss the draft. Here, there are also rarely any revisions to the draft, and even so, the need for such revisions is deferred to the Presidium to decide. This is then followed by a vote to adopting the amendment on the final day of the NPC session via the formal procedure specified in the Constitution. While there has never been a unanimous passage of a Constitutional amendment within the NPC, the number of votes acquired has always fallen above the two-thirds requirement of the Constitution.<sup>54</sup> This has been ensured by the fact that officially secret ballots are cast by delegates who are reluctant to vote in opposition or who abstain for fear of being under surveillance and the resulting political repercussions.<sup>55</sup>

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51 Changhao Wei, "Next Steps for the Supervision Law & Procedural Possibility of a Constitutional Amendment in 2018," *NPC Observer*, November 29, 2017, <https://npcobserver.com/2017/11/29/next-steps-for-the-supervision-law-procedural-possibility-of-a-constitutional-amendment-in-2018-some-predictions/>.

52 Changhao Wei, "Explainer: China to Amend the Constitution for the Fifth Time (UPDATED)," *NPC Observer*, January 25, 2017, <https://npcobserver.com/2017/12/27/explainer-china-to-amend-the-constitution-for-the-fifth-time/>.

53 Li Lin, *Interpreting China's Legal System* (World Scientific, 2018) 78.

54 Yan Lin, "Constitutional evolution through legislation: The quiet transformation of China's Constitution," *International Journal of Constitutional Law* 13, no.1 (2015): 85.

55 AFP, "NPC 2018: Chinese President Xi Jinping unlikely to lose term limit vote," *The Straits Times*, March 9, 2018, [www.straitstimes.com/asia/east-asianpc-2018-chinese-president-xi-jinping-unlikely-to-lose-term-limit-vote](http://www.straitstimes.com/asia/east-asianpc-2018-chinese-president-xi-jinping-unlikely-to-lose-term-limit-vote).

CCP control of the amendment process is also maintained through their dominance of the NPC.<sup>56</sup> Primary sources indicated that the 13th session involved a total of 2,980 registered deputies.<sup>57</sup> Of those, the CCP possesses a supermajority of 2,175 representative deputies.<sup>58</sup> The failure of Constitutional amendments would require all 805-opposition party and independent deputies – and 188 CCP deputies – to either vote against the Bill or to abstain from voting.<sup>59</sup>

**Fig.1 – 13th NPC Party Affiliations Table.**

<b>Party Affiliation</b>	<b>Number of Delegates</b>
中国共产党 Chinese Communist Party	2,172
九三学社 Jisuan Society	64
中国民主同盟 China Democratic League	58
中国民主建国会 China Democratic National Construction Association	57
中国民主促进会 China Association for Promoting Democracy	55
中国农工民主党 Chinese Peasants' and Workers' Democratic Party	54
中国国民党革命委员会 Revolutionary Committee of the Chinese Kuomintang	43
中国致公党 China Zhi Gong Party	38
台湾民主自治同盟 Taiwan Democratic Self-Government League	13
无党派人士 Independents	426
<b>Total</b>	<b>2,980</b>

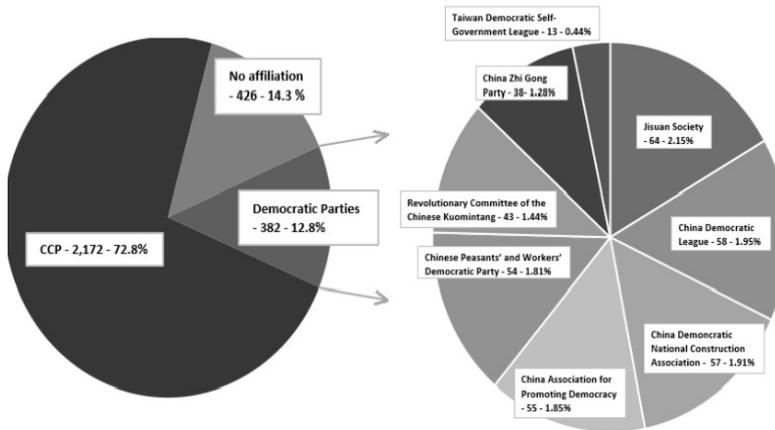
56 National People's Congress of the People's Republic of China, "中华人民共和国 – 第十三届全国人民代表大会 – 代表名单," National People's Congress of the People's Republic of China, 2018, [www.npc.gov.cn/npc/fujian/site1/20180224/c89cdc7d2bea1bfb871802.pdf](http://www.npc.gov.cn/npc/fujian/site1/20180224/c89cdc7d2bea1bfb871802.pdf).

57 NPC Observer, "Exclusive: Demographics of the 13th NPC (UPDATED)," *NPC Observer*, March 11, 2018, <https://npcobserver.com/2018/03/10/exclusive-demographics-of-the-13th-npc/>.

58 National People's Congress of the People's Republic of China, "代表名单," *National People's Congress of the People's Republic of China*, 2018, <http://www.npc.gov.cn/delegate/delegateArea.action>.

59 Changhao Wei, "Exclusive: Demographics of the 13th NPC," *NPC Observer*, March 10, 2018, <https://npcobserver.com/2018/03/10/exclusive-demographics-of-the-13th-npc-comment-page-1/#comment-1486>.

**Fig. 2 - 13th NPC Party Affiliations Graph<sup>60</sup>**  
 Seats in the 13th NPC by Political Affiliation  
 (N = 2,980)



Predictably, the CCP-proposed amendments were carried in the NPC, but the margin of the victory was most surprising. 2,958 deputies voted in favor, 2 against, 3 abstentions, and one invalid ballot, with a total of 2,964 votes cast.<sup>61</sup> This represented a substantial decrease in the number of abstentions and against votes compared to the two preceding Constitutional amendments in 2004 and 1999.

**Fig. 3 - NPC Voting History<sup>62</sup>**

NPC VOTING HISTORY ON CONSTITUIONAL AMENDMENTS					
YEAR	FOR	AGAINST	ABSTENTIONS	TOTAL VALID VOTES	% OF AGAINST + ABSENTION
1982	3,037	0	3	3,040	0.1
1999	2,811	21	24	2,856	1.6
2004	2,863	10	17	2,890	0.94
2018	2,958	2	3	2,963	0.17

60 National People's Congress, "代表名单," The National People's Congress of the People's Republic of China, 2018, npc.gov.cn/delegate/delegateArea.action

61 Nectar Gan, "Xi Jinping Cleared to Stay on as China's President With Just 2 dissenters among 2,964 Votes," *South China Morning Post*, March 11, 2018, <http://www.scmp.com/news/china/policies-politics/article/2136719/xi-jinping-cleared-stay-president-chinas-political>.

62 Ibid.

Substantial opposition was predicted to be highly unlikely,<sup>63</sup> and the extremely high voting rate in favor of the amendments provided a façade of universal support across the government, as opposed possible higher than anticipated levels of criticism and skepticism. Consequently, the exceptionally low levels of opposition and abstention ballots show that Xi has effectively suppressed debate and expressions of the plurality of opinion across the government and within the CCP, formalizing his purported status as China's new Paramount Leader and eternal Chairman. A significant opposition within the vote would have proven catastrophic as it would have indicated unprecedented political disunity within the party, highlighted the limits on power consolidation within leadership, and revealed that the wave of unprecedented public criticism and opposition had had a tangible effect on the CCP for the first time since 1989. Indeed, such a development would have placed Xi's leadership position in significant jeopardy.<sup>64</sup>

### **Rationale behind Amendments to the Chinese Constitution**

The combination of persistent power struggles within the CCP, governmental and public concern over economic mismanagement and stagnation, and Xi's inability to appoint a direct successor, have motivated President Xi to establish Xi Jinping Thought as a guiding principle of the PRC and remove term limits from the National Constitution.

### **Internal CCP Power Struggles**

Xi's decision to implement such amendments were calculated upon the need to reinforce his position within the CCP and stifle internal opposition. While Xi was elected as President in 2013 by a vote of 2,952 to 1,<sup>65</sup> he faces a series of institutional restraints originating from within the CCP. The first of these restraints comes from the internal structure of the CCP. The CCP is divided

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63 Sarah Zheng, "How Will China's Legislature Vote on Changes to the Constitution?," *South China Morning Post*, March 10, 2018, <http://www.scmp.com/news/china/policies-politics/article/2136605-how-will-chinas-legislature-vote-changes-constitution>.

64 Joanna Chiu, "Explainer: Xi Jinping For Life – how China will scrap presidential term limits this Sunday," *Hong Kong Free Press*, March 9, 2018, <https://www.hongkongfp.com/2018/03/09/explainer-xi-jinping-life-china-will-scrap-presidential-term-limits-sunday/>.

65 Salvatore Babones, "Leader For Life: Xi Jinping Strengthens Hold On Power As China Communist Party Ends Term Limits," *Forbes*, February 25, 2018, <https://www.forbes.com/sites%20salvatorebabones/2018/02/25/leader-for-life-xi-jinping-strengthens-hold-on-power-as-china-communistparty-ends-term-limits/#7e410c2de466>.

internally as “one party, two coalitions”<sup>66</sup>: the Elitist Coalition consisting of a core faction of Princelings (leaders from veteran revolutionary lineages) and the Populist Coalition consisting of the populist Tuanpai coalition. The Princelings are economic liberals, that represent China’s entrepreneurs and middle class in major eastern cities, support private ownership of property assets, and place greater confidence in the private sector and on interaction with foreigners.<sup>67</sup>

Conversely, leading figures in the Tuanpai coalition originate from the Chinese Communist Youth League and typically voice the concerns of the urban poor and farmers.<sup>68</sup> Harmony between the Princelings and Tuanpai factions within the CCP has been maintained under an informal rule set by the impartial Paramount Leader Deng Xiaoping, where power succession alternated between the groups. This cycle was established when Deng handed over power to Princeling Jiang Zemin, who was succeeded by Tuanpai Hu Jintao, whom was then succeeded by Princeling Xi. Convention dictates that the next leader that follows Xi should be a Tuanpai.<sup>69</sup>

After Xi assumed power as the General Secretary and President in 2012 at the 18th CCP Congress, 6 out of the 7 positions in the 19th Politburo Standing Committee were awarded to Xi loyalists.<sup>70</sup> Since then, he and his allies have systematically strengthened the position of the elitists within the CCP and purged Tuanpai officials from positions of power, with the share of Tuanpai provincial chiefs in China declining from 33.9% to 12.9% between 2010 to 2017.<sup>71</sup> Concurrently, he has sought to purge the CCP of those loyal to Jiang Zemin, exploiting the structural problem of corruption evident within Deng’s factional power sharing framework. Xi launched an anti-corruption drive, which saw 266,000 officials arrested or disciplined during his first year in office,<sup>72</sup> ensnaring 1.34 million officials from all sectors of the government by the

66 BBC News, “Viewpoint: The Powerful Factions Among China’s Rulers,” *BBC News*, November 6, 2012, <http://www.bbc.com/news/world-asia-china-20203937>.

67 John Pollock, “China’s Coming Coup: Xi Jinping’s War With Jiang Zemin,” *Medium*, September 3, 2017, [https://medium.com/@John\\_Pollock22/chinas-coming-coup-xi-jinping-s-war-with-jiang-zemin-2353d9e49f1f](https://medium.com/@John_Pollock22/chinas-coming-coup-xi-jinping-s-war-with-jiang-zemin-2353d9e49f1f)

68 BBC News, “Viewpoint: The Powerful Factions Among China’s Rulers,” *BBC News*, November 6, 2012 <http://www.bbc.com/news/world-asia-china-20203937>.

69 Ching Cheong, “China’s Princelings Versus Tuanpai,” *The Straits Times*, January 3, 2015, <http://www.straitstimes.com/opinion/chinas-princelings-versus-tuanpai>.

70 Cheng Li, “Rule of the Princelings,” *Brookings Institute*, February 10, 2013, <https://www.brookings.edu/articles/rule-of-the-princelings/>.

71 Cheng Li and Zach Balin, “Xi all powerful? What Trump Needs to Know about Chinese Politic,” *South China Morning Post*, April 4, 2017, <http://www.scmp.com/week-asia/geopolitics/article/2085000/xi-all-powerful-what-trump-needs-know-about-chinese-politics>.

72 Jamil Anderlini, “Arrest of ‘Tiger’ Zhou Yongkang Sheds Light on China Graft Purge,” *Financial Times*, December 8, 2014, <https://www.ft.com/content/57042e30-7ebe-11e4-b83e-00144feabdc0>.

end of 2017.<sup>73</sup> The most notable target of Xi's anti-corruption campaign was Zhou Yongkang, a former member of the 17th Politburo Standing Committee, architect of China's internal security apparatus, and member of Jiang Zemin's faction.<sup>74</sup> Zhou was removed from his position in 2014 before being tried and jailed for life for bribery, abuse of power, and disclosing state secrets in 2015.<sup>75</sup> However, Zhou was informally targeted due to his attempts to organize opposition to prevent Xi's elevation to the Chairmanship of the CCP.<sup>76</sup> In removing term limits, Xi secures his legacy and combats opposing factions in the CCP that could threaten his anti-corruption reform initiatives. One of Xi's foremost concerns is the need for to continue to oversee the implementation of his anti-corruption efforts within the newly-established anti-graft agency: the National Supervisory Commission. As revealed during the 19th CCP congress in 2017, this new agency will coordinate investigations across the government and expand its reach to include even non-CCP members.<sup>77</sup>

### **Economic Stability**

Economists and political analysts in the West have been disappointed by the degree of progress made in economic reform over the past several years of Xi's leadership,<sup>78</sup> where state-owned enterprises retain overwhelming market dominance, the regulatory framework remains outdated, and issues of unequal treatment and the rule of law remain constant.<sup>79</sup> China's total debt in mid-2017 was equal to 255.9% of China's economic output,<sup>80</sup> with bond credit agency Moody's downgrading China to A1 from Aa3 rating in May 2017,<sup>81</sup>

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73 Lim Yan Liang, "19th Party Congress: China to Strengthen Anti-graft Measures, Expand Party Supervision," *The Straits Times*, October 18, 2017, <http://www.straitstimes.com/asia-east-asia/19th-party-congress-anti-graft-campaign-has-overwhelming-momentum-says-xi-jinping>.

74 Shunsuke Tabeta, "Xi snares a huge tiger in his anti-graft hunt," *Nikkei Asian Review*, July 20, 2017, <https://asianikkei.com/magazine/20170720/Politics-Economy/Xi-snares-a-huge-tiger-in-his-anti-graft-hunt>.

75 BBC News, "Charting China's great purge under Xi," BBC News, October 23, 2017, <http://www.bbc.com/news/world-asia-china-41670162>.

76 Russell Leigh Moses, "Why Zhou Yongkang's Fall Isn't The End," *The Wall Street Journal*, June 12, 2015, <https://blogs.wsj.com/chinarealtime/2015/06/12/why-zhou-yongkangs-fall-isnt-the-end/>.

77 AFP, "Emperor for life': Xi Jinping poised to extend power as China set to lift term limits," *Hong Kong Free Press*, February 25, 2018, <https://www.hongkongfp.com/2018/02/25/emperor-life-xi-jinping-poised-extend-power-china-set-lift-term-limits/>.

78 Evan A. Feigenbaum, "A Chinese Puzzle: Why Economic 'Reform' in Xi's China Has More Meanings Than Market Liberalization," *Carnegie Endowment for International Peace*, February 26, 2018, <http://carnegieendowment.org/2018/02/26/chinese-puzzle-why-economic-reform-in-xi-s-china-has-more-meanings-than-market-liberalization-pub-75668>.

79 Bloomberg News, "China Urgently Needs Economic Reform, European Chamber Says," *Bloomberg*, July 10, 2018, <https://www.bloomberg.com/news/articles/2018-07-10/china-urgently-needs-economic-reform-european-chamber-says>.

80 "Total Credit to the Non-Financial Sector (core debt), % of GDP," *Bank of International Settlements*, accessed November 29, 2017, <http://stats.bis.org/statx/toc/CRE.html>.

81 Reuters, "S&P Downgrades China's Rating, Citing Increasing Economic, Financial Risks," *Reuters*, September 21, 2017, <https://www.reuters.com/article/us-china-economy-rating-downgrade>

and credit rating agency Standard & Poor Global Ratings downgrading China's sovereign credit rating - for the first time since 1999 - to its fifth highest level of A+ in September of 2017.<sup>82</sup> This circumstance is attributed to the leveraged nature of China's economy, with the frequent and uncontrolled use of borrowed capital as a funding source to fuel modernization and investment being recognized as a national security concern by the People's Bank of China - China's central bank.<sup>83</sup>

Accompanying the CCP Central Committee's proposal to remove term limits on February 25, 2018 was the proclamation by State-run media Global Times that Xi's continued leadership was conducive to a dynamically evolving China, where his economic restructuring has already opened a new era for the country.<sup>84</sup> It is conceivable that his long-term leadership provides a suitable opportunity for China to see through painful and necessary economic reforms which have been resisted - namely, economic liberalization. This perspective has its origins within the 19th CCP Congress, in which Xi emphasized that deepening supply-side structural reform should be considered the CCP and government's central focus.<sup>85</sup> The policy framework for this requires long-term supervision and commitment and includes reducing risks in the financial system, consolidating and cutting capacity in upstream industrial sectors, reducing housing inventories, lowering administrative costs for businesses, and fixing "weak links"<sup>86</sup> in the economy (i.e. barriers to trade and investment between provinces).

The successful implementation of economic reforms depends on the enlightened use of State power. In the financial sector, an empowered central financial regulator (China Banking Regulatory Commission)<sup>87</sup> can act to reduce the risks of a financial crisis and regulate illicit financial activities within the

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sp-downgrades-chinas-rating-citing-increasing-economic-financial-risks-idUSKCN1BW19N.

82 Bloomberg News, "S&P Cuts China's Credit Rating, Citing Risk From Debt Growth," *Bloomberg*, September 21, 2017, <https://www.bloomberg.com/news/articles/2017-09-21/s-p-lowers-china-s-rating-to-a-from-aa-says-outlook-stable>.

83 Reuters, "China Needs To Continue Reducing Financial Leverage: Central Bank Deputy Governor," *Reuters*, December 23, 2017, <https://www.reuters.com/article/us-china-economy-leverage/china-needs-to-continue-reducing-financial-leverage-central-bank-deputy-governor-idUSKBN1EH099>.

84 Global Times, "Constitutional Amendment will improve CPC leadership," *Global Times*, February 25, 2018, <http://www.globaltimes.cn/content/1090568.shtml>.

85 Xinhua, "Supply-side Structural Reform: Next Chapter in China's 'New Era'," *China Daily*, November 1, 2017, [http://www.chinadaily.com.cn/business/2017-11/01/content\\_33983890.htm](http://www.chinadaily.com.cn/business/2017-11/01/content_33983890.htm).

86 Andrew Polk, "One-Man Rule Isn't Good for the Economy Either," *Bloomberg* (28 February 2018) <<https://www.bloomberg.com/view/articles/2018-02-27/xi-jinping-s-power-grab-won-t-be-good-for-china-s-economy>>.

87 South China Morning Post, "China's Banking Regulator Steps Up Fight Against Financial Risk Amid Threat of 'Chaos' in Sector," *South China Morning Post*, January 14, 2018, [scmp.com/news/china/economy/article/2128163/chinas-banking-regulator-steps-fight-against-financial-risk-amid](http://scmp.com/news/china/economy/article/2128163/chinas-banking-regulator-steps-fight-against-financial-risk-amid).

economy.<sup>88</sup> Increased centralization can enhance economic stability, reduce risk and uncertainty, and improve financial control and efficiency within China's economic environment.<sup>89</sup> Should Xi's opposition exercise control on the reigns of State power, his wider projects (i.e. One Belt, One Road) would be severely impaired, and his legacy as China's Paramount Leader would be jeopardized.

As with anti-corruption initiatives, Xi's consolidation of power would allow him to ensure the continuity of other reforms. He can safeguard his legacy by ensuring the completion of his grand developmental and conceptual projects. The removal of term limits provides him with additional freedom and resources to achieve the "Chinese Dream"—a framework that emerged in 2012 following his appointment as General Secretary and President when visiting the Chinese National Museum's grand exhibition "Road to Revival." Xi espoused his dream of achieving "the great rejuvenation of the Chinese nation"<sup>90</sup> as being the greatest Chinese dream in modern times. The Chinese Dream consists of four components encompassing the following:<sup>91</sup> a China that is economically, politically, diplomatically, scientifically, and militarily strong; a China that is civilized through the embodiment equity and fairness, rich culture, and high morals; a harmonious China that sees amity among social and ethnic classes; and a beautiful China that is achieved through a reduction in environmental pollution and creation of a healthy environment.

Both Xi and the CCP senior leadership expect that the aforementioned Chinese dream will be achieved within three decades. China will become a moderately prosperous society by 2020, a modernized nation by 2035, and a rich and powerful socialist nation by 2049.<sup>92</sup> The primary motive forces behind the Chinese Dream are the Regional Comprehensive Economic Partnership, and the Belt and Road Initiative.

Academics and Chinese media posit that , by remaining in power for an extended period, Xi can put forth greater effort to achieve the Two Centenaries (Liǎng gè yībǎi nián) - a set of goals which seek to transform China into a "moderately well-off society" by 2020, before the 100th anniversary of the founding of the CCP, and a "democratic, civilized, harmonious, and modern

88 Xie Yu, "Xi Jinping's War on Shadow Banking Spills Over, Rocking China's Wider Financial World," *South China Morning Post*, February 10, 2018, [www.scmp.com/business/companies/article/2132721-xis-war-shadow-banking-spills-over-threatens-stability-chinas](http://www.scmp.com/business/companies/article/2132721-xis-war-shadow-banking-spills-over-threatens-stability-chinas).

89 Lawrence J. Lau, "Why now? The Rationale Behind Xi Jinping's Power Consolidation," *South China Morning Post*, March 7, 2018, <http://www.scmp.com/comment/insight-opinion/article/2135962-why-now-rationale-behind-xi-jinpings-power-consolidation>.

90 Zhang Jianfeng, "Xi pledges 'great renewal of Chinese nation,'" *CCTV*, November 30, 2012, <http://english.cntv.cn/program/newsupdate/20121130/100019.shtml>

91 Robert Lawrence Kuhn, "Xi Jinping's Chinese Dream," *The New York Times*, June 4, 2013, <http://www.nytimes.com/2013/06/05/opinion/global/xi-jinpings-chinese-dream.html>.

92 Pepe Escobar, "Xi's road map to the Chinese Dream," *Asia Times*, October 21, 2017, <http://www.atimes.com/article/xis-road-map-chinese-dream/>.

socialist country”<sup>93</sup> by 2049, the 100th anniversary of the PRCs founding. It has been stated that Xi’s core leadership guarantees the successful development of socialism with Chinese characteristics, which in-turn lays a solid foundation for the attainment of the aforementioned goals.<sup>94</sup>

It is conceivable that extending Xi’s leadership will permit him to scale up efforts to address economic problems and foster a sense of continuity and predictability in economic policy. Indeed, a lengthier term in leadership provides him with a firmer foundation to address the looming trade war with the US<sup>95</sup> and enables the implementation of tough economic liberalisation reforms. This will provide foreign investors with increased access to China’s financial markets, promoting international trade and spread of the Chinese Yuan, and reducing China’s reliance on exports.<sup>97</sup>

### ***Xi’s Inability to Appoint Successor***

Xi’s inability to appoint a clear successor at the 19th CCP Congress and desire to depart from the power sharing norms established under Deng may be attributed to the increasingly intensified effects of factionalism within the CCP.<sup>98</sup> The use of factions is common within the CCP for three reasons. First, the lack of a democratic framework, and of elections within the government, has meant that there exists no clear and concise way to measure popular power within ministry officials. The system of decision-making and succession in China is an intricate process that requires awareness of hierarchical figures, factional cliques, and existing relationships.<sup>99</sup>

Consequently, factionalism has become the most rational means of identifying the relative strength of certain CCP patrons through the size of their committed base that would promote and defend their policies. Second, apart from the informal power-sharing succession framework established under Deng, the absence of a well-defined succession mechanism within the CCP for other positions within the Chinese government means that leaders and

93 Dylan Loh Ming Hui, “How Xi Jinping’s ‘lifetime presidency’ could change China – for better or worse,” *The Conversation*, February 27, 2018, <https://theconversation.com/how-xi-jinpings-lifetime-presidency-could-change-china-for-better-or-worse-9247>

94 Song Wei, “Goals within reach under Xi’s guidance,” *China Daily*, October 16, 2017, <https://www.chinadailyhk.com/articles/77/249/249/1508147764056.html>.

95 Julia Horowitz, “Tariffs, Trump and Trade Wars: Here’s What It All Means,” *CNN*, March 9, 2018, <http://money.cnn.com/2018/03/08/news/economy/tariff-explainer/index.html?iid=EL>.

96 Huileng Tan, “Xi Jinping Makes Big Promises for China’s Economic Future,” *CNBC*, October 18, 2017, <https://www.cnn.com/2017/10/18/xi-jinping-makes-big-promises-for-chinas-economic-future.html>

97 Daniel Shane, “What Xi Jinping’s Power Play Means for China’s Economy,” *CNN*, March 10, 2018, <http://money.cnn.com/2018/03/10/news/economy/china-xi-jinping-economy/index.html>

98 Sara Syed, “Factionalism in China on the Eve of the 19th Party Congress,” *The McGill International Review*, October 11, 2017, <https://www.mironline.ca/factionalism-china-eve-19th-party-congress/>.

99 Jing Huang, *Factionalism in Chinese Communist Politics* (Cambridge University Press, 2006) 48.

their influencers can only be removed through purges.<sup>100</sup> Factionalism provides a means to protect against this possibility since a devoted base of followers may protect the patron in return for varying rewards. Finally, factions driven by single personalities protect patrons from losing power through aging or purging as “retired comrades”<sup>101</sup> can still exert influence through their followers. This has been a longstanding precedent within the CCP, as illustrated by the still pervasive influence of former President Jiang Zemin and his Shanghai clique (officials associated with Jiang since his mayorship of Shanghai)<sup>102</sup> within the CCP.

As the political situation within both the Politburo Standing Committee and government in general is dynamic and obfuscated, predictions on the balance of political power can prove difficult. Indeed, the downfall of Bo Xilai and Zhou Yongkang – two prominent CCP members – shocked commentators and demonstrated the rapidly shifting nature of power within the CCP.<sup>103</sup> Accordingly, there exists the possibility that Xi may step down in 2022 – the date by which Xi’s two-term limit as president will mature – and appoint a replacement from one of the sitting members on the Politburo Standing Committee, especially as the removal of term limits will modify the conventional retirement age for leadership positions.<sup>104</sup>

## Outlook

### *Increased Domestic Opposition*

As Xi ascends to paramount leader status, he risks having all of China’s successes and failures attributed to him. As China’s problems increasingly catch-up with its achievements, the government will lose its reputation, and

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100 Cheng Li and Ryan McElveen, “Debunking Misconceptions About Xi Jinping’s Anti-Corruption Campaign,” *Brookings Institute*, July 17, 2014, <https://www.brookings.edu/opinions/debunking-misconceptions-about-xi-jinpings-anti-corruption-campaign>

101 Wang Xiangwei, “Why Xi Jinping has no need of factions in the Communist Party,” *South China Morning Post*, August 8, 2016, <http://www.scmp.com/week-asia/opinion/article/1999155/why-xi-jinping-has-no-need-factions-communist-party>.

