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DESIGN, LAYOUT, ONLINE EDITOR	Theophile Begin
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LETTER

FROM THE EDITORS

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2020 is a year best known for all of its anomalies; we end it with situations and mindsets that are vastly different from years previous. In times like these, where we are forced to set our sights on the preservation of both self and society, it becomes all too natural to limit our perspectives to our own situations and proximal experiences. For many, the year has come to a stand-still, offering little to no change or development on a surface level. This issue serves as a reminder of change — of growth in knowledge, in perspective, in the world. As time moves on, so does the human consciousness, whether we can easily perceive it or not, and in a time when many aspects of humanity seem challenged or hindered, it is important to remember that, one way or another, we are still, somehow, getting better, day by day.

The first paper in this issue, entitled “Democratic Deficits: Pathways and Barriers to Electoral Reform in Canada,” tackles the issue of representation gap in the Canadian government. Katelynn Kowalchuk conducts a comprehensive case study of two countries, New Zealand and Uganda, analyzing their inclusion of ethnic minorities, LGBTQ+, and women in their own government systems, and explaining the likely reasons why Canada has yet to implement such changes. The author recommends reform in specific circumstances for the Canadian government and details its possible outcomes if implemented.

Emmanuel Ndhlovu writes about the Fast Track Land Reform Program in Zimbabwe in his paper entitled “The Migration Livelihood Nexus: Emerging Opportunities, Emerging Challenges in Rural Zimbabwe.” The author, having conducted interviews with individuals entrenched in this situation, illuminates and delves into details about the effects of migration on livelihood in this area, both positive and negative. In doing so, he illustrates how the landscape of rural Zimbabwe has been affected by the movement of disadvantaged blacks into areas resettled by the FTLRP.

In “Global Skills: Articulating the International Studies Skillset and Its Value,” the authors examine the popular field of international studies and the various aspects of global students’ mindsets and approaches to international academic endeavors. The paper includes a case study of an international student’s own assessment of their global skills and how they have helped in cross-cultural engagement, illustrating how a certain set of skills has value in creating the optimal learning experience for international students.

Suyoung Kim examines the threat China appears to pose to both Taiwan and Japan in her paper, “The Invisible but Indispensable Partnership: Understanding the China Factor in Taiwan-Japan Relations.” The author focuses on how China’s involvement in various interactions between Japan and Taiwan have affected the latter two countries’ interactions and perceptions of each other. It also determines how and why Taiwan and Japan seem to act similarly even when only one of the two countries is at odds with China.

In “The Indian Determination of Jammu and Kashmir: A Critical Appraisal of History, Sovereignty, and Jus Genitium,” Adarsh Vijayakumaran discusses their stance on the claim that the Republic of India has violated International Law with regards to the aforementioned regions. The paper provides readers with a holistic view of the two regions, the conflict surrounding them, their self-determination, and the events and actions of the Republic of India that serve as evidence for the

author's claim.

Theophile Begin problematizes the discrimination against ethnic minorities in the Italian justice system in his paper, "The Criminalization of Black Migrant Women in Italy: Issues and Answers." The text analyzes the foundations and pitfalls of the Italian criminal justice system before applying its shortcomings to the cases of the aforementioned minority. Begin concludes with policy recommendations that serve as plausible solutions to such an issue.

The first essay in this issue is written by Pavithra Suresh. Titled "Countering Hindu Hegemony: Tamil Separatism as Counter-Memory Work," the essay examines how the separatist politics of the Indian state of Tamil Nadu engage with Dravidian counter-memory and challenge the Hindu nationalist narratives of the ruling Bharatiya Janata Party (BJP). By focusing on the contrasts between Sanskritization/Tamil purism and BJP casteism/Dravidian anti-caste resistance, Pavithra Suresh's work suggests that Tamil counter-memories transcend elections and reveal both a material and a discursive resistance to fascism. The author believes that work on Tamil counter-memory participates in unveiling the distinctive and transgressive history of Tamil Nadu and Tamil linguistic sovereignty.

Written by Tymoteusz Chajdas, our second essay, "The Political via the Cinematic: Tracing China's Transformation Toward a Globally Ambitious State," represents an interesting exploration of the relation between culture and politics. Beginning with a brief history of the modern Chinese film industry, Tymoteusz Chajdas' work further asks: How are institutions and aesthetics interacting in ways that exhibit resonances and tensions between the cinematic and the political? Using three famed Chinese movies as evidence, the author demonstrates how particular themes and cinematic aesthetics, at various points in time, echo important changes in China's international posture and signal the country's transformation from a relatively nationalist stance to a more ambitious attitude. Tymoteusz Chajdas argues that such changes mirror the steady trajectory of China's integration into the global capitalist economy.

Our junior editor signs the third essay of this issue. Entitled "Leaving Women Behind: Understanding the Impacts of Historical, Political, and Social Factors on the Republic of Korea's Persisting Gender Inequality," Sojung Ha's timely piece centers around the development (or lack thereof) of gender equality policies in South Korea. The author argues, using historical analysis, that, although the ROK has achieved significant progress in various domains over the past few decades, progress in gender equality is unfortunately still falling behind. Using a postcolonial and intersectional feminist framework, Sojung Ha's work specifically examines the legacy of Japanese colonialism and of the Cold War's empty gender politics and explains the current government's lack of commitment to women's rights and the pervasive and persistent contemporary socialization agents that reinforce gender normative roles and contribute to the silencing of women.

Our fourth and final essay is written by co-editor-in-chief Aimee Beatriz Lee. Her work, "Blurring Distance and Digital Lines: The Roles of Real Person Fanfiction in Participative K-Pop Fandoms," explores the role of Real Person Fanfiction (RPF) in participative K-Pop fandom culture. Although fanfiction has recently received more attention from academia, Lee's essay adds to the existing literature in that it

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presents the novel argument that fanfiction in K-Pop represents an avenue towards identity building as well as further participation with and influence on an idol, their company, or the collective fandom. The author's work is built around original data obtained from a survey that collected answers from over 500 respondents who identified themselves as an active part of the K-Pop community.

Thank you to our editors Simone Liew, Grecia Dominique Paniagua Garcia, and Sojung Ha for your diligent work. Without their careful and observant selections, readings, and edits, the completion of this issue would not have been possible. And to our readers, we are thankful for your continued interest in our journal. We wish you safety and good health. Thank you.

Aimee Beatriz Lee and Theophile Begin
Co-Editors-in-Chief

MEET THE CONTRIBUTORS

Katelynn Kowalchuk

kkowalchuk@myaccess.ca

Katelynn Kowalchuk is an incoming graduate student at the University of British Columbia, specializing in Canadian and comparative politics. Prior to graduate studies, she obtained a Bachelor of Arts Honours Degree in Political Science from the University of Regina (Saskatchewan, Canada) after successfully completing her honours thesis on recovery-oriented mental healthcare policies in select Canadian provinces. Her research interests include comparative mental healthcare policy, community-based healthcare interventions, and diversity within federal states.

Emmanuel Ndhlovu

matahemanu@yahoo.co.uk

Emmanuel Ndhlovu is a peasant activist and a PhD student at the University of South Africa. He researches and writes on peasant livelihoods, food sovereignty, migration, development, and political economy.

Natassia Bell

natassia.bell@rmit.edu.au

Natassia Bell studied the Bachelor of Arts (International Studies) at RMIT University. She is currently completing her Honours thesis which explores critical issues in higher education. Currently, Natassia works for Australia's leading professional and advocacy body for international education. Her academic and professional pursuits are guided by giving voice to the student journey and has used this passion to contribute to and maintain the student magazine, *Here Be Dragons*. In 2018 Natassia was awarded the RMIT JN McNicol prize in recognition of her academic achievement and leadership achievements.

Anna Branford, PhD

anna.branford@rmit.edu.au

Anna Branford is a careers educator at RMIT University with a background in Sociology teaching on neoliberalism and the workplace, religion and secularisation, and childhood. Her PhD research, undertaken at La Trobe University, focused on the relationship between secularisation and the fostering of children's fantasy in Western contexts. She is an internationally published children's author with academic research published in fora including *The Australian Journal of Anthropology*.

Natasha Karner

natasha.karner@rmit.edu.au

Natasha Karner is a PhD Candidate at RMIT University. She is a graduate of International Studies (Honours) from RMIT University. Her research focuses on emerging technology and international security, focusing on Lethal Autonomous Weapons Systems. She is a member of the Campaign to Stop Killer Robots and contributes to *Here Be Dragons* magazine.

Julian CH Lee, PhD

julian.lee@rmit.edu.au

Julian CH Lee is a lecturer in International Studies at RMIT University and Program Manager for the Bachelor of International Studies there. He is the author and co-author of several books including *Monsters of Modernity* (2019) and editor of several volumes including *Narratives of Globalisation* (2016).

Madeline McGarvey

madelinemcgarvey@gmail.com

Madeline McGarvey is a graduate of International Studies (Honours) at RMIT University. She wrote her Honours thesis on medical pluralism and the effects of globalization on maternal healthcare delivery, whilst undertaking her New Colombo Plan Scholarship program in Indonesia. Madeline is passionate about applying systems thinking methodologies to solve the complex health and environmental problems of our times and contributes to *Here Be Dragons*.

Kaye Quek, PhD

kaye.quek@rmit.edu.au

Kaye Quek is a lecturer in Global Studies at RMIT University. She is the author of *Marriage Trafficking: Women in Forced Wedlock* and her research has appeared in journals including *Women's Studies International Forum* and websites such as *The Conversation*.

Suyoung Kim

silly17oungs@gmail.com

Suyoung Kim is a Master's student in Korean Studies at the Graduate School of International Studies at Seoul National University (SNU). She work as a research assistant at the Institute of International Affairs (IIA) at SNU. Her research interest is the history of women's work, labor, and social space in colonial Korea. Her Master's thesis is on the emotional labor of cafe waitresses in the 1930s, examining the writings of the waitresses themselves and investigating the range of their capacity to act independently under the structure of the colonial Korean society. She has a have Bachelor's degrees in History and Japanese Literature from the University of Washington.

Adarsh Vijayakumaran

adarsh.vijayakumaran.india@gmail.com

Adarsh Vijayakumaran is a B.A.LLB (Hons.) student at the National University of Advanced Legal Studies, India. He has previously worked with various international law firms and institutions. His interests include International Law, South Asia relations, and Emerging markets. He wishes to thank Ananth Krishna S, Rahul Nair, Giri Aravind, Aswin C. Panicker, and all the editors of Yonsei Journal of International Studies for their valuable edits, feedbacks, and suggestions.

Theophile Begin

theophile.begin@gmail.com

Theophile Begin is a 2020 graduate student of International Relations at Yonsei University's Graduate School of International Studies, Seoul. In 2017, he graduated from the University of Montreal with a B.A. in Anthropology after spending a year at Seoul National University as an exchange student. His current research interests include migration, gender, international law, and transitional justice.

Pavithra Suresh

psuresh@gmu.edu

Pavithra Suresh is a doctoral student in the Cultural Studies program at George Mason University in Fairfax, VA, USA. She holds an MA in International and Intercultural Communication from American University in Washington, D.C. Her research interests include body politics (with a focus on disability justice), studies of citizenship, and the South Asian diaspora. As a caste-privileged Tamil-American, Pavithra seeks to render visible and aid in dismantling casteism and caste apartheid through her work. She lives in Washington, D.C. with her cats.

Tymoteusz Chajdas

tchajdas@ucsb.edu

Tymoteusz Chajdas is a Doctoral Candidate in the Department of Global Studies at University of California-Santa Barbara, USA. He engages in interdisciplinary research which transcends the boundaries of political science, development studies, cultural and media studies, and political communication. His dissertation research concentrates on the politics of re-presentation and cultural production of the rise of China. Focusing on the unquestioned basis of the Silk Road as an enlivening historical concept, his dissertation project suggest that conversations about China's rising power miss the complexity of its peculiar diplomacy, which has been used to legitimate and justify a project referred to as the "Belt and Road Initiative" (BRI). Tym is an editor-in-chief of the *Global Societies / Global Spheres Journal*, and a freelance journalist.

Sojung Ha

sojungha97@gmail.com

Sojung Ha graduated from the University of California, Los Angeles (UCLA) in June 2019 with a B.A. in Political Science with a concentration in International Relations and a minor in Gender Studies. Her work aims to combine her interdisciplinary study of history, politics, and gender, and reflects her experiential knowledge from working with women's rights activists, international institutions, and the government.

Aimee Beatriz Lee

aimeebeatrizlee@gmail.com

Aimee Beatriz Lee is a 2016 cum laude graduate of the University of the Philippines Diliman with a bachelor's degree in Creative Writing. She is also a 2020 graduate student of Yonsei University's Graduate School of International Studies, with a Master's Degree in Korean Studies. Her current research interests include Korean popular culture — more specifically, K-Pop — and its growth and effect on various global factors as well as comparative studies between local and international fan culture in relation to changes in the Hallyu industries. She is also interested in exploring modern Korean literature, most especially North Korean literature.

PAPERS

DEMOCRATIC DEFICITS: PATHWAYS AND BARRIERS TO ELECTORAL REFORM IN CANADA

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Theophile Begin

DEMOCRATIC DEFICITS: PATHWAYS AND BARRIERS TO ELECTORAL REFORM IN CANADA

Katelynn Kowalchuk

University of British Columbia

Canadian federalism is founded on the recognition of distinct territorial identities, particularly as it relates to the province of Québec. Despite a substantial increase in Canada's demographic diversity since Confederation in 1867, the federal government remains relatively homogeneous in its demographic composition. The current electoral structure is based solely around territorial units, to the detriment of non-territorially based identities such as women, the LGBTQ+ community, and ethnic minorities. There are two system-level methods of electoral reform that could remedy this representational gap, each of which is applicable to the Canadian context: Proportional representation and reserved seats. This essay examines the cases of New Zealand and Uganda, which have implemented proportional representation and reserved seats, respectively, to argue that either of these reforms would ultimately increase the substantive representation of non-territorially based identities in the Canadian federal government. The essay also includes a discussion on the descriptive and substantive representation of minorities within each of these contexts. Historical Institutionalist theory is used to explain why New Zealand and Uganda were able to implement electoral reform, while Canada has yet to do so. In summation, the substantive representation of non-territorial identities in the Canadian federal government can be improved through the adoption of either proportional representation or reserved seats; however, this shift will require a critical juncture that would force the Canadian government to shift its current policy path away from a strictly majoritarian electoral framework.

Introduction

Canadian federalism is founded on the recognition of distinct territorial identities, particularly as this relates to the province of Québec.¹ While federalism was able to accommodate territorially-based cultural divides by allowing for increased subnational autonomy, the current national democracy fails to appropriately represent a diverse population.² In particular, non-territorial identities — such as women, the LGBTQ+ community, and ethnic minorities — remain underrepresented at the federal level.³ Federal parties have made efforts to run slates, which are more representative of the Canadian populace;⁴ however, this is not a strategy that has been universally adopted nor made mandatory.

This research paper proposes that there are two system-level electoral reform initiatives which can serve to increase non-territorial identity representation in the Canadian Parliament: the implementation of proportional representation, and the creation of reserved seats for underrepresented groups. There are a variety of methods through diversity can be promoted within elected institutions, and each is the responsibility of a different area of the political process. For example, while Canadian political parties may impose gender quotas for candidate slates, this is neither mandatory nor obligatory at the system-level. This paper examines proportional representation and reserved seats because they are methods of increasing representation that will apply universally across the federal electoral process.

New Zealand's 1993 adoption of proportional representation is examined because of the country's similarities to Canada such as their once shared use of the First-Past-the-Post (FPTP) electoral system and parliamentary government structure. The Ugandan Parliament, which boasts a broad approach to the use of reserved seats, is examined in the following section. Uganda was chosen as a case study due to the broad nature of its reserved seat system; the government currently reserves seats for women, youth, people with disabilities, and workers rather than a single underrepresented group. Uganda and Canada also currently utilize majoritarian electoral methods, suggesting that reserved seats are applicable within Canada's current electoral framework.

1 Ronald L. Watts, "The American Constitution in Comparative Perspective: A Comparison of Federalism in the United States and Canada," *The Journal of American History* 74, no. 3 (1987): 770.

2 Mebs Kanji and Antoine Bilodeau, "Value Diversity and Support for Electoral Reform in Canada," *PS: Political Science and Politics* 39, no. 4 (2006): 834.

3 "Canadian Parliament Primer," *CBC News*, CBC Radio-Canada, accessed October 30, 2019, <https://newsinteractives.cbc.ca/elections/federal/2019/commons/>.

4 Rachel Emmanuel, "Parties look to attract more female candidates," *iPolitics*, last modified October 17, 2019, accessed October 30, 2019, <https://ipolitics.ca/2019/10/17/parties-look-to-attract-more-female-candidates/>.

Historical institutionalist theory is used to examine how New Zealand and Uganda were able to implement these measures as well as explain why Canada has failed to adopt electoral reform at the federal level. As a whole, this essay posits that Canada can increase the substantive representation of marginalized groups at the federal level through the adoption of either proportional representation or reserved seats but that this change will only come to fruition in the event of a critical juncture.

Historical Analysis of Canadian Federalism

The adoption of federalism in Canada arose out of the need to reconcile cultural differences between two distinct identities: the French, who resided in Lower Canada (also referred to as Canada East) and the English, who, along with settling in the now-Maritime and prairie regions, comprised a majority in Upper Canada (or Canada West). Tensions between the two groups became increasingly hostile after the union of Upper and Lower Canada in 1840, and this divide was prevalent in the discourse surrounding electoral institutions. English-Canadians desired a Rule by Population, which would grant them increased control over the colony's affairs, while French-Canadians favored a complete separation of the territories to allow for absolute autonomy within their distinct cultural contexts.⁵ These expressions of the future vision of Canada were also espoused by prominent politicians of the time, including Sir John A. MacDonald of Canada West and Sir George Etienne Cartier of Canada East. MacDonald was a proponent of unitary government, coinciding with the Anglo-majority's desire for Rule by Population, while Cartier advocated for a federal structure. Notably, many Francophones were not (and continue not to be) explicitly in favor of federalism; they simply desired cultural autonomy within their territorial region, regardless of governmental structure⁶ After extensive negotiations that included political leaders and businessmen from Anglo- and Franco-Canada, the Canadian federation was ushered into existence with the passing of the British North America Act of 1867. The new framework for the government was a highly centralized federal state, a compromise between English and French interests.⁷

While the division between English and French Canada was primarily cultural in nature, it was underpinned by the assumption that a cultural identity necessitates a defined territory through which they can be represented in electoral governmental institutions. In other words, the location is a representation of cultural identity which appears to take precedence over other aspects of identity, particularly within institutionalized representative bodies. While the unique struggles associated with location and culture cannot be undermined, this approach fails to consider the experiences and representation of non-territorially based identities. The following

5 Watts, "The American Constitution in Comparative Perspective," 770.

6 Samuel LaSelva, *The Moral Foundations of Canadian Federalism: Paradoxes, Achievements, and Tragedies of Nationhood* (Montréal.: McGill-Queen's University Press, 1996), 23.

7 Watts, "The American Constitution in Comparative Perspective," 770.

section discusses the differences between descriptive and substantive representation between the case study subjects, New Zealand, and Uganda.

Descriptive and Substantive Representation

The use of the term ‘representation’ has been subject to scrutiny, including whether the representation of marginalized groups is descriptive or substantive. Descriptive representation can be operationalized as a situation in which “...a minority’s representatives do not facilitate public policy coinciding with the group’s preferences.⁸ Conversely, substantive representation necessitates that “...group representatives stand out for the group’s interests as [they] reveal themselves in policy-making processes.”⁹ For example, a 2007 study found that women elected in proportional representation electoral systems, including those in New Zealand, were more likely than those elected under majoritarian systems to believe that they have a specific responsibility to represent women in the government.¹⁰ In other words, their role in government was one of substantive, rather than descriptive, representation. However, descriptive and substantive representation can also be perceived as two evolutions within a multi-step process rather than two separate outcomes; when representation begins as descriptive, it can, in turn, lead to increased substantive representation within policy-making processes. Additionally, “[i]n what we might call a role model capacity, elected representatives of a group may broadly influence public perceptions of the group, and the public’s and legislators’ preferences concerning policies related to the group.”¹¹ Phrased differently, descriptive representation can lead to substantive representation, which subsequently influences both public and political attitudes towards policies which directly affect the group. The shift from descriptive to substantive representation is ongoing in Uganda. While women’s initial inclusion in the Ugandan parliament, after the ratification of the 1995 Constitution, was motivated by a politics of control rather than a feminist agenda, women MPs have been increasingly advancing feminist legislation and challenging patriarchal

8 Maoz Rosenthal, Hani Zubida, and David Nachmias, “Voting locally abstaining nationally: descriptive representation, substantive representation and minority voters’ turnout,” *Ethnic and Racial Studies* 41, no. 9 (2018): 1633.

9 Ibid.

10 M. Tremblay, “Electoral Systems and Substantive Representation of Women: A Comparison of Australia, Canada and New Zealand,” *Commonwealth and Comparative Politics* 45, no. 3 (2007): 289.

11 Donald P. Haider-Markel, *Out and Running: Gay and Lesbian Candidates, Elections, and Policy Representation* (Washington D.C.: Georgetown University Press, 2010), 120.

institutions.¹² In sum, even if a group's representation begins as descriptive, it can still lead to substantive representation. There are two potential pathways to achieving a more representative Canadian Parliament through electoral reform: the adoption of proportional representation and the implementation of reserved seats.

Pathways to Representation

Proportional Representation

Political Science discourse is rife with a heated debate over the merits of proportional representation (PR) versus majoritarian systems, such as First-Past-The-Post (FPTP), particularly as they relate to the representation of minority groups. In an FPTP electoral system, a candidate may be elected to office with a majority of votes, even if their vote share does not exceed 50%.¹³ A PR system can assume a variety of forms, such as List Proportional Representation (LPR) or Mixed-Member Proportional Representation (MMP). New Zealand utilizes the latter of these, which combines elements of proportional and plurality systems for a hybrid electoral process.¹⁴ In an MMP system, "...voters have a single MP who represents their riding, while other seats are distributed proportionately to total votes cast in the election."¹⁵ A recent study found that proportional representation does little to increase the representation of women in Parliament,¹⁶ while other scholars have found that women's representation has been shown to increase on a long-term basis after such reform has taken place.¹⁷ Despite the lack of consensus, there exists a multitude of academics who promote the merits of PR as it relates to non-territorial identity representation. The general argument dictates that the standard rules of PR render it easier to adopt gender quotas than the rules utilized in FPTP¹⁸ and that the incumbency rule is generally less significant in PR systems when compared to

12 Dina Refki, Diana Abbas, Bilge Avci, Eunhyoung Kim, Iris Berger, and Sue Faerman, "Erosion and Transformation in the Ecology of Gender: Women's Political Representation and Gender Relations in the Ugandan Parliament," *The Journal of Modern African Studies* 55, no. 1 (2017): 75.

13 "First Past The Post," *The Samara Centre for Democracy*, accessed on October 16, 2020, <https://www.samaracanada.com/samara-in-the-classroom/electoral-reform/first-past-the-post/>.

14 "Mixed-Member Proportional Representation," *The Samara Centre for Democracy*, accessed on October 24, 2020. <https://www.samaracanada.com/samara-in-the-classroom/electoral-reform/mixed-member-proportional-representation>.

15 Ibid.

16 Andrew Roberts, Jason Seawright, and Jennifer Cyr, "Do Electoral Laws Affect Women's Representation?" *Comparative Political Studies* 46, no. 12 (2012).

17 F. C. Thames, "Understanding the impact of electoral systems on women's representation," *Politics and Gender* 13 (2017).

18 Presumably, the same principle would also apply to other forms of identity.

those with majoritarian rules. Given the generally homogeneous nature of Canada's current Parliament (male, Caucasian, and heterosexual), the lower efficacy of incumbency may, in turn, benefit marginalized groups.¹⁹ In summation, while there is debate over the effectiveness of varying types of electoral rules in increasing the representation of minorities in government, the scope of this paper is bound to the exploration of potential options for increasing this representation, rendering this an appropriate reformative measure to examine in the Canadian context.

Currently, Canada utilizes an FPTP electoral system, in which the candidate who gains the highest number of votes becomes the elected representative for their constituency, regardless of whether they achieved an absolute majority (50%+1) of votes. In their 2015 campaign, the federal Liberal Party pledged to reform Canada's electoral system within a year and a half of forming the government and subsequently formed a majority in Parliament. Following the election, the promise of electoral reform was further bolstered by Governor General David Johnston, who announced that removing the FPTP system was a priority for the government.²⁰ The Party never officially stated how electoral reform would be implemented or what system would be adopted in place of FPTP. Less than two years later, the Liberal Party revoked their support for electoral reform and removed such reform from the Minister of Democratic Institutions' mandate.²¹ A lack of consensus among the Canadian population was cited as the reasoning behind abandoning electoral reform, despite the absence of a nationwide referendum on the subject.²²

This is not to say that such a project would not be feasible in Canada; New Zealand has already undergone such a reformation, and due to their shared prior use of FPTP and parliamentary governmental structure, it can be perceived as a precedence-setting case for Canada. During the early 1990s in New Zealand, there was significant public disillusionment with the political process and the dominant two-party system as well as the notable underrepresentation of Maori and women in government.²³ In 1993, coinciding with the general election, the population of New Zealand was issued a referendum on electoral reform which included a Mixed-Member Plurality (MMP) system, as well as the option to retain FPTP. Similar to

19 Yann P. Kerevel, Austin S. Matthews, and Katsunori Seki, "Mixed-member electoral systems, best loser rules, and the descriptive representation of women," *Electoral Studies* 57 (2019): 154.

20 Tania Kohut, "What Trudeau said: A look back at Liberal promises on electoral reform," *Canada Global News*, last modified December 2, 2016, <https://globalnews.ca/news/3102270/justin-trudeau-liberals-electoral-reform-changing-promises/>.

21 Ibid.

22 Aaron Wherry, "Opposition accuses Trudeau of 'betrayal' a Liberals abandon promise of electoral reform," *CBC News*, February 1, 2017, accessed on November 5, 2019, <https://www.cbc.ca/news/politics/trudeau-electoral-reform-mandate-1.3961736>.

23 Jack H. Nagel, "What political scientists can learn from the 1993 electoral reform in New Zealand," *PS, Political Science and Politics: Washington* 27, no. 3 (1994): 4-5.; Vowles, "The Politics of Electoral Reform in New Zealand," 99-100.

Canada, New Zealand also operated under an FPTP system at the time and was subject to the recurring dominance of a two-party system (despite the existence of numerous minor parties). The referendum resulted in 46.1% of voters supporting the traditional FPTP system and a slim majority of 53.9% in favor of adopting MMP.²⁴ Public disillusionment with the political process and the dominant two-party system may have bolstered support for the implementation of MMP.²⁵ In 2011, New Zealand held another referendum on the future of MMP, and 58% of voters supported keeping the plurality system.²⁶ Women's representation in New Zealand's government has increased steadily since the electoral reform in 1993. In the last election held using the FPTP system in 1993, women carried 21% of parliamentary seats; in the 1996 election, this percentage grew to 29% and 33% as of 2011.²⁷ It is clear that there is precedence for the shift from FPTP to proportional representation as exemplified by New Zealand, which bears contextual similarities to Canada. Additionally, the shift to MMP may be more applicable to Canada due to the hybrid nature of the system, which combines elements of plurality and majoritarian electoral frameworks. In the section titled *Historical Institutionalism and Electoral Reform*, the factors contributing to this policy shift is outlined through a Historical Institutionalist theoretical approach along with the cases of Uganda and Canada.

Reserved Seats

Another potential method to increase non-territorial identity representation in the Canadian federal government is the adoption of reserved seats for underrepresented groups. Representational quotas, such as reserved seats, are generally seen as temporary measures meant to increase the presence of underrepresented groups in government, and there is little research on their long-term effects.²⁸ This paper proposes that this method of electoral reform would increase the representation of diversity within the Canadian government. However, given the lack of research on its long-term effects, it may be best suited as a temporary measure with FPTP remaining as the country's electoral system.

Reserved seats have been implemented in a variety of contexts and regions of the world; for example, over seventy countries have adopted a requirement for a

24 Jack Vowles, "The Politics of Electoral Reform in New Zealand," *International Political Science Review* 16, no. 1 (1995): 96.

25 *Ibid.*, 99-100.

26 "25 years since MMP referendum," New Zealand Parliament – Paremata Aotearoa, November 6, 2018, <https://www.parliament.nz/en/get-involved/features/25-years-since-mmp-referendum/>.

27 Sandra Grey, "MMP delivers for women," *Kia Tiaki: Nursing New Zealand* 17, no. 5 (2011): 37.

28 Amanda B. Edgell, "Vying for a Man Seat: Gender Quotas and Sustainable Representation in Africa," *African Studies Review* 61, no. 1 (2018): 190.

minimum level of women’s representation in national government since the 1980s.²⁹ Uganda first introduced its quota system in 1989, and it was subsequently codified in the 1995 Constitution.³⁰ While the country did not allow political parties to operate during this time, the quota system was not affected after parties were reintroduced in 2006.³¹ The Ugandan case is unique due to the extensiveness of its reserved seat system. The Constitution dictates that Parliament should be comprised of “...one woman for every district [and] such numbers of representatives of the army, youth, workers, persons with disabilities and other groups as Parliament may determine.”³² The current composition of the Ugandan Parliament includes 124 district women representatives, and 5 each from youth, persons with disabilities, and workers. The use of reserved seating is extended to local elections in Uganda, as well. Since the quota system was first introduced, women’s representation in Uganda increased from nearly 0% in 1989 to 34% in 2016.³³

Research suggests that the implementation of reserved seats is reconcilable with an FPTP voting system, defying expectations that such an arrangement is difficult to achieve and maintain.³⁴ As exemplified here by Uganda, and seen in other countries such as France and India, the use of reserved seats is compatible with majoritarian electoral frameworks such as FPTP in Canada.³⁵ However, there is a lack of research on the long-term effects of reserved seats on levels of representation. In short, there is already international precedence for a country such as Canada to implement reserved seats for underrepresented groups without the need to alter its FPTP electoral rules, though there is a need for further research on the long-term effects of such reform.

Historical Institutionalism and Electoral Reform

New Zealand and Uganda’s adoption of proportional representation and reserved seats respectively can be explained through a historical institutionalist framework, particularly through the mobilization of critical junctures. Canada’s continued use of FPTP can also be explained within this framework through the concept of path dependency. Historical institutionalism maintains that historical precedence largely determines the policy options that are available to a government. Path dependency

29 Edgell, “Vying for a Man Seat,” 186.
 30 Edgell, “Vying for a Man Seat,” 197.
 31 Ragnhild L. Muriaas and Vibeke Wang, “Executive dominance and the politics of quota representation in Uganda,” *Journal of Modern African Studies* 50, no. 2 (2012): 311.
 32 “Composition of Parliament,” Parliament of the Republic of Uganda, accessed on November 22, 2019, <https://www.parliament.go.ug/page/composition-parliament>.
 33 Edgell, “Vying for a Man Seat,” 197.
 34 Skye Christensen and Gabrielle Bardall, “Gender quotas in single-member district electoral systems,” *Politics, Groups, and Identities* 4, no. 2 (2016): 246.
 35 *Ibid.*, 247.

is a part of the historical institutionalist framework which posits that the longer that a government adheres to a certain policy path, the less likely it is to change its course. However, a government may change its policies, even those which have become solidified in the state's political culture, if met with a major catalyst that forces the government to reconsider its policy path. Such an event (or series of events) is referred to as a critical juncture.³⁶ This does not necessarily imply that a government will completely alter its policy path; it may also pursue a separate branch on the same policy path, which maintains the same core tenets but varies in some meaningful way from the original path.³⁷ In short, history has a significant effect on policy decisions available to a government in the present, but policy traditions can be overridden in the event of a critical juncture.

Critical junctures may arise out of an accumulation of variables. In New Zealand's case, the juncture which resulted in electoral reform was comprised of a variety of factors, both long-term and short-term. Long-term circumstances included partisan misalignment, public disillusionment with political institutions, and pressures toward economic reform, while short-term events included the increased use of mass media and changing party policies.³⁸ It can be argued that Canada is currently experiencing a share of these circumstances which preceded electoral reform in New Zealand. For example, a poll conducted before the 2019 federal election indicated heightened public disillusionment and mistrust of politicians, which is a comparable circumstance to the experience of the New Zealand populace before the referendum of 1993.³⁹ In summation, New Zealand's adoption of PR can be attributed to a variety of factors that constituted a critical juncture, disrupting the country's tradition of FPTP and pushing it to switch policy paths. The case of electoral reform in New Zealand shows that a country like Canada can indeed make the shift from FPTP to proportional representation but that this requires a critical juncture to occur.

Uganda's implementation of reserved seats (and the adoption of democracy) can also be explained through a historical institutionalist framework. The state's current constitution was born out of decades of political turmoil and upheaval, which was hallmarked by deep cleavages in the population along religious, regional, and ethnic lines. Following the Ugandan elections in 1980, the country experienced a civil conflict with up to an estimated 400,000 civilians losing their lives.⁴⁰ This conflict culminated in the implementation of a no-party system and subsequently,

36 Guy B. Peters, *Institutional Theory in Political Science: The 'New Institutionalism'* (London, UK: Continuum, 2005): 71-73.

37 Rianne Mahon, "Varieties of Liberalism: Canadian Social Policy from the 'Golden Age' to the Present," *Social Policy and Administration* 42, no. 4 (2008): 357.

38 Vowles, "The Politics of Electoral Reform in New Zealand," 96.

39 Éric Grenier, "Conflicted and worried: CBC News poll takes snapshot of Canadians ahead of fall election," *CBC News*, last modified June 30, 2019, accessed November 4, 2019, <https://www.cbc.ca/news/politics/cbc-election-poll-1.5188097>.

40 Nelson Kasfir, "No-party democracy' in Uganda," *Journal of Democracy* 9, no. 2 (1998): 53.

the enshrinement of reserved seats for underrepresented groups within the 1995 Constitution. This period of conflict in the 1980s can be considered the juncture which ushered in the implementation of reserved seats. This assertion is also supported by existing literature which discusses the relationship between major conflicts and government representation.⁴¹

Canada's continued use of FPTP can also be explained through the mobilization of historical institutionalist theory. Whereas New Zealand and Uganda's electoral reform can be rationalized through critical junctures, Canada's electoral stagnation can be explained by path dependency. FPTP has been an institution in Canadian electoral proceedings for over 150 years. As historical institutionalism posits, the longer an institution is in place, the more difficult it becomes to alter. In addition, the country hasn't experienced a traumatic conflict, such as the case of Uganda, nor has it succumbed to the variety of pressures that resulted in New Zealand's referendum on electoral reform. In other words, the federal government has not experienced a critical juncture which would result in an alteration of its current policy path. However, as noted earlier, Canada appears to be exhibiting many symptoms of voter fatigue with the current system; further research is required as to why Canada has not experienced this juncture despite sharing numerous conditions with pre-reform New Zealand. In sum, historical institutionalist theory can be mobilized to explain New Zealand and Uganda's adoption of proportional representation and reserved seats respectively, as well as Canada's policy stagnation regarding electoral reform.

Conclusion

Despite Canada's diverse population, the federal government is relatively homogeneous in its composition. As the current structure of Canada's electoral system is based solely around territorial identities, in which candidates do not require an absolute majority of votes to be elected, non-territorially based identities are excluded from the federal framework. There are two system-level methods of electoral reform that could begin to remedy this representational gap, each of which applies to the Canadian context: proportional representation and reserved seats.

Historical institutionalism can be used to explain why New Zealand and Uganda adopted proportional representation and reserved seats respectively, as well as why Canada has retained its FPTP system; Canada has remained path-dependent because it has yet to experience a critical juncture such as those which caused New Zealand and Uganda to alter their policy paths. Under its structure, reserved seats automatically increase the representation of minorities. In addition, given that proportional representation is perceived as leveling the playing field for minorities seeking election, it follows that proportional representation can also increase the representation of minorities in elected bodies. Even if this representation

41 Melanie M. Hughes, "Armed Conflict, International Linkages, and Women's Parliamentary Representation in Developing Nations," *Social Problems* 56, no. 1 (2009): 174.

begins as descriptive, the literature suggests that descriptive representation can lead to substantive representation in a two-step process, which in turn increases positive policy outcomes and electoral participation for the group in question. In conclusion, Canada would be able to increase the substantive representation of non-territorial identities in the federal government and better reflect the diverse nature of the Canadian federation through the implementation of either proportional representation or reserved seats. However, this shift will require a critical juncture which forces the Canadian government to alter its current electoral policy path.

THE MIGRATION-LIVELIHOODS NEXUS: EMERGING OPPORTUNITIES, EMERGING CHALLENGES IN RURAL ZIMBABWE

Emmanuel Ndhlovu

University of South Africa

Since 2000, when white-owned land was redistributed to indigenous blacks under a Fast Track Land Reform Program (FTLRP), issues such as financial and political crises, hyperinflation, unemployment, international sanctions, and political animosity between two major political parties are affecting migration patterns in Zimbabwe. Theoretically, FTLRP would have enabled the agrarian nation's previously disadvantaged blacks to improve their livelihoods through agricultural activities. However, areas that have been resettled under the FTLRP, such as the Sangwe farm, are now experiencing an increase in migration. Rooted in the Sustainable Livelihoods Framework (SLF) and drawing from in-depth interviews, this paper explores how migration has impacted the livelihoods of households on this farm. The argument is that while problems such as loss of labor, brain-drain, cultural disruption, and gender issues have emerged, migration has also created opportunities for the rural community. These opportunities include remittances, the acquisition of affordable farm and non-farm assets outside the country, access to much-needed foreign currency to purchase inputs, and the acquisition of knowledge on the production of plants that were not common in the lowveld.

Keywords: *Challenges, livelihoods, migration, opportunities, Zimbabwe*

Introduction

Because of its close link to human survival strategies, migration is one of the oldest phenomena in human history. The pursuit of livelihood opportunities motivates humanity to migrate. Migration is also linked to other categories of human security,

namely political, socio-economic, environmental, health, community, and personal.¹ As a result, it has become one of the issues currently dominating the international development agenda. In developing countries, where industrial and economic development remains slow, migration produces long-term solutions to poverty and dependence on the state, particularly in rural areas. Consequently, numerous recent development interventions focused on how to ensure the safe, regular, and well-managed movement of people, in line with the United Nations' Sustainable Development Goals. Empirical evidence shows that some people would not have chosen to migrate had it not been for their need to meet basic standards of living (food, education, medical care, or clothing).²

In a country like Zimbabwe, where about 47 percent of the population is undernourished,³ increased human flows are explained by financial challenges (hyperinflation and unemployment) and political instability. Migration, which is no longer confined within the country's borders, has taken on an international character, with both rural and urban dwellers crossing borders to make a living. This migration has generated various opportunities alongside a number of economic challenges for the country.⁴ This article seeks to understand whether farms that were acquired for livelihood development under the government's Fast Track Land Reform Program (FTLRP) are similarly affected by migration. We (1) explore how migration has impacted the livelihoods of A1 households (Zimbabwe's smallholder farmer category), (2) identify the opportunities for and constraints on livelihoods development through migration patterns on the farm, and (3) put forward context-specific recommendations.

The article focuses on the Sangwe farm, which is one of the A1 farms that were acquired under the FTLRP. Through the program, both peasants and the state could reclaim lands that were previously controlled by white monopoly capital. The government program was developed because of the country's increasing poverty level. In fact, 60 percent of Zimbabwe's population, most of them black, lived on less than a dollar in the 1990s,⁵ and 75 percent of the population could no longer afford

1 Ana Devon, "Human security concept in political and academic circles," *Technical Journal* 8, no. 3 (2014): 309-313; Des Gasper, "The Idea of Human Security," in *Climate Change, Ethics and Human Security*, eds. Karen O'Brien, Asuncion Lera St. Clair and Berit Kristoffersen (Cambridge: Cambridge University Press, 2014), 23-46.

2 Clayton Hazvinei Vhumbunu, "Boosting food security and restoring local food systems in Zimbabwe through Staple Crops Processing Zones (SCPZs): A prescriptive approach." Paper presented at the Symposium on 'Food Security, Migration and Innovation in Senegal and Zimbabwe: Lessons for Africa,' (Dakar, June 2019); Susan Fratzke and Brain Salant, "Understanding the impact of livelihood opportunities and interventions on migration patterns" (UK: Department for International Development, 2018).

3 Vhumbunu, "Boosting food security."

4 Ibid.

5 Sam Moyo, "The Land Question in Zimbabwe" (Harare: SAPES Trust, 1995).

basic food items during the same period.⁶ Before the FTLRP was implemented, a total of 11.8 million hectares of land was owned by a few large-scale commercial farmers producing for export, while over 70 percent of the indigenous population scrambled on 16.4 million hectares, most of which located in the dry lowveld region of the country.⁷ By October 2003, the FTLRP had replaced a problematic bi-modal system with an expanded tri-modal system which included about 150,000 A1 land beneficiaries and 20,000 middle-to-large-scale A2 farmers operating alongside agro-industrial estates.⁸ By the time the program was completed, land ownership by the large-scale commercial sector had reduced from 30 percent to 12 percent, and the small-scale agricultural sector had expanded from 54 percent to 71 percent.⁹

In Sangwe, unlike in most nearby farms in the Chiredzi district where the recuperation of lands was led by war veterans,¹⁰ the Gudo local community led the reclamation efforts on the basis of a long-standing dispute with Mr. Otterson. Mr. Otterson was a white commercial farmer whose Wildlife Conservancy had fenced off the indigenous people's traditional sacred sites (used for circumcision and rain rituals), the burial site of traditional leaders, as well as a sacred pool which provided fish as a supplementary source of food.¹¹ However, just like other farms across the country,¹² the Sangwe is now experiencing outward migration, which raises questions about the sustainability of household livelihoods on the farm. Some – mostly Westerners – have already argued that the FTLRP was an economic disaster which produced unplanned migration because of farmers' declining livelihoods.¹³

The following section discusses the nexus between migration and sustainable livelihoods. In the third section, the article focuses on the Sustainable Livelihoods Framework (SLF) as an important approach for understanding the

6 Gregory Elich, "Zimbabwe under siege" (African Business, 2002).

7 Raymond Wuta Mugandani, Amos Makarau, and Bryen Chipindu, "Re-classification of agro-ecological regions of Zimbabwe in conformity with climate variability and change," *African Crop Science Journal* 20, no. 2 (2012): 361-369.

8 Sam Moyo, "Changing agrarian relations after redistributive land reform in Zimbabwe," *Journal of Peasant Studies* 38, no. 5 (2011): 939-966.

9 Government of Zimbabwe, *Zimbabwe's Land Reform Program* (Harare, 2001).

10 Emmanuel Ndhlovu, "Relevance of Sustainable Livelihood Approach in Zimbabwe's Land Reform Program," *Africa Insight* 47, no. 4 (2018): 72-87.

11 Ibid.

12 Newman Tekwa and Jimi Adesina, "Gender, Poverty and Inequality in the Aftermath of Zimbabwe's Land Reform: A Transformative Social Policy Perspective," *Journal of International Women's Studies* 19, no. 5 (2018): 45-62.

13 Medicine Masiwa and Lovemore Chipungu, "Land Reform Program in Zimbabwe: Disparity between Policy Design and Implementation," in *Post-Independence Land Reform in Zimbabwe: Controversies and Impact in the Economy*, ed. Masiwa M. (Harare: Friedrich Ebert Stiftung and Institute of Development Studies, University of Zimbabwe, 2004); Brain Raftopoulos and Ian Phimister, "Zimbabwe Now: The Political Economy of Crisis and Coercion," *Historical Materialism* 12, no. 4, (2004): 355-82.

impact of migration on the Sangwe farm's household livelihoods. The fourth section presents the methodology of the study; the fifth section describes the results. The last section proposes policy recommendations.

Examining the Migration-Livelihoods Nexus

The literature on the migration-livelihoods nexus has grown in the past decade,¹⁴ and academics and practitioners now agree that livelihood matters should be part of the migration and development agenda.¹⁵ If livelihood opportunities are not secured, development is impossible. Today, there are numerous features to the migration-livelihoods nexus that are accepted by the academic community. These have become standard approaches for practitioners, donor agencies, and policy institutions seeking to address how migration is linked to livelihood development. For instance, most agree that people would not migrate if their needs and wants had been met in their country or place of birth; these include proper medical care, education, clothing, shelter, and so on. Thus, migration possibly allows for people to fulfill these needs and wants elsewhere.

Literature suggests that migration is a widespread and acceptable part of existence.¹⁶ According to the Food and Agriculture Organization (FAO),¹⁷ migration contributes to the development of today's societies, and, thus, is an acceptable part of our shared history as it acts as a livelihood broadening strategy. Although an increasing number of migrants leave their homes due to conflicts, especially in Africa, the majority are pursuing better livelihood opportunities. Crush notes that many people today migrate to study, to find work, and to support their family members back home.¹⁸ Gasper suggests that migrants are sustainable livelihood development agents, as they send remittances back home which allow for their family members to either meet or improve their needs (whether financial, physical, social, human, or natural).¹⁹ Remittances enable family members to buy food (financial), buy property and farm equipment (physical), participate in social events (social), access education and medical care (human), and acquire resources such

14 Alexander Betts, *Survival Migration: Failed Governance and the Crisis of Displacement* (Ithaca and London: Cornell University Press, 2013); FAO, *Migration, agriculture and rural development. Addressing the root causes of migration and harnessing its potential for development* (FAO: Rome, 2016); Asma Seemi Malik, "Rural urban migration; socio-cultural changes in Pakistan- preventive measures taken by government and civil society to control it," *Professional Med J* 22, no. 6 (2015): 674-682.

15 Jonathan Crush, *Linking migration, food security and development* (Cape Town: Southern African Migration Program, 2012).

16 Malik, "Rural urban migration."

17 FAO, *The linkages between migration, agriculture, food security and rural development* (The Food and Agriculture Organization of the United Nations, 2018).

18 Crush, *Linking migration, food security and development*.

19 Gasper, "The Idea of Human Security."

as land and water (natural). An increasing body of literature also points out that while conflict or lack of protection²⁰ can create a desire to migrate, it is usually the 'greener pastures' (better livelihood opportunities) argument that acts as a trigger.²¹ According to Zickgraf et al., the socio-economic position of an individual as well as their resilience capabilities determine their migration aspirations and patterns.²²

The FAO reports that more than 75 percent of the people who are food insecure across the world and whose livelihoods need urgent attention often live in rural areas and rely on rainfed agricultural activities.²³ Estruch, Schwebel, Suttie, and Hussein argue that conflicts, violence, and natural disasters drive migration and increase food insecurity.²⁴ However, many migrants, particularly from rural areas, are also forced to move due to factors that hamper livelihood development. In the absence of alternate strategies (i.e. credit, training, or financial services) that could improve livelihood and farming practices, people in rural areas migrate because of poverty and food insecurity. Lack of employment and other income-generating opportunities also result in migration from rural areas; this echoes the neoclassical theory's argument that migration (rural-to-urban) is a result of income inequalities between rural and urban areas and that should full employment be achieved, migration would cease.²⁵ Furthermore, inequalities between rural and urban areas in terms of basic services (health, education, and social protection) force rural community members to migrate in search of these services as they find it tough to manage risks (social, economic and environmental) within their own settings. Environmentally, extreme adverse weather conditions expose rural dwellers to increased livelihood challenges and motivate them to migrate.

The neoclassical theory was later supplemented by the human capital theory, which revealed the importance of individual preferences in migration decisions. Classical scholars such as Lewis postulate that in the context of similar average income between origin and destination countries, people may show different

20 FAO, "Migration, agriculture and rural development."

21 Catalina Herrera and David Sahn, "Determinants of internal migration among Senegalese youth," Social Science Research Network (SSRN Scholarly Paper; No. ID 2229584) (2013); Maria Hernández-Carretero and Jorgen Carling, "Beyond 'Kamikaze Migrants': Risk Taking in West African Boat Migration to Europe," *Human Organization* 71, no. 4 (2012): 407-416.

22 Caroline Zickgraf, Sara Vigil, Florence de Longueville, Pierre Ozer, and Francois Gemenne, "The Impact of Vulnerability and Resilience to Environmental Changes on Mobility Patterns in West Africa" (KNOMAD Working Paper 14, 2016).

23 FAO, "Migration, agriculture and rural development."

24 Elisenda Estruch, David Schwebel, David Suttie and Kathmandu Hussein, "Dynamic rural-urban linkages for decent rural employment" (FAO: Rome, 2017).

25 Allna De Brauw, Valerie Mueller, and Hak Lim Lee, "The Role of Rural-Urban Migration in the Structural Transformation of Sub-Saharan Africa," *World Development* 63 (2014): 33-42.

migration tendencies depending on education, skills, experience, and occupation.²⁶ This argument is extended in the expectancy value approach²⁷ as well as the planned behavior theory,²⁸ which argues that movement is the result of a decision process based on an individual's assessment (through expectations, values, and rules) of alternate locations.

Conventional interpretations of the link between migration and livelihood focus on the impact of migration on places of origin,²⁹ as well as on destination places in terms of livelihoods.³⁰ In the context of the places of origin, opportunities associated with migration include pressure alleviation or reduction on local labor markets, prospects of higher wages in agriculture, the emergence of female household heads who are empowered and are likely to prioritize food crop production, education, and health.³¹ The remittances sent home by migrants can potentially act as safety nets, relax liquidity restraints that exist in rural credit, and provide financial protection in the face of dysfunctional insurance markets.³² Remittances can generate investment in agriculture and other rural economic activities that have positive outcomes on livelihood. Migration also facilitates skill and technology transfer and can also create social networks beneficial for rural livelihood outcomes.³³

Regarding challenges in places of origin, scholars agree that migration often results in the loss of a younger, dynamic, and productive workforce whose agricultural labor is crucial for livelihood development.³⁴ Migration also contributes to brain drain, where vital skills and knowledge leave a community to develop in other areas.³⁵ Migration also leads to the emergence of default female household headship. According to Carvalho et al., it is usually the men who are first to leave,

26 Arthur W Lewis, "Economic development with unlimited supplies of labour," *The Manchester School of Economic and Social Studies* 22, no. 2 (1954): 139-191.

27 Martin Fishbein and Icek Ajzen, *Belief, attitude, intention, and behaviour: An introduction to theory and research*. Reading (USA: Addison-Wesley, 1975).

28 Icek Ajzen, *Attitudes, personality, and behaviour* (Chicago, USA: Dorsey Press, 1988).

29 Betts, *Survival Migration*.

30 Allna De Brauw, Valerie Mueller, and Hak Lim Lee, "The Role of Rural-Urban Migration."

31 FAO, "Migration, agriculture and rural development."

32 Malik, "Rural urban migration."

33 Anna Knoll and Andrew Sherriff, "Making Waves: Implications of the irregular migration and refugee situation on Official Development Assistance spending and practices in Europe. A study of recent developments in EU institutions, Denmark, Germany, the Netherlands and Sweden" (Brussels: European Centre for Development Policy Management, 2017)

34 Ibid.

35 Ibid.

thereby leaving women to be default heads of households.³⁶ Consequently, household livelihoods are threatened as most women, particularly those located in the patriarchal countryside, unfortunately lack the resources to make productive investment and improve on or sustain livelihoods. Migration can also generate a culture of over-dependence on remittances to the detriment of local productive livelihood systems.³⁷

According to the FAO, the international community must recognize the potential of agriculture and rural development for reducing human flows as well as the potential for migration flows to impact agriculture and rural development.³⁸ The FAO believes that intervention must focus on agricultural activities; the development of rural areas of origin; the building of displaced people's resilience (crisis context); the prevention of conflict; and the promotion of stability, safe migration (non-crisis), and the development potential of migration for food and nutrition security (remittances, skills, diaspora investment, and so forth).

Academic literature also informs us that migration and remittances do not necessarily represent solutions to agricultural transformation and to the much-needed livelihood development of the countryside.³⁹ Additionally, some scholars argued that policies designed for livelihood development have had minimal success in reducing either rural-urban or international migration⁴⁰ and that economic development can actually increase migration when a certain economic threshold is reached.⁴¹

In the context of A1 farms in Zimbabwe, the public generally perceives that migration resulted in stunted livelihood development. Accordingly, the 'new dispensation' government regime, which emerged on November 24, 2017, encouraged citizens to come back home and contribute to various aspects of this area, from the agricultural sector to nation-building. Government policies, such as the 'Zimbabwe is Open for Business' mantra, also attempted to lure foreign direct investment towards the country's agricultural sector. As mentioned above, many believe that a lack of livelihood opportunities in rural areas significantly contributed to migration. Presumably, if citizens were to come back, much of the challenges (including food insecurity) could be resolved. This assumption, however, ignores the fact that although migration presents various challenges, it also offers attractive livelihood opportunities for those resettled A1 households, such as in the lowveld, where low amounts of annual rainfall as well as high temperatures continue to

36 Ana Carvalho, Ulrich Schiefer, and Stephan Dünnwald, "African peasants on the move: Turmoil between global dynamics, migration and food insecurity," *Cadernos de Estudos Africanos* 29 (2015).

37 Knoll and Sherriff, "Making Waves."

38 FAO, "Migration, agriculture and rural development."

39 Betts, *Survival Migration*; De Brauw, Mueller, and Lee, "The Role of Rural–Urban Migration."

40 FAO, "Migration, agriculture and rural development."

41 OECD, *Perspectives on Global Development 2016. International Migration in a Shifting World* (Paris: OECD Publishing, 2017).

undermine households' efforts to develop their livelihood activities around agricultural activities. Literature focusing on the district Chiredzi shows that harsh agro-ecological conditions have encouraged citizens to adopt non-farming activities, conducted both within and outside the district as a way of supplementing household livelihoods.⁴² Migration has been one of the off-farm livelihood development strategies deployed by A1 households in the district. This study uses the SLF to understand the impact of migration on household livelihoods on the Sangwe farm.

The Sustainable Livelihood Framework (SLF)

The SLF is defined by Conway as the capacity of a system (a communal system, for instance) to be resilient and to be able to preserve its production or survival levels regardless of the level of disturbance it might have experienced.⁴³ In order to withstand the shock or disturbance, the system needs to be resilient rather than sensitive.⁴⁴ The 'resilience' aspect of the SLF refers to the capacity of a livelihood structure to 'bounce back' from disturbances (one example, in this case, would be unplanned migration from areas reclaimed under the FTLRP, such as the Sangwe), while sensitivity refers to the extent to which a system can endure antagonistic conditions.⁴⁵

Numerous early cross-disciplinary studies focusing on farming systems⁴⁶ as well as household and village studies influenced the SLF. However, the term 'sustainable livelihoods' was popularized in the 1990s.⁴⁷ The need for poverty reduction and practices that would guarantee human welfare, including food

42 Joseph Chaumba, "Opportunities for and Constraints on crop Production within Zimbabwe's fast track Resettlement Program: A Case Study of Fair Range Estate, Chiredzi District, South-Eastern Zimbabwe" (unpublished Masters of Philosophy Thesis, University of Western Cape); Hilda Muregerera, "The importance of communal rangelands: A case study of three districts in Zimbabwe" (unpublished PhD diss., Fort Hare University, 2009); Ndhlovu, "Relevance of Sustainable Livelihood Approach."

43 Gordon Conway, "The properties of agro-ecosystems," *Agricultural Systems* 24 (1987): 95-117.

44 Robert Chambers and Gordon Conway, "Sustainable rural livelihoods: Practical concepts of the 21st century" (Brighton: Institute of Development Studies, University of Sussex, 1992);

45 Nathan Bennett, "Sustainable livelihoods from theory to conservation practice: An extended annotated bibliography for prospective application of livelihoods thinking in protected area community research," *Protected Area and Poverty Reduction Alliance*, Working Paper (2010).

46 Norman Long, *Family and work in rural societies: Perspectives on non-wage labour* (London and New York: Tavistock, 1984); Joyce Mook, *Understanding Africa's rural households and farming systems* (Boulder: West View Press, 1986).

47 Bennett, "Sustainable livelihoods."

security, brought attention to livelihood frameworks.⁴⁸ A number of studies and reports by policy institutions and scholars shaped the canvas from which livelihoods approaches developed.⁴⁹ Firstly, people-centered approaches emerged in response to the inadequacy of the top-down, bureaucratic, and market-oriented approaches that defined development from the 1950s to the 1970s.⁵⁰ Arce argues that the SLF was established because policymakers and analysts considered the state to be ineffective in engendering development when compared to markets.⁵¹ Secondly, the World Commission on Environment and Development of the United Nations' Brundtland Report entitled *Our Common Future* (1987) provided a guideline for a people-centered, bottom-up development approach. From the report emerged the concept of 'sustainability,' a crucial term that continues to dominate the rural development discourse.

Although the origins of the SLF are found in the Brundtland Report and in Robert Chambers' collaborative works with Conway, the framework actually stemmed from previous studies that explored the differential capacity of rural folks to endure crisis (floods, droughts, pest outbreaks, and diseases).⁵² In fact, Hussein notes that people-centered development values, which are now part of the SLF, had been deployed in action operations (particularly food security interventions) by institutions such as the Food and Agriculture Organization of the United Nations.⁵³ Singh and Gilman claim that food security was at the center of livelihoods mechanisms long before the concept was formalized.⁵⁴ Chambers and Conway, however, are reputable for their construction of a development thinking framework that placed sustainable livelihood within an actor-oriented approach of development.⁵⁵ Their framework was both normative and practical⁵⁶ and could be applied wherever the welfare of the poor was prioritized.

48 Conway, "The properties of agro-ecosystems"; Chambers and Conway, "Sustainable rural livelihoods"; Bennett, "Sustainable livelihoods."

49 Chambers and Conway, "Sustainable rural livelihoods"; Gordon Conway, "The properties of agro-ecosystems"; The Institute of Development Studies, *Assessment of development results: Evaluation of UNDP contribution, Botswana* (United Nations Development Program, 2009).

50 Chambers and Conway, "Sustainable rural livelihoods."

51 Albeto Arce, "Value contestations in development interventions: Community development and sustainable livelihoods approaches," *Community Development Journal* 38, no. 3 (2003): 199-212.

52 Chambers and Conway, "Sustainable rural livelihoods."

53 Kathmandu Hussein, "Livelihood approaches compared: A multi-agency review of current practice" (London: DFID, 2002).

54 Naresh Singh and Jonathan Gilman, "Making livelihoods more sustainable," *International Social Science Journal* 162 (1999): 539-542.

55 Chambers and Conway, "Sustainable rural livelihoods."

56 Bennett, "Sustainable livelihoods."

The idea behind the SLF is to support the relations between various livelihood aspects so that households can benefit from their effect when interlinked and when in unison. These aspects include the assets owned by households and the activities which allow households to maintain an acceptable living standard and to withstand the factors that assist or hamper their acquisition of assets and services. This framework is, therefore, more important in the livelihood discourse than it is in any other field. Hence, Farrington writes: “A livelihood comprises the assets (natural, physical, human, financial and social capital), the activities, and the access to these (mediated by institutions and social relations) that together determine the living gained by the individual or household.”⁵⁷ Importantly, the subject of the SLF is always the household. This article focuses on how households have been impacted by migration.

For livelihoods to be sustainable, living standards must be improved. The disastrous effects of turbulences, such as unplanned migration, must also be mitigated. This can be achieved through asset base creation. How, then, has migration impacted the assets of households? In this article, these asset categories are related to the five capitals of the SLF, namely the physical, financial, natural, human, and social capitals.⁵⁸ Since the production of A1 farming is usually directed to household consumption (although surplus might be sold), the SLF provides much help to our understanding of the livelihood status of the Sangwe households.

Research Method

Data was collected between October 2016 and February 2017 from a sample of 72 households. The total population slightly exceeds 215. The study gathered both quantitative and qualitative data. Because of its in-depth nature, only qualitative data will be presented in this article. To fill the gap created by the exclusion of quantitative data, supplementary *ad hoc* interviews with key informants were conducted between February and March 2019. The aim was to gain a comprehensive understanding of the impact of migration on the livelihoods of the Sangwe households. The various opportunities and challenges resulting from migration were identified, evaluated, and analyzed. Data was categorized using the SLF and is summarized in the next section. Permission to conduct the study was given by communal leadership institutions as well as by the participant A1 households on the farm.

Data Presentation

This section presents the findings of the study. Divided according to the five capital categories described in the SLF, the data exemplifies the opportunities and challenges of migration for the A1 households of Sangwe, resettled under the FTLRP.

57 John Farrington, “Sustainable livelihoods, rights and the new architecture of AID,” *Natural Resource Perspectives* 69 (2001): 10.

58 Ndhlovu, “Relevance of Sustainable Livelihood Approach.”

Human capital

Human capital includes the health (physical or mental), skills, and knowledge, which allow A1 households to develop or sustain their livelihoods either through farming or other non-farming activities.⁵⁹ Participants revealed that migration, both internal (within the country) and external, enabled household members to acquire new knowledge, such as the production of plants (beetroots and potatoes, *madhumbe* or yams) that are not common in the lowveld. Participants often chose to grow these crops around their wells, where the crops could be watered by the wasted water. Almost every households had these crops; an indication of knowledge sharing that has the potential to improve livelihoods on the farm. It was revealed that both educated, and less educated members migrated from the farm, particularly towards South Africa, in search of off-farm livelihood opportunities.

However, migration can have a negative impact on the human capital of areas of origin.⁶⁰ This negative impact is greater if the area of origin engages in labor intensive activities, such as agricultural activities, as is the case on the Sangwe farm. On the Sangwe, participants complained about the loss of younger, dynamic, and productive community members whose labor was crucial for agricultural production. Most of the participants headed households on behalf of children or relatives who migrated for employment or other activities. Participants were generally older, with the majority ranging from the age of 61 to 70. Considering the importance of human labor in subsistence farming on this A1 farm, this situation was detrimental to livelihood development. Moreover, mainly male members are migrating, creating cultural and family disruption within this traditional Shangane-dominated community. Increased unpaid female labor that is meant to subsidize the social reproduction of male labor-power in towns represents challenges not only for individual household livelihoods, but also for the rural economy. In this context, instability and political conflicts are likely to arise. Migration can thus become an obstacle for families that rely on subsistence farming, since human labor is critical for ploughing, weeding, harvesting crops, and looking after the livestock and flocks. In an agro-ecological dry area like the Sangwe, where all members are expected to engage in some form of livelihood development activity, the departure of the household's able-bodied members becomes a real challenge.

Natural capital

Natural capital consists of natural goods (land, soils, geology, air, water, and all living organisms). Natural capital is crucial to the success of A1 farming as it provides households with free services and goods, also referred to as ecosystem services. Land (and what can be produced on it) is vital to sustainable livelihoods, particularly for rural households. Because land can also be offered as collateral for loans, which

59 Ibid.

60 Knoll and Sherriff, "Making Waves."

provide households with financial capital, the land value extends beyond its direct use in productive activities. Importantly, all the households interviewed owned their land under the A1 model.

According to the agro-ecological classifications of Zimbabwe, the Chiredzi district, in which the Sangwe farm is located, belongs to Region V. The region is characterized by low rainfall, poor soils with low agricultural potential, and high temperatures.⁶¹ Annual rainfall ranges from 450mm to 650mm per year, and the climate is commonly classified as hot and dry. Consequently, where irrigation systems are not used, crop production is not sustainable. Livelihood diversity in the region is highly limited by these conditions, and migration has emerged as one of the strategies adopted by the population to respond to the challenge. One participant mentioned:

*This place is problematic. It is difficult to make a harvest. It is a dry place without water. Without irrigation, we will all leave quietly one-by-one because we cannot die as we watch.*⁶²

Because of the absence of family members, less pressure is put on fertile soil, and less water is consumed. With smaller families to feed, crop spacing was increased to reduce competition for water and nutrients. The elderly family members also had more freedom to grow sorghum and *rapoko*, which are disregarded by other members of the family due to their taste and color but nevertheless are drought resistant. This guarantees that the household is always properly fed. Surplus sorghum was sold at the Grain Marketing Board for extra financial capital. Participants also indicated that the farming of smaller lands ensured that enough grazing land was left for livestock, which improved households' livelihoods.

In the absence of competition, participants also harvested *mopani* worms from the forest. The worms are eaten, and surpluses are sent to family members in towns and cities to sell, which brings extra revenue for the households. However, although migration reduced pressure on natural capital, recurrent droughts in the areas remain a challenge for food security.

Financial capital

Financial capital refers to the savings, loans, and credit that Sangwe's A1 households have access to. As a result of the current financial and political crisis, numerous community members are either in town or out of the country to pursue economic activities and build their financial capital. This peculiar situation mirrors that of the whole country, where the magnitude of migration has increased since the beginning of the 2000s. On the Sangwe farm, where almost every A1 household had an

61 Mugandani, Makarau, and Chipindu, "Re-classification of agro-ecological regions."

62 Participant, 05/11/2016.

average of two members away from home,⁶³ remittances became the most crucial capital used to meet household livelihood requirements. One participant reported that:

*The entire national reels today under currency shortages, and we do not know when and how it will end. Our family members in South Africa give us help beyond finance. Most people of this area migrate to South Africa. Besides cash, they also send food stuff (cooking oil, canned foods, rice, etc.) as it is either hard or crazy expensive to get most of the food items in the country at the moment. We also use the cash to obtain foods that can be acquired locally.*⁶⁴

Households used migration remittances as a strategy to expand their financial capital and invest in new livelihood strategies. Migration on the farm could thus be seen as an economic strategy. The belief that financial capital could improve household livelihoods raised migrants' aspirations on the Sangwe. Those with relatives in targeted destinations moved more quickly, much to the benefit of their households back home. One participant mentioned that:

*Many people in this eastern part of the country work in South Africa more than anywhere else due to the availability of job opportunities in that country. As a result, their relatives also migrate towards that country because of the support they already have from their relatives.*⁶⁵

It seems necessary to increase financial capital that motivates people to migrate and develop their household's livelihood. Additionally, remittances are used by family members back home to migrate and further contribute to the development of household livelihoods. Fratzke and Salant argue that the extent to which someone has access to finance, including remittances, is likely to determine whether he or she is able to migrate and meet the expenses of traveling.⁶⁶

The study also found that households used remittances to acquire additional inputs (fertilizer, seeds, and chemicals), develop farming technologies, and pay for extra labor needed for livestock care, land cultivation, weeding, and harvesting. In addition, remittance money was used to meet further household basic needs: education, clothing, housing and medication, paying bride price (*lobola*), circumcision and transport. Participants revealed that they had no access to loans or credit and that they often used their own money for farming, which made remittances indispensable. Thanks to the assistance of migrant relatives, some households also acquired the various types of assets and livestock listed in Table 1. For the A1 farmers

63 Informant D, 09/02/2019.

64 Informant C, 17/02/2019.

65 Informant D, 09/02/2019.

66 Fratzke and Salant, "Livelihood opportunities and interventions."

on the Sangwe, livestock is not only used as productive capital. Not drastically different from money or bank deposits, livestock represents a form of saving for the households. Participants reported that they used cellphones to communicate with relatives, other farmers (with whom they might engage in cooperative activities), and suppliers. The assets listed in Table 1 are often important modern-day farming requirements. However, most of the participants maintained that the money acquired from remittances was used to acquire immediate basic items rather than invested on the farm. This indicates that, since the 2000s, A1 households on the farm have not managed to secure sustainable and sovereign means of survival. Consequently, as others have argued in the past, one could claim that the FTLRP's primary goal was not to develop rural livelihoods, but to fragment communities who, if kept intact, would likely have pushed the current government out of office.⁶⁷ The absence of loan and credit facilities for A1 households, and the high dependence on remittances is indicative of the unplanned character of the reforms, which became somewhat of a burden on households already suffering.⁶⁸

Table 1: A1 migrant-related accrued assets and livestock

Farm Equipment	Non-Farm Equipment	Livestock, Flocks, Poultry
Ox Ploughs	Motorcycles	Cattle
Ox ridgers	Cars	Donkeys
Ox harrows	Bicycles	Sheep
Ox cultivators	Televisions	Goats
Harrows	Radios	Pigs
Scotch carts	Sewing machines	Poultry
Wheelbarrows	Table and chairs	
Hoe/shovels	Sofas	
Tractors	Solar panels	
Lorries	Cell phones	

Physical capital

The physical capital comprises transport, roads, markets, water supply, education, and health facilities which all enable A1 households to achieve a certain standard of living. Poor infrastructures are likely to affect human capital (poor education and health outcomes) or prevent farmers from accessing markets (e.g. lack of information or transportation). This study shows that remittances allowed household members to dig wells and drill boreholes to access water; some households grew cotton. However, because of bad road conditions, farmers had no way to sell their product. Using their own tractors (most of which transported from South Africa by migrant relatives), households were able to transport their cotton bales and livestock

67 Chaumba, "Opportunities for and Constraints on crop Production."

68 Ndhlovu, "Relevance of Sustainable Livelihood Approach."

to nearby markets in Fare Ranch, another farm with better infrastructures. There were also no schools on Sangwe farms. Consequently, some parents sent their children to boarding schools and others took them to South Africa so that they can receive a better education – educators were often protesting in Zimbabwe. Sending your children away secured the future livelihood of the younger generation. One key informant stated:

*Most of the parents in this area have taken their children to South Africa for better education. This enables the children to receive a better education. Those are some of the advantages of migration. We have a good number of degree holders now on the farm. Most of them were acquired outside the country as university education is cheaper in other countries than here at home.*⁶⁹

Thus, migration enables community members on the farm to access physical facilities and infrastructures that cannot be found at home. Thanks to the migration of relatives, those remaining could also get medicine for various diseases. In extreme cases, some migrants transported relatives to South Africa or larger cities for medical care. Medicines and chemicals for crops and livestock were also transported mainly from South Africa. Solar panels sent by members from the diasporic community were also used by participants mainly for lighting and charging cellphones. All these tools improved sustainable household livelihood on the farm.

Social capital

Migration trends created various networks which improved livelihood opportunities. On the Sangwe farm, these networks include political and communal-based cooperatives rooted in cultural beliefs, religion, and other social attributes which constitute social capital. Social connections with returning migrants (*majoni-joni*) also gave rise to migration aspirations as livelihood success stories and migration experiences were communicated. Families also migrated to reunify with those already abroad and migrants were reported as ‘facilitators’ who provided financing (through remittances) or information on migration opportunities to those who aspired to migrate. All these activities were important for livelihood development on the farm.

This study also found that migrants formed transport cooperatives which allowed for them to send goods back home. Some households on the farm had received valuable groceries from relatives through Small Business Enterprises such as *Paisa* and *Courier24*, while others received goods through *malaichas* (informal goods transportation businesses). Cross border buses, but, more importantly, taxis had also become important for the transportation of goods, especially from South Africa. Through these transportation networks, migrants shared information with their relatives about food scarcity and prices, types of chemicals needed on the

farm as well as information on remittances, which contributed to the efficiency of production activities on the farm. A key informant mentioned that:

People in the diaspora share information on how to send money back home to ensure that their members are fed. This enable livelihoods to be resilient. The situation is currently very bad in the country.⁷⁰

Currency shortages in Zimbabwe – both foreign and national – remain acute. Only the emergence of initiatives such as the *Eco-cash mobile* allows for many A1 households to access basic livelihood needs, such as food. A number of digital banking services, such as the Western Union, *Mukuru.com*, and *mama money* (based in the diaspora) also enable migrants to send remittances back home. Whether the current government (which promises a ‘new dispensation’) will build up on these available developments and invest in other technology-driven solutions that enable economic revival and speed up social development remains to be seen.

Lastly, members who migrated to towns and cities within Zimbabwe often tried to develop relationships with political leadership structures which have the potential to help their relatives back home secure seeds, fertilizers, and affordable equipment. Because of their migrant relatives’ relations with politicians, some A1 households received recommendation letters for access to assets (inputs, free maize seeds, and fertilizers) from authorities involved in the government’s rural development program. Such connections were important in ensuring the development of household livelihoods, especially in 2016 when there was a drought across Southern Africa.

Conclusion and Recommendations

Migration in Zimbabwe has increased in recent years, including cases that start from resettlement areas. There have been competing interpretations about the 2000s land redistributions, with the international community (that is, mainly European and American countries) arguing that redistributions equated to an economic disaster which produced food insecurity, unemployment, lack of agricultural production, and declining livelihoods. Increasing migration patterns – as many seek to escape hunger, poverty, and underdevelopment – appears to give value to this interpretation. On the Sangwe farm, every household had at least two members that had migrated, either to nearby towns, to South Africa, Botswana or beyond. In this specific case, migration appeared to produce both negative and positive livelihood outcomes for the community, which is in accordance with reviewed academic literature. Nevertheless, further analysis is needed to fully understand the implications of rural-urban migration on A1 household livelihoods. From the analysis, it can be concluded that livelihood development opportunities can be a key motive for migration in reclaimed households of the drier and drought-prone district of Chiredzi, where frequent droughts and economic meltdowns have affected crop production and animal rearing.

Instead of discouraging migration, intervention strategies should promote and design policies that make migration a pillar of the livelihood development system in agro-ecologically dry areas, such as the Sangwe. There is also a dire need for the adoption of sustainable livelihood development approaches that are migration and nutrition sensitive. Additionally, intervention should focus on infrastructure development and encourage migrants to invest in farming as a livelihood development strategy. Irrigation farming and other sustainable livelihood capitals, including financial capital (loans, savings, credit, and so forth) should also be prioritized. Water supply facilities, such as dams and boreholes, could therefore be built and diaspora capital, secured. Moreover, interventions should focus on supporting digital banking services, such as the *Western Union*, *Mukuru.com*, *Eco-cash* and *Mama Money*, which enable migrants to send remittances back home. Likewise, networks such as *Paisa* and *Courier24*, which deal with the cross-border transportation of goods from South Africa, should be strengthened. Finally, there is a need to mobilize Sangwe farmers around the production of more drought-resistant crops such as castor beans (for sale) and cassava and sorghum (for consumption). Considering that men are more inclined to migrate, future research should focus on the leading role of women in household sustainable livelihood systems. Perhaps another methodology would be better suited to such research.

GLOBAL SKILLS: ARTICULATING THE INTERNATIONAL STUDIES SKILLSET AND ITS VALUE

*Natassia Bell, Anna Branford, Natasha Karner,
Julian CH Lee, Madeline McGarvey, and Kaye
Quek*

RMIT University

While the popularity of international studies as a discipline reflects the attractiveness of the field of study and its utility in an age of globalization, students of international studies can, like many social science and humanities students, struggle to articulate the suite of skills and competencies that they have developed during their tertiary level studies. Although concepts such as “soft skills,” “enterprise skills,” and “21st-century skills” have been of use, we argue that “global skills” as outlined by Douglas Bourn is a more comprehensive articulation of the international studies skill and competency set. In this collaborative article, we 1) describe the field of international studies and its virtues; 2) outline the problem of art students’ difficulty in articulating their skillset and professional value; 3) introduce Bourn’s concept of “global skills”; 4) contribute to the concept of “global skills” by elaborating on the need for critical self-reflection of one’s subject position and by outlining the value of systems thinking; 5) provide a reflective case study that illustrates how the global skills and the international studies skillset was highly valuable for one graduate’s cross-cultural engagement; and then conclude with final remarks on the value of international studies.