102 Alex Lai, “‘One Party, Two Coalitions’ – China’s Factional Politics,” *CNN*, November 9, 2012, <https://editioncnn.com/2012/10/23/world/asia/china-political-factions-primer/index.html?no-st=9999999999>.

103 AFP, “Disgraced Officials Zhou Yongkang and Bo Xilai Formed ‘Clique’ to Challenge Leaders: StateMedia,” *South China Morning Post*, January 15, 2015, <http://www.scmp.com/news/china/article/1679889/disgraced-officials-zhou-and-bo-formed-clique-challenge-leaders-says>.

104 Staff Reporters, “Why China’s Xi Jinping is Unlikely To Anoint a Successor,” *South China Morning Post*, October 20, 2017, <http://www.scmp.com/news/china/policies-politics/article/2116120/why-chinas-xi-jinping-unlikely-anoint-successor>.

the masses will lose their enthusiasm. The danger is that they will hold the great leader Xi responsible.<sup>105</sup>

Following the 25th February announcement, the degree of backlash directed against Xi was higher than anticipated. Chinese netizens resorted to expressing their profound dissatisfaction in comparing him to former dictator Yuan Shikai and equating China with North Korea,<sup>106</sup> while censors worked to limit the spread of a meme equating Xi with Winnie the Pooh<sup>107</sup> and to remove the phrases “Emperor Xi” and “Constitution” from Weibo and across Chinese social media.<sup>108</sup> This has been combined with a propaganda offensive from state run media such as the Global Times and Xinhua,<sup>109</sup> praising the CCP and accusing Western critics of hysteria over the resultant domestic censorship while dismissing such criticism as an attempt to constrain China’s rise.<sup>110</sup>

Most surprising has been the degree of vocal opposition from intellectuals, young white-collar workers, and retired veterans of past political campaigns.<sup>111</sup> Internationally, Chinese students studying at various universities abroad have voiced their opposition under the phrase “Not My President.”<sup>112</sup> That phrase began trending among Chinese students across uncensored Western social media outlets; it provides insight into the simmering anti-CCP sentiment present beyond the geographical grasp of the Chinese government.<sup>113</sup> Consequently, former editor of the China Youth Daily, Li Datong addressed a letter through WeChat to the 52 Beijing deputies in attendance at the NPC warning that

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105 Jerome A. Cohen, “China Is Likely to Enter Another Long Period of Severe Dictatorship,” *Council on Foreign Relations*, February 28, 2018, <https://www.cfr.org/blog/china-likely-enter-another-long-period-severe-dictatorship>.

106 Alexandra Ma, “China Banned the Letter N from the Internet After People Used It To Attack Xi Jinping’s Plan To Rule Forever,” *Business Insider*, February 28, 2018, <https://www.businessinsider.com.au/china-censors-letter-n-in-crackdown-on-presidential-term-limit-discussion-2018-2?r=US&IR=T>.

107 Kelsey Munro, “China’s censorship in overdrive after President Xi extends grip on power,” *SBS News*, February 26, 2018, <https://www.sbs.com.au/news/china-s-censorship-in-overdrive-after-president-xi-extends-grip-on-power>.

108 Tara Francis Chan, “China’s Move to Abolish Presidential Term Limits is More Unpopular Than the Government Thought — So It’s Turning to Censorship,” *Business Insider*, February 26, 2018, [uk.businessinsider.com/china-censors-social-media-about-xi-jinping-term-limits-2018-2/?r=AU&IR=T](http://uk.businessinsider.com/china-censors-social-media-about-xi-jinping-term-limits-2018-2/?r=AU&IR=T).

109 Global Times, “Solidarity cornerstone of China in new era,” *Global Times*, February 27, 2018, <http://www.globaltimes.cn/content/1091023.shtml>.

110 Reuters, “China Launches Propaganda Push for Xi Jinping After Social Media Criticism,” *The Straits Times*, February 26, 2018, <http://www.straitstimes.com/asia/east-asia/china-launches-propaganda-push-for-xi-after-social-media-criticism>.

111 Gerry Shih and Yanan Wang, “China’s move to end term limits for Xi blanketed in censorship,” *Japan Times*, March 11, 2018, <https://www.japantimes.co.jp/news/2018/03/11/asia-pacific/politics-diplomacy/asia-pacific/chinas-move-end-term-limits-xi-blanketed-censorship/#.WqVEYudx02w>.

112 Shanghaiist, “Not My President Posters Pop Up in Universities Around World With Xi Set For Lifetime rule,” *Medium*, March 9, 2018, <https://medium.com/shanghaiist/not-my-president-posters-pop-up-in-universities-around-world-with-xi-set-for-lifetime-rule-23e9199aeeef4>.

113 Stephanie Saul, “Far From Home and Censors, Some Chinese Students Protest Xi’s Power Move,” *The New York Times*, March 9, 2018, <https://www.nytimes.com/2018/03/09/us/xi-student-protest-china.html>.

removal of Deng Xiaoping's power sharing framework would "sow the seeds of turmoil"<sup>114</sup> and equate to a regression to the Mao era for China.

Given the broad propaganda campaign by the government in response to public outrage over the removal of term limits, the degree of censorship within China is predicted to remain elevated for the foreseeable future and to increase significantly as the country approaches Xi's presidential term limit in 2022. This is enabled by the 2016 Cybersecurity Law and the widespread implementation of the social credit system. The Cybersecurity Law,<sup>115</sup> effected in June of 2017, enables the Chinese government to promote its notion of Cyber Sovereignty by enforcing control over data stored in China and related to the activities of its citizens.<sup>116</sup> The widespread implementation of a social credit system from May 2018 onwards<sup>117</sup> provides each Chinese citizen with a personal credit record, which can be affected by such actions as spreading false information, using expired tickets, cheating in online games, and jaywalking.<sup>118</sup> This leverages big data use and the internet of things technology, as facial recognition software or online algorithms capture, record and analyze the action or comment.<sup>119</sup> This system enables the government to publicize the details of those possessing low social credit scores, to fine such persons, for police to call or summon such persons, and facilitates the ostracization of such persons from acquiring certain goods and services such as bank loans.

### ***Institutional Instability***

The unsustainable nature of collective leadership instituted by Deng across the Chinese political establishment foreshadows the transition back to one-man rule under Xi Jinping. The history of China's contemporary political model can be discerned through the consensus-based collective leadership

114 Kirsty Needham, "Chinese Fear 'Turmoil' From Xi's Constitutional Change," *The Sydney Morning Herald*, February 27, 2018, <https://www.smh.com.au/world/asia/chinese-fear-turmoil-from-xi-s-constitutional-change-20180227-p4z1z9.html>.

115 Sophia Yan, "China's New Cybersecurity Law Takes Effect Today, and Many Are Confused," *CNBC*, May 31, 2017, <https://www.cnn.com/2017/05/31/chinas-new-cybersecurity-law-takes-effect-today.html>.

116 Reuters Staff, "China to bar people with bad 'social credit' from planes, trains," *Reuters*, March 16, 2018, <https://www.reuters.com/article/us-china-credit/china-to-bar-people-with-bad-social-credit-from-planes-trains-idUSKCN1GS10S>.

117 Jack Karsten and Darrell M. West, "China's Social Credit System Spreads to More Daily Transactions," *Brookings Institute*, June 18, 2018, <https://www.brookings.edu/blog/techtank/2018/06/18/chinas-social-credit-system-spreads-to-more-daily-transactions/>.

118 Meg Jing Zeng, "China's Social Credit System puts its people under pressure to be model citizens," *The Conversation*, January 24, 2018, [theconversation.com/chinas-social-credit-system-puts-its-people-under-pressure-to-be-model-citizens-89963](http://theconversation.com/chinas-social-credit-system-puts-its-people-under-pressure-to-be-model-citizens-89963).

119 Angus Grigg and Lisa Murray, "In Xi Jinping's scary new China, Big Brother meets big data," *Financial Review*, October 12, 2017, <http://www.afr.com/technology/web/security/big-brother-meets-big-data-in-xi-jinpings-scary-new-china-20171009-gyxdil>.

model and China's dedication to devolved governance.<sup>120</sup> The consensus-based collective leadership model is one in which key decisions are made via intentional compromises and informal bargaining between CCP members – a deliberate decentralization and distribution of power which seeks to avoid one-man rule.<sup>121</sup> This framework was established by Deng to avoid the instability of highly charismatic and impulsive leaders that could lead China to calamity – as occurred under Mao. Consequently, China has dedicated itself to shifting political power from the central government to local governments, which are afforded a high degree of autonomy in economic decisions thus incentivising them to take responsibility for their own economic prosperity, encouraging innovation and risk-taking, and facilitating China's broader national core interest of economic growth.

The longer Xi remains in power, the more likely he is to remain in power indefinitely. This is a pattern which has been the case with leaders in countries typically regarded as authoritarian such as Russia, Venezuela, and Turkey. Putin has maintained his leadership position by alternating between President and Prime Minister positions in Russia,<sup>122</sup> circumventing the need to remove Presidential term limits from the Russian Constitution.<sup>123</sup> Xi has fundamentally transformed politics within the country from a collective autocracy under the CCP to a one-man rule, highlighting the inherent instability of the Chinese political system. Western commentators often referred to the traditional smooth succession between leaders under Deng's framework as evidence that China had successfully bypassed the leadership issues suffered by the Soviet Union. However, its sudden removal through said amendments to the Constitution sows the seeds of chaos and risks regressing China to the calamitous autocratic Mao Zedong era.<sup>124</sup> The removal of term limits further risks opening a Pandora's box as future Chinese leaders may reference its absence, and the anticipated extended term of Xi's leadership, as precedent to justify lifelong tenure.<sup>125</sup>

120 Stratfor, "China's President Trades One Set of Risks for Another," *Stratfor*, February 28, 2018, <https://worldview.stratfor.com/article/chinas-president-xi-jinping-trades-off-risks-abolish-term-limits>.

121 Katsuji Nakazawa, "Xi Jinping and the end of collective leadership," *Nikkei Asian Review*, October 23, 2017, <https://asia.nikkei.com/Politics/Xi-Jinping-and-the-end-of-collective-leadership>.

122 Michael Bohm, "Why Putin Will Never, Ever Give Up Power," *The Moscow Times*, January 20, 2012, <https://themoscowtimes.com/articles/why-putin-will-never-ever-give-up-power-11995>.

123 Dimtri Trenin, "Russia is The House That Vladimir Putin Built --- And He'll Never Abandon It," *The Guardian*, March 27, 2017, <https://www.theguardian.com/commentisfree/2017/mar/27/russia-house-vladimir-putin-built-never-abandon>.

124 James Palmer, "China's Stability Myth is Dead," *Foreign Policy*, February 26, 2018, <http://foreignpolicy.com/2018/02/26/chinas-stability-myth-is-dead/>.

125 Jun Mai, "It will sow the seeds of chaos for China': intellectuals urge lawmakers to vote down end to presidential term limit," *South China Morning Post*, February 27, 2018, [scmp.com/news/china/policies-politics/article/2134812/it-will-sow-seeds-chaos-china-intellectuals-urge](http://scmp.com/news/china/policies-politics/article/2134812/it-will-sow-seeds-chaos-china-intellectuals-urge)

Should Xi retain his position as President post-2022, the anticipated retirement of the 6 other members of the Politburo Standing Committee alongside the absence of a successor would set a precedent in eliminating the need for a power-sharing arrangement where another official becomes head of state. This would leave him as the one person to blame in the event of failures, facilitate greater partisanship within the party between the Princelings and Tuanpai, and limit avenues for the expression of opinions and ideas which run contrary to Xi's policies within the CCP.<sup>126</sup>

While the renormalization of dictatorship and one-man authoritarian rule within the Chinese political system appears detrimental, Chinese media has outlined how the model of one-person leadership possesses some structural advantages.<sup>127</sup> These includes national cohesion brought about when the three top leadership positions are aligned temporally and held by a single person. Further, where advancing reforms has become difficult due to entrenched interest groups, firm and consistent leadership is necessary in a new era marked by socio-economic and global complexities. Finally, the process surrounding the removal of term limits shows the superiority of the Chinese system as it allows flexibility in matching leadership to requirements.

However, an indefinite leadership position will enable Xi to move more boldly and increases his risk of acting arbitrarily and mistakenly within domestic and international policy matters.<sup>128</sup> While under a dictatorship, one individual accrues both all the benefits of economic improvement, and the blame for the failures of economic experimentation. This paradoxically creates a reluctance to innovate and take risks among the lower echelons of the CCP and government - with the silencing of contrary ideas and opinions, overconfidence and poor decision-making, and a lack of focus where dictators are compelled to expend much of their time and political capital to assuring they remain in power.<sup>129</sup>

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126 Keith Zhai et al., "China Seeks to Repeal Term Limit, Opening Way for Xi," *Bloomberg*, February 25, 2018, [bloomberg.com/news/articles/2018-03-11-china-s-main-goal-in-trump-kim-talks-ensure-they-don-t-collapse](https://www.bloomberg.com/news/articles/2018-03-11-china-s-main-goal-in-trump-kim-talks-ensure-they-don-t-collapse).

127 Robert Lawrence Kuhn, "Xi Jinping's Power Has A Purpose – one person to see China through its development plans," *South China Morning Post*, March 9, 2018, <http://www.scmp.com/comment/insight-opinion/article/2136309/xi-jinpings-power-has-purpose-one-person-see-china-through>.

128 David Tweed and Enda Curran, "World Braces for More Rule-Bending by China's Xi," *Bloomberg*, February 27, 2018, <https://www.bloomberg.com/news/articles/2018-02-26-xi-s-indefinite-rule-feeds-doubt-china-will-play-by-the-book>.

129 Noah Feldman, "China Faces the Downsides of Dictatorship," *The Japan Times*, February 28, 2018, <https://www.japantimes.co.jp/opinion/2018/02/28/commentary/world-commentary/china-faces-downsides-dictatorship/#.WqVb6edx02x>.

### ***International Response***

It is likely that the elimination of presidential term limits will reinvigorate China's international outlook, enabling Xi's continued maintenance of a muscular foreign policy necessary to navigate the Thucydides Trap.<sup>130</sup> This Trap arises when one great power threatens to displace the leading superpower hegemon, a circumstance which almost invariably results in armed conflict where skilled and decisive leadership is absent.<sup>131</sup>

China will pursue its large-scale international projects with greater drive and vigorously move towards achieving the Chinese Dream. Given the developing strategic rivalry in Sino-US relations, and due to concerns that US leadership globally is in decline—contributed to by the ascension of President Trump as president in 2017<sup>132</sup>—it is predicted a strong China will seek to position itself as a contender for such a leadership role. The long-term certainty and continuity within domestic government enables planners to project China's ambitions with increased assertiveness. This will be achieved by channelling renewed energy into the Asian Infrastructure Investment Bank, the Belt and Road Initiative, the Regional Comprehensive Economic Partnership, and the military occupation of the South China Sea to become the lead hegemon in the Asia-Pacific region.<sup>133</sup>

Additionally, the removal of term limits and strengthening of one-man rule presents itself as a bid to maximize the comparative advantages of China's political system and a prima-facie rejection of Western-style liberal democratic model of governance and its electoral volatility. This has already enhanced China's reputation and soft power internationally in Africa, where critics fear that the development signals to African authoritarians that strengthening their hold in the executive office and resisting leadership alternation is a viable model for governance. While China's economic and political developmental model (the "Beijing Consensus") has served as a consistent role model for many African nations,<sup>134</sup> term limits have acted as a democratic safety net for leadership positions. The removal of term limits in Africa has proven

130 Christopher Bodeen, "Xi Jinping Reappointed China's President With No Term Limits," *Associated Press*, March 18, 2018, <https://apnews.com/78ea5b0646564a6eb98d9d20d5fbcbb6>.

131 Graham Allison, "The Thucydides Trap," *Foreign Policy*, June 9, 2017, <https://foreignpolicy.com/2017/06/09/the-thucydides-trap/>.

132 Eliot A. Cohen, "How Trump Is Ending the American Era," *The Atlantic*, October, 2017, <https://www.theatlantic.com/magazine/archive/2017/10/is-trump-ending-the-american-era/537888/>.

133 Shi Jiangtao and Kristin Huang, "End to term limits at the top may be start of global backlash for China, analysts say," *South China Morning Post*, February 26, 2018, <http://www.scmp.com/news/china/diplomacy-defence/article/2134791/end-term-limits-top-may-be-start-global-backlash-china>

134 Muhidin Juma Shangwe, "The China Model: Chinese soft power resource in Africa," *China Daily*, June 2, 2017, [http://www.chinadaily.com.cn/opinion/2017beltandroad/2017-06/02/content\\_29598756.htm](http://www.chinadaily.com.cn/opinion/2017beltandroad/2017-06/02/content_29598756.htm).

counterproductive in the past, and its reconsideration may weaken faltering democracies on the continent.<sup>135</sup>

The US has actively and publicly avoided criticizing the removal of term limits, believing it to be an internal matter for Chinese authorities.<sup>136</sup> President Trump has personally expressed his admiration for Xi and has remarked in jest that the US may consider removing presidential term limits in the future. However, Trump's erroneous statement that Xi is now "president for life"<sup>137</sup> demonstrates a flawed understanding of the circumstances; the removal of term limits provides only the possibility for lifelong leadership.

In response, nations throughout the Indo-Pacific region have sought to reinforce their long-standing alliances. It has been suggested that the US and other democratic nations should seek to exploit this Chinese rejection of democracy to highlight the significance of transparency, accountability, responsible and representative governance, and liberal institutions worldwide.

This is required to discredit the Beijing Consensus, and anticipate the interest of developing countries within China's socio-political development as a viable model for good governance.<sup>138</sup> Western allies in the region have advocated for the revival of the Quadrilateral Security Dialogue<sup>139</sup> to balance China's growing influence. Australia, Japan, India and the US have resumed discussions over the potential revival of the quadrilateral since the Raisina Dialogue in response to China's increasingly aggressive tactics and military actions in the South China Sea, its expansion into the Indian Ocean, its opaque elite politics, and its undemocratic system.<sup>140</sup>

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135 David E. Klwua, "Why China's removal of term limits is a gift to African despots," *The Conversation*, March 9, 2018, <https://theconversation.com/why-chinas-removal-of-term-limits-is-a-gift-to-african-despots-92746>.

136 AFP, "White House says Xi Jinping's term limits are an internal matter for China," *Hong Kong Free Press*, February 27, 2018, <https://www.hongkongfp.com/2018/02/27/white-house-says-xi-jinpings-term-limits-internal-matter-china/>

137 David Shepardson, "Trump praises Chinese president extending tenure 'for life,'" *Reuters*, March 4, 2018, <https://www.reuters.com/article/us-trump-china/trump-praises-chinese-president-extending-tenure-for-life-idUSKCN1GG015>

138 Richard McGregor, "Xi Won't Go," *China File*, February 25, 2018, <http://www.chinafile.com/conversation/xi-wont-go>

139 Express News Service, "Navy chiefs of India, Japan, Australia and US share dias at Raisina Dialogue 2018 in Delhi," *The New Indian Express*, January 18, 2018, [newindianexpress.com/nation/2018/jan/18/navy-chiefs-of-india-japan-australia-and-us-share-dias-at-raisina-dialogue-2018-in-delhi-1757759.html](http://www.newindianexpress.com/nation/2018/jan/18/navy-chiefs-of-india-japan-australia-and-us-share-dias-at-raisina-dialogue-2018-in-delhi-1757759.html)

140 Douglas Bulloch, "The 'Quad' Is Not A Rival To China's Belt And Road Initiative – It's A Precursor," *Forbes*, February 25, 2018, <https://www.forbes.com/sites/douglasbulloch/2018/02/25/the-quad-is-not-a-rival-to-chinas-belt-and-road-initiative-it-is-a-precursor/#6142b7c0f4d5>

As if anticipating China's increasing assertiveness, the US legislature adopted the Taiwan Travel Act<sup>141</sup> on March 16, 2018.<sup>142</sup> This Act reinforces US-Taiwan ties by enabling the simplification of high-level visits by US officials to Taiwan for diplomatic meetings and by Taiwanese officials to visit the US.<sup>143</sup> Beijing has predictably expressed its immense dissatisfaction of the quadrilateral and improved US-Taiwan ties,<sup>144</sup> interpreting these measures as an attempt to contain China.<sup>145</sup>

### **Economic Stability**

A diverse number of commentators outline how the removal of term limits may both benefit and detriment China's economy. Economic restructuring and reform promised when Xi assumed control over the CCP in 2012 has been disappointing and slow to materialize.<sup>146</sup> Mounting debt at the regional level, in banks, and by private and state-owned companies has caused international credit institutions to downgrade China's credit and financial ratings.<sup>147</sup>

Xi's leadership up to present has been characterized by periods of stability accompanied with occurrences of volatility in the financial markets (use of circuit breakers to limit losses in the Chinese stock exchange),<sup>148</sup> crisis within the banking sector,<sup>149</sup> and bubbles within the housing market.<sup>150</sup> China has

141 Douglas Bulloch, "The 'Quad' Is Not A Rival To China's Belt And Road Initiative – It's A Precursor," Forbes, February 25, 2018, <https://www.forbes.com/sites/douglasbulloch/2018/02/25/the-quad-is-not-a-rival-to-chinas-belt-and-road-initiative-it-is-a-precursor/#6142b7c0f4d5>

142 Huong Le Thu and Michael Shoebridge, "The Taiwan Travel Act: a returning contest?," ASPI, March 28, 2018, <https://www.aspistrategist.org.au/taiwan-travel-act-returning-contest/>

143 Huong Le Thu and Michael Shoebridge, "The Taiwan Travel Act: a returning contest?," ASPI, March 28, 2018, <https://www.aspistrategist.org.au/taiwan-travel-act-returning-contest>

144 Reuters Staff, "China pledges friendship with Taiwan amid tensions over U.S. bill," Reuters, March 3, 2018 <https://in.reuters.com/article/china-parliament-taiwan/china-pledges-friendship-with-taiwan-amid-tensions-over-u-s-bill-idINKCN1GF06P>

145 Global Times, "India haunted by Containment delusion," Global Times, December 27, 2017, <http://www.globaltimes.cn/content/1082384.shtml>

146 Gabriel Wildau, "China marks milestone in rates deregulation push," Financial Times, August 10, 2015, <https://www.ft.com/content/d81b1ec4-3f17-11e5-9abe-5b335da3a90e>

147 Jeffrey A. Bader, "7 things you need to know about lifting term limits for Xi Jinping," Brookings Institute, February 27, 2018, <https://www.brookings.edu/blog/order-from-chaos/2018/02/27/7-things-you-need-to-know-about-lifting-term-limits-for-xi-jinping/>

148 Steve Mollman, "China scraps its broken stock market circuit breaker," Quartz, January 7, 2016, <https://qz.com/588386/chinas-new-stock-market-circuit-breaker-is-broken-and-it-is-panicking-investors/>

149 Yen Nee Lee, "China is at risk of a banking crisis, the Bank of International Settlements has found," CNBC, March 12, 2018, <https://www.cnbc.com/2018/03/12/bank-of-international-settlements-countries-at-risk-of-banking-crisis.html>

150 Bloomberg News, "How China's Going to Try to Control Its Massive Housing Bubble," Bloomberg, November 28, 2017, <https://www.bloomberg.com/news/articles/2017-11-27/china-s-war-on-bubbles-means-homes-sales-set-to-fall-in-2018>

focused on supply-side reforms to reduce overcapacity and improve the financing of state-owned enterprises. Of particular importance is overcapacity reduction in state-controlled coal and steel sectors.<sup>151</sup> Additionally, financial stability has resulted in the greater controlling of risks in the financial system associated with over-leveraging and innovations in the shadow banking sector.<sup>152</sup> However, such reactionary reform policies have merely responded to problems in the economy and have not advanced market-based changes leaving China in a phase of structural transition.