Keywords: *International Studies, Humanities, Global Skills, Employability, and Careers.*

Introduction

The field of international studies is one of considerable popularity for university students. It is an interdisciplinary field in the humanities and social sciences that holds an understandable attraction to students who are interested in world affairs. This includes those students who wish to make a positive contribution to the many

and diverse issues they read and hear about, and which impact their own lives and the lives of others near and far. However, like many students and graduates of the arts, humanities, and social sciences, those in international studies have sometimes found it difficult to be able to articulate the skillset they have developed during their degree. From the perspective of a career educator (as one of this article's authors is), the ability to articulate one's skill set is significant not only in terms of conveying the value of that skill set to potential employers, crucial though that is. It is also a matter of the student's or graduate's capacity to perceive their own professional identity and the unique and valuable assets they have to draw on as they consider opportunities, navigate challenges, and develop and evolve in their careers.

This collaboratively authored article highlights the personal and professional value of international studies and also commends the concept of "global skills" as outlined especially by Douglas Bourn as relevant to students and graduates of international studies. We believe that enabling students and graduates of international studies to be able to explicitly express their competencies will be of considerable value to them in their career journey, as well as enable them to personally appreciate what they have accomplished through their studies.

Section I briefly discusses international studies as a field of study and some of its virtues; Section II outlines the "problem" of humanities and social science students' common inability to appreciate their career-relevant skillset; Section III introduces Bourn's "global skills" framework; Section IV considers some of the potentially problematic elements of the concept of global citizenship which constitutes Bourn's global skills and advocate for a critical self-awareness of positionality and the value of systems thinking, and Section V looks at a case study of how one of the present authors undertook a thesis in international studies *in situ* in Indonesia and effectively made use of the international studies skillset.

I: International Studies

A degree in international studies can be regarded both as a "generalist" degree and yet also as a specialized degree. It is general in the sense that unlike some other degrees where there is a clear imagined career destination – such as if one were to study journalism, podiatry, law, or accountancy – the avenues for future work that international studies make possible is broad and seemingly unspecific. As alluded to in the previous section, this breadth and non-specificity can make the skillset developed in international studies seem diffuse and hard to articulate, and therefore be undervalued, even by students of international studies – a situation that this article addresses.

However, international studies can also be viewed as a specialized degree,¹ and seeing it as such is important to affirming its value. The fields of international

1 Des Cahill, "Celebrating international studies at RMIT: The First Ten Years," *Here Be Dragons* 7, 2020, 32.

studies and global studies – which this article will treat as synonymous² – are inherently interdisciplinary,³ and at some universities, subjects that contribute to an international studies degree are a bricolage of existing courses from other disciplines including (but not limited to) history, anthropology, political science, and gender studies. This may contribute to a sense that international studies is a diffuse and, in a sense, “undisciplined” science - an issue that is revisited in Section IV. But the key to international studies is the frame of reference it deploys. Whereas psychology’s frame is the psyche (of ostensibly the individual), and sociology’s frame is a society, international studies of course has an international and global frame of reference. This frame of reference is one that requires the cultivation of ways of thinking and cognitive dispositions that enable international studies students and scholars to competently grapple with the issues they have at hand.

The international or global frame requires an understanding that governments, policies, and laws can differ profoundly between countries, and that each country will have different relationships and histories with other countries, and these relationships can shift again depending on which political party is in power. And then, requiring perhaps an even greater level of sophistication is the appreciation of culture and cultural difference. Differences in worldviews, values, and cosmologies can be considerable and can be difficult to fully appreciate. However, an appreciation of such differences can just be the start, because a further layer of nuanced understanding is required to appreciate the fact that individuals from a given society rarely embody all the traits associated with the culture of that society.⁴

Even still, encounters with these differences can challenge deeply held beliefs about right and wrong, and even put into question things that seemed true in ways that, without the cross-cultural encounter, would never have occurred to a person that they could be put into question. Issues of cultural relativism can be difficult to navigate,⁵ even for scholars with decades of cross-cultural experience. And then, overlaid upon this is the issue of linguistic difference and the fact that foreign language competence is important in developing sophisticated insight into another society.

Skills developed through the study of the above may well be conceptualized as “soft skills,” a term that speaks to their important capacities for adaptability

2 The authors are aware that some people will regard these fields as different. However, they are related and often treated as essentially the same fields by others.

3 Eve Darian-Smith and Philip C. McCarty, *The Global Turn: Theories, Research Designs, and Methods for Global Studies* (Oakland: University of California Press, 2017).

4 As noted by Sjoerd Beugelsdijk and Chris Welzel, “Usually, it is impossible to replicate dimensions of cultural variation found at the aggregate level *across* countries in the same shape at the individual level *within* countries.” Sjoerd Beugelsdijk and Chris Welzel, “Dimensions and Dynamics of National Culture: Synthesizing Hofstede With Inglehart,” *Journal of Cross-Cultural Psychology* 49, no. 10 (2018): 1498.

5 Michael F. Brown, “Cultural Relativism 2.0,” *Current Anthropology* 49, no. 3 (2008): 363-383.

and flexibility across divergent careers, situations, and applications. However, the quality of “softness” can also seem to signify a certain amorphousness, a lack of tangibility, and an absence of rigor and strength. This second set of associations would misrepresent the value, and even the nature, of the international or global frame acquired through study, which is a complex, disciplined mindset that is both rigorous and informed. Another challenging aspect of its seeming “softness” is that it can be regarded as “unfixed”, though not because it lacks form, but rather because it is in a state of constant engagement and evolution. It even has aspects that are meaningfully characterized as modes of imagination (as in Orgad’s assertion that “global imagination is cultivated by a process of the ongoing construction of views, images, understanding, desires, and scripts about the world”).⁶ Compounding all of these challenges is the peculiar reality that these skills and capabilities, however strategically acquired and cultivated, may not be easily articulated or even fully perceived by those who can claim them among their professional assets. We consider this phenomenon in the Graduate Case Study in section V of this article.

Although the skills discussed in this article can sometimes be considered as nice-to-have rather than essential, we maintain that their utility cannot be seen as inferior to so-called “hard skills.” The evidence for this is to be found in the many failed ventures and projects that floundered not because the engineering blueprints were faulty, or the objectives ignoble, or technology inadequate. Rather, the failures speak directly to the need for a better informed and more nuanced engagement with the local context and the array of stakeholders needed to make a success of it⁷ – an issue also revisited in Section IV. Thus, although an international studies degree can seem general in the sense that the skillset is of use to an array of endeavors and areas of work, it is also specialized because the higher-order understanding and competence developed through international studies are focused on a real and important set of competencies.

And yet, as with other humanities and social science students and graduates, articulating this skillset for international studies students can be and has been, challenging. Although concepts such as “soft skills,” “enterprise skills” and “21st-century skills” have been important in filling that breach, students in fields like that of international studies have, as we will now see, sometimes struggled to understand the job and career-relevance of the skills they have developed.

II: Arts, Humanities and the Social Sciences: The Career (Dis)Connect

A 2013 study supported by the Australian Government’s Office for Learning and Teaching (OLT) revealed that Bachelor of Arts (BA) graduates across Australia do

6 Orgad cited in Bourn, *Understanding Global Skills for 21st Century Professions*, 116.

7 Jill Anne Chouinard and Rodney Hopson, “A Critical Exploration of Culture in International Development,” *Canadian Journal of Program Evaluation* 30, no. 3 (2016): 248-276.

not appreciate their skillset and harbor concerns about their employability.⁸ Led by researchers at the University of Adelaide, the study gathered insight on the issue of BA graduates' employability from the perspective of the graduates themselves as well as the academics that taught them, and the companies that employ them. Among the discipline areas covered in the study were international studies, politics, history, and international relations, thus the report's findings are highly relevant to this article's discussion of interdisciplinary field international studies.

A significant finding of the study is that while BA degrees are designed to equip graduates with highly desirable skills, including critical thinking, problem-solving, and communication, the graduates themselves are not aware of these skills (or not adequately appreciative of them) and fail to highlight them to potential employers. Instead, the participating graduates in the study believed that employers prefer graduates of vocational disciplines whose training explicitly aligns with the needs of certain industries. The comparison was commonly drawn between BA graduates and engineers.

The study focussed explicitly on the perceived employability of individuals who possess an undergraduate qualification in the arts and, while it notes that an undergraduate qualification in the arts should not be just viewed as a "job ticket,"⁹ students, academics, and employers all noted that there are ways to address employability issues for BA graduates. The study sought recommendations from the three stakeholders – the students, their teachers, and their potential future employers - with a view as to understanding how best to enhance a Bachelor of Arts graduate's chances of attaining employment post-graduation. The recommendations include explicitly defining and assessing key graduate skills, providing training in CV writing and interview presentation, and democratizing professional practice opportunities, among others.

The employers surveyed in this study hail from the top three employer sectors of BA graduates: educational institutions, government departments, and retail or wholesale businesses. This list from which the study draws¹⁰ represents a variety of sectors that do not necessarily require employees to possess postgraduate qualifications. While some areas of work in international studies require postgraduate qualifications, and indeed this study indicates that a subset of BA graduates pursues graduate studies, this study seeks to address the relative employability of BA graduates based on the skills learned in their undergraduate qualification.

As the study clearly shows, individuals with a BA qualification possess the skills desired by their top three employer sectors and can obtain employment in these sectors without a postgraduate qualification. Importantly, this study highlights the disconnect between this reality and the students' perceived ability

8 Nick Harvey and Mosharefa Shahjahan, *Employability of Bachelor of Arts graduates*, report for the Australian Government Office for Learning and Teaching, Canberra, 2013.

9 *Ibid.*, 135.

10 *Ibid.*, 204-205.

to obtain employment and, indeed, their employability in general. The study seeks to address the perceived unemployability of BA graduates by addressing some of their, and their potential employers', key concerns: namely skills recognition, skills demonstration, and performance in recruitment processes. It might be worth noting here that the notion that students should "study something else" was *not* one of the recommendations, indicating that the issue is not so much the arts, humanities, and social sciences, but how the degree and its graduates fit into the labor market or how they can articulate their relevance.

To understand how these recommendations might address the issue of BA graduate employability, it is first important to understand what the "issue" in fact is. The OLT study asserted that the term "employability" is loaded, inconsistently defined, and ever evolving. For this study, the researchers defined "employability" as:

*achieving and demonstrating appropriate knowledge, skills, and attributes to obtain initial employment, maintain employment, and move to new employment if required.*¹¹

A simple way to measure the employability of BA graduates is to consider the proportion of graduates employed. When doing this, the OLT study found that 77% of the participating BA graduates were employed at the time of the study.¹² This proportion of workforce participation paints a picture of a highly employable degree. Why, then, is the employability of graduates of degrees such as international studies periodically up for debate? The way graduate employment outcomes are reported can have a dramatic impact on how employable graduates from various disciplines look on paper. Two commonly used metrics are the proportion of full-time engagement among a cohort and the time elapsed between graduating and attaining full-time employment.^{13,14}

If the OLT study looked only at the proportion of graduates *full-time* employed, that 77 drops to just over 50%.¹⁵ Furthermore, the study neatly displays the issue of time: the longer after graduation one measures workforce participation, the greater the percentage of the cohort one finds engaged in full-time work.¹⁶ This points to

11 Harvey and Shahjahan, "Employability of Bachelor of Arts graduates", 21.

12 Ibid., 70.

13 Matti E. Lindberg, "At the Frontier of Graduate Surveys – Assessing participation and employability of graduates with master's degree in nine European countries," *Higher Education* 53 (2007): 623-644.

14 Alison Pennington and Jim Stanford, "The Future of Work for Australian Graduates: The Changing Landscape of Employment Transitions in Australia," The Australia Institute Centre For Future Work, Canberra, 2019, https://www.futurework.org.au/the_future_of_work_for_australian_graduates.

15 Ibid.

16 Harvey and Shahjahan, "Employability of Bachelor of Arts graduates," 71-72.

an important point: if a metric for employability is regarded as related to achieving full-time employment in the shortest possible amount of time post-graduation, BA graduates can sometimes not fare well. For a term with diverse definitions, discussions of employability can paint an unduly bleak picture for BA graduates. We believe this ignores the individual and social benefits of part-time and casual engagements, and the myriad reasons why a graduate might initially take these roles. It also says nothing of job satisfaction. Acknowledging these deficits in the concept of “employed” and “employable” acknowledges the changing world of work and the reality that full-time roles may not be available, cyclical, or, indeed, may not be initially desirable for many individuals.

The OLT study’s discussion of employability for BA graduates highlights an important variable: one’s ability to achieve and demonstrate the appropriate skills to attain, maintain, and change employment. Employers surveyed noted that, specifically, recruitment choices are made based on a candidate’s “fit for the role” but that, more broadly, there are several key skills that they desire in a candidate. The top desired skills are, among others: (1) oral and written communication skills, (2) problem-solving skills, and (3) teamwork¹⁷

Ideally, candidates would be able to articulate and demonstrate these skills to employers by undertaking work-integrated learning, having previous work experience, and studying two majors to enhance subject-matter knowledge.¹⁸ However, while the graduates were able to identify in themselves the same key skills that employers desire, they believed that the best way to demonstrate their employability is by undertaking further study, taking practical classes on employment provision, and integrating the subjects of their art with those from technical disciplines.¹⁹ This indicates that graduates (and probably their teachers alike), while aware of their skills, might be under-valuing them, and are not able to demonstrate them effectively to employers. This paper seeks to contribute directly to this problem.

The OLT study demonstrated what is quickly becoming common knowledge: that employers are looking for graduates with what has been often termed “soft skills.” Generalist degrees, such as that of international studies, are where these skills are taught in abundance. Soft skills have undergone several incarnations in recent times, with “enterprise skills,” “employability skills,” and “21st-century skills” gaining popularity as concepts that cover similar ground to soft skills. Philip Hanlon, the President of Dartmouth, advocates a rebranding of soft skills to “power skills” to demonstrate their true potential.²⁰ Semantics aside, soft skills are highly demanded.

While concepts such as enterprise skills and 21st-century skills have sought to outline more clearly the career-relevance of skills, some of which were captured

17 Harvey and Shahjahan, “Employability of Bachelor of Arts graduates,” 144.

18 *Ibid.*, 156.

19 *Ibid.*

20 Anant Agarwal, “Data Reveals Why the ‘Soft’ in ‘Soft Skills’ is a Major Misnomer,” *Forbes*, October 2, 2018, <https://www.forbes.com/sites/anantagarwal/2018/10/02/data-reveals-why-the-soft-in-soft-skills-is-a-major-misnomer/#7598c6446f7b>.

previously as “soft skills,” there has emerged another concept that captures even better the skillset cultivated during an international studies degree. In Section III, this article will present Douglas Bourn’s concept of “global skills” as a fitting articulation of the skillset of students in international studies degrees. Bourn’s work on global skills has the potential of enabling students and international studies teachers to understand and frame their competencies in more career-relevant ways and gain a better appreciation for an important skillset which is also easy for a student to take for granted and under-appreciated. While this articulation is particularly useful for students of international studies, it is not limited to them. Indeed, according to Oxford University, global skills are becoming “essential” for individuals and groups to have meaningful and productive engagement in schools, workplaces, and society in general.²¹ By undertaking a degree focused on developing expertise in global skills, BA graduates, and international studies students, in particular, are well equipped to succeed and serve in an increasingly globalized society. And it is to these global skills, and what constitutes them, that we now turn.

III: Global Skills

The use of terms such as “21st-century skills” or “soft skills” are often prescribed as competencies that can be effectively applied in a contemporary professional setting. However, globalization is not just economic; it has social, cultural, and political dimensions as well. Graduates are living in a world that requires them to meaningfully engage with the world around them. As Douglas Bourn argues, there is now a need to accurately locate skills needed “within the context of globalization.”²² Although other authors have discussed the concept of “global skills”, Bourn has gone furthest in articulating and promoting the term in recent years.²³

Bourn’s development of the concept and framework of “global skills” relies on the acknowledgment not only of the changing world of work, but the different economic, social, cultural, environmental, and technological phenomena that are interacting with one another. As global skills can acknowledge these interdependent global forces, they equip students with a broader awareness of what globalization entails and how they might respond to it. In the context of our discussion of the utility of global skills as a conceptual framework for articulating the competencies of international studies graduates, Bourn presents a framework for this in Chapter 6 of *Understanding Global Skills for 21st Century Professions*. The seven key abilities he describes as constituting global skills are:

21 Oxford University Press, “Global Skills: Creating Empowered 21st Century Citizens,” *Oxford University*, (2019): 6.

22 Douglas Bourn, *Understanding Global Skills for 21st Century Professions* (Switzerland: MacMillan Palgrave, 2018), 11

23 See Zlatica Kraljevic, *Borderless Leadership: Global Skills for Personal and Business Success*, (Milton: CRC Press, 2018).

- Ability to see the connections between what is happening in your community and the communities of people elsewhere in the world.
- Recognition of what it means to live and work in a global society, and of the value of having a broad global outlook which respects, listens to, and values perspectives other than one's own.
- Ability to understand the impact of global forces on one's life and the lives of other people, and what this means in terms of a sense of place in the world.
- Understanding the value of ICT (Information Communications Technology] and how best to use it, in a way that is self-reflective and critical, that questions data and information.
- Openness to a continuous process of self-reflection, critical dialogue, and questioning one's assumptions about the world.
- Ability to work with others who may have different viewpoints and perspectives, being prepared to change one's opinions as a result of working with others, and seeking cooperative and participatory ways of working.
- Confidence, belief, and willingness to seek a more just and sustainable world.²⁴

The present article cannot undertake the detailed elaboration of these traits that Bourn does in his book. However, it is likely that many international studies students, despite having accrued the abilities above explicitly and implicitly through their studies, would not realize that the above are valued by employers.

The concept of "global skills" is an advance beyond technical competencies or a code of conduct to be applied in a meeting room or workplace, although they are vital there too. They encompass "social forms of interaction" and the "ability to understand and make sense of the world around us."²⁵ As global skills embrace technical, interdisciplinary, and social skills, they essentially address more than just the "needs of employment" and address "all aspects of society."²⁶ Thus, not only will graduates be required to work under conditions created by globalization, but they will also need *to live* in and with those conditions. The incorporation of both *working and living* reinforces the need to understand one's role and position in the global environment.

Due to its emphasis on globalization, the development of global skills for international studies students and graduates is underpinned by a "global outlook." As students are encouraged to envision the world as a network of symbiotic relationships, consisting of people and practices in other contexts and locations, they adopt an approach to learning that seeks to understand the viewpoints of others and how they interpret their realities. Further, as international studies students who are better able to understand "what is happening in the world", they can consider their role and contribution within it, and indeed the appropriate role of their organization

24 Bourn, *Understanding Global Skills for 21st Century Professions*, 124-125.

25 *Ibid.*, 2.

26 *Ibid.*

of employment.²⁷ A result of this reflection can be the development of a sense of global responsibility or “global citizenship.” Crucially, this develops the ability to explore the complexities of the world and to see oneself as a member of a global society. As graduates encounter issues of social justice, equity, and environmental challenges,²⁸ they may well consider their wellbeing but can consider the wellbeing of their community (in whatever way they wish to define this), communities in other areas of the world, and global wellbeing for generations now and into the future.

It follows then that what are considered necessary contemporary skills should no longer be measured against their “efficiency” in some form, but rather, how graduates “make sense” of the world.²⁹ International studies students and graduates become active participants in the experiences they encounter, can identify some of the broader processes at play, and reflect upon how a situation came into being. Drawing from Ulrich Beck, Bourn notes that global skills are not just *what* people learn, but *how* and *where* they learn too. To this point, Bourn argues that global skills rely on a shift “beyond interculturalism” and mere exposure to other cultures. By practically engaging with and reflecting upon intercultural experiences, students who develop global skills, which would include international studies students, can recognize that “cultural norms are not generic and context matters.”³⁰ Awareness of different beliefs, experiences, and perspectives, and identifying how these have been shaped by historical, cultural, or socioeconomic factors, are needed to contribute to authentic interactions. Developing the skills to engage with such diversity, such as the “unfamiliar” or the “other,” also positions the individual in the exchange and forces them to consider their role and contribution to the world. This process of self-reflection ensures that encounters with others are meaningful and equips graduates with the skills to collaborate well in diverse teams and environments.

As they reflect and challenge their knowledge, individuals who have developed global skills can develop and employ critical thinking. The significance of critical thinking as a global skill is amplified as technological advances driven by globalization begin to rely on new tools for communicating and sharing information - such as the Internet or social media platforms. Familiarity with ICT may be a requirement for most jobs in the contemporary world but utilizing such tools responsibly and ethically involves more than competency. Rather than focusing on “how” to use such tools, Bourn emphasizes that a significant consideration emerges on “how best” we might use them.³¹ By utilizing critical thinking, those competent in global skills can make assessments about the significance of digital tools, and ask questions about how and why we use them; what their effect is as a mode of communication; how are narratives constructed and framed; and how information may be received and what responsibility the author/user has in that process. Further,

27 Bourn, *Understanding Global Skills for 21st Century Professions*, 190.

28 *Ibid.*, 290.

29 *Ibid.*, 18.

30 *Ibid.*, 146.

31 *Ibid.*, 127.

when this process is guided by a sense of global justice, those who possess global skills can understand an issue in both its local and international contexts, and to appreciate the diversity of stakeholders who need to be engaged when addressing that issue.

Bourn's global skills uphold the values of global justice, which will align well with many international studies students. Global skills are not only set within a globalized world; they address the impact of global processes on people and societies. They rely on reflection, introspection, awareness of others, and acknowledgment of one's positionality. These are important regardless of whether the decisions under deliberation are focused on the self or one's place of work. Underpinning these skills is a "sense of visioning" on how to achieve a "more just and sustainable world."³² As students consider how to improve quality of life, their "ability to see" connections between the local and the global allow for a wide lens view of world issues. Ideally, this empowers graduates to effectively engage in society and feel confident about creating positive change.³³ Because it is the case that the only constant thing in life is change and that change is necessary in any sphere, from business to politics, and society, the next section tackles how international studies students and graduates can understand their place as an agent of change

IV: Global Citizenship, Positionality, and Systems Thinking

Understanding change and seeking to influence change positively in any organization requires a sophisticated understanding of the wider context. This in turn requires analytical tools to facilitate a systematic assessment of that context and the most important elements to consider, which may not necessarily be the most obvious ones. Also beneficial would be a disposition towards seeing oneself in a global context as a global actor.

One element of Bourn's exposition on "global skills" that can resonate well with international studies is the emphasis on global citizenship, a concept that has gained increasing traction with diverse organizations ranging from Oxfam to UNESCO.³⁴ Bourn writes, "If one term has become the symbol of this movement to promoting learning and engagement for global social change, it is global citizenship."³⁵ This term, he goes on to note, puts an "emphasis on new forms of citizenship that take account of our globalized multicultural world, in which people work across cultures and economies around the world."³⁶

However, "citizenship" can potentially be a problematic concept because within national contexts it has tended to revolve around questions of rights rather than rights *and* obligations. Reference to global citizens can also conjure images of

32 Bourn, *Understanding Global Skills for 21st Century Professions*, 189.

33 *Ibid.*, 125.

34 *Ibid.*, 4-11; 100-101.

35 *Ibid.*, 271.

36 *Ibid.*

people of privileged categories and fortunate circumstances gaining access to the lands and cultural experiences of others, while those others have little in the way of similar opportunity, and indeed may face hostility should they seek entry as asylum seekers, refugees, or other kinds of migrant.

This paper does not suggest that Bourn advocates for a naïve conceptualizing of global citizenship. Nevertheless, it must be emphasized that an important theme in an international studies education must be a critical awareness of what is often termed positionality, or one's subject position. Teaching this in any context will be challenging and potentially confronting.³⁷ In a context like Australia with a settler-colonial history and thorough-going displacement of Indigenous peoples from their lands and both cultural and human destruction,³⁸ these important discussions can generate feelings of guilt among young people.³⁹ Where students aspire to make the world a better place, a critical exploration of the history and practice of international development can also confound and cripple those aspirations.

Part of the process of working through this is a critical reflection on our "good intentions," where they come from, at whom are they directed, and the shape they take.⁴⁰ But while this reflection needs to be critical, it should not imply that the result of this reflection is to dispense with them, as implied by the idiom that "the road to hell is paved with good intentions." In cross-cultural and development contexts, what is intended as beneficence can be characterized, often quite fairly, as being paternalistic, patronizing, and depending on the ethnic and national background of the person, possibly stemming from a "white savior complex."⁴¹ For those with the desire to be of service but who have become aware of the problematic dynamics of "international development," and the need to be self-aware of one's privilege and the importance of avoiding contributing to problems, finding a route through this fraught terrain can be very difficult. This is especially the case when admonitions – the need for which is not being doubted here – outline *only* what is problematic and seldom give directions on what can be positively accomplished.

37 Katherine B. Hankins and Robert A. Yarbrough, "Positionality and Active Learning: Confronting Privilege in Field-Exercise Design," *Journal of Geography* 107, no.4-5 (2009): 186-193; Gina C. Torino, "Examining Biases and White Privilege: Classroom Teaching Strategies That Promote Cultural Competence," *Women & Therapy* 38, no.3-4 (2015): 295-307.

38 Julian Lee, Hariz Halilovich, Ani Landau-Ward, Peter Phipps and Richard J. Sutcliffe, *Monsters of Modernity: Global Icons for our Critical Condition* (Leeds: Kismet Press), 47-70.

39 Michael J. Halloran "Indigenous Reconciliation in Australia: Do Values, Identity and Collective Guilt Matter?," *Journal of Community & Applied Social Psychology* 17 (2007): 1-18.

40 Leigh Mathews, "Kent Goldsworthy: The Commodification of Good intentions," *The Good Problem*, podcast audio, 4 April, 2020, <https://www.leighmathews.com/podcast-episodes/kentgoldsworthy>.

41 Robtel Neajai Pailey, "De-centering the 'White Gaze' of Development," *Development and Change* 51, no. 3 (2020): 729-745.

While there is some virtue in a “solutions-focused” approach to some problems, the increasingly popular phrase does reflect the common linear equation:

problem + intervention = solution and better situation

The straightforward fix to complex situations (that can *appear* simple) is deeply ingrained in many people and is the basis of many industries and companies whose products are framed and sold as fixing life problems and is also to be found in the good intentions behind aspirations to fix other nations’ problems. In an article titled “Western do-gooders need to resist the allure of exotic problems”, Courtney E. Martin writes that, “There is real fallout when well-intentioned people attempt to solve problems without acknowledging the underlying complexity” and meanwhile domestically in the US “we’ve got plenty of domestic need.”⁴² But Martin’s conclusion is not that young people should not engage with others beyond their national borders:

*...I’m not arguing that staying close to home inoculates kids, especially of the white, privileged variety, like me, from making big mistakes. But don’t go [overseas] because you’ve fallen in love with solvability. Go because you’ve fallen in love with complexity. Don’t go because you want to do something virtuous. Go because you want to do something difficult. Don’t go because you want to talk. Go because you want to listen.*⁴³

An enlightening exposition that addresses issues around the apparent solvability of other people’s problems is Clare Talwalker’s chapter “Fixing Poverty,” in which she describes her experiences in teaching students at UC Berkeley. She notes that many of her students have arrived “at college having already taken up arms for a particular cause.”⁴⁴ Concerning her class on poverty, Talwalker writes:

*What can it mean for a student to care about poverty as a general and global problem and to seek ways to redress it? Care of this kind—the kind that comes from the embrace of universal problems and generalizable moral positions—is itself a sort of power and privilege, and it tends to lead people to solutions—utilitarian solutions—that are not attentive to the things that are distinctive about a place and a people.*⁴⁵

42 Courtney E. Martin, “Western do-gooders need to resist the allure of ‘exotic problems’”, *The Guardian*, April 23, 2016, www.theguardian.com/global-development-professionals-network/2016/apr/23/western-do-gooders-need-to-resist-the-allure-of-exotic-problems.

43 Ibid.

44 Ananya Roy, Genevieve Negrón-Gonzales, Kweku Opoku-Agyemang, and Clare Talwalker, *Encountering Poverty* (Berkeley: University of California Press, 2016), 122.

45 Ibid., 124.

As part of her class, Talwalker emphasizes an engagement with issues of “power, place, and history,” and she seeks to draw students’ thinking and focus away from utilitarian ways of thinking about “fixing poverty”. Instead, she focuses students on developing a deep engagement with a community and its history. She also ensures students reflect on their positionality. She finds that when students do this, they imagine more sophisticated ways to engage with communities where poverty was prevalent. “In each case,” writes Talwalker, “this meant backing away from a programmatic approach and a concrete goal and instead opening up to the unpredictability of what other people think and do.”⁴⁶

A framework that seeks to guide users away from linear utilitarian thinking is systems-thinking, which Bourn commends.⁴⁷ Systems thinking is a methodical approach to conducting a holistic inquiry into a phenomenon and which attempts to open up the focus to include the wider context in which it occurs, and to also shift thinking away from entities and towards the *relationships* between entities. For international studies, the ability to think broadly and holistically is relevant, and a methodical approach to doing so is of great value. Systems thinking and the related field of complexity theory⁴⁸ also have the advantage of being part of a tradition of academic thought that students and teachers in international studies can connect with if they wish. At the same time, systems thinking is also commended by those seeking practical ways to approach international projects involving diverse stakeholders.⁴⁹ The theme of practicality in systems thinking brings some groundedness and inclusion that the concept of global citizenship can often seem to lack.

A patient, inclusive, and dynamic approach to engaging with others on projects and plans is of course not easy⁵⁰ and would likely frustrate the desires of some people and organizations to “just get on with it.” However, the long history of failed and misguided endeavors in international development and other realms is a testament to the need for another route which systems thinking and global skills can help cultivate, and which can make significant contributions to the field of international studies. The need for this is hard to doubt in a self-evidently global world where even intra-national and highly local issues are inevitably impacted by global forces and currents. Thus, cautious and critical international and global competencies are much needed in a context where bilateral and international engagement, cooperation, and sophisticated mutual understanding are crucial in so many domains, ranging from

46 Roy, Negrón-Gonzales, Opoku-Agyemang, and Clare Talwalker, *Encountering Poverty*, 144.

47 Bourn, *Understanding Global Skills for 21st Century Professions*, 246.

48 Jean G. Boulton, Peter M. Allen, and Cliff Bowman Cliff, *Embracing Complexity: Strategic Perspectives for an Age of Turbulence* (Oxford: OUP, 2015).

49 Duncan Green, *How Change Happens*.

50 Kimberly Bowman, John Chettleborough, Helen Jeans, Jo Rowlands and James Whitehead, *Systems Thinking: An Introduction for Oxfam programme staff* report for Oxfam, GB, <https://policy-practice.oxfam.org.uk/publications/systems-thinking-an-introduction-for-oxfam-programme-staff-579896>.

international security to business and trade, to human health and welfare, to name but a few.

V: Graduate Case Study

How the global skillset and the competencies developed in an international studies degree come together to enable students and graduates to sensitively navigate a globalized and culturally diverse world is of course tested when applied in contexts outside the classroom. To illustrate this, this article will explore the experience of one of the present authors, Madeline McGarvey, who in 2019 received an Australian New Colombo Plan (NCP) Scholarship to undertake a research project in Indonesia.

As an NCP Scholar, McGarvey completed a semester at a university in West Java, wrote an Honours thesis on medical pluralism, interned at a maternal health clinic in Bali, and studied Bahasa Indonesia in several islands across the archipelago. McGarvey recalls needing to draw on the skills that she cultivated throughout her international studies degree, both during the application rounds of the scholarship program and whilst in-country.

To obtain the competitive NCP scholarship, McGarvey needed to have a clear understanding of her skills and the capacity to clearly and convincingly convey these skills to panelists. In essence, she needed to have the terminology and the language – as advocated by Bourn⁵¹ – to express her core competencies. She remembers struggling with this at first as so many of the skills that she had developed were acquired both subtly and incrementally; they had become such a part of the self that she could barely recognize them, nor remember a time without them. McGarvey recalls the utility of revisiting a journal-based assignment she was required to submit as part of a long-term internship, which constitutes a mandatory component of her international studies degree. This assignment and the compulsory internship *per se* had helped McGarvey to become an “active” and reflective learner and to engage in practices of deep, critical, and formative self-reflection, whereby the tacit knowledge she acquired was raised to a more conscious and explicit level.

McGarvey notes that in both her application process and several similar application processes that McGarvey has coached people through, there is a notable temptation for students to prioritize hard skills over soft skills. Students often name subjects that they have studied or essays that they have written, as a way of conveying their explicit knowledge, whilst neglecting to mention their implicit knowledge. If soft skills are mentioned, it is usually a passing reference to “written and communication skills,” which fails to concretely capture their high-order processing and nuanced critical thinking abilities. Within McGarvey’s peer group, there is a failure to articulate the value of what can be seen as a generalist degree; this is something that has been seen by McGarvey’s employers as a tangible advantage and who recognize – even if not explicitly – the value of global skills. These skills have allowed her to pivot between organizations, topics, and geographies. Before

undertaking her program of study and research in Indonesia, McGarvey was not well versed in maternal healthcare nor did she have an established knowledge of Indonesian culture. For McGarvey, although this caused initial apprehension, she gradually realized that being work-ready (and research-ready) is less about *what* one already knows, and more about *how* one thinks. She brought into her Indonesian program fundamental competencies regarding culture, language, and society which she could readily leverage to become a sensitive and effective participant in her program of work, study, and research in Indonesia.

Being a generalist can come as a competitive advantage, especially in the complexity of the 21st century, where information, organizational needs, community desire, and evidence-based practices are rapidly shifting, and where both employees and leaders need to be able to integrate new knowledge, quickly and meaningfully. The ability to handle the uncertainties of late modernity, and to act decisively yet thoughtfully in the face of ambiguity is a key global skill. It also dovetails neatly with another global competency: the ability to understand complexity theory and engage with systems methodologies. McGarvey was able to work on innovative, health care initiatives only because she was primed by her degree. Having spent three years considering the complex interplay of factors that contribute to intractable social problems allowed her to recognize and map place-based determinants and systemic barriers to community wellbeing, alongside her team in Indonesia.

In addition to having a “generalist” or versatile skillset and being able to understand systems thinking and complexity theory, being able to critically analyze is an indispensable global skill. McGarvey’s thesis investigated the ways that global and local forces have shaped the discourses, beliefs, and practices of a 21st century medically plural health setting. To capture the creative, reflexive, and the idiosyncratic manner in which local forces had accepted, integrated, and rejected particular global flows, McGarvey needed to be able to watch, note, challenge, and dissect that which was in front of her, and to filter her findings through an analytic lens.

She also needed to be acutely aware of her positionality and privilege, which was emphasized in the previous section, especially when operating in cross-cultural contexts. McGarvey knew that to make a valuable contribution to the literature and to uphold her research commitments to justice and beneficence, she needed to scrutinize her privilege and regularly examine her biases and their implications. She needed to continually question the reasons for, and implications of, her research findings, asking herself whether her research accurately represented the community she was working with, and how her conclusions could, or could not, affect other people. Having taken subjects that explored issues of colonialism, ethnocentrism, and the problematization of development, meaning that – although one can always be better informed – McGarvey was better equipped than she would otherwise have been to challenge her assumptions and consider the assumptions of those around her. McGarvey is adamant that she would not have been able to exercise this level of self-reflexivity had it not been modeled to her by lecturers, tutors, and peers throughout her international studies degree.

McGarvey also sees emotional intelligence as a key skill in all spheres of global professional and personal life. This includes the ability to understand one’s inner world and the inner worlds of those they work with; the capacity to be sensitive to

other people's needs; to listen deeply; and to communicate constructively. McGarvey found this skill invaluable when broaching emotionally charged conversations, navigating sensitive issues, and creating a sense of psychological safety with her colleagues, research participants, and supervisors. It is what allowed her to receive invitations to conferences, to witness the work of midwives, to be invited to culturally significant events, and ultimately, to be gifted personally and professionally transformative experiences in Indonesia.

Finally, McGarvey says that the adoption of a growth mindset was an invaluable asset for her, both whilst in Indonesia and upon her premature return home. She notes that the ability to frame experiences as opportunities for development, coupled with a commitment to staying open, curious and receptive to new ideas, is key to staying adaptable, resilient, and employable in our dynamic, global era. This case study exemplifies how international studies degrees – with their emphasis on critical thinking, self-reflexivity, and 'active' learning – can equip students to face the complexity and ambiguity of working life in the 21st century.

Conclusion

This article outlined the importance of articulating and appreciating the particular skillset developed and championed by graduates of international studies. More specifically, it highlighted Bourn's concept of "global skills" as a framework for capturing the competencies cultivated in students of international studies, and further, have sought to contribute to the understanding of "global skills" by identifying systems thinking and critical self-reflexiveness as additional core components of such a skillset.

For the authors, the value in naming, describing, and indeed, celebrating the abilities and skills of international studies graduates go beyond the more immediate and perhaps, material benefits of doing so (i.e. in supporting and enhancing the employment outcomes of our graduates). The argument comes at a time when, in the current local context of Australia (in addition to elsewhere), the value of humanities and social science degrees is under siege. In Australia, at the time of writing in late 2020, the federal government has passed legislation to "reform" tertiary education by substantially increasing the cost of degrees that (in its misguided view) lack career relevance. By contrast, degrees that are seen as "job-relevant" (largely "STEM" courses) will have their fees significantly reduced. In announcing the new policy, titled "Job-Ready Graduates," the federal Education Minister Dan Tehan (himself a humanities graduate) was quoted as saying that the government wanted to "incentivize students to make more job-relevant choices."⁵²

The rhetoric surrounding the shift in policy in Australia speaks to the impoverished understanding of what it means to be 'job-ready' consequent of

52 Anisa Purbasari Horton, "Why Australia is doubling fees for Arts degrees", *BBC*, July 29, 2020, <https://www.bbc.com/worklife/article/20200728-why-australia-is-charging-more-to-study-history>.

university education, a perspective that is apparent in many countries today. Referring to the US tertiary education environment, Tim Marshall points out that, “A strictly technical education may carry a short-term promise (a job), but it also carries a long-term peril of not being well prepared for ongoing change. Instead of teaching students narrow skills, we need to prepare them with the skills to think, communicate, collaborate, design, and make their—and our—futures.”⁵³ As Marshall notes, in a world increasingly shaped by the transformative dynamics of emerging technology and innovation, what is needed are not only graduates who can develop such technologies but in addition – and perhaps even more so – those who possess the skills to critically understand and reflect on the meaning of these developments across local and global contexts.