Following the 25th February announcement, stocks on the Shanghai Composite dipped slightly,<sup>153</sup> contributing to weak market performance for the month.<sup>154</sup> While potentially damaging to the rule of law, the prospect of indefinite leadership is unlikely to have a significant detrimental impact on near-term economic prospects or investments.<sup>155</sup> Conversely, the prospect of a lifelong dictatorship presents the possibility of increased errors in policy and economic stagnation should Xi refuse to consider opposing advice in the long term.<sup>156</sup> This anticipated increase in political risk could undermine market confidence on the Chinese Yuan in the medium term.<sup>157</sup> Political certainty has already proven beneficial in boosting domestic confidence and short-term speculators. The February 25 announcement was followed by bets on “concept” stocks<sup>158</sup> with a jump in the stock prices for Chinese companies which possess an auspiciously imperial name including the word “emperor.”<sup>159</sup> With Xi’s position secured, his agenda is anticipated to become more ambitious and forceful<sup>160</sup>

151 Sara Hsu, “What Xi Jinping As President With No Term Limits Means For China’s Economy,” *Forbes*, March 2, 2018, <https://www.forbes.com/sites/sarahsu/2018/03/02/what-xi-as-president-with-no-term-limits-means-for-chinas-economy/#471feb201673>

152 Bloomberg News, “China’s Shadow Banking Halts as Regulation Bites, Moody’s Says,” *Bloomberg*, November 6, 2017, <https://www.bloomberg.com/news/articles/2017-11-06/china-s-shadow-banking-halts-as-regulation-bites-moodys-says>

153 Xinhua, “China’s privately offered funds expand in February,” *Xinhua*, March 11, 2018, [http://www.xinhuanet.com/english/2018-03/11/c\\_137031788.htm](http://www.xinhuanet.com/english/2018-03/11/c_137031788.htm)

154 “China,” *Financial Times*, accessed March 11, 2018, <https://markets.ft.com/data/world/countries/china>

155 Kevin Kingsbury and Gregor Stuart Hunter, “Asian stocks turn lower, with China losses out in front,” *Market Watch*, February 27, 2018, <https://www.marketwatch.com/story/asian-markets-continue-to-rebound-cutting-into-monthly-losses-2018-02-26>

156 Noah Feldman, “China Now Faces the Downsides of Dictatorship,” *Bloomberg*, February 27, 2018, [bloomberg.com/view/articles/2018-02-26/china-and-xi-jinping-toss-aside-their-experiment-with-stability](https://www.bloomberg.com/view/articles/2018-02-26/china-and-xi-jinping-toss-aside-their-experiment-with-stability)

157 Today, “What an extension of Xi’s reign in China means for investors,” *Today*, February 26, 2018, <https://www.todayonline.com/world/what-extension-xis-reign-china-means-investors>

158 Shanghaiist, “Companies with ‘emperor’ in their name are now winning big on China’s stock market,” *Medium*, February 26, 2018, <https://medium.com/shanghaiist/companies-with-emperor-in-their-names-are-now-winning-big-on-china-s-stock-market-de9f2d8a230b>

159 Reuters Staff, “‘Emperor’ stocks soar in China as Xi cleared for indefinite reign,” *Reuters*, February 26, 2018, <https://www.reuters.com/article/us-china-stocks-emperor-xi/emperor-stocks-soar-in-china-as-xi-cleared-for-indefinite-reign-idUSKCN1GA0D3>

160 *The Economist*, “Xi Jinping is using his growing authority to amass even more,” *The Economist*, March 8, 2018, <https://www.economist.com/news/china/21738333-hopes-bold-economic-reforms-look-forlorn-xi-jinping-using-his-growing-authority-amass>

in conducting state and stability focused economic reforms while experimenting with market-oriented reforms.<sup>161</sup>

However, where China's GDP exceeded expectations to grow by 6.9% in 2017,<sup>162</sup> the government's commitment to a 6.5% GDP growth target for 2018 indicates that his immediate concerns may be centered upon financial stability rather than ambition.<sup>163</sup> This is given that China's 14th Five-Year plan spanning 2016 to 2020 has been predicated upon a baseline 6.5% annual GDP growth rate, with the government often pressured to exceed such targets.<sup>164</sup> The key objectives of Xi's 2018 policy-making plans for China's have been outlined as preventing systemic risk, targeted deleveraging, reducing credit flows to undesirable areas, a more flexible capital account and currency, and anti-graft measures.<sup>165</sup> Stability as a foundation through such objectives will ensure the success of his efforts to transition China to a consumption-based economy and his plan for the Belt and Road Initiative.<sup>166</sup>

### ***Transition from the Unwritten to Written Constitution***

The role of the NPC as a "rubber stamp" is determined by China's unwritten constitution – a manner of constitution where the rules are derived from subjective constitutional interpretation, customs, precedent and ancillary legal instruments.<sup>167</sup> Accordingly, China's unwritten constitution is derived from various sources, including the CCP constitution.<sup>168</sup> Political analysts acknowledge that the position of President possesses no real power under the Constitution, being a largely ceremonial role and formality.<sup>169</sup> The real executive

161 Lucy Hornby, "Power grab strengthens Xi's influence on China economic reforms," Financial Times, February 26, 2018, <https://www.ft.com/content/c7c720a4-1ad4-11e8-aaca-4574d7dabfb6>

162 Kevin Yao and Sue-Lin Wong, "China keeps growth target at 6.5 percent, stays focused on financial risks," Reuters, March 5, 2018, <https://www.reuters.com/article/us-china-parliament/china-keeps-growth-target-at-6-5-percent-stays-focused-on-financial-risks-idUSKBN1GH00J>

163 Gabriel Wildau, "China targets 6.5% economic growth in 2018," Financial Times, March 5, 2018, <https://www.ft.com/content/3cc9e6d8-2044-11e8-a895-1ba1f72c2c11>

164 Douglas Bulloch, "China's Growth Rate Remains On Track, But It's Aiming For The Wrong Target," Forbes, January 22, 2018, <https://www.forbes.com/sites/douglasbulloch/2018/01/22/chinas-growth-rate-remains-on-target-but-its-the-wrong-target/#790f565b6d3d>

165 Reuters Staff, "China to revise criminal law to accommodate powerful anti-graft commission," Reuters, March 12, 2018, <https://www.reuters.com/article/us-china-politics-corruption/china-to-revise-criminal-law-to-accommodate-powerful-anti-graft-commission-idUSKCN1G00AD>

166 Justina Lee, "What an Extension of Xi's Reign in China Means for Investors," Bloomberg, February 26, 2018, [bloomberg.com/news/articles/2018-02-26/what-an-extension-of-xi-s-reign-in-china-means-for-investors](http://bloomberg.com/news/articles/2018-02-26/what-an-extension-of-xi-s-reign-in-china-means-for-investors)

167 Heike Holbig, "China's Unwritten Constitution: Ideological Implications of a "Non-ideological" Approach," ASIEN 132 (July 2014): 54.

168 Claws Research Team, "Central Military Commission," Centre for Land Warfare Studies, 2011, [http://www.claws.in/images/journals\\_doc/540789956\\_CemtralMilitaryCLAWSResearchTeam.pdf](http://www.claws.in/images/journals_doc/540789956_CemtralMilitaryCLAWSResearchTeam.pdf)

169 Nikhil Sonnad, "Xi Jinping is not the 'president' of China," Quartz, November 2, 2017, <https://qz.com/1112638/xi-jinping-title-xi-jinping-is-not-the-president-of-china/>

power and authority are vested in the CCP and exercised through its General Secretary and the Chairman of the Central Military Position.<sup>170</sup>

While Xi has assumed all three positions the role of President and Article 79 acts as a formal restraint and barrier to lifelong tenure, the General Secretary and Chairman positions act as unwritten restraints.<sup>171</sup> The removal of Article 79 indicates that the CCP has finally disposed of the need for a façade of democracy in ruling China and has cemented the party's lock on the highest level of government, preventing anyone from using the government as an alternative power base from which to challenge Xi and his allies.<sup>172</sup>

Such a move appeals to patriotic Chinese citizens and CCP officials and strengthens the position of the CCP as pivotal to China's transformation into a global superpower. The implications of this are illustrated within the rise of "Sinicised Marxism,"<sup>173</sup> the symbolic distinguishing ideology of the CCP through the development of socialism with Chinese Characteristics,<sup>174</sup> and a manner of political constitutionalism which criticizes the Chinese Constitution as being subject to Western ideological hegemony.

Furthermore, the introduction of direct references to the CCP beyond the Preamble and into the substantive body of the Constitution by proclaiming the CCPs leadership as "the most fundamental feature of socialism with Chinese characteristics"<sup>175</sup> shows the formalization of both the CCPs and Xi's authority over all aspects of governance, inextricably binding China's development and prosperity to the destiny of the Party.

## Concluding Remarks

The passage of the constitutional amendments during the 13th NPC has cemented Xi's political legacy and position as China's Paramount Leader for the

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170 Simon Hill, "Five things to watch out for at the Chinese Communist Party congress," *The Conversation*, August 30, 2017, [theconversation.com/five-things-to-watch-out-for-at-the-chinese-communist-party-congress-83177](https://theconversation.com/five-things-to-watch-out-for-at-the-chinese-communist-party-congress-83177)

171 Kayla Wong, "Xi Jinping can be China's president until he dies. Technically," *Mothership*, February 26, 2018, <https://mothership.sg/2018/02/xi-jinping-president-no-limit/>

172 Salvatore Babones, "China's Constitutional Amendments Are All About The Party, Not The President," *Forbes*, March 11, 2018, <https://www.forbes.com/sites/salvatorebabones/2018/03/11/chinas-constitutional-amendments-are-all-about-the-party-not-the-president/#7838874a1615>

173 Heike Holbig, "China's Unwritten Constitution: Ideological Implications of a 'Non-ideological' Approach," *AISEN* 132, (2014): 53.

174 Cary Huang, "The method in Xi Jinping's Marxism: What's behind the president's push for the economic theory?," *South China Morning Post*, November 30, 2015, <https://www.scmp.com/news/china/policies-politics/article/1885100/method-xi-jinpings-marxism-whats-behind-presidents-push>

175 NPC Observer, "Translation: 2018 Amendment to the P.R.C. Constitution," *NPC Observer*, March 11, 2018, <https://npcobserver.com/2018/03/11/translation-2018-amendment-to-the-p-r-c-constitution/>, Article 36.

forseeable future.<sup>176</sup> With the prediction that he will remain in power anywhere between 10 to 30 years,<sup>177</sup> China now stands at a crossroads, where possibility of a prolonged one-man leadership has the potential to either propel or sabotage China's political and economic development as a superpower contender and ideological challenger to the West. This circumstance gives rise to several possible outcomes, classified as the best, worst, and most likely scenarios for the future of the Chinese nation.

### **Best Case Scenario**

Despite the implications associated with the removal of term limits, Xi may maintain political stability and preserve some modicum of Deng's political framework by announcing a timeline which would show his intent to self-limit his term as President and step down or designate a successor by 2022.<sup>178</sup> However, this appears unlikely as it would backtrack upon his display of force while providing political opponents the opportunity to pursue him after he steps down.

Alternatively, Xi's indication of remaining as President indefinitely may allow him adequate time to bring about China's national rejuvenation and establish a Chinese kind of democratic norms. The potential for improved economic performance and development under a centralized leadership is a pattern which has been prevalent and successfully replicated across numerous Asian states such as South Korea and Singapore.<sup>179</sup> It is hoped that his continued leadership and guidance will enable him to complete controversial but necessary policies essential to the achievement of the "Chinese Dream," including a military modernization drive, global trade and infrastructure programs under the "Belt and Road Initiative,"<sup>180</sup> and environmental and sustainable energy reforms.<sup>181</sup>

176 Wang Xiangwei, "How long does China's President Xi Jinping plan to hold power? Here's the magic number," South China Morning Post, March 3, 2018, <https://www.scmp.com/week-asia/politics/article/2135206/how-long-does-chinas-president-xi-plan-to-hold-power-heres-magic>

177 Shiu Sin Por, "China needs Xi Jinping at the helm for at least a decade more to finish his anti-corruption work and build an effective system," South China Morning Post, March 6, 2018, <https://www.scmp.com/comment/insight-opinion/article/2135706/china-needs-xi-jinping-helm-least-decade-more-finish-his>

178 Gillian Wong, "China has proposed getting rid of its presidential term limits — meaning Xi Jinping could rule indefinitely just like Mao Zedong," Business Insider, February 25, 2018, [businessinsider.com/xi-jinping-could-rule-china-until-his-death-without-term-limits-2018-2/?r=AU&IR=T](https://www.businessinsider.com/xi-jinping-could-rule-china-until-his-death-without-term-limits-2018-2/?r=AU&IR=T)

179 Kenichi Ohno, "The East Asian Growth Regime and Political Development," National Graduate Institute for Policy Studies, November 28, 2003, [www.grips.ac.jp/forum/DCDA/Chapter02.pdf](http://www.grips.ac.jp/forum/DCDA/Chapter02.pdf), 47.

180 David Tweed and Enda Curran, "World Braces for More Rule-Bending by China's Xi," Bloomberg, February 27, 2018, [bloomberg.com/news/articles/2018-02-26/xi-s-indefinite-rule-feeds-doubt-china-will-play-by-the-book](https://www.bloomberg.com/news/articles/2018-02-26/xi-s-indefinite-rule-feeds-doubt-china-will-play-by-the-book).

181 David Dollar, "Xi's power grab gives short-term boost with long-term ramifications," Brookings Institute, February 27, 2018, <https://www.brookings.edu/blog/order-from-chaos/2018/02/27/xis-power-grab-gives-a-short-term-boost-with-long-term-ramifications/>

***Worst Case Scenario***

However, the consolidation of power may only result in increased opposition to Xi, stakeholders denied a political voice may resort to violence in achieving their objectives. Having already survived several internal coup attempts by the Tuanpai faction, he is well aware of the dangers which persist within the CCP.<sup>182</sup> If Xi is unable to manage and mitigate growing public and Party opposition, he risks falling into China's "Paramount Leader Trap," one where the quest for political power generates dissent, which escalates to the point of physical violence, necessitating the use of last-resort political and military powers to restore the status quo, and stunting China's political and economic development for the following decade. This pattern was observed under Mao Zedong with the Cultural Revolution,<sup>183</sup> and under Deng Xiaoping with the Tiananmen Square Massacre.<sup>184</sup> Within these events, the leader is observed using political power and physical force to crush internal dissent, restore social harmony, and safeguard their political legacy at the expense of the Chinese peoples.

***Most Probable Scenario***

Within the CCP Constitution, there exists no specified term limit for the General Secretary, and the informal customary rule established since the 16th CCP congress in 2002 held that no one older than 68 will be appointed or reappointed to membership of the Politburo Standing Committee. Anyone aged 68 or above at the time of the subsequent CCP National Congress should retire.<sup>185</sup> Xi is presently aged 64 and will be 69 by the 20th CCP Congress in late 2022. His overwhelming confidence and drive to achieve the "Chinese Dream" and transform China into a modern socialist country by 2049 certainly shows his intent to rule indefinitely. However, it remains to be seen whether he

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182 Tara Francis Chan, "Factional warring and failed 'coups' may be the reason Xi Jinping wants to rule China forever," *Business Insider*, March 12, 2018, [businessinsider.com.au/xi-jinping-ended-term-limits-because-of-failed-coup-2018-3?r=US&IR=T](https://www.businessinsider.com.au/xi-jinping-ended-term-limits-because-of-failed-coup-2018-3?r=US&IR=T)

183 Tom Phillips, "The Cultural Revolution: all you need to know about China's political convulsion," *The Guardian*, May 11, 2016, <https://www.theguardian.com/world/2016/may/11/the-cultural-revolution-50-years-on-all-you-need-to-know-about-chinas-political-convulsion>

184 Sophia Richardson, "China, the world remembers Tiananmen massacre," *Human Rights Watch*, June 3, 2014, <https://www.hrw.org/news/2014/06/03/china-world-remembers-tiananmen-massacre>

185 Simon Denyer, "China's Xi Jinping unveils his top party leaders, with no successor in sight," *The Washington Post*, October 25, 2017, [https://www.washingtonpost.com/world/chinas-communist-party-unveils-new-leadership-with-no-obvious-successor-to-xi-jinping/2017/10/25/efe67876-b8fc-11e7-9b93-b97043e57a22\\_story.html?utm\\_term=.772c802206f5](https://www.washingtonpost.com/world/chinas-communist-party-unveils-new-leadership-with-no-obvious-successor-to-xi-jinping/2017/10/25/efe67876-b8fc-11e7-9b93-b97043e57a22_story.html?utm_term=.772c802206f5)

will depart with convention or become a dictator should he remain as General Secretary past 2022.<sup>186</sup>

In the immediate-term, Xi's consolidation of power will contribute to an increasingly assertive and confident government.<sup>187</sup> His ascension to paramount leader status has seen the replacement of Deng's guiding ideology of "hide our capabilities and bide our time,"<sup>188</sup> with Xi's own grand strategy of "striving for achievement."<sup>189</sup> Accordingly, he has moved to elevate Xi Jinping Thought as a guiding principle within China's diplomacy,<sup>190</sup> escalating trade wars with the US<sup>191</sup> and revitalizing China's diplomatic campaign against Taiwan<sup>192</sup> and its proposals to solidify its control over South China Sea territories in replacing the nine-dash line with a "continuous boundary line."<sup>193</sup>

## Conclusion

The removal of term-limits from China's Constitution shows Xi's ascension as China's new Paramount Leader, as the rightful successor to Mao and Deng's legacies, and the sole individual capable of guiding the country into prosperity for decades to come. Mindful of the precedents set by past leaders enshrined within the National Constitution, the balance of probabilities indicates that Xi will retain a core leadership position within the CCP and government beyond the conclusion of his two-term limit in 2022 – a position which will enable him to oversee the realization of his ambitions of the "Chinese Dream."

However, Xi's success balances upon his ability to quell internal Party challenges between the Tuanpai and Princeling factions of the CCP. He must

186 Charlie Campbell, "Xi Jinping Becomes China's Most Powerful Leader Since Mao Zedong," *Time*, October 24, 2017, <http://time.com/4994618/xi-jinping-china-19th-congress-ccp-mao-zedong-constitution/>

187 David Tweed and Enda Curran, "World Braces for More Rule-Bending by China's Xi," *Bloomberg*, February 27, 2018, <https://www.bloomberg.com/news/articles/2018-02-26/xi-s-indefinite-rule-feeds-doubt-china-will-play-by-the-book>

188 GlobalSecurity.org, "Deng Xiaoping's '24-Character Strategy,'" *GlobalSecurity.org*, 2018, <https://www.globalsecurity.org/military/world/china/24-character.htm>

189 Camilla T.N. Soresen, "The Significance of Xi Jinping's "Chinese Dream" for Chinese Foreign Policy: From 'Tao Guang Yang Hui' to 'Fen Fa You Wei,'" *Journal of China and International Relations* 3, no.1 (2015): 53.

190 Zhang Hui, "Xi thought enshrined as supreme guidance to China's diplomacy," *Global Times*, June 24, 2018, <http://www.globaltimes.cn/content/1108181.shtml>

191 Amanda Lee, "US-China trade war: Beijing vows to hit back if Trump imposes new tariffs on US\$200 billion of its goods," *South China Morning Post*, September 6, 2018, <https://www.scmp.com/news/china/china-economy/article/2163108/us-china-trade-war-beijing-vows-hit-back-if-trump-imposes>

192 Teng Pei-ju, "Losing 3 allies in 4 months, Taiwan President calls for solidarity to preserve national sovereignty," *Taiwan News*, August 21, 2018, <https://www.taiwannews.com.tw/en/news/3511613>

193 Stephen Chen, "China's claims in South China Sea 'proposed by continuous boundary for the first time,'" *South China Morning Post*, April 22, 2018, [scmp.com/news/china/society/article/2141323/chinas-claims-south-china-sea-proposed-continuous-boundary-first](http://www.scmp.com/news/china/society/article/2141323/chinas-claims-south-china-sea-proposed-continuous-boundary-first)

also manage the anticipated exponential increase in public and internal-CCP dissent as 2022 approaches. Lastly, Xi must demonstrate his worthiness to be held out as China's new Paramount Leader – one equal in stature of Mao and Deng – by competently managing and balancing domestic economic development amid an escalating international trade war with the US.

Regardless, the removal of term limits marks a significant moment in Chinese political development, in distinguishing China from contemporary Western democratic norms of executive term limits embodied within the US,<sup>194</sup> as China continues to chart its development as an economic, political and ideological challenger vis-à-vis the West.

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194 Michael Ng-Quinn, "Xi Jinping must stay on as China's president during this critical time, as Roosevelt did for the US," South China Morning Post, February 27, 2018, [scmp.com/comment/letters/article/2134915/xi-jinping-must-stay-chinas-president-during-critical-time-roosevelt](https://www.scmp.com/comment/letters/article/2134915/xi-jinping-must-stay-chinas-president-during-critical-time-roosevelt)

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# STATE INSTITUTIONS IN FOREIGN POLICY: INTERROGATING THE NIGERIA POLICE FORCE'S PEACEKEEPING OPERATIONS, 1960- 2005

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*Political units throughout human history have been propelled mainly by the common goal of pursuing their enlightened "self-interests." This is no less true in the contemporary age when international relations and diplomacy are shaped by the compelling need to pursue national interests through well-calibrated foreign policy objectives. This is the motive of states in the international system to build domestic institutions not only for the social purpose of delivering goods and services to citizens, but also to deploy such institutions as the architecture of external relations and diplomacy. This paper examines the Nigeria Police Force (NPF) as an example of such state institutions deployed as instrumentality for the attainment of Nigeria's foreign policy objectives. This discourse investigates the nature and content of Nigeria Police's international peacekeeping activities, and argues that though the NPF has had the maintenance of security and order within the domestic space of Nigeria as its main responsibility since its inception, it still functions as an instrument of foreign policy, and through its participation in international peacekeeping operations across the world, the nation has successfully achieved some of her foreign policy goals. This is a notable example of how states in the contemporary international system have skillfully engaged their domestic institutions—not formally established for external relations purposes—for the promotion and attainment of their foreign policy objectives and national interest.*

*Keywords: Nigeria, Police, Peacekeeping, Security, National Interest*

Since the 1648 Treaty of Westphalia, which serves as the foundation for modern international relations, foreign policy has focused on four major objectives: security, autonomy, welfare, and status/prestige. Other considerations, like protection of ethnic, ideological and/or religious interests, as well as the increase of global influence, have thus become mere footnotes or addenda.

Pieces of evidence of such less obvious objectives can be found in the Arab states' involvement in the Palestine/Israeli face-off, Pakistani stake in Indian-Kashmir crisis, American open and, at times, clandestine support for Israel, and the Soviet Union's support for East European countries during the Cold War era. These objectives assume different shapes and nuances in different states depending on the priorities of circumstance and the available quantity and quality of resources. However, the one thing in common is that all states recognize the need to pursue those objectives—particularly security—for overall strategic advantage. In the contemporary global system, the business of inter-state relations has assumed an all-embracing dimension such that any resource of a country can be made relevant and engaged as an instrument in the processes realization these external relations. The Nigeria Police Force (NPF) is one such institutional resource that Nigeria has utilized to achieve its state objectives by deploying its officers in international peacekeeping missions. The significance of this involvement aided Nigeria in achieving its foreign policy goals of security and status between 1960 and 2005.

### **Origins of the NPF**

The NPF, originally established in the late nineteenth century by Great Britain to protect its colonial interests in Nigeria, automatically became the official police of the newly independent state following the independence of Nigeria in 1960. Upon the country's independence, the main responsibility of the NPF was the maintenance of law and order within the federation.<sup>2</sup> Since 1960, however, the NPF has had an important secondary responsibility of international peacekeeping. NPF officers have participated in more than twenty international peacekeeping missions under the auspices of the United Nations (UN), African Union (AU), Organisation of African Unity (OAU), and Economic Community of West African States (ECOWAS).<sup>3</sup> On other occasions, NPF officers were involved in peacekeeping operations under bilateral agreements with countries such as Tanzania in 1964, Chad in 1978, and others.<sup>4</sup> For these activities, the NPF won international accolades and brought honor to the nation.

### **Literature Review**

Although the NPF has been extensively researched, previous works of literature have been limited to examining its historical background and development as a law enforcement agency and its credibility in discharging its

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1 Solomon Tai Okajare, *Understanding Foreign Policy Studies* (Akure: Pearlsberry, 2008), 28-49.

2 The Nigeria Police Force, *A Handbook of General Information*, (Lagos: Force Headquarters, 1981), 7-8.

3 Nigeria Police Force, *Police News*, vol. 3, (Abuja: Force Headquarters, 2006), 74-75.

4 Nigeria Police Force, *Police News* 3, 74.

constitutional responsibilities. The study of the NPF as a peacekeeping force or as an instrument of foreign policy has rarely been conducted in the academia. Sunday G. Ehindero's *The Nigeria Police and Human Rights* traces the origin and development of the force, examines corruption in the police, investigates the challenges of community policing in Nigeria, and explores the implication of these on the protection of human rights in Nigeria.<sup>5</sup>

Emmanuel C. Onyeozili's "Obstacles to Effective Policing in Nigeria"<sup>6</sup> similarly examines the challenges hindering effective policing in contemporary Nigeria, tracing the root of these problems to colonialism. Onyeozili demonstrates how British colonial interests influenced the establishment of the colonial police and "demonized, discredited, and supplanted the traditional system of policing" in Nigeria. The post-colonial state has not been able to reform the corrupt police system handed down by Britain, and thus, the domestic corruption persists. Consequently, the inefficiency of the police in the discharge of its constitutional duties has led to a lack of public confidence and trust in the police, and such inefficiency has led to the emergence of ethnic militias as substitutes—a dangerous development to law enforcement and democratic process in Nigeria.

Likewise, Etannibi Alemika's "History, Context and Crises of the Police in Nigeria"<sup>7</sup> surveys the development of the NPF from colonial era to the contemporary period, exploring why and how the interests and dispositions of the political class in colonial and post-colonial periods affected the performance and the public perception of the NPF. The colonialists that established the nucleus of the NPF did so in order to protect and promote the economic interests of Britain, therefore greatly lacking the Nigerian public's respect and trust. Accordingly, the current NPF lacks effectiveness due not only to their overzealousness in protecting and promoting the political class, but also to numerous inherited structural constraints and organizational inadequacies, which include "poor training, poor remuneration and working conditions, scarcity of and poorly equipped office and residential accommodation, inadequate transportation and communication facilities, obsolete firearms and inadequate ammunition within the Nigeria Police Force." As a means for Nigeria to have responsible and efficient police, both the government and the local communities need to work together to develop a broad "strategy for the

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5 Sunday Gabriel Ehindero, *The Nigeria Police and Human Rights*, (Jos: Ehindero Press Nigeria Ltd., 1998)

6 Emmanuel Chudi Onyeozili, "Obstacles to Effective Policing in Nigeria", *African Journal of Criminology and Justice* 1, (2005): 32-54.

7 Etannibi O Alemika, "History, Context and Crises of the Police in Nigeria", Paper presented at the Biennial Retreat of the Police Service Commission on the theme: *Repositioning the Nigeria Police to Meet the Challenges of the Policing a Democratic Society in the Twenty-First Century and Beyond*, held at the Le Meridian Hotel, Uyo, Akwa Ibom State, November 1-4, (2010)

development and sustenance of anti-corruption measures, transparency and accountability in the Nigeria Police Force.”

Using the system theory, Olawale Idowu’s “Corruption, the Police and the Challenges of a Free and Fair Election in Nigeria” explores the nexus between the corruption within the NPF and politics. The problem of electoral malpractices in Nigeria is compounded by corruption, and this persistent corruption in the NPF is the greatest obstacle to a credible electoral process in Nigeria. The activities of the police, positive or negative, continue to affect the democracy and governance in the country.<sup>8</sup>

Samuel Iornenge Zumve’s “Community Policing in Contemporary Nigeria: A Synthesis of Models”<sup>9</sup> probes into the problems of community policing in contemporary Nigeria. Using a historical materialist approach, Zumve traces the source of the current challenges of community policing to the very establishment of the police by the British colonial administration. The British goal of furthering their own objectives in Nigeria undermined the NPF since its inception. After the independence, post-colonial Nigeria has yet to succeed in community policing owing to the gulf of mistrust and disaffection that have persisted between the public and the police. Zumve therefore suggests reorganizing the police and integrating some agencies of the indigenous social control system into the community policing project as a way to correct this in contemporary Nigeria.

Most literature on the NPF are largely colored by the writers’ concern and desire to expose the bane of responsible community policing in the country. Even where efforts have been made to discuss the NPF as an international peacekeeping agency, such efforts are brief, only mentioning the NPF’s contribution as a part of other broader discourses. For example, Harry Ford’s “Evaluating the Operational Effectiveness of West African Female Police Officers Participation in Peace Support Operations: The Case of Ghana and Nigeria” analyzes the capacity of West African police institutions in recruiting, training and deploying female police officers to international peace support missions with the primary intention of not only facilitating the participation of more female police officers but also making them increasingly effective in peace support operations.<sup>10</sup> Although the work views the NPF as an international peacekeeping agency, the discussion does not focus on Nigerian foreign policy

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8 Olawale Idowu, “Corruption, the Police and the Challenges of a Free and Fair Elections in Nigeria,” *Journal of Sustainable Development in Africa*, Clarion University of Pennsylvania, Clarion, Pennsylvania, <http://www.pearsoncentre.org/History>, (2010): 52-63.