In asserting the specificity of what may appear general, and in articulating the “global skills” needed for a globalized world, this paper offers a much-needed counter-narrative to that currently being advanced by some in positions of political (and financial) power about the value of programs such as international studies. In a world where even the most localized challenges are affected by the global and imbued with added complexity as a result, the skills of a culturally competent, critically engaged, and justice-focussed workforce are worth investing in.

53 Tim Marshall, “STEM may be the future-but liberal arts are timeless”, *Quartz*, February 28, 2018, <https://qz.com/1215910/stem-may-be-the-future-but-liberal-arts-are-timeless/>.

THE INVISIBLE BUT INDISPENSABLE PARTNERSHIP: UNDERSTANDING THE CHINA FACTOR IN JAPAN-TAIWAN RELATIONS

Suyoung Kim

Seoul National University

This paper examines Taiwan and Japan's shared threat perception of rising China in the 21st century by focusing on the indirect security link under the framework of the US-Japan Security Treaty (1960) and Japan and Taiwan's evolving position in the disputes over the Senkaku/Diaoyutai/Diaoyu islands. Understanding that threat perception is a process rather than a distinguishable event, this paper analyzes Japan and Taiwan's official statements and documents to determine how both countries view China as the "infringer" in the 21st century. China's assertiveness in the past decade has been perceived as aggressiveness by both Taiwan and Japan. Because of their indirect security link, the two countries share the perception of threat even when China's aggression is only directed toward one side. The shared threat perception has pushed the two countries closer to one another, forming an unofficial partnership in hedging China. If China's democratization is an impossible dream, then Japan and Taiwan firmly believe in maintaining the status-quo indefinitely both in terms of the unification question and the post-Cold War power structure of the Far East. China's behavior has become unpredictable and the two countries' threat perception has increased significantly.

Introduction

China's controversial new national security law for Hong Kong came into effect on June 30, 2020. The new law criminalizes any act of secession, subversion, terrorism, and collusion with foreign or external forces. It is seen as China's final effort to crack down on the ongoing pro-democracy movement in the city. The law undermines the principle of "one country, two systems," that promised to preserve separate legal and political systems within China and protect Hong Kong's independent judiciary system, as well as freedom of speech and the right to assemble. When the British handed over the territory in 1997, China promised to respect its integrity for at least

50 years. The critics of the law have labeled it as “the end of Hong Kong.”¹ Hong Kong authorities have recently arrested hundreds of protesters and activists, including media tycoon Jimmy Lai, politician and activist Agnes Chow, and a 15-year-old girl waving a Hong Kong independence flag during a protest. Consequently, there are growing fears about Taiwan — which Xi’s administration sees as “an inalienable part of China”² — becoming the next target of China’s belligerence.³

The United States, Australia, Canada, and the United Kingdom immediately criticized the law, publishing a joint statement expressing “deep concerns.”⁴ These countries, alongside Germany, proposed to pass legislation to accept political refugees from Hong Kong. In contrast, China’s neighboring countries in Asia (such as South Korea, India, Russia, Vietnam, Singapore, and Thailand) — generally dependent on China’s economic power and under the influence of its “sharp power”⁵ — responded with deafening silence, except for two nations: Japan and Taiwan. Taiwan, who has its own dispute with China, expressed its dismay openly and firmly and also proposed to accept political refugees. Japan, although hesitant at first, later joined the G7 Foreign Ministers’ Statement on Hong Kong and the joint statement adopted at the UN Human Rights Council by some other 26 countries.⁶ The question is: what makes the two Asian countries different from the rest of China’s neighbors? Like other countries, Japan and Taiwan rely on China’s economic power and cannot ignore China’s “sharp power”. Wouldn’t it be more profitable for their national interest to stay silent and be on good terms with China? What does their position say about them? Does it affect how they perceive one another? With the Japan–China Joint Communiqué of 1972, Japan severed its official diplomatic ties with Taiwan and, since then, have only been maintaining nongovernmental relations. But what is the current nature of their relationship? Why are Japan and Taiwan’s strategies in

1 “Hong Kong security law: What is it and is it worrying?” *BBC*, June 30, 2020, <https://www.bbc.com/news/world-asia-china-52765838>.

2 “White Paper — The One-China Principle and the Taiwan Issue,” Embassy of the People’s Republic of China in the Kingdom of Norway, Accessed June 28, 2020, <https://www.fmprc.gov.cn/ce/ceno/eng/ztxw/twwt/t110655.htm>.

3 “We’re next’: Hong Kong security law sends chills through Taiwan,” *The Japan Times*, July 7, 2020, https://www.japantimes.co.jp/news/2020/07/07/asia-pacific/hong-kong-security-law-taiwan/#.Xz4j_y2B2u4.

4 “Joint Statement on Hong Kong,” U.S. Department of State, May 28, 2020, Accessed August 29, 2020, <https://www.state.gov/joint-statement-on-hong-kong/>.

5 Sharp power refers to authoritarian governments’ effort to “pierce, penetrate, or perforate the political and information environments in the targeted countries” through media, academia, think tanks, and culture. See more in Christopher Walker & Jessica Ludwig, “The Meaning of Sharp Power,” *Foreign Affairs*, November 16, 2017, <https://www.foreignaffairs.com/articles/china/2017-11-16/meaning-sharp-power>.

6 “Joint Statement on Hong Kong”; “UN Human Rights Council 44: Cross-regional statement on Hong Kong and Xinjiang,” GOV.UK, June 30, 2020, Accessed August 29, 2020, <https://www.gov.uk/government/speeches/un-human-rights-council-44-cross-regional-statement-on-hong-kong-and-xinjiang>.

dealing with China so similar? This paper attempts to answer these questions by examining Taiwan and Japan's mutual threat perception of China and by exploring the invisible but indispensable unofficial partnership between the two countries.

The first part introduces a theoretical framework of the threat perception theory, while the second part provides the Taiwanese perspective on the unification question. After providing a short historical background of the two countries' relations, the last part analyzes the China factor in Japan-Taiwan relations, specifically in two areas: (1) the US-Japan security alliance, and (2) maritime disputes. This paper argues that Taiwan and Japan have moved closer to one another because of their shared threat perception of rising China in the 21st century. They both perceive the other as a crucial partner in hedging China because both wish to maintain the unification status-quo indefinitely.

Theoretical Framework: Threat Perception Theory

According to Robert Jervis (1977), threat perception is a characteristic of subjective security based on one's estimate of another's power or willingness to cooperate.⁷ Because it is subjective, whether or not one perceives the other's action as threatening depends on the perception of one's power and vulnerability, history of friction or cooperation, and similarity or difference in values. Raymond Cohen (1978) analyzed the conditions under which one perceives threat by dividing the process into two stages: observation and appraisal. Observation is the first stage where the decision-maker selects which signal to pay attention to from a pool of various contemporary events. Whether verbal or nonverbal, official or unofficial, in the perspective of the decision-maker, if that signal strongly suggests an infringement "of rules of the game governing relations between the actors involved," then it is recognized as a threat.⁸ Rules of the game (i.e. universally accepted rules of behavior that harmonize the mutual expectation of participants) prevent unwelcome conflicts in situations where there is no means of direct and free communication.⁹ Appraisal, the second stage, refers to the anticipation of the consequence and the selection of an explanation or a solution to the threatening signal. When one infringes the rule, its behavior becomes unpredictable to the observer who would conclude that the infringement is "a challenge to the existing balance of relations as a whole," aiming at domination and aggression.¹⁰ Barbara Farnham (2003) further showed that regime types, domestic political norms, and democratic norms can also be strong indicators in the

7 Robert Jervis, "Cooperation under the Security Dilemma," *World Politics* 30, no.2 (1978): 175.

8 Raymond Cohen, "Threat Perception in International Crisis." *Political Science Quarterly* 93, No.1 (Spring, 1978): 100.

9 Cohen, "Threat Perception," 103-105.

10 *Ibid.*, 101, 107.

perception of threat.¹¹ Understanding that the threat perception is a process, and not a distinguishable event, this paper analyzes Japan and Taiwan's official statements and documents to determine why Japan and Taiwan's strategies in dealing in China are so similar and if the threat perception of China brought the two countries closer.

The Taiwanese Perspective: The "1992 Consensus"

To understand Taiwan's perspective on the unification question, different interpretations of the "1992 Consensus" between Taiwan and China should be examined. The "1992 Consensus" is a formula "strategically constructed" by the Kuomintang (KMT) of Taiwan and the Communist Party of China (CCP) "to shelve their differing positions concerning which government is the legitimate" sole representative of "China". In a historical meeting, both parties agreed to "respect and accept" each other's interpretation of the "One China" principle.¹² The Consensus, negotiated by the CCP's Association for Relations Across the Taiwan Strait (ARATS) and KMT's Strait Exchange Foundation (SEF), also allows for China and Taiwan to cooperate in other practical areas.¹³ For the CCP, "One China" represents the People's Republic of China (PRC). For the KMT, it refers to the Republic of China (ROC). However, from 2019, China has been attributing a new meaning to the principle: "one country, two systems model for Taiwan," pressuring the current Tsai Ing-wen administration (Democratic Progressive Party, DPP) to adopt the Hong Kong model.¹⁴ Taiwan never agreed to this interpretation and sees itself as a *de facto* independent state. The Tsai administration does not approve Xi's new interpretation of the "1992 Consensus," nor her predecessor's "One China, Respective Interpretation" formula. In response to China's new stance, President Tsai published a new guideline, stating:

I want to emphasize once again that the government I lead is committed to maintaining cross-strait peace and stability, and supports normal cross-strait exchanges. However, we resolutely oppose "one country, two systems" and refuse any transitional arrangement that would lead to forced unification. This is not a choice between war and peace, but a choice between maintaining the status quo of the Republic of China's independent national sovereignty

11 Barbara Farnham, "The Theory of Democratic Peace and Threat Perception," *International Studies Quarterly* 47, no. 3 (2003): 395-415.

12 Shirley A. Kan, "China/Taiwan: Evolution of the "One China" Policy—Key Statements from Washington, Beijing, and Taipei," Congressional Research Service, October 10, 2014.

13 Yu-Jie Chen and Jerome A. Cohen, "China-Taiwan Relations Re-Examined: The '1992 Consensus' and Cross-Strait Agreements," *University of Pennsylvania Asian Law Review* 14, no. 1 (2019): 14.

14 Elaine Hou and Evelyn Kao, "Xi's '92 consensus' speech challenges status quo: pundit," *Focus Taiwan*, January 6, 2019. <https://focustaiwan.tw/politics/201901060010>.

*or being unified by China.*¹⁵

*We must take advantage of the international circumstances favorable to Taiwan and join forces with the world community to counter the Chinese Communist Party's aggression aiming to destroy our sovereignty.*¹⁶

Japan-Taiwan Relations

While official diplomatic ties between Japan and Taiwan have ceased in 1972, the two nations have been maintaining a steady relationship through informal mechanisms. In the 1972 joint communique between Japan and the PRC, Japan recognized the government of the PRC “as the sole legal Government of China.”¹⁷ But again, Japan made only indirect references to the Taiwan issue, stipulating that “[t]he Government of the People’s Republic of China reiterates that Taiwan is an inalienable part of the territory of the People’s Republic of China,” and that Japan “fully understands and respects this stand of the Government of the People’s Republic of China.”¹⁸ Japan positions itself as a non-actor in the Taiwan issue.

Japan’s policies toward Taiwan in the post-1972 has been based on the principle of separation between economy and politics (*seikei bunri*). Japan maintained private contacts with high level Taiwanese officials mainly for economic purposes, which does not contradict PRC’s “one-China” principle. But because Japanese political objectives align with the country’s economic interests, Japan could often disguise political matters as economic matters. Because of the private nature of the informal contacts between the two countries, the PRC has been unable to chastise this comportment.¹⁹

Moreover, after the democratization of Taiwan, which ended the KMT’s one-party authoritarian regime, a new Taiwan-centric national identity discourse arose among the elites and rapidly spread to the public.²⁰ Pressured by China on the unification question, the elites had to delay the issue indefinitely. One strategy to achieve this was the Taiwanization campaign, which emphasized the distinct

15 “President Tsai convenes National Security Meeting, finalizes strategy and mechanisms for responding to PRC’s ‘one country, two systems model for Taiwan’,” Office of the President Republic of China (ROC), March 11, 2019, <https://english.president.gov.tw/News/5656>.

16 Ibid.

17 “JOINT COMMUNIQUE BETWEEN THE UNITED STATES AND CHINA,” Wilson Center Digital Archive, Accessed June 28, 2020. <https://digitalarchive.wilsoncenter.org/document/121325>.

18 Ibid.

19 Phil Deans, “Taiwan in Japan’s Foreign relations: Informal politics and virtual diplomacy,” *The Journal of Strategic Studies* 24, no. 4 (2001): 152-156.

20 Yinan He, “Identity Politics and Foreign Policy: Taiwan’s Relations with China and Japan, 1895-2012,” *Political Science Quarterly* 129, no. 3 (Fall 2014): 472.

identity and history of Taiwan. Major revisions were made in textbooks: Taiwan's multiethnic nature was highlighted, and the legacy of the Japanese colonization was reevaluated to stress its more positive aspects.²¹ In contrast, the atrocities carried out by the authoritarian KMT were emphasized. This unique history of Taiwan is what separates Taiwanese people from the Chinese. It has become the cornerstone of the Taiwan-centric identity discourse. Taiwan stands out as the only country to remember positively Japan's colonial past. When compared to China and South Korea – who are in constant dispute with Japan over the issue of history textbooks, the imperial flag, politicians' visit to the Yasukuni Shrine, forced labor, and the "comfort women" reparations – Taiwan's positive interpretation of the colonial past is heartwarming for the Japanese people.²²

However, the aforementioned history of Japan-Taiwan relations cannot explain either why both countries' strategies in dealing with China are so alike, or whether or not they share a threat perception from China. Japan and Taiwan do not have official diplomatic ties nor do they form a security alliance that legally binds one country to the other. Therefore, in order to analyze their *observation* and *appraisal* of the threat perception of China, the indirect security link between the two nations under (1) the US-Japan Security Treaty, and (2) their handling of maritime disputes should be examined.

Japan-Taiwan Relations under the US-Japan Security Treaty

The framework of the Treaty of Mutual Cooperation and Security between the United States and Japan (1960) indirectly links Japan's security to Taiwan. The two countries, thus, form a strategic alignment. After World War II, Japan renounced its right of belligerency and has been relying on the US for its security. Considering the Japan Self-Defense Forces (JSDF), Japan remains a *de facto* armed country, although its ability "to develop an independent strategy" is tied to the US.²³ In the Treaty, the two parties agreed to "consult together from time to time regarding the implementation of this Treaty, and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East is threatened."²⁴ While the treaty doesn't specify the exact boundaries of the Far East, it likely encompasses all East Asian and South East Asian countries, most importantly China, Taiwan, and the two Koreas. Throughout the Cold War, along with the North Atlantic Treaty Organization

21 He, "Identity Politics and Foreign Policy," 484.

22 Taipei Economic and Cultural Representative Office in Japan, published in December 26, 2019. Accessed June 26, 2020. https://www.roc-taiwan.org/jp_ja/post/69207.html.

23 Soeya Yoshihide, "Taiwan in Japan's Security Consideration," *The China Quarterly* 165 (2001): 130.

24 "TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN JAPAN AND THE UNITED STATES OF AMERICA," Ministry of Foreign Affairs of Japan, Accessed June 28, 2020. <https://www.mofa.go.jp/region/n-america/us/q&a/ref/1.html>.

(NATO) alliance, this treaty had represented the cornerstone of the US defense strategy against the Communist bloc. Now, even after the Cold War, as alliances persisted and strengthened, the treaty has become one of the most threatening factors for China and has shaped the country's behavior and strategies in the Far East.

The "One-China Principle" is the foundation of the Chinese government's legitimacy. According to the principle, foreign countries' involvement in the Taiwan issue equates to interference in China's internal affairs. It contends that reunification with Taiwan is "Chinese people's just struggle to safeguard China's sovereignty and territorial integrity, and its basis, both *de facto* and *de jure*, is unshakable." Moreover, it unwaveringly maintains that "[a]ll the facts and laws about Taiwan prove that Taiwan is an inalienable part of Chinese territory."²⁵

The Taiwan issue is of concern for both Japan and the US. While the joint communiques (1972, 1978, and 1982) between the PRC and the US recognized that the PRC is the sole legal government of China, they only acknowledge (i.e. recognize the reality), rather than firmly claim, "that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China."²⁶ Communiques stipulate that the US doesn't challenge this position, which creates a space for the US to remain strategically ambiguous in regard to the Taiwan issue. The 1979 Taiwan Relation Act (TRA) further enables this strategic ambiguity. The act doesn't stipulate that the US is required to defend Taiwan. However, it does indicate that "it is the policy of the United States to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan."²⁷ It is unlikely that the US will defend Taiwan if Taiwan provokes China by unilaterally declaring independence. Yet, if the PRC tries to forcefully unify Taiwan, the US would have to get involved to protect the legitimacy of its military presence in East Asia post-Cold War and to defend its economic and security interests in the area.²⁸

Taiwan plays a vital role in Japan's security. As expressed in the 1969 joint communique between Prime Minister Eisaku Sato and President Richard Nixon, "the maintenance of peace and security in the Taiwan area" is "a most important

25 "White Paper — The One-China Principle and the Taiwan Issue."

26 "JOINT COMMUNIQUE BETWEEN THE UNITED STATES AND CHINA," Wilson Center Digital Archive, Accessed June 28, 2020. <https://digitalarchive.wilsoncenter.org/document/121325>.

27 "Taiwan Relations Act," American Institute in Taiwan, Accessed June 28, 2020. <https://www.ait.org.tw/our-relationship/policy-history/key-u-s-foreign-policy-documents-region/taiwan-relations-act/>.

28 China passed the "Anti-Secession Law" in 2005 establishing a framework that justifies military action against Taiwan's independence.

factor for the security of Japan.”²⁹ Against the backdrop of the third Taiwan Strait crisis and China’s increasing nuclear tests, the 1997 revision of the Guideline for Japan-US Defense Cooperation established a legitimate framework for bilateral defense cooperation in “areas surrounding Japan.” It stipulates that “situations in areas surrounding Japan will have an important influence on Japan’s peace and security,” whilst remaining equivocal about exact boundaries. The Guideline states the areas are “not geographic but situational.”³⁰ The role of JSDF was also expanded to rear area support. Hence, if China uses force to unify with Taiwan, Japan would likely be dragged into a war regardless of its wishes.³¹

According to the framework presented in the US-Japan Security Treaty, Japan and Taiwan form a strategic “alignment”. In other words, the two states “may expect to have each other’s support in disputes or confrontations with particular other states,” such as China.³² Despite Chen Shui Bian (DPP) administration’s efforts, Taiwan failed to transform the alignment into a formal alliance. However, from the 2000s, there has been a steady increase of unofficial contacts between the two countries over security issues. Exchanges have taken place between retired Japan Self-Defense Forces (JSDF) personnel and Taiwanese military personnel during unofficial events, such as academic conferences.³³

Because of the indirect security link, Japan cannot firmly support China or Taiwan in regard to the Taiwan issue. In Japan’s perspective, as the importance of the Japan-China relations increases, the significance of the Japan-Taiwan relationship also increases. This is demonstrated in the Diplomatic Bluebook, which is published annually by the Ministry of Foreign Affairs of Japan. The 2016 Bluebook, stated that the relationship with China is “one of the most important bilateral relations.”³⁴ Since 2018, the Bluebook also stopped mentioning that the two nations “have many political and social differences” and that “it is inevitable that there will be friction and conflict between the two countries,” a sentiment that was first expressed in the 2013 Bluebook.³⁵ As for Taiwan, the Bluebook stresses that the relationship with Taiwan is unofficial and nongovernmental. However, in the 2000s, the document started

29 “Joint Statement of Japanese Prime Minister Eisaku Sato and U.S. President Richard Nixon,” The World and Japan Database, Accessed June 28, 2020. <https://worldjpn.grips.ac.jp/documents/texts/docs/19691121.D1E.html>.

30 “The Guidelines for Japan-US Defense Cooperation (September 23, 1997),” Ministry of Defense, Accessed June 28, 2020. https://www.mod.go.jp/e/d_act/us/anpo/19970923.html.

31 Qingxin Ken Wang, “Taiwan in Japan’s relations with China and the United States after the cold war,” *Pacific Affairs* 73, no. 3 (Fall 2000): 372-373.

32 Brian Bridges and Che-po Chan, “Looking North: Taiwan’s Relations with Japan under Chen Shui-bian,” *Pacific Affairs* 81, no. 4 (Winter 2008-2009): 578.

33 Ibid, 588.

34 Ministry of Foreign Affairs of Japan, <https://www.mofa.go.jp/mofaj/gaiko/bluebook/index.html>.

35 Ibid.

emphasizing the importance of their economic relations. In 2013, the word “partner” first appeared.³⁶ Starting from 2015, Japan recognized that “Taiwan shares basic values such as freedom, democracy, basic human rights, and the rule of law, and has close economic relations” and is “an important partner and important friend of Japan.”³⁷ In the recent 2020 Bluebook, Japan added that Taiwan is an “extremely” important partner.³⁸

It is in the best interest of Japan — as it is in the interest of Taiwan and the United States — to avoid an Armageddon-like war situation in the cross-Taiwan Strait. Japan, thus, benefits from maintaining the status quo, in which Taiwan is able to behave as a *de facto* independent state. Taiwan could achieve a *de facto* independence by indefinitely delaying the unification question and gradually raising the cost of war (through deeper commitment from Japan and the US, and increased economic and cultural exchange with other countries).

Japan-Taiwan Relations in Maritime Disputes

The 2008-2010-2012 territorial and maritime disputes over the Senkaku/Diaoyutai/Diaoyu Islands (hereinafter Senkaku/Diaoyutai or Senkaku/Diaoyu Islands) exemplify Japan and Taiwan’s shared threat perception of rising China. The three countries share maritime boundaries, and all three parties claim sovereignty over the islands. Other than being strategically important, the islands are close to major shipping routes, provide rich fishing grounds, and lie near potential natural gas and oil deposits.³⁹ According to the San Francisco Peace Treaty (1952), Japan denies that there can be any dispute over its sovereignty claims. The Japanese Coast Guard (JCG) consequently patrols the maritime area. While the disputes have been going on for years, they escalated to an unprecedented level in 2010 when Japan detained a Chinese captain in the disputed area, which provoked massive anti-Japanese protests across China. This coincided with China surpassing Japan in GDP and overtaking Japan as the world’s second-biggest economy. Not only do the incidents highlight the regional power transition from Japan to China, they also demonstrate Taiwan’s cautious balancing against an “increasingly assertive China.”⁴⁰

To understand the three countries’ evolving stance on the issue, we should first consider the 2008 incident between Taiwan and Japan. In 2008, president Ma Ying-jeou (KMT), perceived as an anti-Japanese figure who participated in the

36 Ministry of Foreign Affairs of Japan, <https://www.mofa.go.jp/mofaj/gaiko/bluebook/index.html>.

37 Ibid.

38 —, May 19, 2020, <https://www.nikkei.com/article/DGXMZO59278130Z-10C20A5PP8000/>.

39 “How uninhabited islands soured China-Japan ties,” *BBC*, November 10, 2014, <https://www.bbc.com/news/world-asia-pacific-11341139>.

40 Philip Yang, “China-Japan-U.S. Relations after Diaoyutai Incident: Taiwan’s Perspective,” *Tamkang Journal of International Affairs* 14, no. 3 (2011): 45.

Baodiao (defend the Diaoyutai Islands) movement as a student, came into office. On June 10th, a Taiwanese fishing boat sank near the islands after colliding with a JCG patrol ship. Japan rescued and returned the 15 people on board but detained the captain for questioning. Dozens of people gathered in the *de facto* Japanese embassy in Taipei, demanding his immediate release, burning flags and shouting slogans. Although the captain was released three days later, the situation escalated into a territorial dispute. The Presidential Office released an official statement claiming that the Diaoyutai Islands are part of Taiwan's territorial waters.⁴¹ A few days later, Taiwanese activists on a private boat guarded by 9 Taiwanese Coast Guard vessels approached the islands to assert Taiwan's sovereignty over them.⁴² A second group, which included a KMT legislator, was set to depart for another trip but decided against it after a call from the Presidential Office persuaded them that the Ministry of Foreign Affairs of Taiwan (MOFA) needed more time to negotiate and that there was no need for escalating tensions.⁴³ Although the debates focused on attribution (i.e. who ran into whom and who was responsible for the collision), the MOFA planned to put fishing rights on the negotiation agenda.⁴⁴ Pundits advised the government that "properly dealing with the incident could strengthen ties between Taiwan and the US-Japan alliance" and could further benefit "Taiwan strategically in the region". Damaged Japan-Taiwan relations would mean that both countries are "playing into the hands of the PRC."⁴⁵ Japan later apologized to the captain by sending the deputy chief representative of the *de facto* Japanese embassy to his house with an official letter.

The 2010 incident was a dispute between Japan and China. On September 7th, a Chinese fishing boat approached the disputed Senkaku/Diaoyu Islands and collided with a JCG patrol ship. The JCG ship ordered the boat to stop for inspection, but the captain refused. It chased and stopped and inspected the boat, eventually arresting the captain and 14 crew members for obstructing public duty. While the crew members were released a few days later, the captain remained detained. China, enraged, demanded that the captain be released immediately. It suspended all ties, from official governmental contacts to cultural exchange events, with Japan, and more importantly, it abruptly stopped the export of rare-earth elements, which are crucial to Japan's high-tech sector. After 2 weeks, on September 24th, Japanese local prosecutors released the captain. They stated that "considering the effect on the people of our nation and on China-Japan relations, we decided that it was not

41 "Sinking puts spotlight on Diaoyutais," *TAIWAN TODAY*, June 20, 2008, <https://taiwantoday.tw/news.php?unit=10,23,45,10&post=14865>.

42 Shih Hsiu-Chuan and Flora Wang, "Officials drop plan to visit Diaoyutais," *Taipei Times*, June 18, 2008, <http://www.taipeitimes.com/News/taiwan/archives/2008/06/18/2003415043>.

43 Hsiu-Chuan & Wang, "Officials drop plan."

44 "Sinking puts spotlight."

45 *Ibid.*

appropriate to continue the investigation.”⁴⁶ This incident sparked anti-Japanese protests across China, and it took repeated efforts from Japan to mend the damage.

For Japan, the detention of the captain was an unprecedented action. In previous cases, the JCG patrol ship would simply warn Taiwanese or Chinese boats that approached the islands. Even if crew members were arrested, as in 2008, the local prosecutors would issue a fine and release them after a few days. Such action testifies to Japan’s anxiety in regard to China’s rapid navy build-up, China’s lack of transparency in military spending, and the increase of China’s naval surveillance in the disputed areas. Japan wanted to establish *de jure* jurisdiction over the islands by prosecuting within the confines of its domestic laws.⁴⁷ However, Philip Yang contends that, although Japan caved in, China was ultimately the one that had to pay the price for its disproportionate reaction to the incident,⁴⁸ which undermined its efforts to build trust and reassure neighboring countries that its rise is peaceful and respects the liberal international order.⁴⁹

Taiwan, as it did in 2008 and 2012, shunned China’s invitation to act in unison against Japan. The 2012 incident was a dispute between Japan and China. Japan purchased three isles of the disputed islands, which sparked massive anti-Japanese protests across China. Taiwan’s Ma administration declined China’s invitation to act together. President Ma, who desired good relations with China, preferred to keep his distance from territorial disputes. However, in order to have a stronger case for the Senkaku/Diaoyu Islands dispute in an international judicial forum, China needs Taiwan’s help in providing authentic historical documents, such as the original Shimonoseki Treaty (1895) and other official documents that show the ROC’s position from 1949 to 1971.⁵⁰ Here, Taiwan has leverage, which makes China hesitant to settle the dispute through international institutions. Instead, as of 2012, China has been sending more government and private vessels into “Japan’s territorial Sea” (near the islands), as seen in the data from JCG (Picture 1). Japan considers those intrusions a clear violation of its sovereignty and believes that China is attempting to “change the status quo through force or coercion.”⁵¹

46 Yang, “China-Japan-U.S. Relations,” 49.

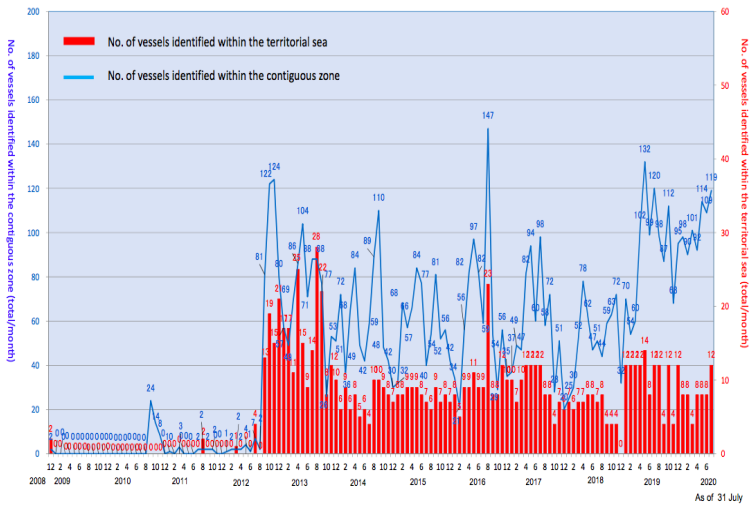
47 *Ibid.*, 59.

48 *Ibid.*, 84.

49 *Ibid.*, 81.

50 Hui-Yi Katherine Tseng, “The Taiwan Dilemma in the Diaoyu/Diaoyutai/Senkaku Islands Sovereignty Dispute,” *American Journal of Chinese Studies* 21 (2014): 124.

51 “Trends in Chinese Government and Other Vessels in the Waters Surrounding the Senkaku Islands, and Japan’s Response,” Ministry of Foreign Affairs of Japan, August 5, 2020, Accessed August 20, 2020, https://www.mofa.go.jp/region/page23e_000021.html.



[Picture 1] The numbers of Chinese government and other vessels that entered Japan’s contiguous zone or Japan’s territorial sea surrounding the Senkaku Islands as of July 31, 2020. (Source: Japan Coast Guard & Ministry of Foreign Affairs of Japan)

Taiwan’s stance in the three incidents demonstrates its efforts to constrain China and maximize its maneuvering space. Strategically, Japan is a crucial partner because of the indirect security link that unites both countries. During the Ma administration, Taiwan and Japan deepened their partnership by signing various cooperation agreements: the Agreement on flights between Sonshan and Haneda (2009), the Memorandum on Promoting Exchange and Cooperation (2010), the Open Skies Agreement (2011), the Agreement on Mutual Recognition of Electrical Production Clarification (2012), the Taiwan-Japan Fisheries Agreement (2013), the Agreement on Sea Search and Rescue Cooperation (2013), and others.⁵² Throughout the same period, the cross-strait relations stabilized and Taiwan was able to induce deeper commitment from Japan. The Fisheries Agreement (2013), which involved the overlapping exclusive economic zones (EEZs) around the Senkaku/Diaoyutai Islands, was a historic achievement, not just because it took 17 rounds of talks over 17 years, but also because of what the agreement represents. A “without-prejudice clause” ensures that the agreement does not undermine either nations’ sovereignty claims. Unlike any other fisheries agreements, it also stipulates that it

52 Tse-Kang Leng and Nien-chung Chang Liao, “Hedging, Strategic Partnership, and Taiwan’s Relations with Japan Under the Ma Ying-jeou Administration,” *Pacific Focus* 31, no. 3 (December 2016): 371.

aims to “ensure peace and stability in the East China Sea” and “promote friendly and reciprocal cooperation.”⁵³ Moreover, the agreement demonstrates Taiwan’s effort to elevate its status in the international sphere by taking part as a “responsible stakeholder” committed to furthering peace in the Far East, which in turn raises the country’s legitimacy as a *de facto* independent state in the eyes of the international community.⁵⁴

Conclusion

China’s increased assertiveness throughout the last decade has been perceived as growing aggressiveness by both Taiwan and Japan. Because of an indirect security link, the two nations share the perception of threat even if China’s aggression is directed toward one side. The shared threat perception has pushed the two countries closer. They are now forming an unofficial partnership in hedging China. Regarding unification and the post-Cold War structure of the Far East, Japan and Taiwan firmly believe in maintaining the status-quo indefinitely. It follows that, according to both countries, China’s behaviors in the Senkaku/Diaoyutai/Diaoyu disputes represent acts of “infringement” of rules of the game, which have historically maintained peace and governed relations in the Far East. China’s behavior has become unpredictable and Japan and Taiwan’s threat perception has increased significantly, which explains their anomalous position in Asia with regards to the new Hong Kong Security Law. Although both countries hope to maintain a peaceful and normal relation with China, infringement on the status quo represents a challenge for the existing system and is likely to be interpreted as Chinese aggression or domination. Japan draws the line at the Taiwan issue.⁵⁵ When China increases its assertiveness and aggressiveness towards Taiwan, Xi’s administration inadvertently increases the possibility of Japan’s official rearmament.

Other factors contributing to mutual threat perception should be further noted. Firstly, as emphasized in the Japanese Diplomatic Bluebook, both Japan and Taiwan share “basic values such as freedom, democracy, basic human rights, and the rule of law.” As Farnham argues, regime types, domestic political norms, and democratic norms are strong indicators in the *observation* and *appraisal* of perception of threat. When juxtaposed against China’s undemocratic one-party system, shared values increase the level of mutual perception of threat. Secondly, the historical memory of Japan’s colonization of Taiwan plays an important part in the two countries’ mutual understanding of the political context. After the decolonization of Taiwan, positive

53 “The Taiwan-Japan Fisheries Agreement — Embodying the Ideals and Spirit of the East China Sea Peace Initiative,” Ministry of Foreign Affairs, Republic of China (Taiwan), August 2013.

54 “The Taiwan-Japan Fisheries Agreement — Embodying.”

55 Andrea A. Fischetti and Antoine Roth, “Taiwan is where Japan draws the line,” *Tokyo Review*, July 25, 2020, <https://www.tokyoreview.net/2020/07/taiwan-is-where-japan-draws-the-line/>.

memories of the colonization were used to shape a Taiwan-centric national identity.⁵⁶ Taiwan, thus, stands out among Japan's neighbors (i.e. China and South Korea) as the only country to remember positively its colonial past.

Shared threat perception is yet to be theorized and explored further. This paper used the China factor in the Japan-Taiwan relations as a case study and found that the indirect security link between Japan and Taiwan is an important factor in their mutual understanding of threat perception. Although dealt with only slightly, democratic values and mutual understanding of a certain historical narrative also appear to be contributing factors. More case studies should be examined to theorize the shared perception of threat and understand how it encourages cooperative behavior between states.

56 Yinan He, "Identity Politics and Foreign Policy: Taiwan's Relations with China and Japan, 1895-2012." *Political Science Quarterly* 129, no. 3 (Fall 2014): 472.

THE INDIAN DETERMINATION OF JAMMU AND KASHMIR: A CRITICAL APPRAISAL OF HISTORY, SOVEREIGNTY, AND JUS GENITIUM

Adarsh Vijayakumaran

National University of Advanced Legal Studies, India

Jammu and Kashmir is the northernmost region of the Indian subcontinent. For more than eight decades, it held a special status under the domestic jurisdiction of India. This status empowered it to have its constitution and to modify the applicability of any laws passed by the center—India. This special status owed much to both the municipal laws of India and customary International Law. However, On August 5, 2019, when the Republic of India revoked this status, Pakistan and its allies alleged that India had violated International Law. This article argues and demonstrates that the Republic of India has not violated International Law but respected it by accessing the regions through formal means. To demonstrate this theory, this article will first analyze the sovereign evolution that Jammu and Kashmir have undergone historically. Then, the role of the UN, and the bilateral affairs of India and Pakistan in the context of Jammu and Kashmir are emphasized. The principle of jus gentium qua self-determination will be applied to discuss the changed trilateral relationships between Jammu, Kashmir, and India. Finally, the article concludes by demonstrating that the revocation of the special status and formal accession made by India is a concern of India's internal affairs alone, contrary to what has been alleged by Pakistan and its allies.

Introduction

Small indeed the country may seem by the side of the great plains that extend in the south, and confined the history of which it was the scene. And yet, just as the natural attractions of the valley have won it fame beyond the frontiers of India, thus too the interest attaching to its history far exceeds

*the narrow geographical limits.*¹

Jammu and Kashmir is a mountain region at the crossroads of India, Pakistan, China, and Afghanistan. On a cartographic plane, it appears remote and landlocked, extending for no more than ninety miles, isolated by successive ranges of the Himalayan Mountains high above the plains of the sub-continent.² The Mughals who conquered the region in 1586 called the region *Jannat*—³ paradise, praising its snow-capped mountains, sunny gardens, and romantic households. However, for more than seven decades since, the valley has become a paradise lost—its people's lives, entrenched in the bitter sovereignty dispute between India and Pakistan, its land—a witness to the constant bloodshed.

The question of sovereignty holds a special position in the history of Jammu and Kashmir. Since, 1947, the region has been under the Republic of India. The relationship between both the [States]⁴ of Jammu and Kashmir and India has been guided by the terms of accession that the monarch of Jammu and Kashmir signed with India. This treaty of accession gave the state of Jammu and Kashmir a pseudo-autonomy over its internal affairs while ceding powers of defense, communication, and external affairs to India. However, over time, the relationship of both states became bonded inextricably; therefore, the slow withering of the treaty became inevitable. On 5 August 2019, the Government of India issued a presidential order under Article 370 of the Indian constitution, and annulled the 72 years long recognition of the autonomy of the State of Jammu and Kashmir⁵ The same day the Republic of India passed a Bill bifurcating and reducing Jammu and Kashmir into two separate Union Territories.⁶ According to the Republic of India, these incidents were matters of its domestic concerns alone. The bifurcation and reduction of

1 * BA.LLB (Hons.) student at the National University of Advanced Legal Studies, India. The author wishes to thank Ananth Krishna S, Rahul Nair, Giri Aravind, and Aswin C. Panicker for their valuable feedbacks and suggestions. Kalhana, *Kalahana's Rajatarangini: A Chronicle of The Kings of Kashmir*, trans. M. A Stein (1900), xxiv.

2 Victoria Schofield, *Kashmir in Conflict: India, Pakistan and the Unending War* (London: Bloomsbury Academic, 2002), 1.

3 Sunil Sharma, "Kashmir and the Mughal Fad of Persian Pastoral Poetry," in *Borders: Itineraries on The Edges of Iran*, eds. Stefano Pello (USA: Boston University, 2016), 183-202.

4 Though, with the formal accession, Jammu and Kashmir became a part of India, it still had some autonomy over the region—giving way to a pseudo-statehood—distinguishing it from rest of the India; Navnita Chadha Behera, *Demystifying Kashmir* (Washington: Brookings Institution Press, 2006), 104-145.

5 "Instrument of Accession of Jammu and Kashmir," *Jammu and Kashmir Law*, accessed March 4, 2020, http://jklaw.nic.in/instrument_of_accession_of_jammu_and_kashmir_state.pdf; "The Constitution (Application to Jammu and Kashmir) Order, 2019," *E- Gazette*, accessed March 4, 2020, <http://egazette.nic.in/WriteReadData/2019/210049.pdf>.

6 "The Jammu and Kashmir Reorganization Bill, 2019," *PRS India*, accessed March 5, 2020, <https://www.prsindia.org/billtrack/jammu-and-kashmir-reorganisation-bill-2019>.

Jammu and Kashmir created a huge outcry among Pakistan and its allies. They questioned the validity of India's actions, condemning and demanding an immediate withdrawal of political moves made by India in Jammu and Kashmir.⁷ There is no doubt that the sudden change in the pseudo-autonomy of a region that was long under international observations would call forth much attention. However, to allege that the government of India has annexed the region of Jammu and Kashmir would be an erroneous conception of the special status that was enjoyed by the region under both International Law and India's constitutional framework.

This article will assert that the autonomy enjoyed by the region of Jammu and Kashmir was a provisional measure forged temporarily for the attainment of the longer objective—Formal Accession with India. To understand this, the article will analyze the historical aspects of Jammu and Kashmir, and the evolution of its sovereignty that has undergone a radical change over time. It will discuss UN interventions and the subsequent impasse situation that existed between India and Pakistan for the claim over Jammu and Kashmir, and the slow erosion of Article 370 of India's constitution that granted the pseudo-autonomy to Jammu and Kashmir. The incidents before and after abrogation and bifurcation will be examined to endeavor the justification of formal accession under International Law, and will vindicate all the allegations condemning the Republic of India. Finally, this article hopes to demonstrate that the Republic of India has not violated International Law, but has instead respected it by formally acknowledging the accession and thus, bringing an end to the long-standing international impasse.

Historical Background of Jammu and Kashmir

Sovereignty is a political concept that refers to dominant power or supreme authority. Historically the [Regions]⁸ of Jammu and Kashmir have witnessed a multitude of struggles between civilizations attempting to establish a sovereign regime—but none were strong enough to retain the mountain lands without fear of external intervention. The history of Jammu and Kashmir, for this article, has been divided into two stages: the Treaty of Amritsar, and the Instrument of Accession stage. Both

7 "Pakistan condemns announcements on J-K, summons Indian envoy," *The Tribune*, January 24, 2020, <https://www.tribuneindia.com/news/archive/pakistan-strongly-condemns-india-s-announcements-on-j-k-813353>; "China condemns India's division of Jammu and Kashmir," *Tamil Guardian*, December 5, 2019, <https://www.tamilguardian.com/content/china-condemns-india-s-division-kashmir>.

8 Until 1846, both the regions of Jammu and Kashmir were ruled by two different sovereign powers—while the valleys of Kashmir were controlled by the Maharaja Ranjit Singh, the plains of Jammu was under the control of his rival Maharaja Gulab Singh. It was only in 1846, when the valley was bought by the Maharaja Gulab Singh that both the regions were merged.; "Treaty of Amritsar" (*hereinafter*, Amritsar Treaty), *Jammu and Kashmir Law*, accessed March 6, 2020, http://jklaw.nic.in/treaty_of_amritsar.pdf; Samir Ahmed Bhat, "State formation in colonial India", *International journal of scientific and research publication* 6, no. 2 (2016): 153-156.

these stages carry preeminent importance for its present status.

Treaty of Amritsar

Sovereignty has been defined as the political and legal basis for the international personality of a state.⁹ It provides the state with supreme control over its internal and external affairs.¹⁰ The region of Jammu and Kashmir has always been in a state of sovereign evolution. The twelfth century Poet Kalhana, in his epic work *Maharajatarangini* (Chronicle of Kings), describes how, since time immemorial, the valley's rulers came into contact and conflict with their neighbors. This holds for Kashmir's subsequent history. Kashmir's first period of "imperial" history begins in the third century BC with the rule of Asoka, whose empire extended from Bengal to the Deccan, Afghanistan to Punjab, and included Kashmir.¹¹ The second occupation of Kashmir happened in the first century AD, when the Kushans from the Chinese frontiers invaded the whole of North India.¹² In 1586, after a power struggle, Akbar conquered the valley.¹³ The period thereafter is regarded as the modern history of Kashmir.¹⁴ Later, with the Persian invasion of Delhi, the Mughal's hold on Kashmir slowly deteriorated.¹⁵ In 1751, the Afghans, ruled by Ahmed Shah Durrani, absorbed Kashmir into their expanding empire.¹⁶ However, the south of Kashmir was occupied by the Sikhs, and in 1819, they were also successful in taking final control of the whole of Kashmir.¹⁷ The Sikhs acknowledged the Supremacy of the British Empire and in return, the British agreed for borders of the region to be drawn at River Sutlej.¹⁸ However, after the death of Maharaja Ranjit Singh,—the then Sikh ruler of Kashmir— the British-Sikh relationship fell apart. In 1846, Sikhs engaged in a war with the British Empire on the banks of River Sutlej, leading to their subsequent defeat and rise of the British in the valley.¹⁹ In the same year, the ruler of Jammu Maharaja Gulab Singh (a feudatory of Ranjit Singh) was welcomed by the British as

9 Jana Maffei, "Sovereignty in International Law," *ACTA UNIVERSITATIS DANUBI-
US. JURIDICA*, 11, (2015): 11.

10 Harvey Starr, *Anarchy, Order and Integration: How to Manage Interdependence*, (Michigan: University of Michigan Press, 1999), 76.

11 Schofield, *Kashmir in Conflict: India, Pakistan, and the unending war*, 1-8.

12 Ibid.

13 Sir Walter Roper Lawrence, *The Valley of Kashmir*, 181.

14 Schofield, *Kashmir in Conflict: India, Pakistan, and the unending war*, 1-6.

15 Ibid, 3-9.

16 Ibid, 4.

17 Parmu, *A History of Sikh Rule in Kashmir, 1819-1846* (University of Michigan Press, 2006), 36.

18 Schofield, *Kashmir in Conflict: India, Pakistan, and the unending war*, 3-9.

19 Amarpal S. Sidhu, *The First Anglo-Sikh War* (2013);

Robert A. Huttenback, "Kashmir as an imperial factor during the reign of Gulab Singh (1846-1857)," *Journal Of Asian History* 2 , no. 2 (1968): 77-108.

an ambassador for his neutral stand in the Anglo-Sikh war, and subsequently entered the Treaty of Amritsar with him. Under this treaty, Maharaja Gulab Singh bought the region of Kashmir for a sum of seventy-lacs of rupees, thereby establishing the princely state of Jammu and Kashmir under the suzerainty of the British Empire.²⁰ This could be the first time that the sovereignty of a state had been sold to any person. From then forward, Gulab Singh held the title of Maharaja of both Jammu and Kashmir.

Instrument of Accession

*The destinies of our Indian empires are covered with thick darkness...It may be that the public mind of India may expand under our system till it has outgrown that system; that by good government we may educate our subjects into a capacity for better government...Whenever it comes, it will be the proudest day in English History.*²¹

British administration of India began as early as the nineteenth century with the English East India Company's assumption of governance under Charter Act 1833.²² After the First War of Independence in 1858, governance was formally transferred from the English East India Company to the Crown — specifically, Queen Victoria—who was formally declared as the “Empress of India.”²³ The British ruled India as nine provinces of the British Empire. Under the doctrine of paramountcy, they were also responsible for the Defence and foreign relations of 584 princely states, including the princely state of Jammu and Kashmir.²⁴ British imperial policy towards the princely State of Jammu and Kashmir was guided primarily by fear of Russian advancement towards India through the Pamir mountains, as well as of events in the expansion of Turkestan, the eastern part of which was under the nominal rule of China.²⁵ The political awareness of Jammu and Kashmir owes much to the responsible government movement against the British in the opening decades of

20 R. S. Gull, “The man who purchased Kashmir,” *Kashmir Life*. Accessed December 10, 2019, <https://kashmirlife.net/the-man-who-purchased-kashmir-issue-15-vol-07-81400/>.

21 Jane Samson, *The British Empire* (Oxford: Oxford University Press, 2001), 134.

22 M. B. Hooker, “The East India Company and the Crown 1773-1858,” *MALAYA LAW REVIEW* 11, no. 1 (1969): 31-37.

23 Miles Taylor, *Empress: Queen Victoria and India* (Connecticut: Yale University Press, 2018), 167-191.

24 Julian Arthur Beaufort Palmer, *Sovereignty and Paramountcy* (Michigan: University of Michigan Press, 2006), 28-57.

25 Schofield, *Kashmir in Conflict: India, Pakistan, and the unending war*, 10.

the twentieth century.²⁶ These movements provided the people of British India an opportunity to express how they should be governed. During World War I, most of the princely state of India had demonstrated their unpredicted allegiance towards the British Empire by providing utmost support to the Crown.²⁷ “They have shown that our quarrel is their quarrel...they were a profound surprise and disappointment to the enemy; and a cause of delight and pride to those who knew beforehand the Princes’ devotion to the Crown.”²⁸ In Kashmir— Maharaja Pratap Singh, the new ruler of Jammu and Kashmir, placed all his troops at the disposal of the British,²⁹ which fought forces in Africa, Egypt, Mesopotamia, and France. Following the death of Maharaja Pratap Singh, Maharaja Sir Hari Singh ascended to the throne and introduced various measures which caused further discontent over the already disaffected subjects of Jammu and Kashmir. Several campaigns were organized against him by both the Hindus and Muslims.

The Government of India Act 1935 marked the beginning of the next stage in deliberations over how India should be self-governed. By the end of World War II, it was evident that independence was near, as India witnessed a peak in Anti-British campaigns. However, the “form” of Independence was initially uncertain. The Indian National Congress led by Jawaharlal Nehru advocated a multi-ethnic-democratic form of government. Conversely, Mohammad Ali Jinnah was adamant that India should be divided into two nations: the Muslim majority Pakistan, and the Hindu majority of India. In the end, the communal divide and religious hatred nurtured by the British administration to maintain authority could not be overcome, and the one nation theory of unified India was abandoned, and instead, a two-nation theory was adopted. On August 15, 1947, India was partitioned into the dominion of India and dominion of Pakistan:

*This was a moment of both triumph and tragedy. Of triumph, because the freedom for which hundreds had toiled and died, was won. Of tragedy, because the dream of freedom for a united India vanished when on 3 June 1947, the prime minister of India announced his acceptance of [the] partition of India with “no joy in my heart.”*³⁰

26 These activities were headed mainly by the Indian National Congress, founded in 1885, and the Muslim League, which was established in 1906; Altaf Hussain Para, *The Making Of Modern Kashmir: Sheikh Abdullah And The Politics of The State* (London: Routledge, 2019); Tara Chand, *History of Freedom Movement In India* (2017).

27 Schofield, *Kashmir in Conflict: India, Pakistan and the unending war*, 15.

28 Ibid; Montagu and Chelmsford, *Report on Indian Constitutional Reform*, MSS Eur C 264/42, IOIC, 14122 (Apr. 1918).

29 Christopher Snedden, *Understanding Kashmir and Kashmiris* (London: Hurst Publication, 2015), 81.

30 Seervai, *Constitutional Law of India* (4th ed., 2015), 1.

The princely states, although impacted by a partition, were not incorporated into either dominion. The princely states had three options—to join one of the two new “dominions” of India and Pakistan, or to declare Independence³¹ (though Lord Mountbatten, the last British administrator of India insisted that the third option was only nominal).³² A large majority of Indian States were enveloped by the region of India, and so, geographically decided their fate. The Ruler of Jammu and Kashmir—Maharaja Hari Singh was a Hindu ruler, and opposed the idea of joining Pakistan, but was equally reluctant to the idea of joining India; the fear of losing power haunted him,³³ and so, he entered into a standstill agreement with Pakistan.³⁴ However, a Muslim revolt in the Poonch region and an invasion of Kashmir by Pathan tribesmen from Pakistan on October 22, 1947 forced Maharaja Hari Singh to turn towards India for help.³⁵ On October 26, Maharaja Hari Singh appealed to the Governor-General of India for military intervention, and, on the same day, executed an instrument of accession, thereby conceding the sovereignty of Jammu and Kashmir to the Indian dominion.³⁶ Accordingly, Indian troops were dispatched to Kashmir, which rolled-back the invaders from inside the valley to the borders.

International Affairs

The issue of Kashmir was internationalized even before it was submitted under the UN—while accepting the instrument of accession from Maharaja Hari Singh. The Maharaja wrote that once the invading forces had been expelled and law and order restored, the accession should be ratified by “a reference to the people.”³⁷ Similarly, on November 2, 1947, Nehru, as the first Prime Minister of India, drew the attention of the world nations by declaring the Indian Government’s pledges to the People

31 Sumantra Bose, *Contested Lands: Israel-Palestine, Kashmir, Bosnia, Cyprus, And Sri Lanka* (Boston: Harvard University Press, 2007), 166.

32 Ibid.

33 B. Farell, “The Role of International Law in Kashmir,” *Penn State International Law Review* 21, no. 2 (2003): 297.

34 Ibid.

35 The invasion caused the death of more than 2000 Muslims. This incident further incited the anti-Maharaja elements in *Poonch* and *Mirpur*. On 24 October 1947, they formed the Provisional Azad Government, which came into to being right before accession; Snedden, “The forgotten Poonch uprising of 1947,” *India Seminar*, accessed January 10, 2020, https://www.india-seminar.com/2013/643/643_christopher_snedden.htm.

36 With the execution of this document Maharaja Hari Singh submitted to the dominion of India, its sovereign powers of defense, foreign affairs, and communications; “Instrument of Accession of Jammu and Kashmir (*hereinafter*, Instrument of Accession),” *Jammu and Kashmir Law*, accessed March 6, 2020, http://jklaw.nic.in/instrument_of_accession_of_jammu_and_kashmir_state.pdf; A. G. Noorani, *Article 370: A Constitutional History of Jammu and Kashmir* (Oxford: Oxford University Press, 2014), 19-50.

37 Adarsh Sein Anand, “Accession of Jammu and Kashmir,” *Journal Of The Indian Law Institute* 43, no. 4 (2001): 461.

of Kashmir and to the world that it would conduct a referendum under international auspices such as the UN.³⁸

Role of the United Nations

Although India was (and is) a member of international organizations such as the League of Nations and the United Nations, it was not regarded as a sovereign state under the General International Law while its internal and external relations were dependant on the British Government and Parliament.³⁹ Only with the coming into force of the Indian Independence Act, 1947 India could finally become a full-fledged member of the International Community. Within months of its membership to the UN, India brought the issue of Kashmir before UN Security Council and alleged that Pakistan had assisted in the invasion of Kashmir by providing military equipment, training, and supplies to the Pathan warriors.⁴⁰ Pakistan denied these allegations, and in turn, accused India of their involvement in the massacre of Muslims in Kashmir, aggression against Pakistan, and questioned the validity of the Maharaja's accession to India.⁴¹ Pakistan further requested the Security Council to appoint a commission to secure a cease-fire and to ensure the withdrawal of outside forces, along with conducting a plebiscite for determining Kashmir's future. Thereafter, the Security Council (without addressing the initial issue of Kashmir) adopted a resolution establishing the United Nations Commission on India and Pakistan (UNCIP).⁴² The purpose of the Commission was to make findings of fact according to Article 34 and to act as a mediating influence.⁴³ The UN also issued a resolution for the self-determination of Kashmir and to conduct a plebiscite.⁴⁴ The resolution put forward the retreat of both Pakistan and Indian troops from Kashmir. However, as both the parties feared that a retreat would lead to a strategic advantage to the other, troops from both States were stationed before the UNCIP even reached Kashmir, a

38 Pranay Gupte, *Mother India: A Political Biography Of Indira Gandhi* (2009), 268; Andrew Whitehead, "Kashmir looks for local lessons in Scottish referendum," *BBC*, accessed February 20, 2020, <https://www.bbc.com/news/world-asia-29204977>; Gowhar Geelani, "When Nehru promised Kashmir freedom, why is India still in denial?," *The Express Tribune*, accessed February 24, 2020, <https://blogs.tribune.com.pk/story/41513/when-nehru-promised-kashmir-freedom-why-is-india-still-in-denial/>.

39 Lassa Oppenheim, *Oppenheim's International Law* (Sir Robert Jennings and Sir Arthur Watts Eds., 8th Ed., 2009): 209.

40 Letter from the Representative of India to the President of the Security Council (Jan 1, 1948), U.N. Doc. S/628 (1948). In its complaint, India indicated that it would resolve the accession issue once conditions in Kashmir allowed.

41 Letter from the Minister of Foreign Affairs of Pakistan to the Secretary General (Jan. 15, 1948), U.N. Doc. S/646/Corr. 1 (1948).

42 *Ibid.*

43 Article 34 authorizes Security Council to investigate a dispute that might endanger international peace; S.C. Res. 39, U.N. Doc. S/654 (1948).

44 S.C. Res. 47, U.N. SCOR, 3d Sess., 286th Mtg., U.N. Doc. S/726 (1948).

complete disregard for the proposed resolution.

After taking into view the prevailing conditions, the UNCIP proposed a significant resolution which provided for three essential steps in sequential order. First, they stipulated that Pakistan must withdraw all its forces and tribesmen from Jammu and Kashmir and assist in creating conditions for the people to express their choice without fear or intimidation of Pakistani presence in the region.⁴⁵ After this, only then would the Government of India conditionally take steps to gradually withdraw its forces (India would be allowed to retain adequate troops for law and order to meet against external threats).⁴⁶ Finally, after satisfying these two conditions, only then would the Government of India, with its machinery, then be responsible for conducting a fair and free plebiscite under UN supervision for the entire State of Jammu and Kashmir.⁴⁷ Pakistan rejected this resolution as it did not suit its interest in occupying Jammu and Kashmir by force and subterfuge.⁴⁸ Instead, Pakistan further engaged in stationing its troop illegally in areas it already occupied, augmented its strength by signing deals with China and bartered away portions of its occupation, consequently changing the demographic pattern in areas like Gilgit Baltistan and Pakistan-occupied-Kashmir.⁴⁹ In 1949 a cease-fire line was drawn,⁵⁰ and the commission eventually disbanded in favor of individual representatives.⁵¹ Until today, a plebiscite has not been achieved even after the frequent renewal of UN security resolutions.⁵²

Bilateralism

The first India-Pakistan War occurred in the spring of 1948 following the incidents of tribal invasion that brought Jammu and Kashmir to India, and only ended at the agreement of a ceasefire in January 1949. After, almost the whole of Jammu and Kashmir (including Ladakh) was under India's control while Pakistan gained little from this illegal act of attempted annexation.⁵³ Again, in 1965, a second Indo-Pakistani war ignited, resulting from the infiltration of thousands of Pakistan-supported armed

45 United Nations Commission on Indian and Pakistan, *Resolution for a Cease-Fire Order and Truce Agreement*, U.N. SCOR, 3d Sess., at 3, U.N. Doc. S/995 (1948).

46 Ibid.

47 Ibid.

48 "Pakistan had rejected the very security council resolution of 1948—the very resolution that it swears by now," *Financial Express*, Accessed March 5, 2020, <https://www.financialexpress.com/india-news/pakistan-had-rejected-the-u-n-security-council-resolution-of-1948-the-very-resolution-it-swears-by-now/362555/>

49 Ibid.

50 S.C. Res. 91, U.N. SCOR, 6th Sess., 539th Mtg., U.N. Doc S/2017/Rev.1 (1951).

51 S.C. Res. 80, U.N. SCOR, 5th Sess., 470th Mtg., U.N. Doc. S/1469 (1950).

52 Josef Korbel, "The Kashmir Dispute and the United Nations," *INT'L ORG.* 3, 282-83 (1949). Josef Korbel was one of the members to the commission.

53 Bose, *Contested Lands*, 168.

freedom fighters (known as *Mujahideen*) into the Indian-held Kashmir. This fighting lasted for 17 days and ended in a stalemate.⁵⁴ The Security Council's attempt at ending the 1965 war was mainly concentrated on maintaining the status quo and still, no call for a plebiscite was made even.⁵⁵ The first round of Kashmir negotiation was urged by the Soviet Union in 1965, where both India and Pakistan met at the Soviet city of Tashkent.⁵⁶ Despite this, the Tashkent agreement was only another attempt to revert to the status quo and though several proposals were made, Pakistan's interest remained solely on Kashmir, which India refused to discuss.⁵⁷ The Tashkent Agreement was successful in achieving constructive mediation but was ultimately a failure in settling the Kashmir dispute. A third war broke out between India and Pakistan in 1971, when India entered East Pakistan based on a humanitarian intervention,⁵⁸ and only ended when India unilaterally declared cease-fire, resulting in the birth of Bangladesh.⁵⁹ By this time India had already become a regional power and aimed to confine the discussion of Jammu and Kashmir bilaterally between itself and Pakistan. In 1972, both countries met in the resort town of Shimla with the prime ministers of both countries agreeing and signing the Shimla pact, which provided that:

*the two countries put an end to the conflict and confrontation that have hitherto marred their relations and work for... a friendly and harmonious relationship and... durable peace on the subcontinent... reconciliation [and] good neighbourliness.*⁶⁰

They further agreed that:

in Jammu and Kashmir, the Line of Control resulting from the cease-fire of 17 December 1971 shall be respected by both sides... Neither side shall seek to alter it unilaterally, irrespective of mutual differences and legal interpretations. Both sides... undertake to refrain from the threat or use of

54 Bose, *Contested Lands*, 174.

55 S.C. Res. 211, U.N. SCOR, 20th Sess., 1242nd Mtg., U.N. Doc. S/6694 (1965). Security Council requested that India and Pakistan should engage in negotiation and mediation in an attempt to settle the underlying dispute.

56 Sarbjit Johal, *Conflict and Integration in Indo-Pak Relations* (Michigan: University of Michigan Press, 2008), 126-128.

57 Verinder Grover and Ranjan Arora, *Partition of India, Indo-Pak Wars and Uno* (Verinder Arora and Ranjan Arora Eds., 1999), 450.

58 United Nations High Commission, *The State of World Refugees*, 2000 (Oxford: Oxford University Press, 2000), 68.

59 Richard Sisson and Leo Rose, *War And Secession: Pakistan, India, and The Creation Of Bangladesh* (1990), 234.

60 Shimla Agreement, <https://people.unica.it/annamariabaldussi/files/2015/04/Shimla-Agreement-July-2-1972.pdf>.

*force in violation of this Line.*⁶¹

The agreement ended by stating:

*both Governments agree [to]... meet again at a mutually convenient time in the future.... to discuss the modalities and arrangements for the establishment of durable peace and normalization of relations.*⁶²

After this, the 1980s and 1990s were filled with various insurgency movements, anti-India protests, and conflicts between the Indian army and Islamic militants in Jammu and Kashmir that resulted from release of a great deal of Pakistan trained militants and weapon energy into India.⁶³ To end the long-standing scuffle and to develop better relations, in February 1999, India's Prime Minister Atal Bihari Vajpayee made a diplomatic visit to Pakistan on the first-ever bus service connecting Delhi to Lahore,⁶⁴ resulting in the sensational Lahore declaration. The Lahore declaration was a silver lining in the relationship between both countries,⁶⁵ and reiterated their determination to implement the Shimla agreement in "letter and spirit." The governments agreed to "intensify efforts to resolve all issues, including [...] Jammu and Kashmir" based on an "agreed bilateral agenda."⁶⁶ However, the emergence of this good relationship was not to be and ended abruptly when Pakistani military units infiltrated the Line of Control (LOC) in Kargil while the Lahore Declaration was being signed. As retaliation, in May 1999, India launched a massive land and air strike to evict the infiltrators,⁶⁷ with the hostilities only ending by President Clinton's persuasion of Nawaz Sharif—the Pakistani prime minister- to withdraw.⁶⁸

61 Shimla Agreement, <https://people.unica.it/annamariabaldussi/files/2015/04/Simla-Agreement-July-2-1972.pdf>.

62 Ibid.

63 Joy Aoun et al., "Religious Movements, Militancy, and Conflict in South Asia cases from India, Pakistan, and Afghanistan," *Center for Strategic and International Studies*, accessed February 1, 2020, https://csis-website-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/120713_Aoun_ReligiousMilitancy_Web.pdf

64 Bose, *Contested Lands*, 187.

65 Since, then both countries were vested in testing nuclear weapons throughout 1990s. Their relations had been characterized by antagonism and recrimination because of the armed conflict in Indian controlled Kashmir, with India blaming Pakistan for abetting the insurgents and Pakistan accusing India of heavy-handed repression; Imtiaz Rafi Butt, "The silver lining for Pakistan," *The Nation*, accessed February 27, 2020, <https://nation.com.pk/23-Mar-2018/the-silver-lining-for-pakistan>.

66 "Lahore Declaration February 1999," *Ministry of External Affairs*, accessed February 16, 2020, <https://mea.gov.in/in-focus-article.htm?18997/Lahore+Declaration+February+1999>.

67 Srinath Raghavan, "J and K autonomy and after," *Seminar* 45 (2020): 725.

68 Crisis in Pakistan, *Gov Info*, accessed March 30.,2020, <https://www.govinfo.gov/content/pkg/CHRG-106shrg61870/html/CHRG-106shrg61870.htm>.

The relationship further deteriorated as a result of the 2001 attacks of the Indian government by Islamic militant organizations such as Lakshae-Taiba and Jaishe Mohammed, who are allegedly based out of Pakistan. These incidents brought both countries to the brink of nuclear war. Adding to it, the 2008 Mumbai attacks, the 2016 Pathankot attack, and the 2019 Pulwama attack heightened the nationalist rhetoric on both sides, resulting in the collapse of the India-Pakistan bilateral relationship with little chance (if ever) of recovering.

An Internal Matter?

As claimed by India, the issue of Jammu and Kashmir has always been a matter of its domestic concern. However, this was not always the case. While it is true that the region of Jammu and Kashmir has become a part of India, this owes much to the slow erosion of Article 370, and the incidents prior and after the presidential rule in the territory. To discuss, the following section will be divided into two: (1) The erosion of Article 370, and (2) The division of the region into The Union Territory of Jammu and Kashmir, and The Union Territory of Ladakh. It will deal with the dawdling merger of the region with India and discuss the present status of the territory.

Erosion of Article 370

Between May 1947 and August 15, 1947, almost all the princely states signed the instrument of accession with either India or Pakistan (whether by pressure or for diplomacy). Kashmir was not much different. However, when Maharaja Hari Singh conceded the sovereignty of Jammu and Kashmir to India, the terms of the treaty provided the concession only with regards to foreign affairs, defense, currency, and communication. In March 1948, Maharaja appointed an interim government in the State with Sheikh Abdullah as prime minister,⁶⁹ and tasked to frame a constitution for the State. At the same time, the government of India was preparing its constitution.⁷⁰ As part of this process, the princely states were invited to send their representatives to India's constituent assembly, and Sheikh Abdullah and his colleagues joined the Indian constituent assembly as members in May 1949. Over the next five months, they negotiated Kashmir's future relationship with India. Accordingly, a conclusion was reached to only incorporate the provisions in the Constitution of Kashmir that adhered to the original instruments of accession. It was also decided that Kashmir's constituting assembly when formed, would decide all other matters.⁷¹

69 Khandelwal, *Pledge for an Integrated India*, 252.

70 Bose, *Contested Lands*, 187.

71 Rahul Tripathi, "Instrument of accession: from 1947 till date," *Economic Times*. Accessed January 20, 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/instrument-of-accession-from-1947-till-date/articleshow/70546147.cms?from=mdr>.

Based on the meetings convened, when India's Constitution was adopted in 1949, Kashmir was given a special status under Article 370 of India. Article 370 stipulates that other articles that give power to the central government would be applied to Jammu and Kashmir, only with the concurrence of the State's constituent assembly. Article 370 was a temporary provision in the sense that its applicability was intended to last only until the formulation and adoption of Jammu and Kashmir's constitution. However, in 1956, the constituent assembly of Jammu and Kashmir dissolved itself without making further recommendations on either the adoption or abrogation of Article 370, thereby leaving an indelible imprint on the Indian constitution. Article 370 records a "solemn compact"⁷² protecting the rights of the 1947 instrument of accession. Article 370 provided the state of Jammu and Kashmir with the autonomy of governance inside its region. However, some laws in Jammu and Kashmir could be considered as misogynistic and violative under *jus cogens*. An example of such a law is that a Kashmiri woman loses her rights to property in Kashmir when she marries an outsider.⁷³ Thus, in respecting Jammu and Kashmir's sovereignty under Article 370, India was to overlook the gross violations of gender equality and human rights. In light of this, the gradual erosion of Article 370, was inevitable both for the sake of respecting human rights, and to extend the principles of gender equality that was part and parcel of the Indian Constitution.⁷⁴

When Article 370 was originally made, only two articles of the Indian constitution applied to the state of Jammu and Kashmir. All the other provisions of the Indian Constitution were applied, with modifications and exceptions stipulated by the President of India.⁷⁵ The first of such order was the presidential order of 1950, officially known as The Constitution (Application to Jammu and Kashmir) Order, 1950. It specified the subjects and articles of the Indian constitution which

72 A. G. Noorani, *Article 370: A Constitutional History of Jammu and Kashmir*, 1.

73 Jill Cottrell, "Kashmir: The vanishing autonomy", in *Practicing Self Governments: A Comparative Study Of Autonomous Regions*, edited by Ghai and Woodman (Cambridge: Cambridge University Press, 2013), 163-199; ("The landmark Declaration, adopted by the General Assembly on 10 December 1948, reaffirms that "All human beings are born free and equal in dignity and rights" and that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, ... birth or other status.") "Gender equality," *United Nations*, <https://www.un.org/en/sections/issues-depth/gender-equality/>.

74 Article 370 was an elixir for the Jammu and Kashmir Constitution; it gave the legislature an apparent power to modify application of any laws passed by the Centre. Thus, it was both in good faith and for the welfare of the under privileged there, the abrasion was inevitable.; "Full text of document on govt's rationale behind removal of special status to JandK," *The Hindu*, accessed February 28, 2020, <https://www.thehindu.com/news/national/full-text-of-document-on-govts-rationale-behind-removal-of-special-status-to-jk/article28821368.ece>.

75 Bodh Raj Sharma, "The Special Position of Jammu and Kashmir in the Indian Constitution," *The Indian Journal Of Political Science* 19, no. 3 (1958): 284.

was consistent with the Instrument of Accession.⁷⁶ The second order was passed in 1952 that amended Article 370 by replacing the phrase “Maharaja of Jammu and Kashmir” to the “Legislative Assembly of the State as the *Sadr-i-Riyasat*.”⁷⁷ This was a symbolic step in the history of Jammu and Kashmir as it led to the further abolition of the monarchy in the state. In 1954, the third presidential order came into force. It was a comprehensive agreement seeking to implement the 1952 Delhi agreement.⁷⁸ Accordingly, fundamental rights under the Indian Constitution were extended to Jammu and Kashmir with some modifications and reservations. Simultaneously, Article 35A was also added to the constitution. This was added per the presidential order of 1954 and empowered the state government to legislate on privileges of permanent residents concerning aspects of immovable property, settlement in the state, and employment.⁷⁹

In addition to these original orders, 47 other presidential orders were made between 1956 and 1994, making various other provisions in the Constitution of India that became applicable to Jammu and Kashmir. These orders were issued with concurrence with the government of the Jammu and Kashmir and not that of the dissolved constituent assembly. This practice of applying for the presidential order in concurrence with the state government became a customary practice as it was deemed that no other body in the state was competent to give assent.⁸⁰ It is noteworthy, that among these 47 orders made, some of the presidential orders were issued while the state was under the President’s rule and without the concurrence of a state government.⁸¹ These incidents of the application of presidential orders in the state of Jammu and Kashmir evidenced that Article 370 was already in the process of erosion and was made more obvious when in 1963, Nehru said in a parliamentary debate, that:

*Kashmir’s autonomy has been eroded... and many new things have been in the last few years... which has made the relation of Kashmir with union of India very close... So, we feel that this process of erosion of Article 370 [that] is going on... we should allow it to go on.*⁸²

76 “Constitution Application Orders,” *Jammu and Kashmir Law*, accessed March 15, 2020, <http://jklaw.nic.in/jk1950order.pdf>

77 “Constitution (Application to Jammu and Kashmir) Order 1950,” *Jammu and Kashmir Law*, accessed March 16, 2020, <http://jklaw.nic.in/jk1950order.pdf>.

78 Arguably, it went further than the Delhi Agreement in some respects. Ghai and Woodman, *Practicing self government*, 171–172.

79 Mohan Krishen Teng, *State Government and Politics, Jammu and Kashmir* (Michigan: University of Michigan, 2007), 68-119.

80 A. G. Noorani, *Article 370: A Constitutional History of Jammu and Kashmir*, 9-11.

81 Ghai and Woodman, *Practicing self governments*, 173–175.

82 Lok Sabha debates, vol XII, 27 NOV 1963, cols. 1231-32

The Union Territory of Jammu and Kashmir and the Union Territory of Ladakh

On 5 August 2019, the Home Minister Amit Shah of India, announced in the upper house of the Parliament of India that the President of India had issued the Constitution (Application to Jammu and Kashmir) Order, 2019 (C.O. 272), and thereby, the Constitution (Application to Jammu and Kashmir) Order, 1954 stands overridden. It was a historical move from India's part, allowing the Constitution of India to be made applicable to the whole of Jammu and Kashmir without any restrictions. This order was made by the President of India with the "concurrence of the government of the state," and the "governor appointed by the Union government."⁸³ The presidential order, 2019 also added clause 4 to the four sub-clauses of Article 367 of the Indian constitution, thereby adding the interpretation of state government to include the governor.⁸⁴ This was in adherence to the prevailing state practices, since some of the presidential orders issued after 1954 when the state was under presidential rule was made applicable through the concurrence of the governor of the state and not the state government.⁸⁵ After the passing of the presidential order, 2019 before the Rajyasabha, the government, through a resolution passed, issued a constitutional order which replaced the original text of Article 370 with a new text that allowed the amendment of the Article.⁸⁶ On the same day, a bill was introduced in the parliament, the Jammu Kashmir Reorganization Bill, 2019. The bill intends to convert the State of Jammu and Kashmir into two separate territories, namely, Union Territory of Jammu and Kashmir, and the Union Territory of Ladakh.⁸⁷ The Bill was passed by both houses of the parliament and the Union Territory of Jammu and Kashmir, and the Union Territory of Ladakh came into being on October 31, 2019, thereafter known as the National Unity Day of India.⁸⁸

International Law in Jammu and Kashmir

The issues concerning a change in the status of Jammu and Kashmir cannot be satisfactorily addressed unless the impact of international law is also analyzed and explained in its most methodical form. This section will demonstrate that in the

83 K. Venkataramanan, "How the status of Jammu and Kashmir is being changed," *The Hindu*, accessed February 27, 2020; Pranab Dhal Samanta, "Article 35A ceases to exist," *The Economic Times*. Accessed March 30, 2020.

84 "The Constitution (Application to Jammu and Kashmir) Order, 2019," *E-gazette*, accessed March 27, 2020, <http://egazette.nic.in/WriteReadData/2019/210049.pdf>.

85 Ghai and Woodman, *Practicing self governments*, 173–175.

86 The government brings Resolution to Repeal Article 370 of the constitution, <https://pib.gov.in/newsite/PrintRelease.aspx?relid=192487>

87 A State is a constituent division that has separate government. Whereas a Union territories are small administrative units governed directly by the Centre.