9 Samuel Iornenge Zumve, “Community Policing in Contemporary Nigeria: A Synthesis of Models,” *Journal of Educational and Social Research* 2, no.9, (2012): 132-139

10 Harry Ford, “Evaluating the Operational Effectiveness of West African Female Police Officers’ Participation in Peace Support Operations: The Case of Ghana and Nigeria”, (Accra, Ghana: Kofi Annan International Peacekeeping Training Centre, 2008), *Occasional Paper*, no. 23

goals. Thus, the present study represents a shift from the above traditional focus on the NPF as it focuses on the police within the context of the nation's foreign policy. However, it should be added that while there have been some impressive efforts in recent times to bridge the gap of discrimination against female police officers, the state of this issue in 2005, the temporal limit of this study's scope, still remained such that the Nigerian Police, like many of its counterparts all over the world, was still largely male-dominated. The NP has a staff strength of about 371,800, in which women constitute only four percent and only eight percent of the officer cadre.<sup>11</sup> These statistics indicate a great amount of under-representation. Consequently, only a negligible few of them have been deployed on peacekeeping missions. Yet, with the impact of Beijing Conference, the UN Resolution 1325, and such other protocols, the female representation would seem to have improved slightly, even if still disproportionate to the huge female population. For example, in 2016, fifty-seven female police personnel were deployed on international peacekeeping missions.<sup>12</sup> It is largely believed that, when deployed, these female personnel always give good accounts of themselves. As Ghimire has argued, "Female peacekeepers have both endogenous and exogenous effects. They are more sensitive, sympathetic, and well-mannered within mission and they better maintain gender relationships."<sup>13</sup>

### Conceptual Clarification of Peacekeeping

Peacekeeping is a crisis control mechanism, in which a force is placed between two or more belligerent groups in the attempt to restore peace with the responsibility of monitoring the compliance of the warring parties to the terms of a pre-determined ceasefire.<sup>14</sup> The intention is to create an enabling atmosphere, within which a permanent end to conflict can be negotiated as the parties involved are likely to be irreconcilable as long as they remain in active armed combat. Peacekeeping is a confidence-building mechanism meant to reassure the warring parties that ceasefire agreements will not be disrupted.<sup>15</sup> Thus, the trust of the factions in the peace broker and by extension the process is very important as these will largely determine the success of

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11 See Nigeria Police Force, *Police Service Commission Gender Policy for Nigeria Police Force*, (Abuja: Force Headquarters, 2010), 3

12 Jimeta Lawal, "Police deploy 300 personnel for peacekeeping in 2016", *Vanguard*, February 5, 2017. Accessed on 6th September, 2018.

13 Ghimire Bishwambhar, "Contributions and Challenges : Female Participation in UN Peacekeeping Missions," *International Journal of Humanities and Social Science* 7, no. 3, (2017): 207-213.

14 Margaret Aderinsola Vogt., "The Problems and Challenges of Peace-Making: From Peace-keeping to Peace Enforcement", in *The Liberian Crisis and ECOMOG: A Bold Attempt at Regional Peacekeeping*, ed. Margaret Aderinsola Vogt (Lagos: Gabumo Publishing Co. Ltd., 1992), 147.

15 Vogt, "The Problems and Challenges," 147-148.

the process. Essentially, both parties involved in the crisis should be ready for ceasefire and settlement, the atmosphere of negotiation and settlement should be sufficiently convivial, and the parties should find the peace-maker worthy of their trust. These three aspects are cardinal to the success of any peacekeeping initiative.

Most of the time, this is done with the initial consent of the warring parties as this is very crucial to the success of the peace effort and the safety of the peacekeepers. However, it needs to be stressed that this principle is sometimes violated. For instance, despite the objection of the National Patriotic Front of Liberia (NPFL) to a Nigerian-led peacekeeping mission in Liberia, due to the suspicion that Nigeria's Babangida administration was a major supporter of its adversary, Samuel Doe, Nigeria still went ahead with the mission, leading other West African powers as peacekeepers to Liberia.<sup>16</sup>

Despite strong international condemnation, the UN could not prevent Nigeria's action. The inability to prevent such action stems partly from the world powers' lack of interest in putting their soldiers on African soil to end the crisis initiated by Africans, especially when Africa's strategic significance in international politics had been drastically reduced following the end of the Cold War in the late 1980s and the emergence of international liberalism as well as the shift of focus to the Middle-East, which because of its large oil deposits, had become a more economically important region than Africa.

Another important principle is that the sponsors of peacekeeping operations and their peacekeepers are expected not to exhibit any form of prejudice in discharging their responsibilities as such prejudice may cause the feuding parties to trust the peace process less. According to Yamalli,<sup>17</sup> this factor is fundamental because the effectiveness of any peacekeeping operation depends on the anticipation and assessment of the warring factions. However, the levels of objectivity of the peacekeepers and their sponsors are largely determined by their preconceived opinions on the crisis. Thus, the most acceptable peacekeeping operations are the ones conducted under the platforms of international bodies such as the UN and AU. They promise to be more neutral than any smaller arrangement.

Peacekeeping operations are also expected to avoid the use of force except as a last resort to safeguard the peacekeepers themselves. This idea is reinforced by Article 2 (4) of the United Nations Charter which prohibits the use

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<sup>16</sup> Adekeye Adebajo, *Liberia's Civil War: Nigeria, ECOMOG, and Regional Security in West Africa* (Boulder, Colorado: Lynne Rienner Publishers, 2002), 51.

<sup>17</sup> Nurullah Yamali, "The Use of Force for Collective Security and Peacekeeping at the End of the Twentieth Century," 5. Accessed on October 14, 2018, <https://www.justice.gov/e-journal>

of force.<sup>18</sup> A major challenge arising from this is that ‘self-defense’ is largely subjective and is left to the discretion of the peacekeepers. Serious problems may arise when peacekeepers have pre-formed opinions or position on the crisis. Therefore, this principle and the ones mentioned above are measures that are critical to the success or failure of any international peacekeeping operations.

Peacekeeping as a modern mechanism of international peace was gradually developed by the UN, following the adoption of the provisions contained in Chapter VI, Articles 33:1 of the UN Charter, which states that:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.<sup>19</sup>

International peacekeeping was first conducted by the UN in 1948 when the United Nations Truce Supervision Organisation established by the UN Security Council Resolution 50 (1948) was deployed to the Middle East during the Arab-Israeli War, and since then, it has become one of the most effective instruments of conflict management.<sup>20</sup>

### **An Overview of the Fundamentals of Nigerian Foreign Policy Interest**

The foreign policy interest of any nation represents the goals, purposes, or objectives that nation seeks to attain through its external relations, and, unsurprisingly for most nations, these goals are multitudinous.<sup>21</sup> Nigeria had a long list of foreign policy objectives during the period under review. Shortly after independence in 1960, Prime Minister Tafawa Balewa—while making speech on Nigeria’s foreign affairs on the floor of the House of Representatives—highlighted the goals of the nation’s foreign policy to include the defense of her sovereignty, economic development and well-being of her citizenry, eradication of colonialism and all forms of foreign domination in Africa, promotion of global peace, promotion of the rights of all blacks and other oppressed people,

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18 James A. Green and Grimal, Francis, “The Threat of Force as an Action in Self-Defence under International Law,” *Vanderbilt Journal of Transnational Law* 44, (2011): 286

19 See “Chapter VI, Articles 33 (1) of the UN Charter,” *Charter of the United Nations and Statute of the International Court of Justice* (San Francisco, 1945), 8. Accessed on 17th October, 2018. <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

20 See “UN Security Council Resolution 50, 1948,” *United Nations Security Council Resolutions* (New York: UN Security Council, 1948), 20-21. Accessed on 17th October, 2018. [https://undocs.org/S/RES/50\(1948\)](https://undocs.org/S/RES/50(1948)).

21 Kalevi Jaakko Holsti, *International Politics: A Framework for Analysis*, (New Jersey: Prentice Hall, 1992), 83.

promotion of African unity, and non-involvement in the Cold War among others.<sup>22</sup> This was a recapitulation of his speech to the United Nations General Assembly on October 7, 1960 when Nigeria was admitted as the 99th member of the global body.<sup>23</sup> Despite that, between 1960 and 2005, the country had eight political transitions, there was no significant alteration of the above list of interests by any of the administrations, except in their approach to them. For example, national security, promotion of world peace, promotion of African unity, etc. featured prominently as parts of the foreign policy objectives of all the administrations. While it is clear that Nigeria had a long list of foreign policy goals, prestige is the only one considered here because it was the primary foreign policy objective achieved by the participation of the NPF in international peacekeeping. Furthermore, it has also continued as a major national interest of the country that is hardly pronounced by the government. In addition, prestige has been given little academic attention.

Despite the fact that countries rarely declare prestige as a foreign policy objective, it has always commanded a major consideration in their foreign policies. During the Cold War, prestige had an influential impact on the Soviet-USA rivalry. For the most part, the two countries operated under the influence of self-imposed responsibility of protecting other (smaller) powers within their orbits. This deepened the arms race and other elements of the war. Also, a keen observation shows easily that the American foreign policy actions in the Middle East during the Bush years were driven more by the penchant to show off American military-industrial eminence, which is known as 'Fortress America'. This mindset was rekindled in the recent Donald Trump's disposition to China and the complex issues in the Korean Peninsula. On some of Trump's actions in response to Syria's use of surin gas, North Korea's threat to continue the testing of intercontinental missiles, and the ISIS, Bruce Thornton argues that "these bold moves alerted the world that the days of America "leading from behind" are at an end. And they have achieved something important for every foreign policy no matter its ideological compass: restoring our country's damaged prestige."<sup>24</sup>

As for Nigeria, prestige has always been viewed as a way to obtain political and economic hegemony in Africa—particularly, West Africa—and relevance or influence in global politics. It is important to note that the obtainment of prestige places a nation in a position of influence, which can aid the attainment of other

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22 Femi Otubanjo, "Introduction: Phases and Changes in Nigerian Foreign Policy," in *Nigeria since Independence: The First 25 Years, volume X, International Relations*, eds. Akinwande Bolaji Akinyemi et.al. (Ibadan: Heinemann, 1989), 4.

23 Abubakar Tafawa Balewa, "Maiden General Assembly Statement at the United Nations," (New York: 7th October, (1960). <http://redesign.nigeriaunmission.org/maiden-speech-at-the-un/>

24 Bruce Thornton, "Prestige as a Tool of Foreign Policy," *Defining Ideas: A Journal, Hoover Institution*, June 12, 2017. Accessed on October 20, 2018. <http://www.hoover.org/research/prestige-tool-foreign-policy>.

goals. Nigeria, at different times, has made efforts with the aim to ensure African development and enhance its own prestige. For instance, efforts to bring about an end to colonialism and apartheid policy in Africa, such as the moral and financial support for the promotion of African interests particularly through OAU Liberation Fund, had begun right from the First Republic under late Prime Minister Tafawa Balewa.<sup>25</sup> At every point, Nigeria had demonstrated its strong commitment to Africa-centered foreign policy. This commitment was taken a notch higher under General Obasanjo regime's (1976-1979), with its recognition of the Agostinho Neto-led Popular Movement for the Liberation of Angola (MPLA), as the legitimate government against Western-sponsored Union for Total Independence of Angola (UNITA) and the Front for the National Liberation of Angola (FNLA)<sup>26</sup> brought her international recognition not only among Africa nations but all over the world. In what can be termed "the scramble for Angola" in which USA, for example, massively deployed money, men, and materials through the sagacious diplomacy of Henry Kissinger and the ruthless clandestine operations of the CIA, Nigeria was still able to lead other members of the OAU to assert the readiness of Africa to claim its place in the comity of nations. Because of the apartheid South Africa's predictable opposition to the advancement of the African cause. This elevated Nigeria to the leadership position in the struggle against colonization and apartheid policy in Africa such that colonial powers like Britain and France were always conscious of Nigeria's opinions about their policies on Africa.<sup>27</sup> These activities were successful in carving a sphere of influence for Nigeria in international politics. Also, the economic assistance rendered by Nigeria to less developed nations, such as concessionary oil prices and financial assistance to Benin, Togo, Namibia, South Africa, and Niger, among others<sup>28</sup>, all served as image promoters of the country, especially among the Third World nations. At a time, Ghana and Togo owed Nigeria over 30 million dollars in a ninety-day oil

25 Aluko Olajide "Nigeria's Role in Inter-African Relations with Special Reference to the OAU, *African Affairs* 72, no. 287, (1973): 145-162.

26 Solomon Tai Okajare, "A History of Nigeria's Foreign Relations, 1960-2000", in *Essays in Contemporary Nigerian History*, eds. Stephen Oladipo Arifalo and Gboyega Ajayi (Lagos: First Academic Publishers, 2003), 174-178. See also Falola Toyin and Heaton Mathew, *A History of Nigeria*, (Cambridge: Cambridge University Press, 2010), 261-26

27 Details of Nigerian diplomatic efforts in this regard can be gleaned from Wilmot Patrick, "Nigeria's Southern African Policy, 1960-1988," *Current African Issues* 8, (Uppsala, Sweden: *The Scandinavian Institute of African Studies*, (1989): 5-9. See also Garba Joe, *Diplomatic Soldiering: Nigerian Foreign Policy, 1975-1979*, (Ibadan: Spectrum Books, 1987), 101-122.

28 Aluko Olajide, "Oil at Concessionary Prices for Africa: A Case-Study in Nigerian Decision-Making *African Affairs* 75, No. 301, (1976): 425, 431.

concessionary deal.<sup>29</sup> Among many of these African states, Nigeria is seen and respected as a big brother nation.

More significantly, her leadership role in the establishment of The Economic Community of West African States (ECOWAS) and sustenance of the organization brought her prestige more than material gains. ECOWAS remained the most important channel with which Nigeria established not only her economic but also political hegemony in West Africa. For example, since the establishment of ECOWAS in 1975 for the main purpose of economic integration and development among member-states, Nigeria has been playing pivotal roles in all its activities particularly in terms of removal of all known impediments to free-flowing trading among members. The historic establishment of ECOWAS Monitoring Group (ECOMOG) in 1990 against the backdrop of political turmoil in Liberia, and later Sierra Leone, was also significant in explaining Nigeria's pivotal status in West African inter-state relations. This body, which serves as the military wing of ECOWAS, has been sustained mainly by Nigeria's contributions in terms of money, material and human resources.<sup>30</sup> All of these activities were detrimental to the national treasury, but they brought Nigeria honor and made her relevant in global politics. Thus, many times, it would appear that Nigeria did not materially benefit from large commitments of human and material resources but rather a closer observation of such situations often reveals that Nigeria benefitted in other ways. Nigeria's continued commitment to these projects over many years showed the importance of prestige in its national decision making.

### **International Peacekeeping and the Attainment of Foreign Policy Interest**

Nigerian international peacekeeping history is as old as the Federal Republic of Nigeria itself. Barely a few weeks after the country's independence, Nigerian police officers were in Congo (now Zaire) between October 1960 and December 1965, performing admirably and acting in line with the nation's principle of promoting international peace and stability.<sup>31</sup> For a newly independent country with all of the political, economic and cultural challenges that go with independence and post-colonial legacy, seasoned observers might have expected the government to concentrate just on addressing those challenges and focus on building the Nigerian nation. However, the move towards

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29 Ola Temitope, "Nigeria's assistance to African states: What are the benefits?," *International Journal of Development and Sustainability* 6, no.2, (2017): 54-65.

30 Osakwe Chukwuma and Bulus Nom Audu, "The Nigeria-led ECOMOG Military Intervention and Interest in Sierra Leone Crisis: An Overview," *Mediterranean Journal of Social Sciences* 8, no.4, (2017): 107-116.

31 Francis Chigozie Chilaka and Odoh Samuel Ituma, "Nigerian Peacekeeping Operations Revisited," *Singaporean Journal of Business Economics and Management Studies* 4, no. 2, (2017): 4-5.

peacekeeping was strategic; it provided Nigeria the opportunity to successfully make its presence felt in international politics and diplomacy.

Following the sterling performance of NPF in the UN Mission in Congo in 1960, against the backdrop of Nigeria's status as an emergent, newly independent state, the NPF participated in about twenty international peacekeeping missions between 1960 and 2005. The participation of the NPF in international peacekeeping missions provided Nigeria the opportunity to promote international peace, a major goal of its foreign policy. The promotion of international peace went a long way to influence the global perception of Nigeria in the period. The idea of promoting international peace was constantly advanced by different Nigerian administrations as a justification for their approval of the participation of the NPF in international peacekeeping missions. For a newly independent country in a web of political, economic, and cultural challenges, one would have expected the government to concentrate just on addressing those challenges, which were banes of nation-building. However, the move was strategic to Nigeria in the sense that it provided her the opportunity to successfully make her presence felt in the international politics and register her name among important nations of the world.

International peacekeeping missions in West African countries such as Chad (1981), Liberia (1993), Sierra Leone (1998) and Sudan (2005) were measures to indirectly ensure Nigeria's security. Nigeria's support and participation in those international missions were relevant to her own security since those crises had the potentials of spilling over into the region. Nigeria's porous borders, especially in the northern part of the country, always made it vulnerable to security challenges from spreading conflict. In the 1980s, a considerable number of Maitatsine's jihadists that destroyed lives and properties in Kano came from Nigeria's immediate neighboring countries Cameroon, Chad and Niger. The Babangida and Abacha's administrations justified Nigerian interventions in Liberia and Sierra Leone on the basis that they had the potential of spreading to Nigeria and other parts of West Africa if necessary actions were not taken.<sup>32</sup> Although the real intentions of the two regimes concerning the interventions are still subjects of debates, recent security-related issues in West Africa have demonstrated the strong potentialities of local crises developing into regional problems. The recently identified links between Nigeria's Boko Haram and other global Islamic radical terror groups have validated this claim. Right from independence, this reality often dictated Nigeria's dispositions to some international issues, especially

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<sup>32</sup> Report of Tribunal of Inquiry on the Kano Disturbances, (Lagos: Federal Government Press, 1981). See also *The Guardian*, November 1, 1990, 9.; Daily Times, March 25, 1992, 19.; and This Day, March 31, 1995, 1-2.

those involving the security of Nigeria's close neighbors, which had groups that shared cultural and religious affinities with some groups in Nigeria.

Despite Nigeria's security needs, the primary benefit of Nigerian international peacekeeping missions to the country was international recognition. Through the NPF's international peacekeeping operations, Nigeria established herself in a position of importance in terms of regional, continental and world leadership. For example, there was strong communication between the International Criminal Police Organization (INTERPOL) and the NPF on issues concerning peacekeeping operations and exchange of information and technicalities. This was a professional relationship, which could not have existed if Nigeria had not possessed the relevant resource (NPF). INTERPOL is the second largest inter-governmental organization after the UN. It was established in 1923 with the primary objective of enabling cooperation among police organizations across the world: a means of controlling international crimes. The police body adopted INTERPOL as its telegraphic address in 1946 and fully adopted that acronym as its name in 1956.

Between 1960 and 2005, for instance, a considerable number of officers of the NPF served and performed credibly in about 19 UN peacekeeping missions around the world.<sup>33</sup> According to INTERPOL reports in 2006, Nigeria was ranked as one of the highest contributors of police personnel to the UN peacekeeping missions.<sup>34</sup> Close work with the UN for more than fifty years shows that the NPF is an international symbol of excellence, bringing honor to the nation.

The achievement of the NPF in its international peacekeeping efforts largely influenced the establishment of the Peacekeeping Department (now known as the Directorate of Peacekeeping) at the Police Force Headquarters in Abuja in 2005 by the Obasanjo's administration (1999-2007). The Department was and is still being charged with the responsibilities of explicitly training police personnel for international peacekeeping operations and facilitating robust communication between Nigeria and the outside world, including the UN and other relevant international peace promoting bodies such as the Pearson Peacekeeping Centre, Ottawa, Canada.<sup>35</sup> These responsibilities they handle allowed Nigeria to establish itself in a position of leadership and influence in Africa.

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33 The Nigeria Police, *Police News* 3, no. 5, (Abuja: Force Headquarters, 2006), 68. Further details on INTERPOL can be gleaned from <https://www.interpol.int/About-INTERPOL/History>

34 *Vanguard*, September 29, 2012. Accessed on October 18, 2018. <https://www.vanguardngr.com/2012/09/29/>

35 Nigeria Police Force, *Police News* 4, (Abuja: Force Headquarters, 2006), 74.

Nigeria's African leadership was further bolstered by the role of the NPF in assisting other African nations in the area of capacity building.<sup>36</sup> The NPF was at different times in Congo (now Zaire), Sierra Leone, Cameroun, Gambia, Kenya, Botswana, and Liberia, and others training and providing logistics to their police establishments.<sup>37</sup> The West African Police Chief Committee (WAPCCO) further allowed the NPF and Nigeria to influence its African neighbors. WAPCCO is an international police organization formed by West African police forces in 1997 to jointly fight trans-national crimes such as inter alia armed robbery, drug, and human trafficking.<sup>38</sup> The NPF maintains a heavy influence on the affairs of WAPCCO due to its wealth of international experience and Nigeria's material wealth. Nigeria maintains a leadership role as the chief financier of the organization, placing it in a strategic position to control many decisions of the body.

Following the brutal killings of Ken-SaroWiwa and his eight kinsmen by General Sanni Abacha,<sup>39</sup> Nigeria was largely ostracized from global affairs and exiled from the Commonwealth. Even during this so called 'dark age' of Nigerian political history, which lasted from 1993 to 1998, the NPF, through its international peacekeeping operations, remained one of the few international channels through which Nigeria could communicate with the industrially advanced democracies of the world such as the US and France. Despite Nigeria's pariah status, the demand for the NPF in international peacekeeping missions never waned. In fact, this led to the tagging of the NPF as the best police in Africa and one of the best globally in the 1990s.<sup>40</sup> As further marks of honor, the NPF and a good number of its officers received several accolades for their meritorious service and display of excellence and gallantry in international peacekeeping missions. Although many of these awards were received by individuals, they represented Nigeria in those missions and their activities, and the products of those activities affected the international image of the nation.

While the NPF's honorable acts elevate Nigeria to some degree, the dishonorable acts of the NPF also reflect upon the nation. In 2005, some officers of the NPF, including a senior officer, were involved in a rape case while serving in the Democratic Republic of Congo. This crime was a breach of

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36 Abiodun Daniels Famoye, "The Police and Nigerian Foreign Policy, 1960-2005: Peacekeeping Operations in Historical Perspective" (B. A. Project, Department of History and International Studies, Adekunle Ajasin University, Akungba-Akoko, Nigeria, 2007), 2.

37 Famoye, "The Police and Nigerian Foreign Policy", 2-3

38 Prosper Addo, "Cross-Border Criminal Activities in West Africa: Options for Effective Response," (Accra, Ghana: Kofi Annan International Peacekeeping Training Centre, 2006), *Working Paper* no. 12, 15-17.

39 Kolawole Dipo, "From Isolation to Globalization: Transformation of Nigeria's Foreign Policy from Abacha Regime to the Obasanjo Administration", *Pakistan Journal of Social Sciences* 3, No. 6,(2005): 874-875.

40 Nigeria Police Force, *Police News* 4, 74.

the UN code of conduct that attracted penalties<sup>41</sup> as well as dent on the good reputation of the NPF/Nigeria only partially mitigated by the quick response of NPF management. They quickly withdrew the whole contingent, investigated the matter, and punished the erring officers as appropriate.<sup>42</sup>

Strong disparities existed between the domestic and international performances of the NPF. The NPF, which was a symbol of gallantry and excellence internationally, was domestically known for their harassment and exploitation of Nigerians, especially the poor, and extra-judicial killings.<sup>43</sup> One of the major reasons for this double standard was the discrepancy in the conditions of services of domestic and international operations. While describing the working condition of international missions, a policeman who had participated in international peacekeeping operations, explained thus:

When you are there, you have everything to work with. All equipment is at your disposal... so you asked yourself what makes me not to perform? It is not that you want to go from here to there and they will say there is no fuel or that the vehicle has broken down... The UN for example has made it so superb for you to achieve your result; what you need is a little effort to achieve. And everything you do, how little it is, they appreciate it and send a commendation letter to you... even at the greatest risk, you will be happy to take the risk, because you know that if you die your family can never be poor again... so you will just say... why don't I die for my children to make it? We are talking of big money... and not empty promises... it is going to be paid immediately.  
*(The informant pleaded for anonymity.)*

Additionally, while erring officers on international missions were promptly tried and sanctioned, erring officers at the home front often escaped punishment mainly because of the systematic corruption, which characterized the whole of the Nigerian public sector. Consequently, the certainty that no criminal would go unpunished always made NPF officers cautious and responsible while on international assignment. The manner in which the constituted authorities respond to crime in terms of investigation, apprehension of culprits, and enforcement are the Nigerian government, and internationally, where the relevant authority is a credible international organization like the UN.

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41 Nigeria Police Force, *Police News* 4, 75.

42 Nigeria Police Force, *Police News* 3, 72.

43 Open Society and Network on Police Reform in Nigeria, "Criminal Force Torture, Abuse, and Extrajudicial Killings by the Nigeria Police Force", (New York: Open Society Institute, 2010), 53-64.

## Conclusion

While the primary duty of the NPF is to keep peace and order within Nigeria, its secondary duty of international peacekeeping became an important responsibility as Nigeria's avowed commitment to global peace and security now overlaps with its crucial national interests. The force, however, performed admirably and created a prominent place for itself and the countries in search for international peace. Although the international assignments did not hinder the NPF from discharging its domestic responsibilities, neither did the admirable performance of the NPF internationally positively influence their domestic ability. The effective engagement of the NPF as an institution to achieve some of Nigeria's foreign policy goals typifies a strategic practice among states in the contemporary international system of deploying state institutions for foreign policy objectives. Examples of this practice are rife. The United States is known in foreign policy and diplomacy circles for severally deploying the FBI and CIA as critical parts of its foreign policy architecture. The UK also uses Metropolitan Police as a major state institution of its foreign policy. The State of Israel deploys Mossad, its national intelligence agency, as an important state institution in its foreign policy system. Such was also true of the defunct Soviet Union, which made effective use of the KGB as a crucial foreign policy and national intelligence service agency from 1954 up to its historic collapse in 1991. Through this foreign policy decision, Nigeria has gained some level of status and prestige such that in many international fora Nigeria's image has been positively presented. Connected with this image is the steadily rising profile of Nigeria as the undisputed "Giant of Africa". Beyond this lofty profile, Nigeria has been able to strengthen her case for a seat in the UN Security Council through her commendable contribution to peacekeeping operations as partly handled by the NPF. To sustain and improve upon the outstanding track records of the NPF in international peacekeeping operations, there is the compelling need to reform the institution through regular updating and education of its personnel on emerging international relations issues and global realities as well as the trend of change and continuity in Nigeria's foreign policy objectives.

## ESSAYS

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**PROHIBITING PUSH-BACK AT SEA:  
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*Pamela Dávila Alvarez*

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# **BROKERING YEMEN'S HUMANITARIAN CRISIS: TURNING BLOOD TO PROFIT AND POWER**

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*Alexandra Gilliard*

*International Affairs Forum*

*In September 2014, Shiite Houthi rebels from northern Yemen invaded the capital, Sana'a, kicking off the latest major installment in their ten-year on-and-off struggle against the Sunni government. By February 2015, they successfully ousted President Hadi, but they were quickly faced with airstrikes using American weapons at the hands of a Saudi-led coalition of nine Middle Eastern and African states. With the Iranian backing, the Houthi rebels continue to battle Saudi Arabia's coalition throughout Yemen at the expense of civilian lives. Already suffering from widespread impoverishment, Yemen's civilians have been plunged into the world's worst humanitarian crisis as Saudi Arabia, Iran, the Houthi rebels, and the United States fight for profit, favorable policies, and regional hegemony and stability. This paper will explore the effects of external forces on Yemen, examining how the driving factors of profit and power among Saudi Arabia, Iran, and the US have worsened the humanitarian crisis and the quality of life of Yemeni civilians.*

With few basic resources to support the needs of its entire population, Yemen has long been categorized as the poorest country of the Middle East. Since the outbreak of civil war in 2015, its long-term humanitarian issues have evolved into a deepening crisis that representatives of numerous human rights organizations and the UN argue has become the worst humanitarian crisis in the world today. The conflict has quickly evolved into a proxy war, enticing intervention from Saudi Arabia and its nine-member coalition to back the Hadi government, while Iran provides support to the rebel Houthis.