88 "The Jammu and Kashmir Reorganization Act, 2019," *E-gazette*, accessed March 10, 2020, <http://egazette.nic.in/WriteReadData/2019/210407.pdf>.

changed circumstances, the international institutions which were once revered to be the chief interests in determining the status of Jammu and Kashmir are no longer relevant. It will further establish that even if conceded to the principle of international law, the law of the comity of nations that envisages mutual respect and acceptance for other countries' laws and political system is not against, but in favor of India's accession of Jammu and Kashmir.

Self-Determination

Self-determination is an important principle under contemporary international law.⁸⁹ The principle in its most lucid sense recognizes the right of people to determine one's political future.⁹⁰ As a most promising doctrine with broad application, it has always played an integral role in determining the status of Jammu and Kashmir in the international sphere.⁹¹ The most common criticism raised against India when the accession was announced was also based on this principle.⁹² The most common criticism raised against India when the accession was announced was also based on this principle.⁹³ However, the principle of self-determination is not an absolute principle and critiques of India have fail to account the relevance of self-determination in Jammu and Kashmir within the context of its changed circumstances.⁹⁴ Self-determination presents limitations,⁹⁵ and the validity of the claim to self-determination must be evaluated by addressing the following concerns. The first concern is whether the region is a non-self-governing one. A region that is geographically separate from the administering state, and colonies of colonial governments are considered as non-self-governing regions.⁹⁶ The relationship between India and the state of Jammu

89 Oppenheim, *International Law*, 445.

90 Castellino, *International Law and Self-Determination*, 110-19.

91 Farrell, "Kashmir," 314.

92 "European Parliamentary members condemn India for denying Kashmiris right to self-determination," *The International News*, accessed February 27, 2020, <https://www.thenews.com.pk/latest/528380-european-parliament-condemns-india-for-denying-kashmiris-right-to-self-determination>.; Mona Bhan et al., "The International community must intervene on Kashmir," *Open Democracy*, accessed February 11, 2020, <https://www.opendemocracy.net/en/international-community-must-intervene-kashmir/>.

93 "European Parliamentary members condemn India for denying Kashmiris right to self-determination," *The International News*, accessed February 27, 2020, <https://www.thenews.com.pk/latest/528380-european-parliament-condemns-india-for-denying-kashmiris-right-to-self-determination>.; Mona Bhan et al., "The International community must intervene on Kashmir," *Open Democracy*, accessed February 11, 2020, <https://www.opendemocracy.net/en/international-community-must-intervene-kashmir/>.

94 Lauterpacht Research Centre For International Law, *International Law Reports*, 115, 150 (E. Lauterpacht Et al. eds., Cambridge Univ. Press, 1999).

95 *Ibid.*

96 Josef Brink, *Non-Self Governing Territory*, 316-321; David Raic, *Statehood and The Law of Self-Determination*, (Kluwer Law, International 2002), 206.

and Kashmir is not that of the colony and the colonial government. The Constitution of India grants power to the Jammu and Kashmiri election commission to oversee the establishment of electoral roles as well as to conduct elections to both legislative council and legislative assembly.⁹⁷ Before bifurcation, there were 87 assembly constituencies and six parliamentary constituencies in Jammu and Kashmir,⁹⁸ and Jammu and Kashmir has a history of sending elected members to the lower house of Parliament since 1967.⁹⁹ The only time elections were not held was in 1990 due to security concerns.¹⁰⁰

The principle of self-determination is linked to the notion of representative government and declares that states who comply with the principle must have a government representing the whole population of their region without distinction between race, creed or color.¹⁰¹ Self-determination takes place whenever the people of a given territory can freely elect the government of their choice.¹⁰² The people of Jammu and Kashmir have been exercising this right from 1956 onwards by electorally selecting their representatives in the state government and from 1956 in the Parliament. India is a union of states that grants the Parliament — the collective of representatives from all of the states (of which even the state of Jammu and Kashmir is an active member) — the power to make crucial decisions for the whole of India. This includes the power to either unite, divide, diminish, and alter any of the states under it for administrative convenience. Thus, to argue that the division of Jammu and Kashmir into two union territories would harm their historic rights of self-governance would hold no water since there have been no separate states of Jammu and Kashmir, to begin with. By actively engaging in the political administration of India, Jammu and Kashmir have already acceded to the Union, though, it was once limited by growing concerns about its autonomy. However, as it currently stands, Jammu and Kashmir have no separate existence from India. Therefore, the division of Jammu and Kashmir into two union territories is a domestic political move by the Indian government without any actual implications for the international community.

The second concern is whether the groups claiming self-determination form “people” under international law. The term “people” has been defined by different

97 “Parliamentary Constituencies,” Chief Electoral Officer, http://ceojammukashmir.nic.in/Parliamentary_Constituencies.htm.

98 Rahul Kanwal, “Its delimitation next in Jammu and Kashmir says BJP,” *India Today*, accessed February 27, 2020, <https://www.indiatoday.in/india/story/it-s-delimitation-next-in-jammu-and-kashmir-says-bjp-1577994-2019-08-06>.

99 Mayil Vaganam, “A survey of elections in Kashmir,” *Institute Of Peace And Conflict Studies*, accessed February 27, 2020, http://www.ipcs.org/comm_select.php?articleNo=717.

100 Ibid.; Edgar Thorpe And Showick Thorpe, *General Studies Paper 1* (2020), 2-3; Ibp Usa, *India Country Study Guide Volume 1 Strategic Information and Developments*, 217.

101 Thomas D. Musgrave, *Self Determination And National Minorities* (Oxford: Oxford Univ. Press, 2000), 98.

102 Borris Meissner, *The Right of Self Determination After Helsinki And Its Significance For Baltic Nations* (1981), 382.

scholars in various ways. In the post-war period, among many third world countries, decolonization was considered to be the only aspect of self-determination, and hence, within this context, the term “people” is confined to the population living in a non-self-governing region.¹⁰³ A much broader definition of “people” is contained in the representative government theory of self-determination. As Rosalyn Higgins notes, self-determination refers to “the right of [a] majority within a generally accepted political unit to exercise power. In other words, it is necessary to start with stable boundaries and to permit political change within them.”¹⁰⁴ Another accepted form of defining “people” is along the ethnic lines, since, there is an accepted practice by the UN General Assembly to divide territories when ethnic differences portend future instability.¹⁰⁵ Even if conceded to any of these definitions, a general device to distinguish people of Jammu and Kashmir from the rest of India is not possible, with a population of 44 percent Hindus, 68.31 percent Muslims, 0.28 percent Christians, 0.09 percent Buddhists, and 0.02 percent Jains. If people are equated with the State, it would mean that through the instrument of accession and the general elections conducted that the state has conceded to the region of India. The people of Jammu and Kashmir already exercise their right to vote by participation in general elections and hence, the representative definition also does not help demarcate the “people” separately. Finally, the people of Jammu and Kashmir are not inherently different from the people of India, nor do they constitute a trait or characteristic confined only to Jammu and Kashmir. The sovereignty of the region has always been in constant evolution from as early as the first century AD. Thus, the unitary concept of “self-determination” is inadequate, for Jammu and Kashmir especially.¹⁰⁶ The third concern is whether the region is integral to the state concerned. The principle of self-determination should not be equated with the right to secede.¹⁰⁷ Secession is against the principle of territorial integrity of a nation, and to concede to any fractions of a population the right of withdrawing from a community to which they belong would be to destroy the order and stability within states and would introduce anarchy in international life. It would be to uphold a theory incompatible with the very idea of the state as a territorial and political entity.¹⁰⁸ The Union of India, as well as the Preamble and Section 3 of the erstwhile constitution of Jammu and Kashmir, defines Jammu

103 Rigo Sureda, *Evolution of Right of Self Determination*, 215.

104 Musgrave, *Self-determination*, 152.

105 *Resolution adopted on the report of the ad hoc committee on the Palestinian question*, [https://undocs.org/A/RES/181\(II\)](https://undocs.org/A/RES/181(II)).

106 Ved P. Nanda, Self-determination and secession under International Law, *Denver Journal of International Law* 29, no. 4 (2001): 305-326.

107 The Aaland Islands, Question: Report Submitted to the Council of the League of Nations by the Commission of Rapporteurs (1921) *League Doc. B7. 21/68/106*, 27.

108 *Ibid.*

and Kashmir as an integral part of India.¹⁰⁹ Since 1964, the region of Jammu and Kashmir, and India has become indissolubly bound to each other. To concede to any claim for secession from India would be against India's much-established territorial integrity that lies in the unity of its states. In his famous speech made in 1994, the then Prime Minister P. V. Narasimha Rao stated that Kashmir will always remain an integral part of India.¹¹⁰ A similar comment was also made by Pandit Nehru as well. Another factor to be considered while analyzing the deeply entrenched territorial bond between India and Kashmir is who seeks for a separate state of Kashmir. The claim for a separate Kashmir is made by the prohibited separatist groups such as the Plebiscite and *Mujahadeen*—both with a proven history of backdoor support and training from inter-services intelligence of Pakistan.¹¹¹ The positive international law does not recognize the right of national groups. This is true in the case of Jammu and Kashmir as well. Giving heed to such claims made by such organizations would defeat the purpose of international law.

The final concern is whether the region is “geographically and economically” bound to the State concerned. The “fabled state” of Kashmir lies in mountain ranges separating the overpopulated plains of India from the endless steppes and deserts of Central Asia.¹¹² It shares boundaries with the Indian states of Himachal Pradesh, and Chandigarh in the south. Though this region has been described as one of the world's primary strategic pivots, the nexus of continents, empires, and civilizations,¹¹³ due to its sprawled demarcations, it faces an imminent threat from the states of Pakistan, China, and Afghanistan (though is not economically bound to any of these states).¹¹⁴ But, India's interest in the region dates back to the 1947 Instrument of Accession, and beyond- driven by both strong cultural and security bonds. Economically, Jammu and Kashmir are the largest recipient of grants from the central government, totaling

109 Kash. Const. preamble; “J and K shall be an integral part of India,” *Minister of External Affairs*, accessed March 20, 2020, [https://www.mea.gov.in/articles-in-indian-media.htm?dtl/15748/JK+is+and+shall+be+an+integral+part+of+India.](https://www.mea.gov.in/articles-in-indian-media.htm?dtl/15748/JK+is+and+shall+be+an+integral+part+of+India.;); “Kashmir is an integral part of India say Deoband clerics,” *Economic Times*. Accessed January 27, 2020, <https://economictimes.indiatimes.com/news/politics-and-nation/kashmir-an-integral-part-of-india-say-deoband-clerics/articleshow/6729157.cms?from=mdr>.

110 John Thor Dahlburg, “India, Pakistan exchanges Harsh words on Kashmir,” *Los Angeles Times*. Accessed February 27, 2020, <https://www.latimes.com/archives/la-xpm-1994-08-16-mn-27741-story.html>.

111 Arthur S. Banks et al., *Political Handbook of The World 1998* (2016): 707.; “Order.” Ministry of Home Affairs, (Apr. 8, 2002), https://mha.gov.in/sites/default/files/BanJudgment_09042002.pdf.

112 Eric S. Margolis, *War at The Top of The World: The Struggle Of Afghanistan, Kashmir And Tibet* (2002): 53.

113 Ibid.

114 The part of Kashmir illegally occupied by China is called Aksai Chin, and that illegally occupied by Pakistan is Azad Kashmir.; Robert G. Wirsing, *Boundary and Territory Briefing* (Clive Schofield Ed., 1998), 1-18.

an amount of US\$812 million per year.¹¹⁵ In an attempt to improve the infrastructure of the region, the Indian government has commenced work on the Kashmir Railway project at a cost of more than US\$2.5 billion as early as in 2002.¹¹⁶ The Associated Chambers of Commerce and Industry of India (ASSOCHAM) is also working with the union and the state government of the Jammu and Kashmir region to set up industrial parks and special economic zones to attract investments.¹¹⁷ Another major source of income of the region is from Hindu pilgrims who visit the *Vaishno Devi* and *Amar Nath* Temple of Jammu and Kashmir annually.¹¹⁸ The region of Jammu and Kashmir is both economically and geographically bound to India, and it is not economically or geographically viable for the region of Jammu and Kashmir to secede from India.¹¹⁹ Even if a small nationality did initially secede, it would in all probability be drawn back into the larger state and eventually rejoin it.¹²⁰ Economic viability and military defense are major considerations for a State's survival.¹²¹ With a major threat to territorial security from both Pakistan and China, the concept of self-determination would only act as a source of political instability and domestic disorder.

Shimla Agreement and Bus Diplomacy

With the formal accession of Jammu and Kashmir to India, the requirement of bilateral negotiations between India and Pakistan as a means to resolve territorial disputes has become obsolete. The matter of Jammu and Kashmir has become India's domestic concern alone.¹²² This means that the Shimla agreement and bus diplomacy ("Lahore Declaration") will not be a factor in future negotiations between India and Pakistan on Jammu and Kashmir. The assessment augurs well in the historical regard since the agreement by both countries to veto the status quo has done more harm than good. The Shimla agreement intended for a workable resolution to eliminate interference through an agreed plan of action. But, such a mechanism to resolve disputes as agreed by the parties was not followed in its absolute sense. Pakistan has at multiple times violated the Shimla agreement. On

115 "Economy," Jammu and Kashmir Government, <https://jk.gov.in/jammukashmir/?q=economy>

116 Ibid

117 Ibid.

118 Ibid.

119 Jones Et. Al., "Economic Development as a Tool to Reduce Secessionism in Jammu and Kashmir," *University of Wisconsin*, <https://minds.wisconsin.edu/bitstream/handle/1793/43875/southasia.pdf?sequence=1&disAllowed=y>

120 Buccheit Lee C., *Secession*, 54.

121 Musgrave, *Self determination*, 27.

122 "India's Proposition on J and K hasn't changed: MEA reacts to UN Chief's remarks in Pakistan," *India Today*,. Accessed February 27, 2020, <https://www.indiatoday.in/india/story/india-s-position-jammu-kashmir-has-not-changed-mea-reacts-un-chief-remarks-pakistan-1647115-2020-02-17>

February 1999, when the Lahore Declaration was being signed with a reiteration of “the determination of both countries to implement the Shimla Agreement in letter and spirit,” Pakistani military units had already infiltrated the LOC in Kargil which led to the fierce fight that claimed the lives of 519 Indian personnel.¹²³ Moreover, this was not the only occasion when Pakistan had violated the treaty. The multiple violations of ceasefire agreements have constituted the withering of the treaty from its absolute form. Therefore, an argument that India has violated the Shimla agreement will not suffice since the terms of the agreement have already been violated by the other party, invalidating the whole of the agreement, or giving India a higher position to suspend its operation at its will.¹²⁴

The validity of UN Resolutions on Kashmir

The United Nations has, at multiple times, unsuccessfully attempted to resolve the Kashmir dispute. The major reason for its failure to mediate during the 20th century is attributed both to cold war politics and their inability to take binding action. However, this nowhere means that the UN has the right to intervene in Kashmir matter anymore. Article 2 (7) of the UN charter provides that the United Nations should not intervene in matters which are exclusive to the domestic jurisdiction of a state. The UN has issued numerous resolutions on Kashmir through both the General Assembly and through the Security Council from 1948 onwards. These resolutions emphasize a need for a plebiscite and focus on the self-determination of the people of Kashmir. Historically, none of these resolutions have attained any progress in reconciling the dispute between states in the region of Kashmir. As Professor Sumantra Bose points out “[the] UN long ago became irrelevant to the resolution of Kashmir,”¹²⁵ and United Nations resolution which cannot progress into law becomes materially non-binding.¹²⁶ This applies to resolutions made for Jammu and Kashmir as well. The material changes that have happened to Kashmir ever since the signing of the Shimla agreement and the years forward have materially altered the nature of Kashmir into a state under the Union of India. A similar position was also taken by Kofi Annan, the UN Secretary General on a visit to the subcontinent in 2000. According to him, the old Security Council resolutions that call for a plebiscite were unenforceable and essentially defunct, since India has squarely opposed the plebiscite for the past 50 years, and the Pakistani conception of the plebiscite limits the choice to the two

123 Kanti. P. Bajaipai et al., *Kargil and after Challenges: Challenges for Indian Policy* (2001), 53.

124 Oppenheim, *International Law*, 205.

125 Bose, *Contested Lands*, 200.

126 Bruce Cronin and Ian Hurdin, *UN Security Council And Politics of International Authority* (2008), 50-71.; *Towards the UN Reform: New Threats, New Responses*, (The Warsaw Report of The Regional Conference In Support Of The High Level Panel On Threats, Challenges And Change Appointed By UN Secretary General, Warsaw, 24-25 May 2004), 80-93.

options of the late 1940s and early 1950s. Such an exercise would *a priori* exclude the first preference—independence—of millions on both sides of the LOC. In reality, Pakistan has used the plebiscite demand simply as a strategic weapon against India in the propaganda war over Kashmir. In 2004, Musharaff also publicly acknowledged that it is pointless to “flog the dead horse of the plebiscite” and that an alternative path to settling Kashmir must be found.¹²⁷

Conclusion

For more than eight decades, the region of Jammu and Kashmir has enjoyed a special status under the domestic jurisdiction of India. This status owed much to both the municipal law, and the international law. However, by revoking Article 370 of the Indian Constitution, the government of India has formally accessed the territory of Jammu and Kashmir. Therefore, from henceforward, any question on the determination of Jammu and Kashmir should be guided by the municipal law of India. The allegations made by both Pakistan and its allies that the Republic of India has violated international law, is no longer sound. On the contrary, the Republic of India has both respected and adhered to the principles of international law. The root of plebiscite and self-determination, howsoever, alluring they may appear have become both an obsolete and a dangerous formula for addressing the issues of Kashmir. Any more applications or claims made of this nature on Jammu and Kashmir would be tantamount to an uncalled intervention into the territorial integrity of the state. The sovereignty of Jammu and Kashmir has always been in a form of evolution from the fifth century AD to the formal accession made by the union of India on 5 August, 1952. This paper has established that India’s formal accession of Kashmir complied with international law and that the UN resolutions of Kashmir for self-determination and plebiscite are no longer valid in light of the material change of circumstances. The formal accession of Jammu and Kashmir demonstrates a transition from bitter acrimony to a delicate domestic compromise. Nonetheless, its effective victory relies on the acceptance from the part of the world’s nations to respect its domestic act. Until then, peace and harmony will only be a mere sham in the covet of international law.

THE CRIMINALIZATION OF BLACK MIGRANT WOMEN IN ITALY: ISSUES AND ANSWERS

Theophile Begin

Yonsei University

Gendered and racialized individuals are often members of communities that are generally more likely to see the criminal justice system work against them. Taking the specific case of Black women migrants in Italy, this essay attempts to answer the following questions: What kind of agency do Black migrant women in Italy have through their engagement with law, and how can those migrants show agency within the constraints of a criminal justice system that generally does not work in their favor? To answer these questions, it is important to review the sociological context of migration in Italy, identify the limitations and downfalls of the Italian criminal justice system in relation to Black women migrants, discuss specific case studies related to the experience of Black migrant women in the Italian criminal justice system, and emphasize the relevance of restorative justice and intercultural law initiatives in the Italian context. The argument is that by establishing solidarity networks through migrant associations and, therefore, making cases of injustices and discrimination public, migrant women force both the legislators and the Italian public to think of new ways to uphold justice and interpret the law. Two practices will be discussed extensively throughout this paper: restorative justice and intercultural law.

Keywords: *migration, gender, criminalization, agency, restorative justice, intercultural law*

Introduction

The criminal justice system is an incredibly complex and well-oiled machine, and although it generally aims to maintain social order and safety through the isolation of those deemed dangerous, there has been an increase in the cases of injustice and wrongful convictions that are, in many places, discrediting and taking value away from that very system that both the media and the academic community have pointed out. Gendered and racialized individuals are often members of communities that are usually more likely to see the criminal justice system work against them. Taking the specific case of Black women migrants in Italy, this essay attempts to answer the

following questions: What kind of agency do Black migrant women in Italy have through their engagement with law, and how can those migrants show agency within the constraints of a criminal justice system that generally does not work in their favor? The argument is that by getting involved in migrant associations and, thus, making their claims public, migrant women force both the legislators and the Italian public to think of new ways to practice justice and interpret the law. Here, restorative justice and intercultural law initiatives will be given greater attention. It is only recently in academia that restorative justice and intercultural law have been linked to migration. Despite race and gender inequalities issues within the context of criminal justice making for a lot of academic research, restorative justice and intercultural law research texts in the contexts of gender and migration are unfortunately still very hard to find.¹ Moreover, while the role of gender in migration has been gaining traction in academia, few research projects focused on the importance of law in the process.² To answer this question, it is important to 1) review the sociological context of migration in Italy, 2) identify the limitations and downfalls of the Italian criminal justice system in relation to Black women migrants, 3) discuss specific case studies related to the experience of Black migrant women in the Italian criminal justice system, and finally, 4) emphasize the relevance of restorative justice and intercultural law initiatives in the Italian context.

Literature Review

“Migrant,” throughout this essay, should be understood as anyone who has crossed an international border to reach Italy. In line with Luibheid and Cantu’s view of the migrant category, no distinctions will be made between legal migrants, refugees, asylum seekers, or undocumented migrants, as “such distinctions do not reflect empirically verifiable differences among migrants, who often shift from one category to another.”³ Moreover, as De Giorgi explained, the process of criminalization and illegalization of migrants in Italy exists, or takes place, regardless of migrants’ actual legal status.⁴ In other words, migrants, especially Black migrants, because they are racialized, are likely to be arrested or intercepted by police officers despite having legal documents; the line between illegality and legality becoming so thin that it

1 Theo Gavrielides, “Bringing Race Relations into the Restorative Justice Debate: An Alternative and Personalized Vision of “the Other,” *Journal of Black Studies* 45, no. 3 (2014): 216-246.

2 Kitty Calavita, “Gender, Migration, and Law: Crossing Borders and Bridging Disciplines,” *International Migration Review* 40, no. 1 (2006): 104-132.

3 Eithne Luibheid and Lionel Jr. Cantu, “Introduction,” in *Queer Migrations: Sexuality, U.S. Citizenship, and Border Crossings* (Minneapolis: University of Minnesota Press, 2006): introduction.

4 Alessandro De Giorgi, “Immigration control, post-Fordism, and less eligibility: A materialist critique of the criminalization of immigration across Europe,” *Punishment & Society* 12, no. 2 (2010): 147-167.

appears irrelevant in the context of this paper. In fact, in Italy and elsewhere in Europe, “immigrant ‘legality’ and ‘illegality’ are institutionally constructed conditions [that] are not as clearly distinguishable and mutually exclusive as the widespread anti-immigration rhetoric would have them.”⁵ Therefore, rather than a logic of legality, it appears as if it is the perception of danger that drives migrants’ criminalization from an Italian perspective. According to Fabini, Italian police officers “do not limit themselves to a finding that the migrant is undocumented. In reports, they always identify elements other than the lack of papers. ‘Illegality’ per se is under-enforced.”⁶

This paper’s focus on Black women migrants in Italy is motivated in part by the fact that, historically, there has been a tendency to see migration as a customarily male phenomenon despite evidence of extensive female primary migration.⁷ Moreover, if the presence of Black male migrants in Italy has historically provoked violent responses such as protests and racial attacks, the presence of Black migrant women – whether they come from Sub-Saharan regions, from North African countries, from Eritrea or Cape Verde – has generally been ignored by the Italian public.⁸ Black migrant women in Italy are rendered invisible and thus either ignored or discriminated against within the context of the law. As Andall points out, a “lack of acknowledgment of a migrant community or group also implies a lack of response to their specific needs and problems.”⁹

The researcher recognizes that it is impossible to talk about Black women migrants as a homogenous social group – the attitudes, cultural references, education, financial situation, status, gender, or political background can vary significantly – and attempts to be wary of different intersectional identities throughout this paper. Moreover, when talking about race and Black migrant women, the text does not embrace a biological interpretation of racial categories. It uses race and the power structures that the term is infused with to refer to the social and political process that “racializes” particular groups and communities.¹⁰ Lastly, by emphasizing the intersectional experiences of migrant women of color, this paper avoids essentializing the male/female dichotomy, recognizing that the categories of gender are politically and socially constructed. However, as Calavita points out, the male/female dichotomy is difficult to ignore or avoid in a legal context, considering that “the gender binary is solidly entrenched in the law, where it is repeatedly shored up as a taken-for-granted social reality.”¹¹ More details on the particular experience of Black women migrants in Italy are given further in the paper.

5 Ibid., 158.

6 Giulia Fabini, “Managing illegality at the internal border: Governing through ‘differential inclusion’ in Italy,” *European Journal of Criminology* 14, no. 1 (2017): 55.

7 Jacqueline Andall, “Women Migrant Workers in Italy,” *Women’s Studies Int. Forum* 15, no. 1 (1992): 41.

8 Ibid.

9 Ibid., 42.

10 Gavrielides, “Bringing Race Relations,” 222.

11 Calavita, “Gender, Migration, and Law,” 106.

Generally speaking, as numerous scholars correctly emphasized, legal policies are often framed without proper knowledge of the distinctive experiences of female migrants. As Fitzpatrick and Kelly argue, it is likely that “legal regulation of migration reproduces and exacerbates the social and cultural inequalities that disempower female migrants.”¹² What the researcher attempts to avoid, however, is victimizing women in the criminal justice system. Rather, as scholars have done in the past, they want to emphasize migrant women’s agency when negotiating and navigating a normative and rigid justice system. One might think that norms and laws cannot and will not change. However, as Ricca observes, the cultural and practical embedding of norms allows for changes to occur without breaking the legal normative system.¹³ Nevertheless, Hudson recognizes that the power of the criminal justice system lies in its ability to impose an identity of “other” – what we could label its “othering power” – so that marginalized or criminalized groups can be moved “outside the constituency of justice.”¹⁴ Therefore, when a court discriminates based on race, gender, or immigration status, whether it is against the victim or the offender, it reveals its acceptance of persistent social narratives that embrace the notion of “other”, of “unworthy”, of “illegal”.¹⁵ When Black migrant women are victims of a crime, we must also acknowledge the numerous disincentives – such as “structural constraints, [...] language barriers, perceived racism in the criminal justice system and social service agencies, and lack of adequate ethnocultural services”¹⁶ – to engaging with the criminal justice system.

This paper asserts that by establishing solidarity networks and making cases of injustices and discrimination public, migrant women force both the legislators and the Italian public to think of new ways to uphold justice and interpret the law. Two of those practices will be discussed extensively throughout this paper: restorative justice and intercultural law. Understood as “an ethos with practical goals, among which is to restore harm by including affected parties in a (direct or indirect) encounter and a process of understanding through voluntary and honest

12 Joan Fitzpatrick and Katrina R. Kelly, K, “Gendered Aspects of Migration: Law and the Female Migrant,” *Hastings International and Comparative Law Review* 22, no. 1 (1998): 48.

13 Mario Ricca, “Intercultural law, interdisciplinary outlines: Lawyering and anthropological expertise in migration cases before the courts,” *E/C Rivista Telematica dell’Associazione Italiana di Studi Semiotici* (2014): 2.

14 Barbara Hudson, “Beyond white man’s justice: Race, gender and justice in late modernity,” *Theoretical Criminology* 10, no. 1 (2006): 33.

15 David B. Thronson, “Of Borders and Best Interests: Examining the Experiences of Undocumented Immigrants in U.S. Family Courts,” *Texas Hispanic Journal of Law & Policy* 11 (2005): 54.

16 Baukje Miedema and Sandra Wachholz, “A complex web: Access to justice for abused immigrant women in New Brunswick,” *Canadian Woman Studies* 19, no. 1-2 (1999): executive summary.

dialogue”¹⁷, restorative justice in Italy has a long history. Indeed, from the late 1960s to the early 1980s, Italy endured a period of political violence and terrorist attacks, followed by instances of reconciliation and dialogues between perpetrators and victims which helped pave the way towards the construction of a positive single shared memory of the past.¹⁸ However, the relation between restorative justice and immigration in Italy remains largely unexplored. Nevertheless, scholars¹⁹ agree that restorative justice can deliver more effective results in diverse and unequal societies. When linked to immigration, it might appear difficult to see how restorative practices can work, considering that the relation between the offender and the victim is blurred, or more complex. Yet, Sullivan argues that “restorative justice processes can be applied to offenses where there is no immediately identifiable victim, like the crime of entering a country without authorization or overstaying one’s visa without aggravating factors.”²⁰ The potential for restorative justice in Italy, therefore, exists in “the openness of the process to differing cultural sensibilities and to addressing relations of inequality.”²¹ Unquestionably, migrants and the criminal justice system could benefit from incorporating restorative justice practices in their relationship.

Finally, this paper tackles the legal relevance of cultural differences, or, namely, intercultural law. Because cases of discrimination based on race, gender and immigration status are numerous in Italy and have been covered extensively in the media, Italian legislators now have to assess how to better integrate different ways of life within the normative structure of the criminal justice system.²² The Italian state is familiar with similar practices, as it was involved in intercultural educational reforms that aimed to meet the needs of immigrant children.²³ The objective of intercultural law would thus be to overcome ignorance on the part of migrants about cultural and legal meanings, and from legislators and the public about the patterns of judgment and behavior of “the other.”²⁴ Such initiatives, as are discussed in the paper, should not be taken once the cases of discrimination and injustice already arrived before courts.

17 Theo Gavrielides, *Restorative justice theory and practice: Addressing the discrepancy* (Helsinki, Finland: Heuni, 2007), 139.

18 Anna Cento Bull, “Working through the violent past: Practices of restorative justice through memory and dialogue in Italy,” *Memory Studies* (2018).

19 Kathleen Daly, “Restorative justice in diverse and unequal societies” *Law in Context: Socio-Legal Journal* 17, no. 1 (2000); Michael J. Sullivan, “A restorative justice approach to legalising unauthorised immigrants,” *Restorative Justice* 5, no. 1 (2017).

20 Sullivan, “A Restorative Justice Approach,” 75.

21 Daly, “Restorative Justice,” 183.

22 Ricca, “Intercultural law.”

23 Anthony J. Liddicoat and Adriana Díaz, “Engaging with diversity: the construction of policy for intercultural education in Italy,” *Intercultural Education* 19, no. 2 (2008): 137-150.

24 Ricca, “Intercultural law.”

Limitations

As with any other text, this particular research work is bound to face limitations. Firstly, there is a danger of positing restorative justice as the perfect solution to, or the exact opposite of retributive justice — a distinction that, according to Daly, cannot be empirically sustained.²⁵ Secondly, Sullivan identifies practical barriers to the application of restorative justice to immigration: 1) “the summary use of deportation by immigration officials as a first line of defense against immigration offenses, without the possibility of allowing an immigrant to make amends for entering the country illegally”; and 2) “the criminalization of illegal entry as a way for government officials to avoid processing asylum claims.”²⁶ One should be wary of such limitations before contemplating restorative justice as a lasting alternative to retributive justice for Black women migrants in Italy.

The Sociological Context of Black Migration in Italy

Although historically, Italy’s demographics have been influenced by the large transatlantic and European migration of its citizens, it is only in the past 50 years that Italy truly came to be recognized as a country of immigration. Patterns of immigration to the Southern European country have been far from static, and if the experience of certain migrant groups to Italy has been studied extensively in academia, our knowledge about Black women migrants remains fairly limited. Generally, the movement of female migrants to Italy began in the 1970s, with most of these women being autonomous primary migrants.²⁷ Despite the introduction of strict migration control policies at the time, there was still a high demand for low wage female labor in manual service jobs, such as domestic work or the nursing profession. Women’s migration to Italy was also motivated by the large informal and underground Italian economy, Italy’s aging population, and the country’s geographical condition as Europe’s southern border.²⁸ Largely ignored until the 1980s, migration to Italy began to affect public consciousness in the late 1980s. This slow response to immigration can partly be explained by the fact that women represented a significant portion of Italy’s migratory body in its early stages: women were not a visible force, as their lives were often confined to the limits of their employers’ homes.²⁹ In fact, although Black women migrants, coming primarily from Nigeria and Somalia, mostly migrated to Italy before men did, their arrival fortunately did not result, as they did for Black

25 Daly, “Restorative Justice.”

26 Sullivan, “A Restorative Justice Approach,” 74-75.

27 Jacqueline Andall, *Gender, migration and domestic service: The politics of black women in Italy* (Routledge, 2000).

28 Federico Oliveri, “Migrants as activist citizens in Italy: understanding the new cycle of struggles,” *Citizenship studies* 16, no. 5-6 (2012): 796.

29 Andall, *Gender, migration and domestic service*.

male migrants, in any form of demonstration and racial attacks.³⁰

Consequently, in its early stages, Black women migration to Italy was not seen as representing a threat to the Italian society and its labor market; these migrants were in fact “filling a vacuum left by Italian women”³¹ that were eager to assert their role in society by working outside the home and gaining political recognition.³² However, in the late 1980s, Italy experienced a growing level of intolerance towards Black women migrants. The gendered attributions through which women migrants were rendered invisible and men were seen as deviant and threatening were challenged following the emergence of sex-work-related migrations of Black women: “The contrast between these ‘new’ migrants, many of whom soon became visible as street prostitutes, and the ‘old’ ones, less noticeable and domesticated, caused a major rupture in the public perception of female migrants, who were now also identified as a threat.”³³ Although it is clear that only a minority of Black women migrants work as prostitutes, the involvement of some Black migrants in prostitution had and continues to have negative implications for women migrants in Italy.³⁴

The Criminalization of Black Migrant Women in Italy

Over the past two decades, criminalization has arguably become the default way to deal with migration, with states increasingly closing and controlling their border by establishing limits to legal entrance, but most importantly, by “enacting and enforcing criminal norms against those foreigners who happen to violate these limits.”³⁵ Three general trends can now be observed: “the increasingly harsh criminal consequences attached to violations of laws regulating migration, the use of removal as an adjunct to criminal punishment in cases involving noncitizens, and the rising reliance on criminal law enforcement actors and mechanisms in civil immigration proceedings.”³⁶ As of 2013, Italy had the largest difference in Europe between the number of foreigners in prison (1,203/100,000) and Italians (71/100,000), meaning that migrants were incarcerated 16.9 times more than Italians.³⁷ And if the imprisonment rate of Italian nationals was at 51.5 in 2007, it was at 74.3 for foreigners during the

30 Andall, “Women Migrant Workers in Italy,” 42.

31 Ibid., 43.

32 Lorgia García-Peña, “Being black ain’t so bad... Dominican immigrant women negotiating race in contemporary Italy,” *Caribbean Studies* (2013), 148.

33 Isabel Crowhurst, “Caught in the victim/criminal paradigm: female migrant prostitution in contemporary Italy,” *Modern Italy* 17, no. 4 (2012): 496.

34 Andall, “Women Migrant Workers in Italy.”

35 Alessandro Spina, “A Just Criminalization of Irregular Immigration: Is It Possible?” *Criminal Law and Philosophy* 11, no. 2 (2017): 352.

36 Jennifer M. Chacón, “Managing migration through crime,” *Columbia Law Review Sidebar* 109 (2006): 135-136.

37 Claudia Mantovan, “Cohesion without participation: immigration and migrants’ associations in Italy,” *Patterns of Prejudice* 47, no.3 (2013): 257.

same year.³⁸ These statistics are astonishing, and it is imperative to problematize why migrants in Italy and across Europe are increasingly criminalized and often hyper-incarcerated. The processes of criminalization and illegalization of migrants appear to point toward a new model of punitive regulation of migrations, in which immigration law *and* the criminal justice system work together to reproduce the immigrants' vulnerability and exploitability.³⁹ Women migrants of color are also more likely to experience the harmful consequences of the merger between criminal and immigration enforcement.⁴⁰ In Italy, popular discourse on immigration is now joined with rhetorics of crime in such a way that "migrant populations are popularly viewed as clandestine or "illegal" and therefore prone to criminal behavior."⁴¹ This culture of hostility and criminalization is locally produced and understood but it also naturally makes its way into the interpretation and the application of laws within the national criminal justice system. Consequently, the increased policing of national and internal borders has made Black migrant women primary victims of this new punitive model where recourse to criminal law is considered to be an unproblematic way of dealing with migration issues.⁴²

Apart from the legal criminalizing frame of Black women migrants, there exist several other discursive strategies that essentialize and racialize migrants while portraying them as a threat.⁴³ Evidently, Black migrant women in Italy are racially marked subjects and, as such, are affected by discourses of race and criminalization. The Italian discourse on migrant criminality resides primarily in the areas of drugs and prostitution. It is common, for example, for Black Nigerian women, to be seen as sex workers and drug traffickers by the Italian public.⁴⁴ It is worth mentioning, however, that even if prostitution is perceived by the Italian public as typically foreign, available statistics show that prostitution by Eastern European women is far more common in the country.⁴⁵ Yet, although prostitution is legal in Italy, its practice implicitly criminalizes all Black migrant women both in the mind of the public and in the mind of the criminal justice system and of the people responsible for its enforcement. Discrimination and criminalization of Black women migrants are thus very much endorsed by the current Italian legislation, which asks, for example, of foreign citizens to show their documents on request to officials or face a punishment of up to six months imprisonment. A 21-year-old Black woman

38 De Giorgi, "Immigration control," 155.

39 Ibid., 158.

40 Pooja Gehi, "Gendered (in) security: Migration and Criminalization in the Security State," *Dukeminier Awards: Best Sexual Orientation and Gender Identity Law Review* 12 (2012): 363.

41 Asale Angel-Ajani, "The racial economies of criminalization, immigration, and policing in Italy," *Social Justice* 30, no. 3 (2003): 48.