Despite the millions of civilians living in the midst of bombing campaigns and ground attacks, the United States continues to support the Saudi cause through the transfer of advanced weaponry. Together, external forces use the nation as a battleground to eke out victory in their struggle for regional hegemony, security, and influence. This paper will examine the relationships and desires of external forces in the Yemeni conflict to uncover how the humanitarian crisis has been worsened by Saudi Arabia and Iran's desire for power and security,

and the American push for profit and favorable policies. To do this, we will first examine the interests of the key players in the conflict, and then analyze how these factors have worsened the humanitarian crisis, concluding with several policy recommendations to encourage conflict resolution and humanitarian assistance.

### **Saudi Arabian Interests: Preserving Power**

Saudi Arabia possesses one main interest in the conflict: the desire to preserve its influence and national security by countering Iran's quest for regional hegemony. Long established as the major regional power of the Gulf, Saudi Arabia's fears of Iran's growing power in the region have encouraged its rulers to assume an aggressive stance on the Arabian Peninsula.

For Saudi Arabia, preserving its regional influence is essential to maintaining its strength relative to other Gulf nations, allowing it to decide the future of the region by retaining Sunni neighbors and preventing Iran from installing Shiite governments that could threaten Saudi Arabia's place at the top.

### ***Countering Iran and Gaining Hegemony in the Gulf Region***

Afraid of Iran's newfound assertiveness<sup>1</sup>, Saudi Arabia for years has worked to counter the spread of Shiism in the Gulf region. Following the numerous Arab Spring uprisings in 2011 throughout North Africa and the Middle East, Saudi Arabia took quick action to intervene in the governmental transitions of numerous states with the goal of countering Iran's growing influence, while enforcing state and social divisions in neighboring Yemen to keep it weak.

These uprisings, in combination with softening US-Iran relations under the Iran Nuclear Deal in 2015 and the potential establishment of a Shiite government in Yemen, led Saudi Arabia to launch Operation Decisive Storm, a clear effort to preserve its hegemonic status in the Middle East. Saudi Arabia's coalition began airstrikes against the Houthi rebels and their Iranian backers in Yemen to prevent a Shiite takeover, and to send a clear message to Iran to stay out of the Arabian Peninsula. As long as Iran continues its attempts to exert its influence in the Middle East, Saudi Arabia will continue its efforts to counter Iran, locking the two in a battle for the regional upper hand and influence over the future of an entire country and region.

Ultimately Saudi Arabia's interests in Yemen's conflict and the overall Arabian Peninsula imply a fear that any new Shiite leadership in neighboring countries could result in additional Sunni vs. Shia conflicts. Saudi Arabia is determined to protect its national security, and new antagonists in the

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<sup>1</sup> Abu Amin, "Crisis in Yemen and Countering Violence," *Counter Terrorist Trends and Analyses*, 7, no. 7 (2015): 19.

Peninsula could threaten the security of its borders and increase the potential for additional cross-border attacks, as Iran has done via Yemen.

### **Iranian Interests: Obtaining Power**

Iran has two key interests in its fight against Saudi Arabia in Yemen. These include: 1) the attainment of regional influence via the installation of another Shiite government, and 2) a nearby base of operations it could use to weaken its rival.

Iran finally received a taste of power in the Gulf after its nuclear deal with the US under the Obama Administration, and quickly looked to gain more. If it is able to prevail over Saudi Arabia in the Yemeni conflict, it could potentially install a friendly regime to use as a puppet in the Arabian Peninsula. This would allow Iran to further assert its influence, while obtaining a base of operations closer to Saudi Arabia that it could use to weaken its major rival by continuing cross-border, close-range attacks on Riyadh.

### ***Attaining Regional Influence in the Gulf Region***

Since the Iran Nuclear Deal, Saudi Arabia has become warier of Iran's creeping influence in the region, and for good reason. After the Arab Spring, Iran's expansionism grew from its desire to obtain greater power in the Gulf region than Saudi Arabia. As such, Iran has provided both financial and military support to the Houthis in Yemen with the goal of installing a friendly Shiite government that could help it in its regional aspirations against Saudi Arabia's Sunni monarchy. Iran's intent has not gone unnoticed: in early 2018, Yemen's representative at the UN stated that Iran's capitalization on the conflict is a "clear example of political brinksmanship"<sup>2</sup> meant to help it gain ground in the Middle East.

Iran's relatively small investment in the Yemeni civil war has paid off in excess—forcing Saudi Arabia to invest millions per week in its counterattacks on behalf of Yemen's government to push back the Houthi threat, during a period in which its oil export profits have been declining. Iran has successfully manipulated the conflict to force Saudi Arabia's participation in a fight it will not win<sup>3</sup>, all while slowly draining the monarchy of its resources and weakening its attempts to quell the rise of Al-Qaeda in the Arabian Peninsula (AQAP) in the south. By providing support to a group in Yemen that was already invested in

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<sup>2</sup> "Parties in Yemen Must Return to Negotiations or Risk Escalating World's Worst Humanitarian Crisis, Senior Officials Tell Security Council," April 17, 2018, <https://www.un.org/press/en/2018/sc13301.doc.htm>.

<sup>3</sup> Peter Salisbury, "Building Peace in Yemen From the Ground Up: How to End the Conflict," *Foreign Affairs*, February 28, 2018, <https://www.foreignaffairs.com/articles/middle-east/2018-02-28/building-peace-yemen-ground>.

the fight, Iran has not had to contribute its own military personnel, thus gaining a greater return on its investment, while Saudi Arabia's investments threaten to destabilize it.

### ***Building a Base of Operations against Saudi Arabi***

Saudi Arabia's prominence as the Sunni leader of the Middle East has required Iran to be more strategic in its attempts to assert its influence, simply due to the sheer power and financial capacity of the Saudi Kingdom. By taking advantage of Yemen's instability and influencing the installation of a friendly Shiite government in Yemen, Iran could acquire a base of operations that just so happens to share a border with its rival, Saudi Arabia.<sup>4</sup> This would give Iran the opportunity to continue launching its missile attacks on Riyadh from just across the border indefinitely.

With a foothold in the Arabian Peninsula, Iran could get closer than ever to Saudi Arabia, using a non-Sunni regime to destabilize Saudi Arabia and threaten its national security. Combined with the anti-Saudi AQAP, these two fronts could tear at the very fabric of Saudi Arabia's regime.

### **US Interests: Money and Influence**

The US has become invested in Yemen's conflict for two key reasons: 1) Profit and potential job creation, and 2) the opportunity to establish a favorable political outcome in the Arabian Peninsula. To obtain both, the US has preserved an amenable relationship with Saudi Arabia—seemingly at all costs—though there have been key differences in the tone of US-Saudi relationship under the Obama and Trump administrations.

Overall, the promise of American defense contractors to generate more revenue and the potential to establish a friendly regime in a region that boasts a long list of US "enemies" are enticing enough to encourage the US to pledge its support to the Saudi coalition in Yemen.

### ***Sale of Weapons to Saudi Arabia***

Despite their differing relationships with the Saudi Kingdom, both the Obama and Trump administrations have struck deals with the monarchy to provide artillery, military training, and large equipment. While in office, President Obama's administration pushed both the US Departments of Defense and State to provide the Saudi coalition in Yemen with missiles and aerial refueling

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<sup>4</sup> Martin Reardon, "Saudi Arabia, Iran and the 'Great Game' in Yemen," *Aljazeera*, March 26, 2015, <https://www.aljazeera.com/indepth/opinion/2014/09/saudi-arabia-iran-great-game-ye-201492984846324440.html>.

assistance<sup>5</sup> despite the coalition's inaccuracies and indiscriminate attacks on cities that often culminated in the deaths of numerous civilians. Yet, toward the end of his presidency in 2016, Obama suspended weapons sales to Saudi Arabia<sup>6</sup> in an attempt to limit the effects of US weapons on civilians. However, upon entering office, the Trump administration quickly dismantled the sales freeze, striking deals with Saudi Arabia: one in May 2017 worth \$110 billion<sup>7</sup> and another in March 2018 that provides \$670 million worth of Raytheon-branded anti-tank missiles.<sup>8</sup> With the promise of profit, President Trump has worked diligently to eliminate the controls and restrictions the prior administration had put into place.

Trump's policy has boiled down to one thing: the potential of any action to boost the US economy, regardless of its destabilizing effects around the world. According to a White House statement, the Trump administration possesses a "commitment to peace through strength"<sup>9</sup>—though the "strength" of weapons has not instilled peace in Yemen, instead contributing to its continued deterioration. These actions have contributed not only to the disintegration of government, but also to the complete social upheaval of a nation and indiscriminate violence against civilians.

### ***"Job Creation" and the Influence of Defense Contractors***

Under the Trump administration, weapons sales to Saudi Arabia have often been touted as opportunities to create US jobs despite Lockheed Martin's indication that these deals would actually assist Vision 2030 in Saudi Arabia, creating skilled Saudi jobs.<sup>10</sup>

The US defense industry, containing 1.7 million employees,<sup>11</sup> only employs just over 0.5 percent of the American population. It is marginal at best to invest so much into a fairly small sector of the US workforce—unless these deals were actually executed to assist defense contractors, while using job creation claims in Ohio, Florida, Pennsylvania, and Michigan to feign an investment in

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5 Andrew Exum, "What's Really at Stake for America in Yemen's Conflict," *The Atlantic*, April 14, 2017, <https://www.theatlantic.com/international/archive/2017/04/yemen-trump-aqap/522957/>.

6 Rick Noack, "Saudi Arabia's arms deals are buying the West's silence over Yemen, activists allege," *The Washington Post*, November 9, 2017.

7 Javier E. David, "US-Saudi Arabia seal weapons deal worth nearly \$110 billion immediately, \$250 billion over 10 years," *CNBC*, May 20, 2017, <https://www.cnbc.com/2017/05/20/us-saudi-arabia-seal-weapons-deal-worth-nearly-110-billion-as-trump-begins-visit.html>.

8 Helene Cooper, "State Dept. Approves \$670 Million Arms Deal With Saudi Arabia," *New York Times*, March 22, 2018.

9 Jeff Abramson, "New Policies Promote Arms, Drone Exports," May 2018, <https://www.armscontrol.org/act/2018-05/news/new-policies-promote-arms-drone-exports>.

10 David, "US-Saudi Arabia seal weapons deal worth nearly \$110 billion immediately, \$250 billion over 10 years."

11 Abramson, "New Policies Promote Arms, Drone Exports."

the American swing state voters who earned Trump his victory,<sup>12</sup> potentially currying their favor in the future.

Over the course of his presidency, numerous defense contractors have profited from Trump’s interest in securing arms sales with Saudi Arabia—especially Lockheed Martin and Raytheon. Ultimately, both corporations, whose weapons are used by Saudi Arabia indiscriminately in Yemen, will benefit from a dramatic increase in profit in the coming years.<sup>13</sup> Interestingly, as seen in the table below, both companies made significant contributions to Trump’s 2016 electoral campaign. Though he was not the only candidate to receive their aid, it does not take away from the fact that his administration may have fallen victim to favoritism, protecting those who provided financial support to his political aspirations—and may do so in the future. Below, data from OpenSecrets (2018) shows how the defense industry in sum donated \$1,356,923 to Trump’s 2016 electoral campaign—a significant amount no doubt intended to influence his behaviors once in office. Throughout both administrations, defense contractors have clearly maintained their influence on the Executive Office.

**Table 1. Defense Contractors’ influence on the executive office**

<b>Defense contractor donations to Donald Trump, 2016 election</b>	
<i>Defense Contractor</i>	<i>Donation Amount (USD)</i>
Lockheed Martin	\$43,109
Raytheon	\$33,588
Total Defense Industry	\$1,356,923

Source: Data adapted from OpenSecrets, “Lockheed Martin: Profile for 2016 Election Cycle,” 2018; “Raytheon Co: Profile for 2016 Election Cycle,” 2018; “Top Industries: federal election data for Donald Trump, 2016 cycle,” 2018; accessed May 29, 2018

**Preserving Relationships with Saudi Arabia**

Despite Saudi Arabia’s known role in the 9/11 attacks, steps have been taken to consistently maintain a relationship that allows US input in the politics of the Arabian Peninsula and the greater Middle Eastern region. After all, the US and Saudi Arabia are after the same goal: to prevent Iran from gaining a foothold in the Arabian Peninsula and amassing power in the Gulf region.

12 Ben Freeman, Willian D. Hartung, “How the Saudis Wooed Donald Trump,” May 10, 2018, <https://www.thenation.com/article/how-the-saudis-wooded-donald-trump/>.

13 Jeff Daniels, “Defense manufacturers cashing in on Trump’s global arms push,” *CNBC*, January 24, 2018, <https://www.cnn.com/2018/01/24/trump-as-us-arms-pitchman.html>

Despite this, the different approaches of Presidents Obama and Trump to Saudi Arabia make it important to explore their opposing relationships with the Saudi monarchy, as they illustrate a complexity in the US-Saudi Arabia relationship that goes beyond just profit into a political game of chess.

Under President Obama, the US maintained a hesitant relationship with Saudi Arabia, though it consistently supplied the Kingdom with weapons and military training thanks to its continued importance in containing Iran's aggression and stifling the AQAP threat. Despite providing support for the Saudi coalition, Obama pushed for restraint in Yemen at the end of 2016<sup>14</sup> as the actions of Saudi forces began to foster anti-US sentiment amongst civilians and the destabilizing effects of its airstrikes only served to make AQAP stronger. Furthermore, Obama began to criticize Saudi Arabia both publicly and privately for inciting "sectarian hatred"<sup>15</sup> and attempting to manipulate the US into entering the fight. These feelings represented the beginning of Obama's reluctance to continue arms sales to Saudi Arabia, citing humanitarian concerns. Yet while new deals were off the table, he maintained the relationship by completing sales already in the pipeline, which did little to prevent the Saudi coalition from killing civilians.

Regardless of his wariness, during his time as president, Obama approved a greater number of arms sales than any other president before him.<sup>16</sup> Ultimately, US foreign policy under Obama was still beholden to Saudi Arabia and its interests, despite his personal concerns when faced with a mounting number of civilian casualties as the Saudi coalition continued its assault on the Houthis.

The tonal shift in the relationship between the US and Saudi Arabia once President Trump arrived in the White House was dramatic, with the new president building a much friendlier rapport than that of his predecessor.<sup>17</sup> Following the 2016 election, Riyadh was selected as the destination of Trump's first international presidential trip in March 2017. Attempting to build a stronger connection than the one they had held with President Obama, the Saudis played to Trump's ego, displaying banners with his photo along the streets and on the side of his hotel<sup>18</sup> —a steady stream of flattery to which Trump quickly succumbed. As a result, the trip culminated in Trump's first official arms deal with the nation, worth \$110 billion.

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14 Zachary Laub, "Yemen in Crisis," 2016, <https://www.cfr.org/backgrounder/yemen-crisis>

15 Patrick Cockburn, "How Barack Obama turned his back on Saudi Arabia and its Sunni allies," Independent, March 12, 2016, <https://www.independent.co.uk/news/world/middle-east/barack-obama-saudi-arabia-us-foreign-policy-syria-jihadism-isis-a6927646.html>.

16 Nicolas Niarachos, "How the U.S. Is Making the War in Yemen Worse," January 22, 2018, <https://www.newyorker.com/magazine/2018/01/22/how-the-us-is-making-the-war-in-yemen-worse>.

17 Cooper, "State Dept. Approves \$670 Million Arms Deal with Saudi Arabia."

18 Freeman & Hartung, "How the Saudis Wooed Donald Trump."

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Prior to this trip, Saudi lobbyists had already been hard at work in the US winning Trump's favor, in January 2017 booking rooms in a Trump hotel and spending over \$250,000 during their stay.<sup>19</sup> The lobbyists built roots with the Trump administration, and over the course of Trump's term have become deeply influential in his views on foreign policy. Saudi Arabia's lobbyism has become extensive, spending in excess of a million dollars each month to target the administration with propaganda regarding the Yemeni war, intended to influence America's Middle Eastern policies.<sup>20</sup> With its princely treatment of Trump, Saudi Arabia has established a bond of trust that has allowed it to manipulate US foreign policy to continue to favor Saudi Arabia in the Gulf region and provide support for the coalition's fight in Yemen.

### ***Prevent Iran from Gaining Ground***

To the US State Department, the arms deals with Saudi Arabia provide support to a nation that represents stability and economic growth in the region, but will retain the military balance in the fight.<sup>21</sup> Despite that claim, the infusion of millions to billions of dollars' worth of weaponry fundamentally changes the conflict's dynamics, especially when Iran has not invested nearly as much in the Houthi cause as Saudi Arabia has in its coalition's attacks. This investment from the US to Saudi Arabia signals its intent to prevent Iran from gaining ground in the Gulf region—particularly in an adjacent country that would give it a better ability to target Riyadh—regardless of the imbalance it introduces to the war. After all, should Iran win the battle, it would most likely install a friendly regime.

In late 2017, the US dedication to Saudi Arabia was exposed when it was revealed that a team of US Green Berets was deployed in the towns of Yemen near the border of Saudi Arabia with the intent to destroy Houthi missiles, which have been used to launch attacks on Riyadh.<sup>22</sup> This deployment has significantly expanded the role of the US in Yemen against the Iranian-aligned Houthis, and shows Trump's determination to assist Saudi Arabia in protecting its national security and maintaining its power.

### **How the Desires of External Forces Have Worsened the Crisis**

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19 Nicolas Niarchos, "How the U.S. Is Making the War in Yemen Worse."

20 Freeman & Hartung, "How the Saudis Wooed Donald Trump."

21 Alastair Jamieson, "U.S. sells 6,700 missiles to Saudi Arabia as part of \$1 billion deal," *NBC News*, March 23, 2018, <https://www.nbcnews.com/news/world/u-s-sells-6-700-missiles-saudi-arabia-part-1-n859406>

22 Helene Cooper, Thomas Gibbons-Neff, Eric Schmitt, "Army Special Forces Secretly Help Saudis Combat Threat From Yemen Rebels," *New York Times*, May 3, 2018.

All of these factors add up to one massive issue: the humanitarian crisis in Yemen has worsened rapidly. It is difficult to get an accurate number of the death toll of civilians; the UN cited in 2017 almost 8,000 civilians killed and 42,000 injured in the conflict,<sup>23</sup> while others have claimed there have been over 10,000 conflict-related civilian deaths.<sup>24</sup> Either way, the number grows under steady attacks, and the deterioration of the state and decline in social services has increasingly impacted the population. It has become essential to understand how the three goals—profit, power, and policies—of the external forces have influenced the intensity of the humanitarian crisis in Yemen.

### ***Obama Administration***

Under the Obama administration, the US provided Saudi Arabia with weaponry and training to attack the Houthi rebels in Yemen. But as the conflict progressed, the US became concerned with the civilian toll and the lack of human rights throughout much of Yemen. Despite Saudi Arabia's assertion that concerted efforts were being made to avoid civilian-populated areas, the number of civilians killed in the crossfire continues to rise. Additionally, hospitals and the transit services that are essential to alleviating famine remain popular targets,<sup>25</sup> not only killing innocent civilians, but contributing to the food security crisis and the lack of healthcare for Yemenis in need of medical assistance—especially when thousands of civilians are malnourished or regularly injured by conflict-related activities.

Though the Obama administration reigned in any new sales of weaponry to Saudi Arabia toward the tail end of his presidency, the existence of weaponry from prior sales still had a worsening effect on the humanitarian situation. US efforts may have intended to address the root cause of the issue, yet the situation requires a ground-level approach that works directly with civilians and transit and health infrastructure to improve quality of life.

### ***Trump Administration***

After the Obama administration, arms controls fell by the wayside. Trump's resumption of weapons deals ushered in an era where humanitarian concerns are undermined by profit and the misguided belief that fueling the conflict is the route to its resolution. Under the Trump administration,<sup>26</sup> the two major

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23 "Yemen conflict: How bad is the humanitarian crisis?" *BBC News*, March 28, 2017, <http://www.bbc.com/news/world-middle-east-34011187>.

24 Jared Malsin, "The Big Problem With President Trump's Record Arms Deal With Saudi Arabia," May 22, 2017, <http://time.com/4787797/donald-trump-yemen-saudi-arabia-arms-deal/>

25 "U.S.-Saudi Relations," May 12, 2017, <https://www.cfr.org/backgrounder/us-saudi-relations>.

26 William Hartung, "Trends in Major U.S. Arms Sales in 2017: A Comparison of the Obama and Trump Administrations," *Security Assistance Monitor*, March 2018, p. 4.

deals in 2017 and 2018 provided the monarchy with billions of dollars' worth of munitions.

According to Hartung (2018), human rights have taken a back seat to arms sales under the Trump administration, reversing the controls that the Obama administration had set on munitions sales. The Trump administration dodges questions concerning the humanitarian situation in Yemen, with US Secretary of Defense James Mattis stating the following when asked how the administration plans to handle the amount of civilian casualties:

We have been working very hard with the new U.N. envoy to end the fight in Yemen. And we believe that Saudi Arabia is part of the solution.<sup>27</sup>

Yet, Saudi Arabia is not part of the solution—it is not even part of the UN Security Council. Instead, it plays a direct role in the perpetuation of conflict. Not only is Mattis unwilling to acknowledge the glaring humanitarian crisis, but he is misrepresenting the role of Saudi Arabia, playing off its escalation of the conflict and the subsequent increase in civilian deaths as an attempt to bring peace to the region. Above all else, the current administration uses the sale of weapons and the strategic partnership it builds with Saudi Arabia to not only influence the policies of the Gulf region, but to keep close the monarchy that helped Trump obtain victory in the 2016 presidential election.

### ***US Arms Sales to Saudi Arabia harm Yemeni Civilians***

America's sale of weapons to Saudi Arabia is part of a two-pronged approach: to earn a profit, and to establish regional stability by preventing Iran's attempt to gain regional hegemony. But by taking advantage of the conflict, the US has instead promoted regional instability. US weapons are used not only with ramifications for civilians, but for the country as a whole, as their destabilizing effects have allowed the Houthis to advance and AQAP to gain greater power in the south.

According to Amnesty International, the transfer of weapons from the US to Saudi Arabia has caused immense damage to civilians,<sup>28</sup> resulting in questionable ethics as Saudi Arabia continues to commit war crimes in Yemen. Both Britain and the US in 2016 and 2017 profited from weapons sales to Saudi Arabia more than ever before, which leads to the question: has Saudi Arabia also bought the West's silence?

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27 Jamieson, "U.S. sells 6,700 missiles to Saudi Arabia as part of \$1 billion deal.

28 "US approves proposed \$1bn arms sale to Saudi Arabia," March 23, 2018, <https://www.aljazeera.com/news/2018/03/approves-proposed-1bn-arms-sale-saudi-arabia-180323090745361.html>.

Saudi Arabia has been able to win US support through the smart placement of pro-Saudi-in-Yemen propaganda fed straight into the Executive Office, building a case that the region can only be secured and remain under pro-US leadership through the acquisition of powerful weapons to rout the Iranian-backed Houthis and the creeping infiltration of AQAP in Yemen. Saudi funding continues to spread not only to defense contractors in the US, but also to lobbyists and Washington think tanks <sup>29</sup>—reputable think tanks that often provide key research to the Executive Office, potentially manipulating this information in favor of funders.

This is where the ethical concerns come into play: All of this influence has culminated in airstrikes led by Saudi Arabia that have struck civilian targets, including hospitals and schools, while creating a dire food security situation.<sup>30</sup> Despite US efforts under the Obama administration to train the Saudi military in effective targeting to decrease casualties, the higher-ups in the Saudi military were less concerned with civilians and more concerned with hitting Houthi forces at any price—leading to little-to-no research into each target.

Linking these occurrences to the US has been simple. For instance, in October 2016, a Raytheon bomb was used to kill 140 mourners at a funeral in Sana'a, outfitted with a guidance system built in Arizona and Texas.<sup>31</sup> Days after an attack on a Northern Yemeni wedding in April 2018, media sources revealed an image of a fragment of the bomb that possessed a serial number attributed to Raytheon, just one month after a deal between the US and Saudi Arabia set to transfer thousands of Raytheon-built missiles.<sup>32</sup> These instances show the indiscriminate nature with which Saudi Arabia uses the weaponry sold to it by the US, implicating the coalition and its benefactor in a web of war crimes and human rights violations. Between March 2015 and January 2016, the UN estimated 2,800 civilian deaths, with 60 percent of them due to airstrikes by the Saudi-led coalition in Saada,<sup>33</sup> a city home to hundreds of thousands of Yemeni civilians and most certainly not an ideal location to use indiscriminate weapons.

As the Saudi coalition continues to attack civilian targets, the infrastructure of the entire country is at stake. Without hospitals, civilians cannot access healthcare for malnutrition, wounds, or illnesses. As cholera continues to infiltrate the drinking water of cities across Yemen, epidemics will become unstoppable without effective medical care.

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29 Freeman & Hartung, "How the Saudis Wooed Donald Trump."

30 Malsin, "The Big Problem With President Trump's Record Arms Deal With Saudi Arabia."

31 Niarchos, "How the U.S. Is Making the War in Yemen Worse."

32 Alex Emmons, "U.S. Moves Forward With Multibillion-Dollar 'Smart Bomb' Sale to Saudi Arabia and UAE Despite Civilians Deaths in Yemen," May 11, 2018, <https://theintercept.com/2018/05/11/american-saudi-arabia-weapons-deal-yemen-uae/>.

33 Laub, "Yemen in Crisis."

Furthermore, the destruction of schools leaves many children unable to complete their education, which will contribute to issues of unemployment and impoverishment after the conflict's end. As roads and bridges are destroyed, the population's ease of movement is severely impacted, and transit that would bring in imported food is disrupted or even halted altogether—contributing to the severe famine crisis that is spreading rapidly across Yemen.

As the coalition attacks cities, it forcefully displaces civilians in droves—the UN stating in 2015 that over 100,000 individuals were displaced in mere months.<sup>34</sup> This has been a large issue in Hodeidah, where Saudi Arabia and Houthi rebels have been battling for control, killing civilians and leaving uninhabitable structures in their wake. Amnesty International (2018) interviewed several civilians in Hodeidah, and one discussed the conditions of the conflict unfolding inside their city—even inside their home:

We were hoping the war would end, but it only got worse. The bombardment became heavier. It became so random. Bullets would land every which way, between homes, just randomly.... Even at night we couldn't get any sleep.<sup>35</sup>

While the US focused on profit, Saudi Arabia used its weapons against Iran and the Houthis to ensure that the balance of regional power continues to tilt in its favor—at the expense of civilians and infrastructure.