42 Spena, "A Just Criminalization."

43 Oliveri, "Migrants as activist citizens," 800.

44 Angel-Ajani, "The racial economies of criminalization."

45 Ibid.

interviewed by Andall (2002) after being stopped by the police stated:

*There were three of us, three Eritrean girls and by mistake ... we did not have all our papers on us. They stopped us and took us to the police station. I can even comprehend that they did this to check out our status, but don't keep me there for five hours and don't take my fingerprints and don't treat me as if I were the last of the prostitutes.*⁴⁶

Such an example suggests that being Black and being Italian are still perceived as being mutually exclusive categories and that Italian legal policies continue to be framed “with inadequate knowledge of, and responsiveness to, the distinct experiences of female migrants.”⁴⁷

On Women’s Agency: Women Migrant Associations in Italy

As of now, this article focused primarily on how Black migrant women are criminalized by a criminal justice system that is bound to work in their disfavor. However, although the current Italian legislation limits migrants’ participation in Italian political and legal life by not allowing political rights (e.g. voting rights) to non-EU citizens, Black women migrants in Italy are not only reacting to situations that are beyond their control. Rather, they often show agency and are active participants of a political and criminal system that seeks to illegalize and criminalize their existence. Taking the case of migrant women associations, this section will analyze how Black migrant women in Italy perform solidarity and influence the normative political and legal structures of the country.

Black migrant women’s involvement with the Italian legal system remains limited to non-conventional forms of implication as “the nature of migrant participation is closely linked to the political and discursive opportunity structures available to these social groups where they live and act.”⁴⁸ In this context, migrant women unfortunately still face multiple barriers of entry for political participation. However, historically, women migrant associations have proven to be an effective way to challenge legal categories and practices of criminalization and illegalization. Three phases have been identified in the development of women migrant associations in Italy: 1) the development of associations encouraged by Italian authorities to mediate politically between the state and migrant groups in the 1980s, 2) the mid-1990s withdrawal of migrants from said associations and the establishment of more ethnic and gender-based women organizations controlled by the migrants themselves, and 3) the current reconfiguration of these associations for political and legal purposes.⁴⁹ Such

46 Jacqueline Andall, “Second-generation attitude? African-Italians in Milan,” *Journal of ethnic and migration studies* 28, no. 3 (2002): 400.

47 Fitzpartick and Kelly, “Gendered Aspects of Migration,” 48.

48 Mantovan, “Cohesion without participation,” 254.

49 *Ibid.*, 262.

associations, besides providing several services and forms of support and training for immigrant women, contribute greatly in “bridging a gap between migrant women associations and historical feminist associations of Italian women that until that time had remained rather separated worlds.”⁵⁰ These associations also contributed in changing discriminatory legislation against migrant women. The organization Almaterra, based in Turin, writes, on its website: “Our goal is to accompany migrant women on a journey of awareness of their rights and duties, through learning the Italian language and knowledge of the laws and history of the host country. [...] Through socialization, attempts are made to contrast the conditions of exclusion and marginality of the group, helping migrant women to acquire tools for personal strengthening and skills that lead to the activation of empowerment processes.”⁵¹ Actions for Non-EU Migrants, one of the organization’s flagship project, aims to help immigrant women navigate Italian legal and bureaucratic procedures. The project is organized around intercultural mediation activities that promote both the social integration of migrant women and their radical fight against practices of exclusion in housing, work, justice, education, and health. Participation in such organizations should be understood as “acts of ‘fearless speech’ (Foucault 2001), which create migrants as ‘actors answerable to truth against hypocrisy.’”⁵² In fact, by speaking out and taking action within these associations, migrant women are denouncing the hypocrisy of the Italian criminal justice system and the unjust functioning of the Italian society. A good example of that would be the “Manifesto” written by an association of migrant women in Bologna after the women discovered that there “was a ‘discrepancy between ideology and reality’ when it came to officials’ support of integration, and that the City of Bologna did not always deliver on the reality side of the equation.”⁵³ The “Manifesto” prioritizes legal status, criminalization and social security protection. In this context, migrant women’s acts of citizenship are based on self-critical mechanisms of democratic law that they activate to prove that their claims to rights and legal representation are legitimate.⁵⁴

Discussion: Restorative Justice and Intercultural Law in the Italian Context

It is no surprise that the illegalization of Black migrant women within the Italian criminal justice system hinders their integration by stigmatizing and removing them from society – whether it is by putting them into prisons, or, as is the case for non-citizens, detaining and, eventually, deporting the offender without consideration for

50 Tiziana Chiappelli, “Migrant women in Italy between exclusion and active participation. A gender perspective in inclusion processes,” *Comparative Cultural Studies-European and Latin American Perspectives* 1, no. 2 (2016): 43.

51 Almaterra Torino, <http://www.almaterratorino.org/it/associazione>.

52 Oliveri, “Migrants as activist citizens,” 802.

53 Calavita, “Gender, Migration, and Law,” 122.

54 Oliveri, “Migrants as activist citizens,” 803.

his/her family or community connections.⁵⁵ Why should criminal justice be considered in terms of sameness of treatment when the experiences of female migrants in Italy are so very different from those of white Italian citizens? How do we make sure that law ensures that Black migrant women's experiences receive contextualized consideration from judges, that the principle of least restrictive measures is applied, and that the current hyper-incarceration rate of Black migrant women decelerates?⁵⁶ At present, the criminalization of Black migrant women is a contextual gendered and racialized phenomenon that exists independently from a *perceived* increase of migrants' crime rate. Here, I would first like to discuss the possibility of moving law towards a restorative justice model; something that, implicitly, migrant women have done through their engagement with migrant women associations.

Because Italian citizens are both angered by a lack of control over immigration policy outcomes and more likely to develop positive attitudes towards immigrants if they engage with them,⁵⁷ restorative justice processes can generally be seen as a viable alternative to the criminalization of migrants in two distinct ways: 1) victim-offender mediation where there is an individual victim who has been directly harmed by a migrant's actions (whether it is drug trafficking, prostitution, or an unauthorized migrant's use of false document); 2) "community reparative boards to address the more diffuse harms arising from entering and remaining in a country without authorization."⁵⁸ The apparent disconnect between potential restorative justice sentencing practices and the relentless coercive punishment of Black migrant women exists because of the exclusion of women's narratives in the practice of sentencing law.⁵⁹ Moreover, the criminal legal discourse marginalizes Black migrant women, who often have language barriers and less knowledge about the criminal legal system of their country of residence. So-called 'crimes of migration', which could also be considered 'crimes of despair' – here we can think of violations of the immigration law, forging of legal documents, providing shelter to undocumented relatives⁶⁰ – could thus be dealt with by Italian community reparative boards who, under the guidance of judicial professionals, would implement restorative justice initiatives where migrants and communities' "argue that they have suffered harm, need repair and want to become involved as volunteers to express their views, help decide on appropriate sanctions, and facilitate community service and reintegration activities."⁶¹

55 Sullivan, "A Restorative Justice Approach," 79.

56 Gillian Balfour, "Falling between the cracks of retributive and restorative justice: The victimization and punishment of Aboriginal women," *Feminist Criminology* 3, no. 2 (2008): 115.

57 Sullivan, "A Restorative Justice Approach," 80.

58 *Ibid.*, 70.

59 Balfour, "Falling between the cracks," 102.

60 De Giorgi, "Immigration control," 158.

61 Sullivan, "A Restorative Justice Approach," 79.

Secondly, it seems imperative to discuss the potential that intercultural law practices represent for Black migrant women in the Italian context. Perhaps unknowingly, migrant women associations in Italy, by continuously providing training for cultural mediators, are indeed paving the way for such practices to be implemented at a national level. The legal intercultural approach is designed to assess “how to better integrate different ways of life with laws, rules and practical schemes of behavior.”⁶² Judicial activities are unquestionably influenced by communicative shifts taking place within society. Consequently, if the legal language itself and the institution that supports the Italian criminal justice are inalterable, legislative production and, specifically, the interpretation of legality and by extension, of criminality, has the potential to change greatly. One could, therefore, argue that the long-lasting clash of identities between Black migrant women in Italy and the Italian community is likely to affect the construction of new subjectivities. In this context, legality and criminality should not be seen as “concepts definitively forged”, but rather as “guesses permanently open to revision and verification.”⁶³ For legal intercultural approaches to take form, however, lawyers and jurists, need to be sensitive to the cultural and legal background of migrants. If such sensitivity is shown towards the migrant’s experience, migrants would likely be more prone to “use available legal tools rather than be wary of them a priori, thus condemning themselves to a sort of legal clandestine condition, lived socially underground.”⁶⁴ A commitment to inclusive uses of law in the Italian context would consequently respond to the large demand for legal protection from migrants and would act as an obstacle to the criminalization of Black women migrants by both the criminal justice system and the Italian public.

Conclusion

Law and legality were not always given so much importance within Italian society. In fact, the importance of law has come to represent a new national solidarity following the decline of corruption in the country in the late 1990s; today, the arrival of “illegal” migrants is unfortunately perceived as a sign of Italy’s national decline and an increased commitment to law and order from police forces and the criminal justice system is continuously making the lives of migrants harder to navigate.⁶⁵ In order to better integrate migrants into Italian society and to put a stop to the criminalization of Black migrant women in the country, socio-legal research, as well as the Italian society as a whole, must start to think of and invest in innovative and inclusive forms of legal practices. To achieve such goal, more financing should be made available to women migrant organizations, which are already paving the way towards reform. Black migrant women, through their involvement in ethnic and gendered-based migrant associations, are in fact taking an active role in defending

62 Ricca, “Intercultural law,” 1.

63 *Ibid.*, 6.

64 *Ibid.*, 41.

65 Angel-Ajani, “The racial economies of criminalization,” 54.

migrants' legitimate claims to rights and legal representation. We hope that such initiatives of cultural mediation and legal training, when expanded and developed further, will contribute to a much-needed rethinking of the Italian justice system that is in line with the idea of restorative justice and intercultural law. Knowing that this research is somehow preliminary and that such initiatives are still limited within the Italian context, further research could address the differentiated access that Black migrant women coming from various educational, economic, social, and cultural backgrounds could have to said initiatives. Perhaps, restorative justice and intercultural law may work differently for women with upper-class backgrounds or higher educational attainment. Answering these questions, however, is beyond the scope of this paper.

ESSAYS

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COUNTERING HINDU HEGEMONY: TAMIL SEPARATISM AS COUNTER-MEMORY WORK

Pavithra Suresh

George Mason University

When beginning work on this paper in February 2020, Delhi was on fire following days of Hindutva riots in what has since been described as a pogrom. The Hindu nationalist violence that incited the riots relies on convenient, ideological scripts of Hinduism that reify Sanskrit linguistic and Brahmanical caste hierarchies. Nonetheless, resistance is not lost as Tamil counter-memories on language and caste reinterpret Hindutva histories of India to provide an alternative, oppositional possibility for a progressive future. Tamil Nadu, the southeastern-most state in India, has a legacy of being a stronghold for anti-casteist and pro-Dravidian politics. In this paper, I trace how Tamil Nadu's separatist politics engage with Dravidian counter-memory that challenges conservative Bharatiya Janata Party (BJP) narratives of Hindu Nationalism. This paper aims to explore two particular tensions emergent between the BJP and Tamil counter-memory: Sanskritization versus Tamil purism and BJP casteism in opposition to Dravidian anti-caste resistances. Furthermore, these counter-memories transcend elections and demonstrate a material and discursive resistance to fascism. As the Indian state descends further into the clutches of Hindu nationalism and casteist bias, Tamil counter-memory work establishes the utopic possibility in uncovering the unique, transgressive history of Tamil Nadu and Tamil linguistic sovereignty. Moreover, the ubiquity of the Tamil language beyond India provides the opportunity for solidarity among upper-caste Tamils, non-Indian Tamils, and anti-fascist memory activists in India. Much of the power of Hindutva is its affective appeal; indeed, the best way to counter its hegemony is through compelling, information-based memory practices such as the work done through Tamil counter-memory.

Introduction

As one of the two major political parties, the Bhartiya Janata Party (Indian People's Party, hereinafter referred to as BJP) has garnered overwhelming support throughout India with it becoming the ruling party in 2014, despite the facing criticism of endorsing Hindutva, or Hindu Nationalism. However, the southeastern Indian state

of Tamil Nadu remains an obstacle to the BJP's nationwide success. Tamil Nadu, the southeastern-most state in India, has a legacy of being a stronghold for anti-casteist and pro-Dravidian politics. This paper traces how Tamil Nadu's separatist politics engage with Dravidian counter-memory in a way that challenges BJP narratives of Hindu Nationalism. Stemming from the field of memory studies, counter-memory constitutes memory narratives that contradict dominant and hegemonic 'official' histories. Counter-memory work can serve to resist and disrupt oppressive social and political systems. This paper surveys the legacy of Hindu Nationalist narratives of language and caste and counters it with the history of Tamil linguistic separatism and political inclusion. This paper explores two particular tensions emergent between popular BJP scripts and Tamil counter-memory: Sanskritization versus Tamil purism; and, BJP casteism in opposition to Dravidian anti-caste resistances, as these tensions complicate the BJP's attempts to establish hegemony through ethnonationalism and casteism. Finally, this paper considers how Tamil memory practices persist and how they can be invoked to resist Hindutva hegemony.

Historical Background

Ingrid Therwath, who investigates Hindu nationalism on online forums, situates "*Hindutva*," which "literally means 'Hinduness', as "the ideology of Hindu nationalists that equates 'Indian identity' with 'Hindu identity' and, according to which, blood attachments prevail over loyalties to a particular location or one's native soil."¹ Hindu nationalism can be understood as a form of ethnonationalism that relies on social hierarchies including casteism, patriarchy, and religious discrimination to produce an idealized version of India that is explicitly Hindu. Therwath also stresses that "Hindu nationalism has a modernist streak which foregrounds science and technology as pillars of Hindu civilization."² As a result, India as imagined within Hindu Nationalism is presented as modern, progressive, secular – while paradoxically remaining rooted in ancient tradition, conservative politics, and, notably, the Hindu caste system. Rangetta Dutta notes how caste in particular has retained its continued social impact.³ While the caste system predates the British colonization of India, it took on a particular political meaning during the colonial period during which Hinduism was articulated as an institution; Dutta notes that British authority "facilitated the development of a homogeneous institutionalized Hinduism in the nineteenth and twentieth centuries."⁴ By the post-colonial period, the caste system as it had evolved under the British took on new significance in the creation of the Indian nation.

1 Ingrid Therwath, "Cyber-hindutva: Hindu nationalism, the diaspora and the Web" in *Social Science Information* 5, no. 4 (2012): 552.

2 Ibid.

3 Ranjeeta Dutta, "Locating the Self, Community, and the Nation: Writing the History of the Śrīvaiṣṇavas of South India" in *Religion and Modernity in India*, eds. Sekhar Bandyopadhyay and Aloka Parasher Sen (Oxford Scholarship Online: January 2017): 86.

4 Ibid.

Brahmins, who hold the superior position in the Hindu caste system, were “under stress to establish their modern identity by associating with the colonial state and the new concept of the Indian nation.”⁵ Thus, in the advent of the post-colonial Indian state, caste retained its significance with Brahmins transitioning their social and cultural power from privileged colonial subjects to idealized national citizens. In contemporary India, Brahmins and other *savarna* (upper caste) peoples continue to maintain privileged status, as exemplified by the ubiquity of *savarna* last names within Indian and diasporic institutions.⁶

Moreover, Hindu nationalism is not only reliant on caste-based hierarchies but also the politics of alterity and affective appeals to the dominant class. The BJP rose to prominence in the 1980s as the party for Hindus. In an attempt to win over Hindus in Uttar Pradesh (UP) during the 1989 election, BJP candidate Rajiv Gandhi relied on Hindu nationalist mythologies of Rama and his supposed birthplace of Ayodhya, UP: “It was there, said Hindu nationalists, that the first Mughal emperor, Babur, had centuries earlier razed the temple marking the birth site to erect a large mosque on the spot . . . [t]heir demand was that this temple be rebuilt.”⁷ While Gandhi lost the election, his strategy of playing on anti-Muslim and niche scripts of Hinduism became a strategy of the BJP more broadly. By the late 1990s, the BJP held more prominent positions in Lok Sabha. The infamous 2002 Gujarat riots, which claimed the lives of over one thousand people (about 800 of whom were Muslim), were kindled by reports of Hindu pilgrims to Ayodhya being attacked. Then-Chief Minister of Gujarat, Narendra Modi was accused of inciting rioters to commit acts of violence against Muslims. We can see through the history of the BJP the history of Hindu Nationalism as well, what Dibyesh Anand has called “a chauvinist and majoritarian nationalism” reliant on “the image of a peaceful Hindu Self vis-à-vis the threatening minority Other.”⁸ Hindu Nationalism’s Hindu majority logic suggests that minorities, particularly Muslims, present a danger to the imagined Hindu citizen. As is the logic of Othering, Anand observes an increased “political anxiety about the presence of minorities in the body politic”⁹ in India since the rise of the BJP. Furthermore, the BJP has rapidly gained support throughout India, becoming the ruling party of the Indian state in 2014. While India is home to diverse religions and languages, the ever-present Hindutva narrative of who *should* call India home: according to Hindu nationalists, only Hindus. It must be noted that since its inception, Hindu Nationalism has relied on simplified scripts of Hinduism; due to this legacy, the idealized “Hindu” citizen is thus presumed to be upper caste and Hindi-speaking. As a result, non-Hindi speaking Hindus and lower-caste Hindus have begun to be presented as

5 Dutta, “Locating the Self,” 86.

6 One such institution, notably, is the Academy, as illustrated by the reference page of this paper.

7 Jaffrelot, 53.

8 Anand Dibyesh, *Hindu Nationalism in India and the Politics of Fear* (New York: Palgrave-MacMillan, 2011): 1.

9 *Ibid.*, 9-10.

Other in addition to non-Hindus.

The History of Tamil Linguistic Separatism

Notably, a division between North Indian BJP support and South Indian dissent seems to fall along the linguistic divide between Sanskrit-derived languages (Hindi) and Dravidian-derived languages (the oldest of which is Tamil). In a 2012 article for *Economic and Political Weekly*, M.S. Pandian comments that despite the Hindu rights' far-reaching influence throughout North India, they still failed to "find any meaningful political space in Tamil Nadu."¹⁰ In keeping with the fact that the BJP idealizes Hindi speakers, it is unsurprising that support for the BJP is widespread among North Indian Hindus, who predominantly speak Hindi and other Sanskrit-derived languages, but wanes in South India, where Dravidian-derived languages like Tamil and Telegu are spoken. Moreover, we can trace the unique history of the Tamil language as the origin point of separatist pride for the over 70 million native Tamil speakers throughout South India, Sri Lanka, and other southeastern Asia nations. Although Dravidian languages emerged independently of an Indo-European language, the prevalence of Hindi as the primary Indian language traces back to the period of the British Raj during which British colonizers favored Sanskrit-based languages due to their links to Greek and Latin as opposed to Dravidian-based language, which constitutes a language family separate from Indo-European languages.¹¹ British linguists of the time, including John Gilchrist, espoused that Hindustani languages (such as Hindi), emerged from Sanskrit and influenced all other languages in the subcontinent.¹² As a result, Hindustani languages were privileged by the British as languages of command. However, during this period, some missionaries took an interest in Dravidian languages, noting the linguistic complexity and history of languages such as Tamil. In uncovering Dravidian linguistic history, these historians espoused that Sanskrit-speaking Brahmins were historically "hostile to Tamil and constantly conspiring to elevate Sanskrit at the expense of Tamil — through a process of 'Aryanization' or 'Sanskritization.'"¹³ Nineteenth-century British missionary Robert Caldwell observed the inordinate influence of Sanskrit words in Tamil despite there being "equivalent Dravidian words which are equally appropriate and, in some instances, more so [yet] such words [had] gradually become obsolete and . . . confined to the poetic dialect."¹⁴ The writings of missionaries such as Caldwell proved to be a catalyst for Tamil linguistic purists, invoking a counter-memory of the effects of Sanskritization that were otherwise

10 Pandian, 61.

11 Bernard S. Cohn, *Colonialism and its Forms of Knowledge: The British in India* (Princeton, NJ: Princeton University Press: 1996): 54.

12 Ibid., 37.

13 K. Kailasapathy, "The Tamil Purist Movement: A Re-Evaluation," in *Social Scientist* 7, no. 10 (1979): 24.

14 Ibid., 25.

erased. Kailasapathy posits that a number of Dravidian movements stemmed from this linguistic counter-history including “the non-Brahmin movement, the self-respect movement, the pure-Tamil movement, the quest for the ancient Tamil, the Tamil (icai) music movement, the anti-Hindi agitation, [and] the movement for an independent Tamil state.”¹⁵ Consequently, Tamil language plays a significant role in Dravidian social movements and Tamil memory.

However, the anti-colonial independence movement leaders *a/so* privileged Sanskrit; R. Thirunavukkarasu notes that “relentless campaigning by many Congress leaders that the true nature of Indian civilization rests upon the timeless Sanskrit tradition beginning from the four Vedas further made Tamil language inferior and the speech community.”¹⁶ Following independence, efforts in 1965 by the Indian national government “to impose Hindi over non-Hindi-speaking states”¹⁷ led in major protests in Tamil Nadu and resulted in the [Dravida Munnetra Kazhagam (Dravidian Progressive Federation), or] DMK taking control over state politics. Thirunavukkarasu contends that “Tamil language pride [has become] an ideology to which all major political parties [in Tamil Nadu] began to show their uncompromising allegiance,”¹⁸ and the “BJP [is] depicted as well as perceived by the people of Tamil Nadu as a party antagonistic to the spirit of Tamil/Dravidian cultural nationalisms,”¹⁹ which are rooted in linguistic history and religious traditions that emerged separately from those of North Indian-focused Hindu Nationalism. The author cites an interview with a Tamil BJP supporter who makes the apt observation that “[t]he Hindi name of the party should be translated into Tamil and the party’s name must be “Indhiya Makkal Katchi” (meaning Indian People’s Party)”²⁰ should the BJP hope to find success in Tamil Nadu. Thirunavukkarsu observes the tendency for Tamils to view the BJP as “a party of/for Hindi-speaking areas,” further supported by the reality that “none of the BJP’s prominent leaders at the all-India level are from Tamil Nadu.”²¹ These comments expose how deeply entrenched Tamil linguistic purism is in Tamil politics, both relying on a narrative that the Hindi language and the BJP are inherently exclusive to Tamils.

In contemporary India, the BJP espouses a sacred memory of Sanskrit, claiming it is “a storage of India’s glorious past and it is the only vehicle for India’s promising future.”²² From this view, the promotion of Sanskrit and its linguistic derivatives like Hindi is an essential component of Hindu Nationalism. In opposition

15 Kailasapathy, “The Tamil Purist Movement,” 25-6.

16 R. Thirunavukkarasu, “Caste and Cultural Icons: BJP’s Politics of Appropriation in Tamil Nadu,” in *The Algebra of Welfare-Warfare: A Long View of India’s 2014 Election* (eds. Irfan Ahmad and Pralay Kanungo), (Oxford Scholarship Online: 2019): 226.

17 *Ibid.*, 223.

18 *Ibid.*, 225.

19 *Ibid.*

20 *Ibid.*

21 *Ibid.*

22 *Ibid.*, 227.

to Hindu nationalism, the Tamil purist movement set its objective as the “elimination of foreign elements like Sanskrit (and English) words that had found and were finding their way into Tamil”²³ and to replace them with Tamil words. In Section III, we will explore the Tamil Purist movement as counter-memory work challenging Sanskritization and North Indian influence.

Historical Tamil Resistances to Casteism

Another significant point of contention regarding North Indian influence involves casteism and Brahmin supremacy. Clark, et. al., traces the emergence of the contemporary caste system, noting that Hindus were “traditionally divided into four castes... Brahmins, priests; Kshatriya, rulers, administrators, and soldiers; Vaishya, farmers, bankers, and traders; and Shudra, laborers, and servants [and hierarchically ranked subcastes].”²⁴ Moreover, the authors trace how under British colonialism, the traditional system of social roles (*jati*) became codified as a system of social standing (*varna*) through which the lowest social groups became further socially ostracized. These groups, now collectively referred to by terms such as Dalits²⁵, Bahujans, Adivasis, or Scheduled Castes and Tribes, “included the untouchables²⁶, who were believed to confer defilement on higher-caste groups through mere contact, as well as indigenous tribal communities not incorporated into Hindu or Muslim society.”²⁷ However, despite nominal efforts since Independence in 1947 to further incorporate marginalized peoples into society, including the outlawing of untouchability through Article 17 of the Indian Constitution, “caste affiliations determined centuries ago still strongly predict current [economic and] educational outcomes.”²⁸ As a result, an individual’s assigned caste often determines one’s livelihood. Still, as recently as May 2019, BJP politician and Indian Prime Minister Narendra Modi denounced the influence of caste in Indian society, claiming that only “two castes” remain in India:

23 Kailasapathy, “The Tamil Purist Movement,” 31.

24 Gregory Clark, Neil Cummins, Yu Hao, Daniel Diaz Vidal, Tatsuya Ishii, Zach Landes, Daniel Marcin, et al. “India: Caste, Endogamy, and Mobility,” in *The Son Also Rises: Surnames and the History of Social Mobility* (Princeton, NJ: Princeton University Press, 2014): 144.

25 The Indian National Commission for Scheduled Castes has deemed the term “dalit” is imprecise at best and unconstitutional at worst (see: “Dalit word unconstitutional, says SC Commission” from *India Express*, published 31 Jan 2008: <https://web.archive.org/web/20090922060507/http://www.expressindia.com/latest-news/Dalit-word-unconstitution-al-says-SC-Commission/262903/>). The Commission instead favors the term “Scheduled Caste”; however, I have been advised by Dalit scholars and colleagues that the term Dalit is more inclusive of oppressed groups and is preferable to the term SC.

26 I have made the choice to censor this term given the history of violent, hateful use of the word against Dalit peoples.

27 Clark, et. al., “India,” 144.

28 *Ibid.*, 145.

those in poverty and those who help to free individuals from poverty²⁹, effectively erasing the dominant role that casteism plays in creating poverty. Contemporary Dalit activists remain critical of the BJP for reinforcing caste-based hierarchies through the denial of caste-based structures of oppression, the overrepresentation of upper caste individuals in politics, the rewriting of public history (a process known as Saffronization), and the continued exclusion of Muslims and other religious minorities in civic space.³⁰

On the other hand, since the independence era, most popular grassroots campaigns in Tamil Nadu have built off of the existing anti-caste and anti-Brahmin movements, one of the most well-known of which is the Self-Respect Movement. Launched in the 1920s by E.V. Ramaswamy (otherwise known as Periyar), the Self-Respect Movement “argued for social inclusion of Adi-Dravidas, encouraged intercaste marriages, and denounced the practice of untouchability.”³¹ While Periyar was himself from an upper caste family, Dalits, Bahujans, members of Scheduled Tribes, and lower caste individuals were drawn to his message of inclusion. Caste oppressed people make up over 25 percent of the population of Tamil Nadu³²; as noted by Edward Luce, Brahmins constitute only “3 percent of [Tamil Nadu’s] population, compared to between 15 and 20 percent in the northern states.”³³ The momentum of the Self-Respect Movement and other anti-Brahmin movements was only further amplified by the relatively large population of lower caste Tamils compared to Brahmin Tamils. This legacy of inclusion and tolerance has played a significant role in Tamil politics: M.S. Pandian argues that “long-standing propaganda against the caste-based discrimination within Hinduism”³⁴ in Tamil Nadu, “which led to a positive representation of Islam and Muslims.”³⁵ Having been held accountable by this ethos, Dravida Munnetra Kazhagam (DMK), the major Tamil political party, has prioritized a more nuanced form of “rationalism and atheism.”³⁶ These political choices have allowed for more critical discussions of religion in Tamil Nadu and “have given rise to a form of Hindu religiosity among the non-Brahmin Hindus in the state

29 Sagar, “Narendra Modi’s “two-caste society” is a facade to hide the BJP’s casteist politics” in *The Caravan* (21 June 2019): <https://caravanmagazine.in/politics/narendra-mo-di-two-caste-society-casteist-bjp>.

30 Ibid.

31 Amit Ahuja, *Mobilizing the Marginalized: Ethnic Parties without Ethnic Movements* (Oxford Scholarship Online: 2019): 52.

32 “It’s now Dalits versus non-Dalits in Tamil Nadu” in *The Hindu* (05 July 2015): <https://www.thehindu.com/news/national/tamil-nadu/its-now-dalits-vs-nondalits/article7386959.ece>.

33 Edward Luce, *In Spite of the Gods: The Rise of Modern India* (London: Anchor Books, 2007): 274-5.

34 Ibid., 62.

35 Ibid.

36 Ibid.

that is self-critical and tolerant.”³⁷ Likewise, these political movements have evolved to incorporate Muslims into the anti-Brahmin fold. Pandian points to “a slogan which Tamil Muslims continue to use till today *Islam engal vazhi, iriba Tamil engal mozhi* (Islam is our path, sweet Tamil is our language).”³⁸ The solidarity of caste oppressed peoples and religious minorities in Tamil Nadu has produced a political climate in the state that is inhospitable to BJP aims.

Pandian points to continued yet failing BJP efforts to rally support among Tamil citizens, observing a Tamil solidarity “wherein the [BJP] othering of Muslim against the non-brahmin Hindu is relatively a difficult possibility.”³⁹ In fact, in R. Thirunavukkarasu’s view, “the ideology of caste, Brahmanical values, and Sanskrit supremacy thus effectively became the ‘cultural other’ in contemporary Tamil society.”⁴⁰ The following section explores how the history of Tamil political movements rejecting caste and creating a religiously tolerant society produces a counter-memory that ruptures BJP narratives of Brahmin supremacy and Hindutva.

Conceptualizing Tamil Counter-Memory Practices

Tamil resistances to Hindu nationalism are conceived of through distinct counter-memory practices, including the survival of a Dravidian linguistic history and anti-Brahmanical social legacy. In Maurice Halbwachs’ article “Collective Memory and Historical Memory,” the author expands on types of memory, paying close attention to collective memory and historical memory. Collective memory speaks to an individual’s memory that has been filled in by members of the society while historical memory refers to the historical record maintained by professional historians. While Halbwachs does not see these accounts necessarily at odds with one another, we can observe the tension between memories of the community versus the official record when it comes to Tamil history. We can begin to make sense of collective memories as alternative and resistant histories through Walter Benjamin’s conception of historicity and historical materialism. Benjamin is highly distrustful of the concept of ‘history’; instead, he recommends a historical materialist approach. Benjamin distinguishes that “history” as a concept is not explicitly grounded in the material conditions of individuals, whereas historical materialism is, by definition reliant on understanding events through the material realities of the individuals who experienced them. Benjamin’s claim is well illustrated by the differing approaches to historical memory between the BJP ‘official’ history and Tamil counter-memories. The BJP’s history of India is one that relies on a process of Sanskritization, or the privileging of Hindi, North Indian, and upper caste histories. Inherently, Sanskritization skims over the legacy of colonialism, caste, and linguistic suppression, producing a sanitized script of a monolithic Hindu citizen. Instead, Tamil counter-memories invoke a historical

37 Luce, *In Spite of the Gods*, 62.

38 Pandian, 63.

39 *Ibid.*, 67.

40 Thirunavukkarasu, “Caste,” 229.

materialist approach, uncovering histories of Dravidian language and resistances to caste structure; in doing so, Tamil counter-memory work serves a progressive political purpose of undermining fascist narratives.

Shared Resistance to Tamil Erasure

A facet of Tamil memory is the continual emergence of narratives that speak to the Sanskritization of Tamil identity and history; Sanskritization has taken place through processes such as Saffronization; initiatives that rewrite Indian history through a Hindu Nationalist lens and attempt to erase Dravidian legacies from official history. Collective memory that resists Sanskritization reaches back throughout the history of Tamil Nadu and persists through the present day. The mechanism by which such memories persist can partially be explained through Alison Landsberg's concept of prosthetic memory. In her view, prosthetic memories are "memories that circulate publicly, are not organically based . . . [and] become part of one's archive of experience, informing not only one's subjectivity but one's relationship to the present and future tenses."⁴¹ For Tamils, these memories circulate through the ubiquity of the Tamil language itself. Continued efforts to revitalize the Tamil language not only in Tamil Nadu, but also in the Tamil diaspora carry with them the anti-casteist and anti-Sanskrit resistance politics that regularly crop up in South India. Examples of transnational Tamil memory work in the diaspora can be observed on media platforms such as Twitter and Instagram, with activists seeking to build solidarity among Tamil people of different national origins (Indian, Sri Lankan, Malaysian) and caste backgrounds. Instagram accounts like @tamilgirlstar, @tamilculture, and @tamilarchive aim to bolster a shared Tamil identity through the proliferation of Tamil-language content on social media and the rejection of fascism (including Hindutva and the Sinhalese occupation of Tamil Eelam). As Landsberg posits in the introduction to *Prosthetic Memory*, prosthetic memories "challenge more traditional forms of memory that are premised on claims of authenticity, "heritage," and ownership"⁴²; indeed, Tamil linguistic heritage is charged with an anti-Brahmanical legacy that undermines Hindutva notions of who counts in the eyes of the state. As a result, Tamil language practices become memory practices, serving an affective link to the past and radical promise for the future.

Tamil Separatism as Memory Activism

Tamil collective memories and counter-histories do more than produce an affective connection to a legacy of resistance; we can also observe how this legacy of resistance is invoked to produce oppositional consciousness. In Yifat Gutman's

41 Alison Landsberg, "America, the Holocaust, and the Mass Culture of Memory: Toward a Radical Politics of Empathy" in *New German Critique* 71 (1997): 67.

42 Alison Landsberg, *Prosthetic Memory: The Transformation of American Remembrance in the Age of Mass Culture* (New York: Columbia University Press, 2004): 3.

Memory Activism, the author embarks on this project to determine “how memory work can be a part of progressive politics.” Gutman defines “memory activism” as “the strategic commemoration of a contested past outside state channels to influence public debate and policy,”⁴³ noting that “[m]emory activists use memory practices and cultural repertoires as means for political ends, often (but not always) in the service of reconciliation and democratic politics.”⁴⁴ In her text, she outlines a few different initiatives within memory activism, including links to truth and reconciliation efforts and social movements. In her view, memory activism relies on the reconciliation of past events and “brings in different temporal relations as the foundation of its model for political change: first the past, then the present and future.”⁴⁵ Gutman observes how studies of social movements particularly lack “a historical dimension” and fail “to acknowledge the significance of the past for social and political intervention,”⁴⁶ which is where memory activism plays a role. Tamil resistances to Hindu Nationalism rely on not only an opposition linguistic history but also a rejection of caste-based and religious discrimination. As a result, Tamil’s political activism centered on inclusion and a rejection of Hindu Nationalism primarily operates in the realm of memory activism, as it is rooted in democratic political participation and alternative history to Hindutva claims on history. Speaking to Halbwach’s concept of collective memory, Gutman observes that collective memory is often perversely invoked by those in power to legitimize their positions⁴⁷, such as is done by Hindutva politicians presenting the idealized Hindu citizen as under attack throughout history. Nonetheless, Gutman reminds us that “collective memory can also serve as a ‘weapon of the weak’ . . . and a tool for social and political change.”⁴⁸ We can observe collective memory being used to counter power and leverage inequities through Tamil political activism.

Gutman focuses her text on memory work surrounding *Al-Nakba* (Arabic for ‘the catastrophe’), the 1948 displacement of Palestinians; she suggests that “[a]s a counter-hegemonic force in society, Nakba memory activism in Israel assisted a marginalized group of citizens to intervene, albeit obliquely, on the level of culture, in state practices and public discourse.”⁴⁹ Central to the argument of Gutman’s text is that memory activism serves to catalyze knowledge-based political change through the preservation of cultural memory. While the text is focused on the dynamics of Palestinian memory work in Israel, we can learn from her conception of memory activism when considering Tamil counter-memory work and its efforts to undermine Hindu nationalist discourses, including Sanskritization and casteism.

43 Yifat Gutman, *Memory Activism: Reimagining the Past for the Future in Israel-Palestine* (Nashville, TN: Vanderbilt University Press, 2017): 2.

44 Ibid.

45 Ibid., 15.

46 Ibid.

47 Ibid., 16.

48 Ibid., quoting Scott 1985.

49 Ibid.

Throughout her text, Gutman explores how Palestinians develop a national identity through practices similar to those used by Zionists. She highlights Baladna, a Palestinian youth organization, who facilitate tours and testimonies similar to those facilitated by Israeli groups; however, the outcome between the two groups is very different. Gutman explains how “[t]he tour and testimony Baladna facilitates for Palestinian youth in Israel illuminate how, for those on the marginalized side of the conflict, the use of hegemonic cultural practices (tours and testimonies) carries different meanings, goals, and stakes than Jewish Israeli memory activism.”⁵⁰ In Gutman’s view, “all Palestinian memory activism in Israel [constitutes] . . . a cultural liberation effort that is part of a general claim for cultural autonomy.”⁵¹ Such memory practices thus seek to define the contours of Palestinian national culture, history, and identity to show how it has been suppressed by the dominant Israeli system. Similarly, the continued prevalence of Tamil language in Tamil Nadu and the diaspora comes to define a distinct Tamil identity separate from that of Hindutva. As observed previously, the privileging of Hindi and Sanskrit-derived languages by the BJP constructs a dialectic in which Tamil-ness is socially positioned in opposition to Hindutva. While Hindu nationalists push for an all-Hindi language schooling and propagandized history through Saffronization initiatives, Tamil Nadu has pushed back through continued public-school initiatives to maintain Tamil as the state language. Moreover, the history of the Tamil language heavily overlaps the history of anti-casteism in India. To learn Tamil is to learn of the Sanskritization of the continent, including the Brahmanical system of caste and oppression. For many Tamils, to continue to speak Tamil is to reject Sanskritization.