### ***Saudi Blockades against the Houthis Starve the Country of Resources***

The humanitarian issues affecting civilians in Yemen have occurred because both the Saudi-led coalition and Houthi forces have increasingly targeted cities in their struggle, resulting in civilian casualties, mass displacement, and the destruction of livelihoods. Throughout Yemen, Houthi forces have targeted populated cities with artillery, while the Saudi coalition engaged in powerful airstrikes from above. Recently, Saudi Arabia went further, in November 2017 initiating a blockade on airports and seaports in response to Houthi missile launches into Riyadh.<sup>36</sup> Eager to secure its power, Saudi Arabia has used

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34 "Yemen: The world must be prepared for rapid collapse into mass displacement crisis – UN expert," April 8, 2015, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15808&LangID=E>.

35 "Yemen: Fierce new offensive displaces tens of thousands of civilians from Hodeidah," May 17, 2018, <https://www.amnesty.org/en/latest/news/2018/05/yemen-fierce-new-offensive-displaces-tens-of-thousands-of-civilians-from-hodeidah/>.

36 Nawal Al-Maghafi, "The Catastrophe of Saudi Arabia's Trump-Backed Intervention in Yemen," November 17, 2017, <https://www.newyorker.com/news/news-desk/the-catastrophe-of-saudi-arabias-trump-backed-intervention-in-yemen>.

blockades to try to starve the Houthi forces from different regions, yet this has had ramifications for the civilian population.

Thanks to international pressure, Saudi Arabia limited the blockade in 2017, though it still cut off rebel-controlled areas like Hodeidah, home to a population of 400,000.<sup>37</sup> While it claims these blockades are meant to prevent Iran from providing Houthi rebels with weapons, it has also delayed or prevented humanitarian agencies from accessing civilians. As such, humanitarian aid has been unable to enter the blockaded areas, preventing civilians from receiving food, water, medical supplies, and other life-sustaining items provided by the UN and other international actors. Troublingly, Yemen's internal food sources have always been small, and it has typically imported over 90 percent of its food for years.<sup>38</sup> Without access to the outside world, Yemen cannot provide enough food to sustain the population.

The most recent blockade is not the first. Saudi Arabia has instituted these limitations for more than two years—which has been a direct cause of the food security issues plaguing the entire country. By making medical assistance inaccessible and preventing civilians from accessing clean water, the director of programs at Physicians for Human Rights has proclaimed that Saudi Arabia has “weaponized disease”<sup>39</sup> in Yemen. Overall, Saudi attempts to weaken the Houthi forces and prevent Iran's advancement in the Gulf has worsened the crisis, increasing civilian hardship.

### ***Iranian-backed Houthis Target Yemeni Civilians.***

The US and Saudi Arabia are not the only countries that have had a negative impact on the civilians of Yemen—the Iranian-backed Houthis have also left behind a path of destruction. In 2016, Iran increased its financial investments and the volume of weapons funneled to the Houthis,<sup>40</sup> and over the past few years the Houthi forces have used these supplies to carry out indiscriminate attacks on cities that have resulted in civilian deaths. These attacks, like Saudi Arabia's, force civilians to flee their homes—and those who are able to secure transit on buses typically spend what is considered an exorbitant amount in the Yemeni economy, anywhere from 10,000 to 150,000 riyals, equating to about USD \$30 to \$480.<sup>41</sup> Yet even those who have the money to escape

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<sup>37</sup> Ibid.

<sup>38</sup> “Yemen conflict: How bad is the humanitarian crisis?” *BBC News*, March 28, 2017, <http://www.bbc.com/news/world-middle-east-34011187>.

<sup>39</sup> Jonah Shepp, “The United States Is Complicit in the Destruction of Yemen,” August 8, 2017, <http://nymag.com/daily/intelligencer/2017/08/the-united-states-is-complicit-in-the-destruction-of-yemen.html>.

<sup>40</sup> Ibid.

<sup>41</sup> “Yemen: Fierce new offensive displaces tens of thousands of civilians from Hodeidah,” May 17, 2018, <https://www.amnesty.org/en/latest/news/2018/05/yemen-fierce-new-offensive-displaces-tens-of-thousands-of-civilians-from-hodeidah/>.

do not always make it out of Houthi-occupied territories, as rebel landmines put in place to halt the advancement of the Saudi coalition and government forces destroy the automobiles within which civilians flee. Not only are these landmines and other indiscriminate weapons in violation of international human rights agreements, but they will exist in Yemen for far longer than the war's duration, and will continue to injure or kill Yemeni civilians for years.

The actions of Saudi Arabia, Iran, and the Houthi rebels have put civilians in danger in their pursuit of power. Furthermore, the Houthis have instituted their own types of blockades, confiscating medicine and food from the population<sup>42</sup> and preventing civilians from getting medical attention. The situation in many cities has declined rapidly, and the recent nonstop Houthi assault on the third largest city, Taizz, has resulted in the indiscriminate use of weapons on a massively populated area,<sup>43</sup> resulting in deaths and injuries of Yemeni civilians.

### Policy Recommendations

The inability of the United Nations to bring the parties to a peaceful settlement warrants a closer look at potential policies that will be acceptable to each side, as the exclusion of any aggressor from the peace process increases its risk of failure.<sup>44</sup> The UN's current plan requires Houthi surrender and a return of the Hadi government—the same conditions that launched the conflict, presenting a high probability that it will be spoiled. Instead, a route that considers the role of each side in the conflict will be more valuable to future long-term peace in Yemen.

As such, there are six policy recommendations that aim to restore stability to the region, developed in consideration of the following: the knowledge that all sides will need to make concessions, but the exclusion of any party would result in further conflict; the need to stop the weapons pipeline, which allows the conflict to continue and escalate; and the obligation to begin rebuilding the country's infrastructure to allow the inflow of humanitarian relief. Together, these suggestions could move the conflicting parties closer to a resolution, and, most importantly, pull Yemen from its years-long humanitarian crisis.

#### *1. Begin with a dialogue that includes every aggressor in Yemen.*<sup>45</sup>

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42 "Yemen: All Sides Fuel Humanitarian Crisis," 2018, <https://www.hrw.org/news/2018/01/18/yemen-all-sides-fuel-humanitarian-crisis>.

43 "Saudi Arabia/Yemen: Houthi Missile Attacks Unlawful," April 2, 2018,

44 Salisbury, "Building Peace in Yemen From the Ground Up: How to End the Conflict."

45 Parties in Yemen Must Return to Negotiations or Risk Escalating World's Worst Humanitarian Crisis, Senior Officials Tell Security Council," April 17, 2018, <https://www.un.org/press/en/2018/sc13301.doc.htm>.

Though the UN has already proposed this, it has not actually been carried out. To move toward a solution to the humanitarian crisis, each side needs a seat at the mediation table for the opportunity to present their own views, their desired outcomes, and ultimately come to a favorable compromise together. A meeting of this caliber will require time to arrive at an acceptable solution, but it is the best chance at securing long-term peace.

*2. Halt US arms sales to Saudi Arabia.*

This will be a major step toward gaining Iranian trust in the peace process, as its concern with regional hegemony will hinge on whether or not Saudi Arabia is still acquiring weapons that can be used against Tehran at any moment. Furthermore, the halt of arms sales will have the most significant impact on the humanitarian crisis in Yemen by immediately limiting the number of attacks the Saudi coalition can carry out on cities that remain heavily populated. To do this, it will be essential to question the influence of defense contractors on US policy, and accept that a loss in profit is more favorable than a loss of life. This will likely be one of the most difficult steps toward mediation.

*3. Guarantee Saudi Arabia that Iran is no longer providing weapons to Houthis.<sup>46</sup>*

In the same vein as limitations on US weapons transfers to Saudi Arabia and its coalition, it will be essential for Iran to halt its weapons transfers to the Houthi rebels to ease Saudi Arabian concerns. These weapons have not only been used against Yemeni civilians, but directly against Riyadh as well. With the knowledge that Houthi rebels will be less able to strike Saudi Arabia, the monarchy should be more willing to hear a compromise.

*4. Allow humanitarian aid to pass through the ports.*

This will be a major step toward alleviating the humanitarian crisis. Since food security in Yemen depends on imports, it will be essential to reopen seaports and airports to allow the successful transfer of humanitarian aid to populations in need. Likely, it will be necessary for human rights groups to follow the path of aid to ensure it does not fall into the hands of militias. Furthermore, once these pathways are open, it will be necessary to allow aid groups to enter the country so they can begin working with civilians to provide medical assistance and begin rebuilding vital infrastructure to improve the quality of life in Yemen.

*5. Withdrawal of Houthi rebel troops from major cities in Yemen.*

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<sup>46</sup> "How-and why-to end the war in Yemen," November 30, 2017, <https://www.economist.com/leaders/2017/11/30/how-and-why-to-end-the-war-in-yemen>

To please Saudi Arabia, Houthi rebel troops will need to retreat from the cities they occupy throughout Yemen. This will decrease the influence of Iran throughout the country—since its main goal has been to help the Houthis take over and install a Shiite regime that would provide a base of operations close enough to Saudi Arabia that would allow it to assert its power in the Gulf region.

*6. Build a coalition government that provides Houthis with political representation.*

This means the UN will have to give up trying to restore President Hadi to full power, as none of the other aggressors in the conflict will support his return. Propping up the entire mediation process on his shoulders will only result in failure. Once a more inclusive government has been established, its infrastructure will need to be built up to tend to the needs of the people, which will likely require a coalition government that represents each of the warring factions. No group can be left out of the equation, or there will be greater incentive to spoil the arrangement.

## **Conclusion**

External forces, namely Iran, the US, and Saudi Arabia, have become rapidly involved in the conflict unfolding in Yemen. With Iran backing the Houthi rebels and the US backing the Saudi Arabian coalition of Gulf states, Yemeni civilians have entered a humanitarian crisis worsened by external forces using their country as a means to profit and establish favorable policies, regional power, and national security. While the US has sought the profit and policies end of this spectrum, Saudi Arabia and Iran have used Yemen as a battleground for regional hegemony in the Gulf and the Middle East. Through the use of American-made weapons and Iranian-funded artillery, Saudi Arabia and the Houthi rebels have indiscriminately killed Yemeni civilians all over the country, while collapsing the government's infrastructure and making it near impossible for civilians to obtain food, water, medical assistance, and safe transportation. Overall, the goals of external forces have completely influenced the direction of a civil war in Yemen that was initially meant to earn the Houthis greater political representation and remove the Hadi regime, turning it into a proxy war with varying goals: to return a US- and Saudi-friendly regime to power, to quell the growing regional aspirations of Iran, to profit and support the US government and defense contractors, and to ensure the national security of Saudi Arabia in the Gulf — a far cry from the conflict's initial intent. Ultimately, these desires have come at the expense of Yemeni civilians, and have destabilized the country even further, opening the door for new or increasingly influential aggressors.

Without political mediation soon, it will be difficult to turn the tide of today's worst humanitarian crisis.

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# PROHIBITING PUSH-BACK AT SEA: EUROPEAN REGIONAL DEVELOPMENT IN THE SCOPE OF NON-REFOULEMENT

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*Non-refoulement is recognized as the principle safeguard for asylum seekers worldwide. The main component of the 1951 Refugee Convention, non-refoulement prohibits states from arbitrarily pushing asylum seekers back to a state where they would face persecution. Non-refoulement has historically been applied only in those cases wherein asylum seekers successfully reached a state's sovereign territory, whether by legal or illegal means. However, this paper argues that the contemporary and massive influx of irregular migrants journeying toward European shores by sea routes has facilitated a new development in international law: the legal extension of non-refoulement to the process of state-led interception on the high seas. A number of European states have sought to re-direct or push-back the high volume of incoming migrants through state-led, maritime interception initiatives. The European Court of Human Rights (ECtHR) has ruled critically on the matter of intercepting migrants at sea and returning or re-directing them before processing takes place. This analysis begins with a brief discussion of non-refoulement as defined in international law, followed by an investigation of the extraterritorial scope of non-refoulement as argued by international law scholars and international organizations. Finally, a case analysis of *Hirsi Jamaa and Others v. Italy* as judged by the ECtHR in 2012, is put forward. This paper finds that the ECtHR has adopted an emerging stance on extending the scope of non-refoulement and its obligations beyond the traditional territories of states. The unfolding developments reflect a progressive shift in the global, judicial narrative around asylum.*

The principle of *non-refoulement* is an internationally recognized mandate. It has been well established in international refugee law and regional conventions. Pared down, the principle of *non-refoulement* (hereinafter “*non-refoulement*”) is the key stipulation safeguarding asylum seekers—even before formal processing of refugee-status begins—from being pushed back by any receiving state to any another state wherein their most fundamental human rights or life would be threatened. This summary is an oversimplification of the obligations imposed upon states by the principle. Nevertheless, the main purpose of *non-refoulement* is to prevent the forcible return of asylum seekers

before adequate processing of their applications for asylum takes place. The principle has been largely neglected in recent decades due to the influx of asylum seekers to Europe from the Middle East and North Africa (MENA). The advancement of more highly coordinated maritime operations to intercept asylum seekers in route has made it easier for states to evade their obligations under the principle. As has become evident in international waters between Europe and Africa, sea routes along the Mediterranean have become the main pathways for hundreds of thousands of irregular migrants attempting to reach Europe. Consequently, some European states have developed consistent practices of interdiction, the interception of migrant vessels before they breach state territory.

Scholars have observed that state interdiction on the high seas has led to what appears to be the push-back of migrants to their original places of departure, or to a third state before they have an opportunity to breach state territory and lodge applications for asylum.<sup>1</sup> A discerning eye may immediately detect a potential flaw in the accusation: can states be held accountable for *non-refoulement* if the migrants were prevented from breaching territory in the first place? After all, it is plausible that states, through interdictions, are merely using available resources to effectively divert a situation in which they would be forced to contend with the complications of *non-refoulement*. Put another way, by preventing irregular migrants from reaching their own territory, states are attempting to keep asylum seekers out of the space where *non-refoulement* obligations become legally binding. On the surface then, it may seem unclear as to whether or not states are legally culpable for the push-back of migrants from the high seas or international waters. I argue that regional international law has recently evolved to counteract this potential loophole for states to evade *non-refoulement* obligations through maritime interdiction. To be clear, international law has developed within the past two decades so as to extend *non-refoulement* to cases of interception on the high seas. In developing this assessment, I will investigate arguments put forward by international law scholars and international organizations regarding the extraterritorial scope of *non-refoulement*. Finally, I analyze the decision of the European Court of Human Rights (ECtHR) to rule against an interdicting state in *Hirsi Jamaa and Others v. Italy*.<sup>2</sup> The case is selected for its representation of developments pertaining to non-refoulement. Importantly, *Hirsi* was judged precisely within the period of mass movement of asylum seekers to Europe and thus reflects the migration trends leading states to resist their commitment to non-refoulement.

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1 Fran Cetti, "Border Controls in Europe: Policies and Practices Outside the Law," *State Crime* 3, no. 1 (Spring 2014): 15; Jennifer Hyndman and Alison Mountz, "Another brick in the wall? Neo-refoulement and the 2 *Hirsi Jamaa and Others v. Italy*, Decision of 23 February 2012, Application no. 27765/09 (*Hirsi*).

Furthermore, the judgement in *Hirsi* was designated a key case, or one of the “most important cases,”<sup>3</sup> by the ECtHR. The case in particular provides a clear view of the regional court’s stance regarding migrants’ rights at sea and the shifting dynamics of *non-refoulement*.

### The Extraterritorial Conundrum

The language used to describe *non-refoulement* is not straightforward and does not lend itself to an assumption that the principle must apply to events happening in international waters. Providing the essential framework for the principle, the 1951 Refugee Convention defines *non-refoulement* in article 33(1) as follows:

No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.<sup>4</sup>

It is important to recognize material left intentionally absent from the article. There is no mention of “extraterritorial” conditions. The article makes no explicit mandate to the effect that “no contracting state” shall likewise refoul refugees from any region *outside* of the state’s own territories. In this regard, one can reasonably ask: Is the principle legally binding if asylum seekers are refouled while still at sea? International waters are not part of any state’s territory, so applying the principle to events at sea would mean it is extraterritorial in scope. On one hand, the stipulation that *refoulement* should not occur “in any manner whatsoever” may certainly imply extraterritorial application, a point taken up by the UNHCR, and which will be later discussed. On the other hand, the ambiguous phrasing allows for conflicting interpretations.

As practice in recent decades has evinced, states have largely excluded the application of *non-refoulement* to the high seas. Several scholars of international law have studied the impact of maritime bilateral agreements on states’ adherence to *non-refoulement*; they found that states have indeed been more likely to view the principle as an optional protocol and not as a legal requirement in cases of interception.<sup>5</sup> By expanding recourse to border

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3 “Judgements and Decisions,” Case-law, European Court of Human Rights, accessed October 23, 2018, <https://www.echr.coe.int/Pages/home.aspx?p=caselaw/reports&c=>.

4 United Nations Convention Relating to the Status of Refugees, 606 UNTS 267 (entered into force 22 April 1954).

5 Guy S. Goodwin-Gill, “The Right to Seek Asylum: Interception at Sea and the Principle of Non Refoulement,” *International Journal of Refugee Law* 23, no. 3 (2011): 445, <https://doi.org/10.1093/ijrl>

security operations at sea, states have set up a system in which *refoulement* may be commonplace but does not result in a fear or threat of legal backlash.

This analysis does not take as its purpose any intention to demonize states for protecting national interests and further acknowledges the social, economic, and security challenges involved with the reception of mass groups of people. Security stresses imposed by asylum seekers venturing to Europe in recent years primarily through Italy, Malta, Greece, and Cyprus do speak to states' expressed need to regulate their borders.<sup>6</sup> Nevertheless, this analysis does work to identify new, emerging frames of legality or illegality in which states are compelled to operate while securing both their interests and the long-term safety of refugees. Questioning the scope of *non-refoulement* on international waters is then not only reasonable, but necessary.

### Sources with an Answer: Where *Non-Refoulement* Applies

Where legal diction and state practice render the extraterritorial scope of non-refoulement uncertain, reputable international organizations with legal influence have stepped in to clarify. In an advisory opinion—including the phrase, the Extraterritorial Application of Non-Refoulement, in its title—the UNHCR clearly adopts the stance that *non-refoulement* and the high seas go hand in hand.<sup>7</sup> The UNHCR states early on in the opinion:

The prohibition of refoulement...is applicable to any form of forcible removal, including deportation, expulsion, extradition, informal transfer or 'renditions'...this is evident from the wording of Article 33(1) of the 1951 Convention, which refers to expulsion or return (refoulement) "in any manner whatsoever."<sup>8</sup>

Legal scholars might take liberty in interpreting the use of "informal transfer" and "any manner whatsoever" by the UNHCR to include "forcible removal" from

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eer018; Seunghwan Kim, "Non-Refoulement and Extraterritorial Jurisdiction: State Sovereignty and Migration Controls at Sea in the European Context," *Leiden Journal of International Law* 30, no. 1 (March 2017): 49, <https://doi.org/10.1017/S0922156516000625>; Silja Klepp, "A Contested Asylum System: The European Union between Refugee Protection and Border Control in the Mediterranean Sea," *European Journal of Migration and Law* 12: 2, <https://doi.org/10.1163/157181610X491169>; Seline Trevisanut, "The Principle of Non-Refoulement and the De-Territorialization of Border Control at Sea," *Leiden Journal of International Law* 27, no. 3 (September 2014): 661, <https://doi.org/10.1017/S0922156514000259>.

<sup>6</sup> Anna Triandafyllidou and Angeliki Dimitriadi, "Migration Management at the Outposts of the European Union," *Griffith Law Review* 22, no. 3 (2013): 598.

<sup>7</sup> UNHCR, *Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol*, Geneva: 2007, <http://www.refworld.org/docid/45f17a1a4.html>. 3.

<sup>8</sup> *Ibid.*

the high seas. Even so, if the above statement by the UNHCR is too opaque, the following section of the advisory opinion is undoubtedly straightforward:

...UNHCR is of the view that the purpose, intent and meaning of Article 33(1) of the 1951 Convention are unambiguous and establish an obligation not to return a refugee or asylum-seeker to a country where he or she would be at risk of persecution or other serious harm, which applies wherever a State exercises jurisdiction, including at the frontier, on the high seas or on the territory of another State.<sup>9</sup>

Other relevant, international organizations share the UNHCR's view that *non-refoulement* is extraterritorial in scope. The International Court of Jurists (ICJ) explains that states can exercise legal decisions beyond the scope of its own territory over "all persons who fall under the authority or the effective control of the State's authorities...in a range of contexts."<sup>10</sup> The ICJ further observes that where the power to act beyond state territory exists, so too does the imperative to adhere to international principles: "Therefore, a State may have obligations to respect and protect the rights of persons who have not entered the territory, but who have otherwise entered areas under the authority and control of the State,<sup>11</sup> or who have been subject to extra-territorial action... by a State agent who has placed them under the control of that State." One can conclude, in light of the ICJ's assertion, that *non-refoulement* applies to the extraterritorial context of international waters.

Nevertheless, consensus on the extraterritorial scope of *non-refoulement* is not unanimously shared. James Crawford made the dissenting case that expulsion can only be conceptualized as taking place from within a recognized territory, which implicitly omits its application to the high seas. In his discussion on the 1951 Refugee Convention's reference to non-refoulement, Crawford states: "The generally accepted position is that the non-admittance of a refugee must occur from within or at the very least at the frontier of the State refusing entry."<sup>12</sup> While Crawford's view substantiates the notion that extraterritorial applications of non-refoulement cannot simply be the assumed reality, his contention is outnumbered by the formidable organizations discussed above and by various legal scholars. Seline Trevisanut contends

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9 Ibid.

10 International Commission of Jurists, *Migration and International Human Rights Law; A Practitioners' Guide*, Switzerland: 2014, 52.

11 Ibid.

12 James Crawford, *Chance, Order, Change: The Course of International Law, General Course on Public International Law* (Hague Academy of International Law: AIL-Pocket, 2014), 281.

that by “de-territorializing border-controls”<sup>13</sup> through acts of interdiction, states are creating their own maritime borders, and where there are borders—*non-refoulement*—must apply.<sup>14</sup> Trevisanut is joined in her discretion by scholars who share the consensus that *non-refoulement* is legally binding regardless of geographic parameters.<sup>15</sup> What matters most is where a state chooses to exercise its authority. Where the state makes decisions over persons on the high seas, the state is exercising legal responsibility that entails an imperative to adhere to international principles.

Although the legal insights of esteemed international bodies and experienced scholars attempt to resolve any doubt over the applicability of *non-refoulement* on the open sea, it is unreliable to use exclusively the opinions of individuals and organizations who do not ultimately decide how international law is directly applied. Their advice is but advice. In order to support such informed perspectives, it will also be necessary to consider the actions of an authoritative body in the realm of jurisprudence. This analysis will now consider a case judged by the ECtHR.

### **The Case of ‘Hirsi Jamaa and Others v. Italy’**

In at least one case before the ECtHR (hereinafter “the Court”), jurisprudence heavily indicated that *non-refoulement* is just as binding in international waters as it would be within state territory. This analysis takes as illustration the case *Hirsi Jamaa and Others v. Italy*.<sup>16</sup> The case involved approximately 200 irregular migrants who embarked from Libya by vessel between April and May 2009 with the ultimate goal of reaching the Italian Coast,<sup>17</sup> Hirsi Jamaa being one of the applicants. On May 6, when the migrant vessels were nearing Lampedusa but not yet within territorial waters of Italy, they were intercepted by three ships belonging to the Italian Revenue Police and Coastguard. The migrants were collectively transferred to Italian military ships and eventually returned to Tripoli, Libya.<sup>18</sup> Applicants would later claim the Italian officials neither attempted to identify the migrants, nor inform them of their final destination while in route. Applicants further claimed that when they finally became aware they were being repatriated to Libyan authorities, they contested

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<sup>13</sup> Trevisanut, “The Principle of Non-Refoulement And the De-Territorialization of Border Control at Sea,” 661.

<sup>14</sup> *Ibid.*, 661.

<sup>15</sup> Goodwin-Gill, “The Right to Seek Asylum: Interception at Sea and the Principle of Non-Refoulement”; Mariagjulia Giuffrè, “State Responsibility beyond Borders: What Legal Basis for Italy’s Push Back to Libya,” *International Journal of Refugee Law* 24, no. 3 (2013); Kim, “Non-Refoulement and Extraterritorial Jurisdiction: State Sovereignty and Migration Controls at Sea in the European Context.”

<sup>16</sup> *Hirsi Jamaa and Others v. Italy* (n 3 above).

<sup>17</sup> *Ibid.*, para 9.

<sup>18</sup> *Ibid.*, paras 10-11.

and urged the Italian operators not to hand them over.<sup>19</sup> Nevertheless, the migrants were collectively transferred to Libyan officials, and to this day, the subsequent outcome for most of the migrants involved remains unknown; it was confirmed that two migrants and case applicants died within months following the transfer under “unknown circumstances.”<sup>20</sup>

The specific legal question at hand and the Court’s assessment sheds light on the development of *non-refoulement*. In May 2009, eleven Somali nationals and thirteen Eritrean nationals who were among the migrants transferred to Libya filed an application with the Court; they claimed Italy was responsible for the violation of Article 3 of the European Convention on Human Rights (ECHR).<sup>21</sup> Article 3, prohibits inhuman and degrading treatment,<sup>22</sup> and states which breach *non-refoulement* obligations stand in violation of the article by way of sending applicants back to a state where they could then be subjected to inhuman treatment. The legal question presented in the case of *Hirsi* can be understood as follows: Did the collective expulsion of the migrants back to Libya constitute an act of *non-refoulement*? If so, then Italy stood in violation of Article 3. Ultimately, the court sided with the applicants on the majority of their claims. Although the Court’s assessment does not explicitly refer to *non-refoulement*, the court alleged that states are obligated not to expel a migrant in any situation where there is reason to believe the individual would face “real risk”<sup>23</sup> of suffering treatment contrary to Article 3. In *Hirsi*, the court conceded that repatriation to Libya constituted such a risk.<sup>24</sup> One can then recognize the obligation not to expel intersects directly with the obligation not to refool, where both are designed to guard against pending ill treatment. It is important to note, the court warned against collective expulsion in the given Essential to this discussion is the Court’s decision to recognize Italy’s jurisdiction, or the right of a state to exercise authority over persons,<sup>25</sup> in the process of interception at sea. Additionally, a consenting judge’s opinion that push-back from international waters does case irrespective of the fact that repatriation occurred entirely outside of the territorial waters or mainland of either Libya or Italy. indeed constitute a breach of *non-refoulement* is also relevant. Notably, the court assigned responsibility to Italy via the state’s effective exercise of jurisdiction on the high seas:

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19 Ibid., para 12.

20 Ibid., para 15.

21 Ibid. Para 3,

22 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, CETS No. 5 (ECHR).

23 Ibid., para 114.

24 Ibid., para 131.

25 Anthony Aust, *Handbook of International Law: Second Edition* (United Kingdom: Cambridge University Press, 2010), lv.

The Court observes that in the instant case the events took place entirely onboard ships of the Italian armed forces, the crews of which were composed exclusively of Italian military personnel. In the Court's opinion, in the period between boarding the ships of the Italian armed forces and being handed over to the Libyan authorities, the applicants were under the continuous and exclusive *de jure* and *de facto* control of the Italian authorities. Speculation as to the nature and purpose of the intervention of the Italian ships on the high seas would not lead the Court to any other conclusion.<sup>26</sup>

Here, the court has implicitly established that jurisdiction is not a product of state borders, but is instead determined by the implementation of a state's authority and control over circumstances. The court suggests in *Hirsi* that where the state created a space to exert its power over outcomes on international waters, it simultaneously created a space of responsibility outside of its own borders. In his concurring opinion annexed to the court's judgement, Judge Pinto de Albuquerque concretely associates the pushback of asylum seekers from international waters with *non-refoulement*: "the prohibition of *refoulement* is not limited to the territory of a State, but also applies to extraterritorial State action, including action occurring on the high seas."<sup>27</sup> Overall, the court has made clear in the given case that exercise of authority and control throughout interdiction processes of migrants at sea sufficiently creates an obligatory link between state behavior and human rights protocols.

It is true the case discussed in this analysis constitutes only a single instance of high seas interdiction among a multitude of documented interceptions. It is fair to speculate if the judgment on one case is truly representative of what one might hope to regard as consistent trend in international law. However, a critical nuance to take into consideration is that only a miniscule number of migrant push-backs from international waters actually become cases before an international court. *Hirsi* exemplifies a situation that is exceptionally difficult to bring to court. It is commonly understood that supranational courts such as the ECtHR cannot admit cases between individuals and a state unless those individuals have already exhausted all domestic legal remedies available to them. However, for multitudes of asylum seekers, such as those involved in the selected case, access to domestic, legal recourse is excessively difficult given the nature of the surrounding environment or conflict; recourse to legal means is particularly difficult when repatriated migrants face further detainment in the original state of departure or a third state. Understandably then, one is hard pressed while searching through the Court's database to find

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<sup>26</sup> *Ibid.*, para 81.

<sup>27</sup> *Ibid.*, 65.

an additional case involving interception and push-back of migrants on the high seas. Consequently, the issue is not that *Hirsi* represents an instance of analytic confirmation bias, but rather that the case is one of very few in which the court has had an opportunity to confront. Hence, it is reasonable to deduce the Court's ruling on *Hirsi* does genuinely represent a recent development in international law, one ensuring that *non-refoulement* is made applicable to events on international waters. The ECtHR is, presently, an especially worthy subject of analysis when it comes to matters regarding *non-refoulement* due to the influx of asylum seekers to European shores within the past decade. While other regional courts like the Inter-American Court of Human Rights have also dealt with questions of *refoulement*, the present system of bilateral arrangements designed to patrol the Mediterranean and secure European borders presents a special context for observation. It is in this context where *non-refoulement* obligations may be either shirked or reinforced, that the Court likely to receive legal questions concerning push-back, and in this context, the Court will be none other than the ECtHR. It is therefore most helpful to look to this regional Court as an indicator of developing trends in *non-refoulement*.

### Conclusion

Despite being well embedded in international law, ambiguity surrounding the language of *non-refoulement* and the rise of state interdictions have rendered the extension of *non-refoulement* to high seas a matter of legal inquiry. Overwhelmingly, international organizations and legal scholars are certain that states must find themselves adherent in their obligations to *non-refoulement* as surely on the high seas as anywhere else within their own territory. Likewise, the ECtHR has adopted a clear stance in its ruling on *Hirsi Jamaa and Others v. Italy*; it regarded Italy fully capable of exercising jurisdiction on international waters and equally capable of taking notice of international human rights protections for asylum-seekers. International bodies and scholars discussed in this analysis have expressed the view that *non-refoulement* has always been designed to encompass events on international waters. Nevertheless, the fact that their extensive written opinions on the matter have largely been issued just within the past two decades strongly indicates that the enforcement of *non-refoulement* on the high seas has only recently become a topic of importance on the international agenda. Thus, this analysis draws the conclusion that the heavy calls to recognize *non-refoulement* on open waters is a relatively new development currently taking form in international law. The ECtHR supported such a development in regards to *non-refoulement* in *Hirsi*, but even this judgement is as recent as 2012. In regards to the novelty of international attention now given to *non-refoulement* on the high seas, it may as yet be

too soon to claim that the extraterritorial application of the principle has fully developed as hard, concrete law. Future cases will be necessary to make such a conclusion.

The analysis is not without certain limitations. For one, it is not reasonable to allege that the recent development of law, which extends *non-refoulement* to cases of state-led acts of interdiction, is truly a development in international law. Given certain circumstances in which *non-refoulement* has not been upheld, it is clear that its extraterritorial application is not understood as hard law by all states on the world stage. For example, Kim notes that the American stance towards *non-refoulement* obligations throughout its Caribbean interdiction programs is largely inconclusive; the US has not outwardly adopted the philosophy that interdicted migrants cannot be refouled, may indeed be culpable of refouling migrants from the Caribbean, and is not currently undergoing significant legal scrutiny for the matter.<sup>28</sup> Additionally, European states engaging in joint operations with African states to intercept and repatriate migrants are similarly left largely uncontested on the legal front. Again, Kim notes that while both Spain and states of northern Africa are indirectly involved in *refoulement* operations due to their formalized cooperation in the interception of migrants, no condemning legal case has been brought against the states for doing so.<sup>29</sup>

In view of the above limitations, this analysis ultimately concludes that *non-refoulement* is certainly recognized as applicable to high seas interdictions in principle, but the newly emergent stance towards *non-refoulement* remains contentious and may therefore be regarded as developing. To be sure, the on-going development is perhaps best regarded as a regional evolution in law, particular to Southern Europe and the Mediterranean coastal states. Even so, the questionable legality of pushing-back asylum seekers still at sea is garnering attention on an international scale.

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28 Kim, "Non-Refoulement and Extraterritorial Jurisdiction: State Sovereignty and Migration Controls at Sea in the European Context," 62.

29 Ibid.

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# NATIONALISM IN SPAIN: THE CASES OF CATALONIA AND THE BASQUE COUNTRY

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*Nationalism in Europe represents a historical phenomenon in constant evolution that has affected most of the countries in the region in one way or another. Spain is not the exception, and it has had to deal with pressures from two distinct autonomous communities, Catalonia and the Basque Country, who have continuously asked for improved mechanisms of self-government, but facing strong negative responses from Madrid. Such clashes have prompted part of the population in both regions to take either political or violent approaches in order to achieve their self-determination goals, actions that have created cleavages in the social and political spheres of Spain. This article will attempt to address the current situation of nationalism in Spain in the context of two major events that occurred in the past two years—the unilateral declaration of independence made by the Catalan government in 2017, and the announcement of the final dissolution of the Basque terrorist group ETA in 2018—in an effort to establish the main causes for the call for independence that have made the conflicts escalate through history, as well as the role the supranational institutions like the European Union could play in strives of such nature.*

*Keywords: Spain, Catalonia, Basque Country, European Union, Independence, Self-Determination*

The nature of nationalism in Europe has been constantly evolving, and it has managed to make a shift from the interstate to the intrastate sphere, which entails that the existence of multi-ethnic states has challenged in some way the ability of central governments to address nationalist demands in the past few decades. In such context, this paper will offer an overall look to the ongoing conflict between Spain, Catalonia, and the Basque Country, taking into consideration that several actions made by all three sides—including acts of terrorism, sanctions, and protests—have favored the escalation of hostilities in different historical periods.

The first section of this paper provides a brief historical background in order to understand how the conflict has reached different breaking points in time, which have led to non-violent acts—like unilateral declarations of independence—and highly violent ones—like terrorist attacks. The second section establishes the main reasons why Catalonia and the Basque Country have, at some point in history, demanded their independence from the Kingdom of Spain, which range from economic discontent to self-determination claims. The third section establishes the position of the main actors in the dispute and how their actions have influenced the development of the conflict, as well as the actions carried out by the Spanish government to manage the conflicts. The fourth section will explore the role the European Union has played in both conflicts, and finally, as a conclusion, there will be a brief reflection regarding the future of Spain and its integration, along with the involvement of the EU in struggles of this nature.

## **What is happening in Spain?**

### ***Catalonia***

The citizens of the region consider that Catalonia has the right to be a separate state from Spain due to several cultural, linguistic and historical motives. Since approximately the early twelfth century—before the County of Barcelona joined the crowns of Castile and Aragón in the late fifteenth century—the region known today as Catalonia already was already respected and recognized for its distinct language, institutions, and rich culture. The most severe period of repression came during the dictatorship of Francisco Franco in the mid twentieth century, when the Catalan language was strictly forbidden throughout the country, and venerable regional institutions—like courts, tribunals, and municipalities—were abolished by the central government. To ensure that these measures would not be violated, several Catalan political activists and scholars were either persecuted, shot or exiled.

Following Franco's death in 1978, Spain returned to a democratic path and established a new constitution that divided the country in 17 autonomous communities, Catalonia being one of them. Even though they were granted significant levels of autonomy, complete sovereignty of these communities was completely ruled out. This decision would be upheld by the government during the rest of the twentieth century and the first years of the twenty-first.

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By 2006, the Catalan Parliament proposed a new statute of autonomy with a novel financing model, which was received by the Constitutional Tribunal in Spain for its approval. However, in 2010 the Tribunal modified the text in manner largely similar to the previous 1979 Statute, meaning that Catalonia would not be allowed to manage its own tax system or have inherence in tax distribution for the region. This reversal fueled protests on the streets of the region. Catalan citizens demanded better responses and management from the central government.

In 2014, a referendum to poll Catalans on the issue of separation from the Kingdom of Spain was carried out. Despite being denounced by the government of President Mariano Rajoy, 2.25 million voters—around a one-third of the regions 7.5 million people—expressed their desire to become independent from Spain. 81 percent of the votes cast in the 2014 referendum were in favor of separation.<sup>1</sup> After Catalonian nationalist forces under the leadership of Carles Puigdemont won the elections in Catalonia in 2015, the struggle for an independent state intensified culminating in a new referendum carried out on October 1, 2017. This time 42 percent of the population of Catalonia participated and 90 percent voted for independence.<sup>2</sup>

As a result of the referendum, on October 27, 2017 the Catalan Parliament approved a declaration of independence without the consent of national authorities, further escalating the conflict. The Spanish government responded by enforcing Article 155 of the Constitution, which establishes that “if an Autonomous Community does not fulfill the obligations imposed upon it by the Constitution or other laws, or acts in a way seriously prejudicing the general interests of Spain, the Government (...) may (...) take the measures necessary in order to compel the latter forcibly to meet said obligations, or in order to protect the above-mentioned general interests”.<sup>3</sup> Using this article, the national government dismissed the regional Catalan government as well as the regional police chief, and called for snap elections to be held on December 21, 2017.

### **Basque Country**

A brief comparison to Basque country can further illuminate Catalonian nationalism. Similar to Catalonia, the Basque Country, or Euskadi, has a long

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1 Erin Fuchs, “81% of Catalans vote for independence from Spain in symbolic referendum”, *Business Insider*, November 9, 2014, <http://www.businessinsider.com/81-of-catalans-vote-to-secede-from-spain-in-symbolic-referendum-2014-11>

2 Camilo Baquero, “Un 90% de ‘sies’ con 2,2 millones de votos y una participación del 42%, según el Govern”, *El País*, October 2, 2017, [https://elpais.com/ccaa/2017/10/02/catalunya/1506898063\\_586836.html](https://elpais.com/ccaa/2017/10/02/catalunya/1506898063_586836.html)

3 Spanish Constitution, Chapter 3, Article 155. [http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist\\_Normas/Norm/const\\_espa\\_texto\\_ingles\\_0.pdf](http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_espa_texto_ingles_0.pdf)

and rich history that can be traced back to the first centuries of the Roman Empire. It is considered by many that Basques are one of the few nationalities that have managed to stand the passage of time and the numerous invasions of European history.<sup>4</sup>

During the Middle-Ages what is known today as the Basque country was known as the Kingdom of Navarre. When it was incorporated to the newly established Kingdom of Spain in the late sixteenth century, the Spanish monarchy allowed the region to keep self-governance institutions and organizations. This limited autonomy came to an end in the seventeenth century when Spain eliminated the regions rights of self-governance, transforming Navarre into another province of Spain—the Basque Country.

Despite losing their autonomy, Basques continue to defend their identity and several nationalist movements began to form, some of them promoting independence from the Kingdom of Spain. Similar to Catalonia during the dictatorship of Francisco Franco, Basque nationalists were violently persecuted as both language and cultural diversity were strictly forbidden in Spain. The use of Basque language as well as any other sign of national identity would be sanctioned by the state.

It is in this context of extreme repression that the nationalist group *Euskadi ta Askatasuna*, better known as ETA, was born. In the early 1960s ETA performed nonviolent acts as small scale campaigns and mobilizations in the region, promoting the independence of the Basque Country. While there was initial active support from the Basque population given the repression of Franco's regime, as the acts of violence escalated so did the rejection to the group.

ETA opted for violence as their main tool, performing several terrorist attacks in Spain, which continued even after Franco's dictatorship ended. ETA obtained financial resources to organize its armed campaign from nationalist political parties, associations, and private enterprises, using extortion as one of its main strategies.<sup>5</sup> Eventually, after more than 40 years of struggle and numerous peace talks with the Spanish government, ETA declared in 2011 the complete termination of their armed activities and made a public announcement in 2018 of the final dissolution of the group.

### **Reasons for the Calls for Independence**

While cultural and linguistic motives are part of the key factors in this ongoing conflict, these seem to have evolved into issues related to regional economic

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<sup>4</sup> Paddy Woodworth, *The Basque Country: A Cultural History* (Oxford: Oxford University Press, 2008)

<sup>5</sup> Mikel Buesa Blanco, "Financiación del terrorismo", *Revistas ICE*, no. 893 (November-December 2016):

independence. The claim for self-determination is only the first of two reasons fueling Catalanian nationalism. The second reason is economic discontent.

Catalonia accounts for almost 20 percent of Spain's total GDP as well as almost 25 percent of the total amount of taxes collected in Spain, making it one of the wealthiest regions in the country, however public investment in the region is considered by residents to be unequal.<sup>6</sup> Should Catalonia become independent, it "would come with a GDP of \$314 billion" and its "GDP per capita would be \$35,000", according to calculations made by the OECD.<sup>7</sup> This would make Catalonia one of the 40 largest economies in the world<sup>8</sup> and as wealthy as countries like South Korea (Per-capita GDP of \$38,335 in 2017).<sup>9</sup>

The reluctance of the Spanish government to modify Catalonia's statute of autonomy, and the general economic crisis in Spain have prompted not only the main (nationalist) political parties in the region, but also an increasing part of Catalonia's population, to believe that Catalonia can and should function as an independent state.

The case of the Basque Country is similar, as it also represents a dynamic economy in with a considerable amount of specialized industrial activity, as well as dozens of important SMEs.<sup>10</sup> In 2015 the Basque Country had the highest salaries of all Spain, €1950 per month<sup>11</sup>, as well as a Human Development Index similar to countries like Canada, and the second lowest rate of unemployment of all Spain, 10.6 percent.<sup>12</sup>

One of the main arguments used by the nationalist forces in both regions is that their right to self-determination is being denied, and, therefore, their claim for independence is fair.<sup>13</sup> The claim to this right has a couple of implications and its application is still quite unclear according to international law.

6 Josep Desquens, "Europe's stateless nations in the era of globalization: The case for Catalonia's Secession from Spain", *The SAIS Europe Journal of Global Affairs*, April 1, 2003, <http://www.saisjournal.org/posts/europe-s-stateless-nations-in-the-era-of-globalization>

7 Harriet Alexander and James Badcock, "Why does Catalonia want independence from Spain?," *The Telegraph*, October 10, 2017, <https://www.telegraph.co.uk/news/0/does-catalonia-want-independence-spain/>

8 GDP (current USD\$), World Bank Group, accessed October 20, 2018, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>

9 GDP per capita, PPP (current international \$), World Bank Group, accessed October 20, 2018, [https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD?year\\_high\\_desc=true](https://data.worldbank.org/indicator/NY.GDP.PCAP.PP.CD?year_high_desc=true)

10 Alberto Uriona, "Euskadi cuenta con 58 pymes y líderes mundiales en sus negocios", *El Diario*, June 28, 2013, [https://www.eldiario.es/norte/Euskadi-cuenta-lideres-mundiales-negocios\\_0\\_148035508.html](https://www.eldiario.es/norte/Euskadi-cuenta-lideres-mundiales-negocios_0_148035508.html)

11 Susana Alcelay, "País Vasco paga los mejores sueldos (1.950 euros al mes) y Extremadura, los peores (1.334)", *ABC Economía*, September 26, 2017, [https://www.abc.es/economia/abci-pais-vasco-paga-mejores-sueldos-1950-euros-y-extremadura-peores-1334-201605050904\\_noticia.html](https://www.abc.es/economia/abci-pais-vasco-paga-mejores-sueldos-1950-euros-y-extremadura-peores-1334-201605050904_noticia.html)

12 "EPA del País Vasco", Datos Macro, accessed June 15, 2018, <https://datosmacro.expansion.com/paro-epa/espana-comunidades-autonomas/pais-vasc>

13 R. Ridderhof, "Catalonia's referendum for independence", *Bibliothèque du Palais de la Paix*, September 29, 2017, <https://www.peacepalacelibrary.nl/2017/09/catalonias-referendum-for-independence/?lang=fr>

The Declaration on the “Granting of Independence to Colonial Countries and Peoples” – United Nations Resolution 1514 (XV) of 1960 – indicates that “All peoples have the right to (...) freely determine their political status and freely pursue their economic, social and cultural development,”<sup>14</sup> Invoking this norm, the independence of Catalonia and the Basque Country may seem a natural exercise of international law.

This Declaration was written under the context of decolonization, and was intended for use where people were oppressed, faced military occupation and massive violation of human rights.<sup>15</sup> While it is true that the population in both regions suffered from years of repression under Franco’s regime, today’s reality is different. Catalonia and Euskadi represent autonomous communities that have been granted high levels of self-governance, whose people are not oppressed nor prosecuted and whose cultural and linguistic expression is recognized by the nation state. This complicates an appeal to international law. However it is considered by part of the population in both regions that the denial of an independent state represents a subsequent denial in the exercise of the development mentioned in the UN Resolution 1514.

Although nationalist sentiment has been a key driver in the claims for independence for both regions, the truth is that, as time has gone by, the original ideals seem to have combined with concerns regarding economic turmoil, especially after the economic crisis of 2008-2009 that left Spain in a precarious situation. Given that repression and the denial of Catalan and Basque identity have not been an issue since the end of Franco’s dictatorship, the application of international law in these cases of claim for independence is still unclear.

## **Conflict Escalation and Management**

### ***Catalonia***

The two referendums carried out in 2014 and 2017 have provoked a level of tension not experienced in decades in this region. There are two key positions which are worth noting in this section: the Catalan government—led by Carles Puigdemont—and the Spanish government—represented at that time by Mariano Rajoy.

14 General Assembly resolution, 1514 (XV). *Declaration on the Granting of Independence to Colonial Countries and Peoples*, A/RES/15/1514, December 14, 1960, <http://www.un-documents.net/a15r1514.htm>

15 “Cataluña en España. Por la convivencia democrática”, Ministerio de Asuntos Exteriores y de Cooperación, accessed June 15, 2018, <http://www.exteriores.gob.es/Portal/es/SalaDePrensa/Multimedia/Publicaciones/Documents/Porlaconvivencia/POR%20LA%20CONVIVENCIA%20DEMOCRATICA.pdf>

As for the Catalan position, in an interview with Al Jazeera<sup>16</sup> President Carles Puigdemont stated that this is not a social conflict, but a political one, since the Spanish state “does not understand Catalonia is a nation with the right to decide and that is tired of the state not complying”. In his opinion, “it is not a matter of national pride, but a matter of dignity”, and even though the government has granted certain power to the autonomous communities, “this autonomy has been eroding with time, and the Spanish government is trying to recentralize these powers”. In this sense, the Catalan President stresses the fact that there have been clear and unsolved political tensions with the Spanish government, and that Catalan sentiment goes far beyond mere lines in a Constitution.

On the other hand, the basic position of the Spanish government is that the calls for a referendum—and the subsequent declaration of independence—are illegal and that its only intention is to preserve national unity, a governmental obligation under Article No. 2 of the Spanish Constitution, according to which the division of the territory is not permitted, stating a clear intent to protect the rule of law and preserve territorial integrity. Furthermore, the Spanish Constitution recognizes the autonomous communities’ self-governance and guarantees the exercise of autonomy in the management of their interests (particularly in financial matters), granting them the power to manage, through their own regulations, their budgetary matters.<sup>17</sup>

It is also important to note that as Prime Minister Rajoy’s Popular Party (PP) was one of those opposing the reform to the Catalan statute of autonomy in 2006, alleging it was unconstitutional and initiating a long process that ended in 2010 with the removal of several articles regarding financial administration by the Catalan government.<sup>18</sup> This action prompted the present struggles between the regional and national governments after Rajoy became president in 2011.

### **Basque country**

In the Basque Country the conflict has escalated to levels of extreme violence that included terrorist acts performed by ETA in both Spain and France for over 40 years—including assassination and bombing in public spaces. Since the end

16 “Puigdemont: What goes for Scotland, goes for Catalonia”, Al Jazeera, last modified April 1, 2017, <https://www.aljazeera.com/programmes/talktojazeera/2017/04/puigdemont-scotland-catalonia-170401095538077.html>

17 “Cataluña en España. Por la convivencia democrática”, Ministerio de Asuntos Exteriores y de Cooperación, accessed June 15, 2018, <http://www.exteriores.gob.es/Portal/es/SalaDePrensa/Multimedia/Publicaciones/Documents/Porlaconvivencia/POR%20LA%20CONVIVENCIA%20DEMOCRATICA.pdf>

18 María Peral, Joaquín Manso and Eva Belmonte, “El deber de conocer el catalán no puede ‘equivaler’ al de conocer el castellano”, *El Mundo*, July 9, 2010, <https://www.elmundo.es/elmundo/2010/07/09/barcelona/1278675524.html>

of Franco's regime and the transition to democracy, the Spanish government attempted to establish talks with ETA to achieve the disarmament of the group, struggling to find common ground.

ETA demanded from Spain: a) complete amnesty for its members, as well as the legalization of all nationalist political parties in the Basque Country; b) the removal of the National Police and the Civil Guard from the Basque Country; c) the adoption of measures to improve the living standards and conditions of the working class in the region; d) the recognition of their national sovereignty, declaring Euskara as its official language, as well as the establishment of their own police and military forces; and e) the granting of enough autonomy to develop economic, social and political structures to determine their own progress and wellbeing.<sup>19</sup>

In 1976, the Spanish government had a meeting with ETA representatives in Geneva, where they proposed a truce in exchange for the liberation of imprisoned members, as well as the return of those exiled.<sup>20</sup> ETA established that any negotiation with the government would be preconditioned on the right to self-determination, a condition that the government was not willing to accept.

In 1987, the Spanish government started intense negotiations—known as the Algiers Process—with ETA's second in command, Eugenio Etxebeste, to address the normalization of the Basque Country, the possibility of carrying out a political transformation in the region, measures for dealing with members' arrests, and the end of violence in Spain.<sup>21</sup> Several new ceasefires were established during these rounds of talks, but the truce was broken in 1989 after ETA returned to violence, assassinating a civil guard officer. This prompted the Spanish government to end another failed attempt of negotiation with the group. Acts of these nature would last for almost ten more years.<sup>22</sup>

In 2005 the Spanish government—led by Prime Minister José Luis Rodríguez Zapatero—approved a resolution to reopen dialogs with ETA under the condition that they lay down their arms.<sup>23</sup> The brief contacts with the terrorist group during that year were unfruitful and in 2006 ETA members planted a car bomb

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19 "Los habituales contactos con ETA se intensificaron en los dos últimos años", *La Vanguardia*, accessed June 15, 2018, <http://hemeroteca.lavanguardia.com/preview/1988/01/31/pagina-16/33032928/pdf.html>

20 Ana M. Concejo, "Historia de ETA: Negociaciones, diálogo con la banda y treguas", *Cadena SER*, May 2, 2018, [http://cadenaser.com/ser/2018/05/02/politica/1525285117\\_723532.html](http://cadenaser.com/ser/2018/05/02/politica/1525285117_723532.html)

21 "Algiers process and its failure", Basque Peace Process, accessed October 20, 2018 <http://www.basquepeaceprocess.info/history/negotiation-attempts/the-algiers-process-and-its-failure/>

22 Richard Gillespie, *Spain and the Mediterranean: Developing a European policy towards the south* (New York: St. Martin's Press Inc., 2000).

23 Teresa Whitfield, "The Basque conflict and ETA. The difficulties of an ending", *United States Institute for Peace*, December, 2015, [https://cic.nyu.edu/sites/default/files/whitfield\\_basque\\_conflict\\_eta\\_dec2015.pdf](https://cic.nyu.edu/sites/default/files/whitfield_basque_conflict_eta_dec2015.pdf)

at the Madrid's Barajas Airport, after which the government suspended all attempts at dialog with the group.

In 2010, as a result of the initiative of representatives from Basque left-wing political parties to carry out a diplomatic transition to peace, around 20 representative international mediators specialized in peace processes and conflict resolution signed a document known as the Brussels Declaration, in which they requested ETA to establish a definitive ceasefire and encouraged the Spanish government to engage once again in a peace process with the terrorist group.<sup>24</sup> ETA finally agreed to a complete, permanent and verifiable disarmament in order to continue their campaign for self-determination with a non-violent and democratic approach.<sup>25</sup> In the past two years (2017-2018) ETA made a unilateral announcement of the definitive termination of their armed activities, providing French authorities the location of their remaining armament and, eventually, making a public declaration of the dissolution of the group in May 2018.<sup>26</sup>

### The European Union's Role in the Conflicts

The inability of the Spanish state to achieve peace and the existence of independence-movement related conflict may lead some to question if supranational organizations like the European Union can and should act to assist in solving this type of situation.

In the case of Catalonia the EU has maintained its distance from the conflict, partly because it has no mechanism to solve this kind of disputes, and partly because Article 4.2 of the Treaty on European Union states that the EU shall respect the member states' "essential State functions, including ensuring the territorial integrity of the State."<sup>27</sup> In this case in particular the EU would be unable to dictate the actions of its member states regarding their territorial organization.

The only scenario in which the EU could intervene would be in the case of the existence of an actual negotiation between the Government of Spain and the Government of Catalonia. Given that this type of agreement does not exist,

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24 "Mediadores en conflictos y políticos irlandeses piden a ETA un alto al fuego", *El País*, accessed June 15, 2018, [https://elpais.com/elpais/2010/03/29/actualidad/1269850623\\_850215.html](https://elpais.com/elpais/2010/03/29/actualidad/1269850623_850215.html)

25 Jorge A. Rodríguez and Luis R. Aizpeolea, "ETA anuncia un alto al fuego 'permanente, general y verificable'", *El País*, January 10, 2011, [https://elpais.com/elpais/2011/01/10/actualidad/1294651023\\_850215.html](https://elpais.com/elpais/2011/01/10/actualidad/1294651023_850215.html)

26 David Guadilla and M. J. Tomé, "ETA anuncia su disolución en una carta", *El Correo*, May 2, 2018, <http://www.elcorreo.com/politica/anuncia-carta-disuelve20180502150353-nt.html>

27 Consolidated version of the Treaty on European Union, Title I: Common Provisions, Article 4, OJ C 326, October 26, 2012, p.18, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012M004#document1>

the EU has maintained its position of ruling the conflict as an internal matter that needs to be solved by Spain.<sup>28</sup>

Following the unilateral declaration of independence in October 27th 2017, EU representatives have stated their support for the Spanish government over the Catalan one. European Council president Donald Tusk stated that the declaration changed nothing in the political arena, and that they will continue to deal only with the Spanish government. The EU refused to recognize Catalonia as an independent actor.<sup>29</sup>

This represents a contrast with the way in which the EU has regarded the conflict in the Basque Country, which it has viewed in security terms given the decades of violence experienced in the region. In this case, it is possible to identify two key actions taken by the EU to address the conflict in the Basque Country. The first one is the Council Common Position 2001/931/CFSP, which included ETA in the EU's list of terrorist organizations in 2001 after a wave of bomb attacks in Spain. This resolution not only established the fight against terrorism as a crucial goal for the European Union, but also highlights the compromise of all member states to take the necessary measures to tackle terrorism based on the United Nations Security Council's Resolution 1373.<sup>30</sup> The second is a show of its support for the peace process in the region initiated by the Spanish government in 2006 under the leadership of ex-Prime Minister José Luis Rodríguez Zapatero. The European Parliament approved—with a total of 321 votes in favor, 311 votes against and 24 abstentions—a resolution which “supports the fight against terrorism and the peace initiative in the Basque Country undertaken by Spanish democratic institutions within the framework of their exclusive competences.”<sup>31</sup> While this action does show the desire of the EU to achieve peace and security on the continent, it's difficult to show that it had a substantial effect on the future peace processes.

It is vital to note that the involvement of the European Union in regards to the Basque conflict has taken place only in the context of the terrorist acts carried out by ETA throughout the years as they represent a threat to the internal security of one of its member states. The EU has not discussed the issue of the Basque Country's independence or territoriality, relying on

28 Natalie Nougayrède, “The EU has tied its own hands. It cannot intervene in Catalonia”, *The Guardian*, October 3, 2017, <https://www.theguardian.com/commentisfree/2017/oct/03/eu-catalonia-brussels-spain>

29 Catalan crisis: EU leaders rule out involvement in crisis, *BBC News*, last modified October 19, 2017, <https://www.bbc.com/news/world-europe-41683390>

30 Security Council unanimously adopts wide-ranging anti-terrorism resolution; calls for suppressing financing, improving international cooperation. UNSC SC/7158., *United Nations*, accessed June 15, 2018, <https://www.un.org/press/en/2001sc7158.doc.htm>

31 Richard Freedman and Jack Blackwell, “EP supports peace initiative in Basque Country and expresses solidarity with victims”, *European Parliament*, October 20, 2006.

the same arguments used to address Catalonia's case. Some experts believe that most representative states in the EU will not be willing to support the self-determination processes as that could stimulate independence intentions other European regions and, eventually, hinder the integration process of the EU.<sup>32</sup> Therefore it is important to note that supranational institutions like the EU at this time can play at best a limited role in cases related to the internal administration of its member states.

### **Conclusion and Future Prospects**

It is important to recognize that both Catalonia and the Basque Country represent autonomous regions with a long and rich history that make them stand out from the rest of Spain and fill their citizenry, at least to a degree, with ideas of independent nationhood. These claims have been based on both economic reasons— given that both represent wealthy regions that have experienced some economic issues with the central government—and legal motives—appealing the right of self-determination under the Declaration on the Granting of Independence to Colonial Countries and Peoples.

The development of the two conflicts has been strikingly different. In the case of Catalonia, the main actors have been the Catalan and Spanish governments, who have opted for taking a more political approach, but in the Basque Country the process has been characterized by a wave of terrorist attacks performed by ETA for a period of almost 50 years. Finally, the European Union has played a relatively distant role to address both conflicts, mainly based on the absence of a mechanism to intervene in the internal affairs of its member states.

In this respect, it is also important to note that there have been mistakes on all sides that have heightened the level of tension. The obstacles imposed and the constant denials by the central government to both Catalonia and the Basque Country of more autonomy— particularly in economic and social affairs— have fueled a slow but steady discontent toward the Spanish government. It is possible that conciliatory measures from Madrid granting better economic concessions to the regions could decrease the urgency for independence and promote the integration of Spain.

On the other hand, the Catalan nationalist government has rashly carried out two referendums deemed illegal under the Spanish Constitution ignoring the claims from Madrid and executing a declaration of independence after a referendum in which less than half of the electorate voted.

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32 José Luis Barbería, "¿Es viable una Euskadi independiente?", *El País*, March 31, 2002, [https://elpais.com/diario/2002/03/31/domingo/1017549692\\_850215](https://elpais.com/diario/2002/03/31/domingo/1017549692_850215)

In Basque Country the extreme violence carried out by ETA for decades hindered the resolution of the conflict and has diminished the legitimacy of Basque political parties in the eyes of the Spanish government, making it more difficult to engage in talks regarding their autonomy. While this conflict seems to have ended with the dissolution of ETA in 2018, it is important to note that this fact does not necessarily mean that nationalist sentiment has been completely eliminated from the region. In 2017, 33 percent of the population still preferred to be independent and 59 percent have stated that they would support a call for a referendum to solve the dispute.<sup>33</sup> Therefore, it is worth noting that the Spanish government should work toward establishing policies that foster the integration of the region in order to reduce the levels of discomfort experienced at local level and, in turn, avoid the future rise of a successor group to ETA.

These are conflicts where several factors like politics, national identity, economic power, and historic grievances converge,<sup>34</sup> and create starkly divergent points of view among the main actors, making it difficult to find a common ground in their interests. Even though the EU has hesitated to get involved, it is possible that its guidance could signify a first step into tackling the core causes of this dispute. As a supranational institution, the EU can ensure a neutral ground for the parties to present their demands and find a way to reduce the level of tension in the region, especially after the dissolution of ETA, which represents a key step in the process.

Nationalism in Spain remains in a state of tension and uncertainty, and the upcoming years will be of crucial importance, not only for Spain, but for the rest of Europe as well, and will be determined by the decisions made by the leaders of all sides.

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33 Maxi Vega, "Desciende cinco puntos el apoyo a la independencia de Euskadi y el 59% quiere un referéndum", *El Mundo*, December 7, 2017, <http://www.elmundo.es/pais-vasco/2017/12/07/5a2929dce2704e0b308b45a1.html>

34 "The deadlock between Spain and Catalonia can only be solved through dialogue", *The Independent*, October 22, 2017, <https://www.independent.co.uk/voices/editorials/catalonian-spain-independence-referendum-talks-needed-a8013991.html#>

# INTERVIEW

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## **ACHIEVING THE SDGS AND PERSPECTIVES ON DEVELOPMENT IN EAST AND NORTH-EAST ASIA**

*with Charlotte Arribe*

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# **ACHIEVING THE SDGS AND PERSPECTIVES ON DEVELOPMENT IN EAST AND NORTH-EAST ASIA**

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## *Interview with Charlotte Arribe*

*Charlotte Arribe is a Sustainable Development Consultant at the United Nations ESCAP East & North-East Asia Office, where she works on projects and policy research around technology, innovation, entrepreneurship, smart and sustainable cities, gender, youth, and inclusion. She is a core committee member for “Urban Innovation Challenge: Citypreneurs,” the only international start-up competition in the world that encourages young entrepreneurs to offer profitable solutions to urban challenges within the framework of the Sustainable Development Goals (SDGs). Prior to this, she worked as the CSR Creative Strategist for a Korean start-up, the Assistant Director of Korea Programs for the Youth Diplomacy & Language Institute (NPO), and a Youth Program Specialist in Singapore. During her time at Sciences Po, she also worked on the “Management of Social Transformations” (MOST) program, a Regional Integration project under UNESCO’s Policy and International Cooperation division in Paris. She received an M.A. of Global Affairs & Policy specializing in International Development Cooperation and Law & Organizations from Yonsei University, Seoul, and a B.A. in International Relations and Cultural Anthropology from University of California, Davis.*

*The Journal’s editor Sue Jeong sat down with Charlotte Arribe to discuss her perspectives on the SDGs.*

*\*All thoughts and opinions presented by Charlotte Arribe in this interview are her own, and do not reflect the views of the United Nations.*

**Y: Could I ask for you an introduction of yourself and what you currently do for UNESCAP-ENEA?**

CA: My name is Charlotte Arribe, and I am a French-Singaporean. I currently work as a sustainable development consultant for UNESCAP-ENEA (United Nations Economic and Social Commission for Asia and the Pacific for East and North-East Asia). It's a regional commission, and my office focuses on six sub-regional countries, which are China, Japan, North Korea, South Korea, Mongolia, and the Russian Federation. At UNESCAP-ENEA, I research on policies regarding the region, entrepreneurship, and the SDGs (Sustainable Development Goals), and concentrate on themes of science, technology, and innovation. I'm interested in how frontier technologies have an impact on different societies, and how we can integrate the SDGs with new technologies to ensure that the United Nations Charter and International law are upheld. Due to the multidisciplinary nature of the SDGs, I contribute to different fields that pertain to development, such as gender, youth, the aging population, and climate change.

**Y: Has the integration of technologies with the SDGs been a very recent development?**

CA: It is quite recent because the United Nation's SDGs have only been implemented since its ratification in 2016. With the emerging issues regarding cybersecurity and intellectual property, scholars in academia and policy-makers have developed a keen interest on technologies and its challenges.

**Y: How did you attain your current position at UNESCAP-ENEA? What kind of efforts had to be made in order to work for the United Nations? How has previous work informed you of what you are currently doing? What has helped you the most in getting to where you are today?**

CA: I received my Bachelor of Arts in International Relations and Anthropology at the University of California Davis. I particularly focused on Northeast Asia in International Relations, and so I think I always knew that I wanted to be in this region. But, initially, my double major in Anthropology led me to an internship at UNESCO because I was interested in cultural preservation. However, I found

my experiences as an intern to the UN bureaucratic, and consequently worked as a youth program specialist outside of the UN. Through that opportunity that I pursued for about three years, I gained a skillset that is vital to the work I am doing now—planning, managing, and relating to people of different ages. Thus, even though it was not in the same field as development, the skills I learned were transferrable. I enjoyed what I did, and eventually wanted to do more and have a wider impact. So, I applied to the Yonsei University's Graduate School of International Studies, and studied issues pertaining to Asia. Having been educated in North American and Europe, my studies at Yonsei University GSIS gave me a better understanding of this region and the world.

At Yonsei University GSIS, I jumped at every opportunity to get to where I wanted to be. I was a GSIS Ambassador; worked part-time at a start-up because they were developing a platform for corporate social responsibility; became a part of the Directors Committee of a charity, called the Youth Diplomacy and Language Institute; and wrote a thesis on urban regeneration. Through these experiences and networking, I sought an internship at UNESCAP-ENEA. I started working for them as an intern a few days after submitting my thesis. I commuted for four hours and worked really hard, and applied for this position as a consultant when the opportunity arose. I think it was a combination of luck and putting yourself out there. While it is definitely easier once you know what you want to do, I would suggest that current students try to experience as much as they can, make connections, and get out of one's own comfort zone.

**Y: What are your perceptions or thoughts on development, intraregional connectivity, and the sustainable development goals? How does culture and the promotion of cultural pluralism play roles in achieving the sustainable development goals?**

CA: The UN is all about cultural pluralism. As an institution, it tries to encourage governments to cooperate despite differences in history, culture, and society. The SDGs are a crucial way in which various governments can work together to achieve a common goal. They allow us to take a step back, and think about the bigger picture. These issues concerning the SDGs do not simply affect one country, but every country. Countries would not get very far trying to solve problems on their own, making collaboration a crucial component to achieving the SDGs for an exponential effect. Through best practices, we can learn from each other's mistakes. There is no need to destroy an entire forest to learn that that does not work.

**Y: We are meeting during a time in which concerns regarding populism on the rise, protectionist trade policies, and national sentiments are increasing. How have such shifts in international politics affected the ways in which international organizations like UNESCAP-ENEA to see connectivity and the need for collective work in development?**

CA: The UN does not have specific policies per se to respond to these issues. While we make suggestions for governments on how to approach different challenges, the final decision is ultimately left to the state. We are not a law, but a body that comes together to discuss as a group, and to give recommendations about various relevant issues. While these trends do affect funding, it will not change the mission that the UN serves. Many still understand the importance of connection. The work of the UN and countries to achieve the SDGs demonstrate this. I think that these issues are connected to other concerns. Just within the Northeast Asian region, we have the fastest aging population in the world, and Korea has high youth unemployment. Despite conventional knowledge, Korea has the highest level of robots connected to jobs, couple that with the aging population. We will not be working in the same type of working environment that our parents knew. Many researchers state that jobs will disappear, and so now we need to focus on how to educate youth on creating their own sustainable businesses. While it is crucial for governments to try to understand what is going on and then adapt, it is also fundamental to learn how to respond to these shifts and changes.

**Y: What are the biggest challenges that currently exist in terms of development in East Asia and Northeast Asia?**

CA: In terms of the SDGs, within the sub-regions of development in UNESCAP-ENEA, the various member-states give us a good guideline of how they are progressing, and each country is different—socially, economically, politically, and historically. For example, Korea is doing well in developing “smart cities,” and it is an initiative that the country has been pushing forward. Smart cities have become an answer to overpopulation in urban areas. They are a way for the government to improve people’s lives. Improving public transportation, safety, education, access to resources and food, adequate hospitals and healthcare, and the implementation of smart technologies advance the quality of lives. Despite such developments in technology and innovation, however, more can be done about social and environmental issues. After all, development does not end at the solution of one issue, but the resolution of all.

**Y: What do you think are some of the challenges working for an international organization, like UNESCAP-ENEA, and what are some ways in which improvements can be made to a large organization that seeks to improve the efficient and effective delivery of the mandates of development-related activities.**

CA: In terms of international organizations, one of the key missions is to improve cooperation between regional countries—to pull resources together. For countries within UNESCAP-ENEA, some countries are advanced and have strong economies, and while others are more abundant in natural resources. Thus, cooperation strategies are best practices to create a better world. It might be challenging at times due to historical differences, diverse landscapes, and more, but it is very important to get the ball rolling, and to get people to talk about it and involved. People often think that the UN is a separate entity, but that is not true. All of us play a part in contributing to the world. All of it has an impact on development. The UN is a platform that highlights the issues that affect all of us and helps us mobilize.

**Y: What do you hope for as a person working in development?**

CA: My core mission is local empowerment and capacity building. Your best ally is yourself in the community. Even though I am working at an international institution, I believe that it starts at the local level and within communities. What happens at the local level has repercussions in the global scene. The UN Charter promotes for an inclusive world that can be really rewarding, and so I really encourage people to try and do their part. It's the little things, and what everyone does at their own capacity is important. For those who are interested in development, they should find topics they are compelled by, and others will see what they have to contribute. Focus on the wider message you want to send across, and go for it.

# REVIEW

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**REVIEW – A POSITIVE IMPACT OF CLIMATE  
CHANGE? THE GROWING POTENTIAL OF SOLAR  
ENERGY IN THE UK**

*Frances Chang*

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# A POSITIVE IMPACT OF CLIMATE CHANGE? THE GROWING POTENTIAL OF SOLAR ENERGY IN THE UK

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Frances Chang

*Yonsei University*

## **Details:**

Title:	The UK Solar Energy Resource and the Impact of Climate Change
Authors:	Dougal Burnett, Edward Barbour, Gareth P. Harrison
Type:	Journal article
Journal:	Renewable Energy, Volume 71, Pages 333-343
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Since the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992, climate change has been recognized as a shared global challenge that requires urgent attention. Many actions have been taken to mitigate the primary cause of the problem—carbon dioxide emission—at local, national, and global levels, and amongst such measures, the expansion of renewable energy is being greatly supported.<sup>1</sup> In fact, over a hundred and fifty countries around the world have adopted renewable energy targets in the decades to ensure a certain amount of energy coming from renewable resources.<sup>2</sup> Consequently, renewable power generation, especially from wind and solar resources, has significantly grown worldwide in recent years. Wind power generation had increased much more faster than solar power generation until early 2010. However, solar technologies and solar resources soon exceeded the popularity of wind power within the global community. The fact that solar photovoltaic (PV) can generate electricity in a small scale at low cost has appealed to many. While wind turbines are often built in remote areas, far away from urban regions where electricity consumption is highest solar PV can be deployed in commercial and residential buildings; in this way,

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<sup>1</sup> IRENA, OECD/IEA, and REN 21, *Renewable Energy Policies in a Time of Transition*(Abu Dhabi, 2018), 20.

<sup>2</sup> IRENA, *Renewable Energy Target Setting* (Abu Dhabi, 2015), 9.

electricity from solar resources can be more efficiently distributed in urban areas.<sup>3</sup> This led to the rapid expansion of the solar energy market across the world, as well as an increase in the number of researches conducted on the potential of solar energy. A considerably amount of the researches on solar energy have addressed the advantages of solar resource and its impact on the climate change issue. However, there are only a few works on how climate change will affect solar energy, although it is one of the most climate-dependent types of renewable energy alongside with wind energy. Therefore, in the article “The UK solar energy resource and the impact of climate change,” Dougal Burnett, Edward Barbour, and Gareth P. Harrison—prominent climate change and energy scholars—investigated the impact of climate change on the solar energy performance in the United Kingdom (UK) and provided important insights to official actors in the solar energy sector to adapt to climate change.<sup>4</sup>

### Summary

Burnett et al. started the paper with a brief introduction to the renewable energy trend in the UK. Unlike most of its neighboring countries dominated by solar energy, the UK has benefited more from wind resources as a result of its cool and cloudy climate. Even so, in order to reach its renewable energy target of producing fifteen percent of total energy consumption from renewable sources by 2020,<sup>5</sup> the UK has recently turned to solar energy as well. More well developed than other renewable energy technologies, solar energy has become more affordable and accessible thanks to the government support, and it is now the second most preferred renewable energy source for the UK government. Solar PV converts global solar irradiance into electricity, and the amount of converted irradiance depends on the angle of the sun, the weather, and, most importantly, cloud cover. Human activities attributed to climate change also caused an increase in atmospheric aerosols, providing a greater amount of cloud condensation nuclei that affect cloud cover characteristics.<sup>6</sup> Burnett, thus, argued that climate change affects cloud cover characteristic, consequently affecting the performance of solar energy<sup>7</sup> directly. Previous studies on China and the United States showed different results in the impact of

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3 “Advantages and Challenges of Wind Energy,” US Department of Energy Office of Energy Efficiency & Renewable Energy, accessed September 10, 2018, <https://www.energy.gov/eere/wind/advantages-and-challenges-wind-energy>.

4 Dougal Burnett, Edward Barbour, and Gareth P. Harrison, “The UK Solar Energy Resource and the Impact of Climate Change,” *Renewable Energy* 71 (2014): 333–343, doi:10.1016/j.renene.2014.05.034.

5 UK Department of Energy & Climate Change, *UK Renewable Energy Roadmap* (London: Department of Energy & Climate Change, 2011), 5–6.

6 Burnett et al., “The UK Solar Energy Resource and the Impact of Climate Change,” 333. *Renewable Energy* 71 (2014): 333, doi:10.1016/j.renene.2014.05.034

7 Ibid.

climate change on solar power. There could be a decrease or increase in solar power, depending on the region and type of solar technology being studied. China and the United States both have a relatively mature solar energy market as well as a greater number of solar system installments. On the other hand, solar energy was starting to grow in the UK when the research was conducted. There is a lack of related works on the UK solar resource and the impact of climate change on them. As a result, Burnett provided a detailed assessment on the UK solar resource. They then combined the assessment with the output of UKCP09 climate change projection to examine the effect of climate change on the estimated future solar resource, to inform actors, such as policy makers, developers and officials, for future evaluation on solar energy.<sup>8</sup>

A detailed solar resource assessment of the present climate would ideally be performed using solar irradiance historical measurement for over a period of thirty years. In the UK, however, weather stations usually only have a record of sunshine duration with a long period of historical information. For an accurate UK solar energy baseline resource map, the authors decided to apply Suehrcke conversion method to convert the period from 1961 to 1990's monthly average daily sunshine duration data to solar irradiance.<sup>9</sup> In the UKCP09 climate change projection, two 30 year future time periods, 2050s (2030-2069) and 2080s (2070-2099), are explored with three climate change scenarios: low, medium, and high greenhouse gas emission.<sup>10</sup> Adjacent regions in UKCP09 with similar solar energy resource characteristics are merged into six UK solar regions—Scotland North, Scotland Mid, Scotland South & N.I., England North, England Mid & Wales, and England South, to understand the impact of climate change on solar technologies and solar energy resource.<sup>11</sup> Probabilistic data from UKCP09 of 2050s medium emission indicates a significant increase of solar irradiance in southwest, as the increase become less significant toward the north of the country. The projections also show an increase in the solar resource in spring, summer and autumn, especially regions located in the southwest. During summer months, nearly all regions across the UK show an increase in solar resource. According to Burnett, Barbour and Harrison, summer months in the southwest even show an increase in solar irradiance of up to 7.9 percent by 2050s, under a medium emission scenario.<sup>12</sup> On the other hand, over winter months, nearly all regions across the UK will have increased cloud cover; thus, they will have a decrease in solar resource. Yet, UKCP09

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8 Ibid.

9 Ibid., 334.

10 Ibid., 339.

11 Ibid. 335.

12 Burnett et al., "The UK Solar Energy Resource and the Impact of Climate Change," 341. *Renewable Energy* 71 (2014): 341, doi:10.1016/j.renene.2014.05.034.

projections show a reduction of solar energy resource with decrease of up to -2.9 percent further north.<sup>13</sup> The result from the projections suggests that most southern part of the UK will get sunnier as there will be an increase in solar irradiance. The region will benefit from increase in solar power, especially during summer.<sup>14</sup> The authors stated that “in the places where the current [solar] resource is the largest (the south and the south west), the resource will see on average a sizeable increase due to climate change.”<sup>15</sup> According to the result they got, the authors believe that it is positive news for solar energy developers as well as the actors in the southern part of the UK. Burnett, Barbour and Harrison concluded that solar energy in the UK has a huge potential to be explored due to climate change, but more research is needed to provide more detailed suggestions to policy makers and solar PV developers alike.

## Review

Renewable energy plays an important role in the decarbonization of the energy sector. The positive impact of the renewable energy has already been to the public. Articles have been cited by the media and government to promote renewable energy and to encourage the use of renewable energy. A great amount of scholarly articles have explained solar and wind energy technologies and their advantages. However, only a few scholars have considered the impact of climate change on the performance of the renewable energy resources. As a result, the research done by Burnett, Barbour, and Harrison is both interesting and ironic. It is ironic because the main reason for shifting to renewable energy generation in the energy sector is to mitigate the climate change issue; yet, climate change directly affects renewable energy resources and their performance. In the UK case, climate change even increases the solar resources and boosts the solar energy industries.

Burnett’s choice of methodology is thoughtful in that the results from climate change projections allow decision makers to reach a conclusion more flexibly in the development of the UK’s solar energy sector. UKCP09 projection is the most advanced climate change scenario in the UK. Through it, users are able to know possible climate condition based on the past and current levels of greenhouse gas emission. Most importantly, the UKCP09 climate projections are probabilistic, so they provide a range of change and assign a probability to the range.<sup>16</sup> The probabilistic data resulted from the UKCP09 allows the actors to make a robust decision across the range when designing solar energy related

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13 Ibid., 341-342.

14 Ibid.

15 Ibid.

16 UK Climate Projections, “An Introduction to the UK Climate Projections,” last modified July 25, 2013, video, , video, <https://www.youtube.com/watch?v=wwWBBGvExc8>

programs, rather than making decisions for a targeted number. The result, therefore, allows the authors to inform policy makers, government officials and PV investors alike on the future of solar energy resources. Although the study done by Burnett et al. provides a new aspect of the renewable energy and climate change, further research will be necessary to predict the direction of solar resource in UK. The authors argued, “human activity is causing an increase in atmospheric particulates. Global solar irradiance levels depend on the cloud cover characteristics and therefore will change due to climate.”<sup>17</sup> However, atmospheric particulates from human activity also directly affect the performance of solar energy, according to several recent studies. For example, Li Xiaoyuan et al, in “Reduction of Solar Photovoltaic Resources Due to Air Pollution in China,” found that aerosol pollution over China reduces solar radiation reached at the surface, which led to reduction in solar resource.<sup>18</sup> The authors concluded that clouds generally have a large influence on solar irradiance; however, when the air pollution reaches its peak, aerosol can be as significant as clouds on solar resource.<sup>19</sup> Moreover, Professor Bergin at Duke University found that airborne particles reduce energy output by more than 25 percent in certain parts of the world.<sup>20</sup> Extreme weather resulted from climate change, such as record breaking hot weather, increases the demand in electricity use every year. Although solar and wind energy technologies are becoming more affordable and accessible, the two resources are some of the most climate-dependent amongst renewable resources. Energy generation from wind and solar power will not be enough to provide electricity to the public; therefore, countries, including the UK, will not be able to give up energy generation from fossil fuel, which might lead to constant release of chemical gases. Consequently, the direct influence of particulates cannot be ignored, and should be included into further research. Also, there are events which the authors were not able to predict which might have influence on the solar resource in the UK such as Brexit. The electricity network in the UK is connected to the system in France, the Netherlands, and Ireland through cable called interconnectors and the UK uses these interconnectors to import or export electricity.<sup>21</sup> If the future solar irradiance increase like the authors suggested in the article, the UK would benefit through energy co-operation with

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17 Burnett et al., “The UK Solar Energy Resource and the Impact of Climate Change,” *Renewable Energy* 71 (2014): 333-334.

18 Xiaoyuan Li et al., “Reduction of Solar Photovoltaic Resources Due To Air Pollution in China,” *Proceedings of the National Academy of Sciences* 114, no. 45 (2017): 11867-11872, doi:10.1073/pnas.1711462114.

19 *Proceedings Of The National Academy Of Sciences* 114, no. 45 (2017): 11867-11872, doi:10.1073/pnas.1711462114

20 Ken Kingery, “Air Pollution Casts Shadow Over Solar Energy Production,” Duke Pratt School of Engineering, last modified 2017, <https://pratt.duke.edu/about/news/solar-pollution>

21 “Electricity Generation | Energy UK,” *Energy-Uk.Org.Uk*, last modified 2018, <https://www.energy-uk.org.uk/energy-industry/electricity-generation.html>

neighboring countries and steadily transform its energy mix toward renewable resources. However, the Brexit will bring uncertainty to the development of solar resource in the UK. It might hinder any co-operation with neighboring countries. Furthermore, if any EU countries do not want to connect their system with the UK, the excess solar energy generated during summer will go to waste, and the UK might have to face the same struggles in distributing electricity like many countries in Asia. Although further research needs to be done, Burnett, Barbour and Harrison provide a new direction for other research to explore climate change and renewable energy.

## **GUIDELINES**

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2. Citations should appear as endnotes as per the Chicago Manual of Style, 17th Edition.
3. Pages should not be numbered or marked with the author's name.
4. Papers should include an abstract of no longer than 250 words.
5. A short biography of the author should be included with each submission.
6. American spelling should be used in all submitted pieces.
7. Foreign words should be Romanized according to the following systems:
  - Japanese: Revised Hepburn
  - Korean: Revised Romanization
  - Chinese: Pinyin

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

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