Challenges for Tamil Counter-Memory

Nevertheless, knowledge of Tamil history and proliferation of Tamil memory is not without challenges. Gutman surveys Zionist efforts to rewrite the erasure of Al-Nakba instead with a mythologized tradition of reconciliation, what Gutman terms “reconciliation without truth.”⁵² She contends that missing from the Oslo Accords of 1993 and 1995 was the “addressing [of] 1948 and the right of return for Palestinian refugees.”⁵³ The author observes that despite Palestinian efforts to spread information about the “contested past,” for the most part “[m]ore knowledge did not lead to more power for the silenced group of Palestinian citizens.”⁵⁴ Along the same vein, despite the prevalence of Tamil counter-memories, Hindutva persists and appears to be growing more influential throughout India. Gutman emphasizes that truth and reconciliation efforts are not always made more equitable with the spread of more information; instead, it is essential for those with the power to acknowledge existing

50 Gutman, *Memory Activism*, 64.

51 Ibid.

52 Ibid., 129.

53 Ibid.

54 Ibid, 140.

systems of power and publicly recognize those who were disadvantaged by past and present actions.⁵⁵ While Tamil political activism generally leans into this work, political activism in the rest of India does not, as illustrated horrifically by the February 2020 Hindutva riots in Delhi that have since been described as a “pogrom.”⁵⁶ In India and in the diaspora, informed citizens – Tamil or not – holding the BJP-led government accountable for their actions is essential for alleviating systemic inequalities and producing. The memory work of Tamils and other marginalized populations plays a critical role in catalyzing oppositional consciousness, but Landsberg and Gutman’s studies demonstrate the key role of privileged individuals being moved by such memories and speaking truth to power. It remains integral to the success of counter-memory work that those who aim to resist the BJP also understand that Brahmanical supremacy, Sanskritization, and religious intolerance predates and will likely succeed the party. The praxis of memory activism is to change material realities; this process is ongoing and fundamentally relies on privileged individuals reconciling convenient scripts propagated by Hindu nationalists with resistant histories like Tamil counter-memories.

Conclusion: Towards a Progressive Politics

The BJP heavily relies on Hindutva narratives that call for an ethnostate established for an idealized Hindu citizen; while these insidious narratives have gained traction in the contemporary moment, the privileging of the Sanskrit language and Brahmanical supremacy have deep roots that predate the founding of modern Indian nation. Still, we find resistance to these totalizing narratives in Tamil counter-memory. The legacy of Tamil counter-memory begins first and foremost with the uniqueness of the Tamil language, the oldest spoken Dravidian-derived language. Unlike Hindi and other Hindustani languages, Tamil is entirely separate from Sanskrit and the Indo-European language family, despite Sanskritization and Saffronization attempts throughout history to erase its distinctiveness. The Tamil language serves as a starting point for Tamil separatism, which rapidly slides into other forms of resistant histories including anti-casteism and religious tolerance. While caste has persisted in the Indian subcontinent for the last 4000, caste oppressed peoples and minorities face new forms of violence under the BJP’s tacit advocacy of Hindu Nationalism. With that being said, concerted efforts in Tamil Nadu to deconstruct the caste system and alleviate systemic inequality have been codified in Tamil politics; as a result, the BJP has been unable to establish dominance in Tamil Nadu.

We can conceive of Tamil resistances through frameworks presented in memory studies. Halbwachs’ notion of collective memory helps us articulate the

55 Gutman, *Memory Activism*, 141.

56 Mira Kandar, “What Happened in Delhi Was a Pogrom” in *The Atlantic* (28 Feb 2020): https://www.theatlantic.com/ideas/archive/2020/02/what-happened-delhi-was-pogrom/607198/?fbclid=IwAR148Kh4BrUN_TES8oXxuB24LU6DqFVcoZD8tUuAeiGul7b_Vlp-6s6lVf28.

memory work that Tamil community members do to maintain an alternative history of their people; furthermore, that collective memory can be seen as historically materialist, as it relies on an understanding of the material reality of the people involved. Tamil memory practices are deeply entrenched in language, which can be understood through Landsberg's concept of prosthetic memory. Additionally, Tamil counter-memory work generates oppositional consciousness along the lines of Gutman's notion of memory activism. Still, the challenge of memory activism is the essential need for privileged individuals — both within Tamil Nadu and beyond — to acknowledge Tamil counter-memory and the material realities of linguistic suppression and caste oppression that it exposes. While the task of challenging Hindutva hegemony and the BJP's affective appeals is daunting, Tamil counter-memory work and activism is compelling because it directly contradicts dominant, totalizing narratives and provides undeniable nuance to an oversimplified history. With India facing the threat of descending further into fascism, Tamil counter-memory pushes us towards progressive politics.

THE POLITICAL VIA THE CINEMATIC: TRACING CHINA'S TRANSFORMATION TOWARD A GLOBALLY AMBITIOUS STATE

Tymoteusz Chajdas

University of California-Santa Barbara

*Starting with a brief critical history of the Chinese film industry since the beginning of this century, this essay reviews the emergence of the cultural industries in China alongside globalizing forces as well as Chinese state policies, particularly Deng Xiaoping's far-reaching market-opening reforms. While interpreting Chinese global ambitions as represented through the prism of its national cinema, this paper asks: How are institutions and aesthetics interacting in ways that exhibit resonances and tensions between the cinematic and the political? It pays particular attention to the transformations in institutional conditions of cultural production and circulation. First, it shows how these changes were animated by globalizing forces, and how they were influenced by the Chinese state policy. Next, it tackles three Chinese films, *Hero* (2002), *The Great Wall* (2016), and *Wolf Warrior II* (2017), as distinct instances of Chinese cinematic production that represent a steady trajectory toward a more globalized posture of the Chinese state. This paper unveils how selected themes and aesthetics represent varying levels of the state's globalized posture and signal a transformation from a relatively national stance toward a more globally ambitious one that attempts to project national capability and power globally. This transformation mirrors the steady trajectory of China's increasing incorporation into the global capitalist economy.*

Introduction

Prior to the establishment of the People's Republic in 1949, Chinese cinema has sometimes been described as both "pre-revolutionary" and "post-colonial,"¹ — that is, occupying a space defined by both creative experimentation and political tension. This paradox points to the constraints of the Chinese Communist Party (hereafter referred to as CCP) as well as to the orthodoxy of Kuomintang or the

1 Geoffrey Nowell-Smith, *The Oxford History of World Cinema* (Oxford: Oxford University Press, 1997), 409.

Chinese Nationalist Party. However, it also signals a unique set of characteristics that enlivened the canon of resistant films of the 1930s and 1940s to a celebratory status, which enriched Chinese cultural heritage and its national cinematic culture.

Following the first film screening in China in 1896, the development of the Chinese cinematic industry, which was then located in cosmopolitan Shanghai, was influenced by China's "reluctant encounter with the West and the 'modern'."² In the 1900s, Shanghai became an entrepôt, where filmmakers distributed foreign film to other major cities, including Beijing. As Chinese national cinema flourished, influenced by Japanese and German cultural products and, from the 1930s, by America, China's cinematic landscape would further reflect the tensions between state power, propaganda, creative energies and, eventually, the national project of marketization. All of these factors shaped the modern Chinese film industry.

This essay briefly describes the Chinese film industry since the beginning of the 1950s until the late 2000s, paying particular attention to transformations in institutional conditions of cultural production and circulation. In doing so, it reviews the emergence of Chinese cultural industries alongside globalizing forces and Chinese state policies, particularly Deng Xiaoping's far-reaching market-opening reforms. It then compares three Chinese films — *Hero* (2002), *The Great Wall* (2016), and *Wolf Warrior II* (2017) — each chosen based on the combination of high box office ranking, worldwide appeal, and international collaboration, to unveil how their themes and aesthetics signal a transition towards the more globalized posture of contemporary China.

Post-Socialist Film Industry

Modern Chinese film production has deep political and ideological undertones.³ While this may be a well-known fact, it is necessary to consider how these ideological and political factors have been embedded in the state policies that shaped the cinematic landscape and the structure of the Chinese market. Film production is now considered to be one of the core "cultural markets" of the country. However, for a long time, film was considered a product of "the political, economic, military and cultural invasion of the West."⁴ This reluctance toward the West stemmed from Chinese experience in the 19th century, when after a long period of isolationism, China faced colonial encroachment as well as political pressures from Western countries to allow foreign trade. Unable to stand up to Western nations, the period of 1839 and 1949 has been referred to as "the century of humiliation" for China.⁵

2 Nowell-Smith, *The Oxford History*, 409.

3 Mary Lynne Calkins, "Censorship in Chinese Cinema," *Hastings Comm. & Ent. LJ* 21 (1998): 239.

4 Shujen Wang, *Framing Piracy: Globalization and Film Distribution in Greater China* (Lanham, MD: Rowman & Littlefield, 2003), 61.

5 David Scott, *China and the International System, 1840-1949: Power, Presence, and Perceptions in a Century of Humiliation* (Albany, NY: Suny Press, 2008).

Undeniably, the political climate as well as the experience of national humiliation influenced the Chinese film industry. In fact, the CCP sought to nationalize it and utilize cinematic images as tools of propaganda. Beginning with the Communist takeover in 1949, the production, distribution, exhibition, and censorship of cinematic images were closely monitored and controlled by the Ministry of Propaganda and, later, by the Film Bureau of the Ministry of Culture. In 1951, all of the independent Shanghai films produced before 1949 were banned with the Motion Picture Act, which censored productions that hurt national interests and racial pride, violated official policy, disrupted official order, or disobeyed the government or law in any form. The act promoted moving pictures consistent with a national rhetoric that supported the socialist reconstruction of China through a particular representation of the lives of soldiers, workers, and peasants.⁶

With support from the Soviets, the Chinese film industry achieved technological self-sufficiency by establishing large feature film studios as well as smaller provincial facilities that produced newsreels and educational shorts, which signaled the growing ambition of the Chinese state as well as its commitment to furthering propaganda and the development of the Chinese creative industries. The 1960s brought difficult times to the Chinese film landscape, with widespread famine and the Cultural Revolution prompting further reforms in the industry. These transformations included banning movies which allegedly promoted bourgeois ideology, were not aligned with “revolutionary” ideals, or were labeled as “poisonous weeds” that were either withdrawn or displayed to the public for condemnation.⁷ The Chinese film industry suffered a major blow since directors, writers, and actors had difficulties practicing their creative craft. Many of them were imprisoned or placed in labor camps.⁸

The production and dissemination of state propaganda had a negative impact on the development of Chinese cinema.⁹ State-oriented productions tended to target large-scale events rather than actual audiences; a movie of that time, *Bridge (1949)*, portrayed the Chinese Civil War. This tendency curtailed the people’s enthusiasm for Chinese movies. Growing up in the 1950s and 1960s, a period of dramatic social transformations, directors such as Tian Zhuangzhuang, Zhang Yimou (*Hero*, *The Great Wall*), and Chen Kaige have generally been seen as the representatives of the Fifth Generation of Chinese filmmakers. Having attended the Beijing Film Academy, they were the first ones to veer away from national film constraints and policies as

6 Nowell-Smith, *The Oxford History*, 694.

7 Ibid.

8 Daniel Robert Edwards, “Alternative Visions, Alternative Publics: Contemporary Independent Chinese Documentary as a Public Sphere” (Melbourne, Monash University, 2014), 92; Zhiwei Xiao and Yingjin Zhang, *Encyclopedia of Chinese Film* (Routledge, 2002), 27.

9 Jeremy Brown et al., *Visualizing Modern China: Image, History, and Memory, 1750–Present* (Washington DC: Lexington Books, 2014), 219.

they did not comply with an “unsteady diet of politicized and ritualized movies.”¹⁰ Instead, the new creative spirits of the Fifth Generation filmmakers of the mid-1980s “turned Chinese cinema on its head.”¹¹ These productions were praised for their artistic achievements since their experimental form and aesthetics offered a radical break from the pedagogic traditions of the past. Unfortunately, many of the movies produced at the time were intricate and geared towards a more educated audience. They performed quite poorly in the market, although they were creatively profitable for some filmmakers who, thanks to their movies, progressed in the industry.¹²

The relatively poor performance of Fifth Generation films put increasing economic pressures on the Chinese cinema industry. During the 1980s, policies began to transition from a paradigm of planned economy to a more market-oriented one, which led to investments, by local media entrepreneurs, into the creative and cultural sectors. Chinese films would change yet again. These changes in the Chinese cultural production and circulation occurred at the same time as the country’s economic take-off. Following the establishment of modern industries and world-class coal and textile production facilities in the mid-1980s, industrial reforms achieved success in many areas.¹³ Deng Xiaoping’s market reforms, along with his transformations of the agricultural sector, led to the “opening up” of the economy to foreign direct investment. The greater opening spurred an increase in selective privatization and entrepreneurship. In 1992, during the establishment of the socialist market economy announced at the Fourteenth National Congress of the CCP, it was proposed that China would develop its economic sectors. This rationale led to the substantial growth of private enterprises at a constant rate of more than 30 percent each year since the 1990s,¹⁴ while private ownership grew three-fold.¹⁵

Deng Xiaoping’s historic “Southern Turn” as well as the creation of special economic zones transformed Chinese society and, for the first time, placed culture “on the front lines of economic restructuring.”¹⁶ In *Postsocialist Modernity*, Jason McGrath compares this transformation to one in line with Theodor Adorno and Max

10 Paul Clark, “Reinventing China: The Fifth-Generation Filmmakers,” *Modern Chinese Literature*, 1989, 121.

11 Ibid.

12 Ying Zhu, *Chinese Cinema during the Era of Reform: The Ingenuity of the System* (Westport, CT: Greenwood Publishing Group, 2003).

13 Barry J. Naughton, *The Chinese Economy: Transitions and Growth* (Cambridge, MA: MIT press, 2006).

14 Hongliang Zheng and Yang Yang, “Chinese Private Sector Development in the Past 30 Years: Retrospect and Prospect,” *International House University of Nottingham, China Policy Institute*, 2009.

15 Yingyi Qian and Jinglian Wu, “China’s Transition to a Market Economy,” *How Far across the River*, 2003, 31–63.

16 Jason McGrath, *Postsocialist Modernity: Chinese Cinema, Literature, and Criticism in the Market Age* (Stanford: Stanford University Press, 2008), 3.

Horkheimer's concept of "culture industry."¹⁷ In their opinion, popular culture became reminiscent of factory production because of its reliance on the standardization of cultural products, such as film, print media, and radio. McGrath further suggests that works of art and cultural expression, along with high culture ideals, which were abandoned by intellectuals and artists following the 1989 Tiananmen Square protests, have now become relatively autonomous. This implies that, under neoliberal logic and capitalist conditions, both high and popular culture became determined by the culture industry itself. This "relative autonomy," McGrath suggests, "can be simultaneously read as but an aspect of or appearance within an underlying transition from a state heteronomy to a market heteronomy."¹⁸

McGrath's commentary points to a shift from predominantly traditional filmmaking grounded in Chinese cultural logic to filmmaking with a more global stance that began to incorporate the logic of capital accumulation, free market economy, and the private sector. To him, the Chinese film industry resembles a case of complex negotiations between the "public" (referring to the control on behalf of the Chinese state) and the "private" (implying the ambitions within Chinese cultural industry) without complete privatization, as it occurred in much of the "Second World" following the post-Cold War logic. Interestingly, the notion of "post-socialist China" (or the post-socialist condition which China finds itself in) proves to be a useful analytical tool to further conceptualize modern Chinese society as suspended between the communist utopia promised by Maoism and the capitalist rhetoric of progress it is still driven by.¹⁹ According to Michael Keane, a professor of Chinese Media and Communications, this very condition is illustrative of "the tension between public and private models of cultural management,"²⁰ which is fundamental to further understand the transformations in China's media industries. McGrath refers to these tensions as "rhetoric of transition," which he observes in the discursive production and the hegemonic position of the CCP. Without arguing for China's presumed Westernization, McGrath allows us to recognize the "transition to a market economy and consumer paradise."²¹ Following his logic, this conditioned and, to some extent,

17 Theodor Wiesengrund Adorno and Theodor W. Adorno, *The Culture Industry: Selected Essays on Mass Culture* (London: Psychology Press, 2001); Deborah Cook, *The Culture Industry Revisited: Theodor W. Adorno on Mass Culture* (Lanham, MD: Rowman & Littlefield Publishers, 1996); Max Horkheimer and Theodor W. Adorno, "The Culture Industry: Enlightenment as Mass Deception," *Media and Cultural Studies: Keywords*, 2006, 41–72.

18 McGrath, *Postsocialist Modernity: Chinese Cinema, Literature, and Criticism in the Market Age*, 12.

19 *Ibid.*, 205.

20 Michael Keane, "The Geographical Clustering of Chinese Media Production," in *Routledge Handbook of Chinese Media* (Abingdon, United Kingdom: Routledge, Taylor & Francis Group, 2015), 341.

21 McGrath, *Postsocialist Modernity*, 205.

forced Chinese culture to “adjust to market conditions of one sort or another.”²²

Economic Unleashing

The post-socialist condition of the Chinese film industry, or rather the effects of socialist policies on cultures, society, and individuals in the wake of the economic opening, has become interwoven with the complex process of marketization that Chinese cultural industries have undergone with the increases in investment, production, and consumption of cultural products. Discussing the process of marketization, Darrell Davis, a professor of Visual Arts, suggested that the Chinese government strategically encouraged and promoted homemade media and cultural products with an incentive to align the national industry with “world standards.”²³ In this context, based on relative increases in media production as well as the box office rates in China, marketization could be seen as a “balancing act between an open market and a planned economy.”²⁴ In other words, the process itself became a strategic tool which aspired to “match Hollywood internationally while continuing to serve the Party at the national level,” and “boost the quality and quantity of Chinese films, moving the People’s Republic of China [hereafter referred to as PRC] steadily toward a major soft-power role in the international arena.”²⁵

This development exposes certain contradictions in the Chinese media industry. The generalized national aspiration to meet international markets and standards, for example, starkly contrasts the state’s preoccupation with projecting national values, ideologies, and sentiments of national glory or national humiliation. This further demonstrates the complexity of contemporary Chinese film industry. Despite the fact that the Chinese state embraced market reforms in the 1970s, these reforms did not fully impact the cultural arena until the early 2000s. It was between 2002-2003 – one year after China’s accession to the World Trade Organization (WTO) and just after the release of *Hero* (2002) – that the Chinese government implemented a wide range of reforms in its national film industry.

Split between the commercial potential that was heralded by China joining the WTO in 2001, the greater autonomy of some media outlets, and the remainders of state control,²⁶ the Chinese state decided to end the fifty-year monopoly of the national China Film Group (later transformed into China Film Corporation). Roughly during the same time, the reforms allowed for foreign film productions to establish partnerships with China. This was the beginning of an increasingly global film landscape. These developments, framed as the “going out” policy, encouraged Chinese film to “go global” due to large investments flooding the industry. The so-

22 McGrath, *Postsocialist Modernity*, 131.

23 Darrell William Davis, “Market and Marketization in the China Film Business,” *Cinema Journal* 49, no. 3 (2010): 122.

24 *Ibid.*, 123–24.

25 *Ibid.*

26 Keane, “The Geographical Clustering,” 341.

called Twelve-Year Plan established a new model of Chinese economic development. It was followed by the “Plan to Boost the Culture Industry,” which made culture an important component of China’s strategy for long-term economic growth. This shift prioritized the film sector along with other cultural sectors, such as publishing, animation, advertising, and entertainment. It aspired for the culture industry to grow at a double-digit rate and contribute to the country’s GDP.²⁷

Michael Keane claims that “China needed to adopt a global market perspective if it was to hold back the forces of globalization.”²⁸ He suggests that the Chinese state attempted to create a more attractive global image “under the auspices of ‘cultural soft power.’”²⁹ The Chinese state began to promote national culture and its industries by equating them with economic development and prosperity as well as a necessary component of the well-being of the socialist market economy. Furthermore, some have remarked that cultural industries became “an important channel for the satisfaction of people’s diverse spiritual needs under the conditions of the social market economy,”³⁰ which prompted the state to render cultural industries and cultural products as important vehicles of national and economic transformation.

The “economic unleashing” or opening-up of China’s creative and cultural industries, along with the Chinese state’s strategic incentives to utilize cultural sectors in the larger project of China’s national renewal, renders the image of Chinese cinema industry as fragmented and conflictual – torn between the strong presence of the state but also driven by the increasingly neoliberal logics of global capital. McGrath describes it as “a world in fragments,” which successfully captures “the differentiated, pluralized state of Chinese culture since the early 1990s,” and the “impossibility of representing or narrating it in any way that can approach a tidy whole.”³¹ Furthermore, McGrath emphasizes that as a result of the advanced reform era, China lost a “master ideological signifier or overarching cultural fever,” and instead, embraced the central cultural logic of the market. This does not necessarily point to a lack of direction of the industry. Rather, it could signal an alignment with the complex and disjunctive nature of modern neoliberal globalization. McGrath also suggests that the “marketization of culture emerges not just as a condition of production but as a historical horizon that is imagined and negotiated in diverse ways through individual works of art, new genres of entertainment cinema and popular literature.”³²

27 Yu Hong, “Reading the Twelfth Five-Year Plan: China’s Communication-Driven Mode of Economic Restructuring,” *International Journal of Communication*, 2014.

28 Michael Keane, *Handbook of Cultural and Creative Industries in China* (Edward Elgar Publishing, 2016), 4.

29 Ibid.

30 Ibid., 7.

31 McGrath, *Postsocialist Modernity*, 23.

32 Ibid., 24.

All of this points to a larger process of national imagining, which has recently begun to define the increasingly ambitious global stance of China. This stance has involved both international collaborations as well as the production of content, driven by capital logic, that captivated wider audiences. McGrath's remarks suggest that while some elements of state propaganda were replaced by marketization strategies that opened the Chinese film industry, what defined China's economic transformation was an assemblage of processes. Considering China's cinematic industries, these involved state policies directed at media sectors and less-controllable shifts enabled by increasing waves of globalization, including China's economic take-off following its key role in the global supply chains as well as its rapid urban revolution. Yomi Braester framed urbanism as integral to China's globalizing processes and cinema. To him, increased urbanization led to the formation of subjective experiences, which generated a new breed of filmmakers who began to confront "the same obstacles that architects know as planning in the face of power." This conditioned them to "think professionally and act politically at the same time."³³

The unprecedented scale of the Chinese urban revolution should not be left unnoticed. Ranging from wide-spread socio-economic transformations to more subtle changes in people's experiences, the modern Chinese city became a site of cultural production,³⁴ which shaped a distinctively urban, and in some ways, global culture that included both state interventionism and increasingly transnational sentiments. This is best exemplified by the Belt and Road Initiative (BRI), an ambitious China-backed initiative which attempts to revive the ancient Silk Routes through a series of massive infrastructure projects spanning much of Central Asia, Middle East, and Europe.

Although one may attribute this project to a more globalized posture of the Chinese state, the BRI offers an interesting comparison to the recent developments of Chinese cinematic industries. The infrastructural and progress-oriented preoccupation of the BRI and the Silk Routes revival parallels the complexity of the Chinese modern film landscape, which is caught in the deep cultural heritage of distinct film aesthetics, but simultaneously striving to re-align itself with international trends. Problematizing this dichotomy, Michael Curtin reminds us that the aesthetics of Chinese cinema "did not develop within the boundaries of a single state," but rather "operated transnationally for much of its history, gathering financing, talent, and audiences from such diverse locales as Shanghai, Hong Kong, Taipei and Singapore."³⁵ He employs the concept of media capital, which highlights the historical as well as contemporary "spatial dynamics of the transnational Chinese

33 Yomi Braester, *Painting the City Red: Chinese Cinema and the Urban Contract* (Durham, NC: Duke University Press, 2010), 6.

34 Braester, *Painting the City Red: Chinese Cinema and the Urban Contract*; Thomas J. Campanella, *The Concrete Dragon: China's Urban Revolution and What It Means for the World* (San Francisco, CA: Chronicle Books, 2012).

35 Yingjin Zhang, *A Companion to Chinese Cinema* (Hoboken, NJ: John Wiley & Sons, 2012), 179.

cultural economy.”³⁶

By looking at Chinese media industries and tracing the geographical deployment of resources, talent, and products, Curtin suggests that shifts in creative activity have been conditioned (1) historically (due to the clustered nature of Chinese film) and (2) through their adaptation “to the pressures and opportunities posed by the latest wave of globalization.”³⁷

This condition is reflective of the current state of the Chinese film industry. Curtin’s concept of media capital, therefore, proves to be a useful heuristic tool to invoke the spatial or geographical centers as well as the concentrations of resources, reputation, and talent. Media capitals have become the “sites of mediation where complex forces and flows interact,” inclusive of capital accumulation, creative migration and sociocultural variation.³⁸ Given this, it is difficult, if not impossible, to determine whether globalizing forces or Chinese state policies should be seen as the predominant factor in the transformation of China’s cultural production and circulation. However, one cannot disregard China’s WTO accession in 2001, which marked the end of a predominantly national era and progressively equipped China with a more globalized posture, inclusive of its cultural and cinematic industries.

From *Hero* to *Wolf Warrior II*

These transitions, along with the inherent contradictions that accompany them, have not merely been reflected by economic indicators, but have also made their way into the aesthetics of many films representative of a transition toward a more globalized state posture. In other words, institutions and aesthetics began interacting in ways that exhibit resonances and tensions between the cinematic and the political. *Hero* (2002) by Zhang Yimou offers a starting point for this discussion. Released before the reform of China’s cultural and creative industries, the film seems to herald the forthcoming shift to a more global posture of China while preserving some of the original and “authentic” flair of what was traditionally associated with Chinese cinema. Even though the paradigmatic approach of Chinese national cinema has thoroughly been problematized,³⁹ one can suggest that *Hero*’s genre of *wuxia*, an aesthetic centered around fantastic stories, martial arts themes, and refined cinematography, renders the movie “typically” Chinese, perhaps in Edward Said’s “oriental” sense. This has to do more with its surface-level and thematic presentation rather than what the movie actually represents.

In fact, many have claimed that as a record-breaking Chinese movie, *Hero* managed to successfully capture the attention of global audiences simply because of its “oriental” aesthetics associated with *wuxia* films. However, it should also be noted that *Hero*’s success and incredible international box-office takings have

36 Zhang, *A Companion*, 179.

37 Ibid.

38 Ibid., 9.

39 Yingjin Zhang, *Chinese National Cinema* (Routledge, 2004).

often been attributed to its popularity in the local market. Precisely for that reason, Miramax did not screen *Hero* until two years after its release in Asia to estimate the success and performance of the picture locally.⁴⁰ In this context, *Hero*, as a cultural production, managed to hijack the state propaganda to launch a large-scale commercial success. This has been caused by the fact that earlier productions of Zhang Yimou were frequently criticized by local critics for their strong reminiscence of Fifth Generation films. In their critiques, Chinese experts often claimed that Zhang's films catered to the "eyes of foreigners" because of their representation of China as a backward and anachronistic country.⁴¹ While such criticism targeted certain aspects of Chinese society instead of praising China's national glory, *Hero* attempts to accomplish both. Disguised with sophisticated camera technique, philosophical richness, interlocking plot narratives, and accomplished cinematography, the movie reproduces the well-known theme of conflict and contradiction. Throughout the story, which follows Nameless' arrival at the Qin court, the tale touches upon a number of issues that represent Chinese traditional ideology and national identity.

Interestingly, the movie was recognized as a national success and a cultural symbol of national pride only once it received high praise internationally. This form of international acceptance seemed to solidify the ambitious trajectory of the Chinese movie industry. Fung and Chan suggest that this "second-level nationalism" demonstrates that the practices of forestalling dissent via enforced propaganda are no longer effective. This prompts Fung and Chan to suggest that the Chinese state's partnership with "private corporations to reinvent and reproduce the nationalistic ideology in cultural products" could be considered a viable solution for the Chinese film industry going forward.⁴² While interpretations of *Hero* are extensive and vary significantly, the most pronounced representations of Chinese culture in the movie lie in the number of shifting perspectives and narratives, which constitute the main frame of the storyline as well as the theme of *Tianxia*, literally meaning "all under heaven," or "our land." In Zhang's film, the audience is exposed to multiple layers of the same story, which interlock elements of conspiracies, betrayal, and misinformation. These multiple narratives suggest analogies to the Chinese state, selective reading of history, surveillance, and thought management, as seen in the Chinese state propaganda apparatus. These multiple narratives become even more visible in the depiction of the First Emperor who, according to Patricia Buckley Ebrey, is credited for China's first Cultural Revolution. His portrayal in *Hero* recognizes conflicting narratives – narratives of his accomplishments and narratives of his brutality.⁴³

40 Gary D. Rawnsley and Ming-Yeh T. Rawnsley, *Global Chinese Cinema: The Culture and Politics of 'Hero'* (Abingdon, United Kingdom: Routledge, 2011), 203.

41 Rey Chow, *Primitive Passions: Visuality, Sexuality, Ethnography, and Contemporary Chinese Cinema* (New York, NY: Columbia University Press, 1995), 155.

42 Rawnsley and Rawnsley, *Global Chinese Cinema: The Culture and Politics of 'Hero'*, 209.

43 *Ibid.*, 14.

Nationalism in *Hero* serves as a backdrop in the theme of *Tianxia*. The phrase itself appears numerous times in the film. It implies a dual-ended logic: one being that violence must be dismissed if peace is to be restored and the other being that unification by force is necessary and should be supported in the name of universal peace. Although contradictory, this logic seems to unite, in *Hero*, the assassins and the King of Qin, who believe peace is the ultimate justification for their actions. Resonating with the Chinese view of world order, the motif of *Tianxia*, found in Chinese traditional cultural texts, implies a particular form of global aspirations. The importance of Chinese culture is displayed in multiple moments throughout the movie. However, the most pronounced instance is the scene in which the headmaster insists that his students practice the art of calligraphy when the school is under attack: “Their arrows might destroy our town and topple our kingdom, but they can never obliterate our culture.” By referring to the cultivation of the ancient art of calligraphy, the headmaster’s comment becomes a powerful signal of Chinese cultural nationalism that testifies to a strong sense of national identity and a more pronounced global posture of modern-day China.

Several years later, in 2016, Zhang Yimou directed a movie quite different from *Hero: The Great Wall*. Although the movie’s box office ratings did not match the success of *Hero*, it is interesting to take it as an example of China’s more “global” or “globalizing” posture. The movie itself tells the epic story of a quest for gunpowder during which a group of European mercenaries (Matt Damon plays one of the main protagonists) travels to China and battles alien monsters (Taotie) on the ethnic border created by the Great Wall. While *The Great Wall* has been criticized for putting form over substance, the movie visibly represents a transformation in the Chinese state’s attitudes toward its own cultural industries. A collaboration with Western producers, cinematographers and screenwriters, *The Great Wall* does not only utilize American movie stars but also goes one step further in exoticizing and Orientalizing its own culture through the use of colorful uniforms and fantastic costumes.

The use of the Great Wall as the movie’s central point of departure – as a civilizational structure and icon symbolizing protectionism and inward-looking politics – may, to some, signify an attempt to breach national barriers and employ a more global posture. Additionally, one can suggest that the use of the legend of Taotie could portray certain reservations with regard to the increasingly global attitudes of modern China. Taotie, as a motif recurring in ancient Chinese mythology, is often characterized as a mythical creature that enjoys drinking and eating. Therefore, it is associated with gluttony, greed, and desire for wealth. In this context, since the entire plot of *The Great Wall* is centered around battling Taotie, one may suggest that it symbolizes national reservations towards the increasing forces of capitalist consumerism, neoliberalism, and marketization, all of which China has been subject to.

However, a Chinese production which is an epitome of a strongly globalized posture with even stronger nationalistic sentiments is Wu Jing’s picture *Wolf Warrior II* (2017). The movie, the highest-grossing Chinese film ever released, tells the story of a Chinese soldier, Leng Feng (played by the director himself) who leaves to an African country on a special mission to protect medical aid workers from local rebels and vicious arms dealers. At first, the movie can strike as a hyper-inflated copy of

a typical American war-hero drama, where a white North American intervenes in a typically Middle Eastern country to bring peace and save the locals in the classical display of the proverbial “white man’s burden.” In the case of *Wolf Warrior II*, Chinese protagonists resemble the so-called “American war heroes” whose presence on the African continent is portrayed as supposedly mighty.

In fact, multiple scenes that involve announcements made by the soldiers or the locals along the lines of “it’s okay, it’s the Chinese,” confirm that the Chinese are being portrayed as saviors. Some spectators might find these images rather surprising or intriguing, as would the entire plot, which projects an image of cutting-edge medical advancements made by a person named Dr. Chen; whose creations carry the promise of eradicating a deadly African virus that eerily resembles Ebola. *Wolf Warrior II* offers many representations, which many may find equally troubling. The uniformed representations of Africa (the country in which the plot takes place remains unnamed) as a site rife with incurable diseases, intolerable gang violence, civil war, and hungry savages is, for instance, highly problematic. However, what some might find even more shocking or horrifying is the frequent depiction of racial segregation between the Africans and the Chinese, which evokes images of colonial domination and imperial desires.

Yet, *Wolf Warrior II* also offers invaluable representations of the Chinese nationhood and its national power. The depictions of masculinity are countless and range from examples of excessive drinking, skillful fighting, and literal muscle flexing, which all project the power of the protagonist, who can be seen as a representation of Chinese domestic and international state power. In other words, such scenes correspond with a more figurative “muscle flexing,” of which the Chinese state has been accused because of the Chinese BRI, the South China Sea issue, and the vast Chinese territorial footprint. China’s global ambitions are clearly present throughout Wu Jing’s movie, which incorporates elements of *Tianxia* as well as “win-win development” scenarios in the context of the neo-imperial presence of China in Africa. This aligns with Daniel Vukovich’s concept of “Sinological Orientalism.” In Vukovich’s mind, China’s “dysfunctional, neo-colonial relationship” with Western discourse prompted modern-day China, as the “Other,” to reimagine and westernize itself.⁴⁴ Understanding that this complex set of developments achieves “neoliberal sameness” through greater inclusion and incorporation into the global capitalist economy, one can see explicit elements of this theme in *Wolf Warrior II*. This is particularly apparent in the context of the play on the theme of an “American war hero” movie and in certain representations of non-Western cultures that many Western movies and cultural practices have been employing quite frequently. By embracing the aesthetics of typified Western movie genres to project Chinese culture, the movie’s aesthetics appear to speak of China’s political transition toward a more globalized state.

44 Daniel Vukovich, *China and Orientalism: Western Knowledge Production and the PRC*, vol. 5 (Abingdon, United Kingdom: Routledge, 2013), 2.

Conclusion

This essay briefly outlined the landscape of the Chinese film industry of the last century by concentrating on the transformations in institutional conditions of cultural production and circulation during the era. In doing so, it reviewed the emergence of the cultural industries side by side with globalizing forces and some of the Chinese state policy, particularly the economic and market-opening reforms. Through the analysis of the themes and aesthetics of three distinct Chinese films, namely *Hero* (2002), *The Great Wall* (2016), and *Wolf Warrior II* (2017), this essay argued for a linear transition to an increasingly global posture and attitude of the modern-day Chinese state. While examining the tensions and inherent contradictions between the national and global in both China's economic opening and in the complex processes of marketization and internationalization of cultural and creative industries, it is necessary to also consider the dichotomy of the political and the cinematic. That is, not focusing simply on how the former is capable of prompting the latter, but also on how the latter is capable of representing and signaling the former. Undoubtedly, Wu's highly successful production, *Wolf Warrior II*, testifies to a strong posture of the Chinese state globally, inclusive of its ambitious foreign policy. To a lesser extent, *The Great Wall* also embodies globalist sentiments, while *Hero*, despite its national and global success, has exhibited a less globalized posture overshadowed by critical representations of nationalism and nationhood.

LEAVING WOMEN BEHIND: UNDERSTANDING THE IMPACTS OF HISTORICAL, POLITICAL, AND SOCIAL FACTORS ON THE REPUBLIC OF KOREA'S PERSISTING GENDER INEQUALITY

Sojung Ha

Yonsei University

From bearing the title of “third-world country” to becoming part of the economically developed Global North in a short period of 40 years, the Republic of Korea (ROK) has achieved significant development in all aspects of society. Yet, nearly 40 years after it ratified the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and implemented gender equality laws, realistic progress in gender equality continues to fall behind. This article employs a postcolonial and intersectional feminist framework to examine the roles of historical, political, and social factors on the persistence of gender disparity. It examines the connection between Japanese colonial legacies of legally sanctioned gender inequality, the Cold War’s empty gender politics, the ROK government’s lack of commitment to women’s rights, and lastly, the socialization agents reinforcing gender normative roles and silencing women who resist. The author highlights the importance of the government’s effective implementation of gender parity legislation to overcome the discrepancy created between de jure and de facto due to historical and political factors, which are perpetuated by socialization agents.

Keywords: *feminist praxis, colonial legacy, US constitutionalism, Republic of Korea, socialization agents, gender equality, intersectionality, gender politics*

Introduction

According to the United Nation’s Human Development Index (HDI), which takes into account the health, education, and economic power of a country, the Republic of Korea (ROK) has achieved tremendous growth in all criteria. In a short period of 40 years, the ROK came from bearing the title of “third-world country” to becoming part

of an economically developed Global North. In 1990, the ROK held an HDI value of 0.7 out of 1.0, ranking around 100th worldwide. Today, with an HDI value of 0.906, it ranks 22nd.¹ However, despite overall national growth, one element continues to fall behind. According to the World Economic Forum (WEF)'s "Global Gender Gap Report," the ROK ranked 108th out of 153 countries in the overall gender inequality ranking, 127th in economic gender inequality, 101th in educational gender inequality, and 79th in political gender inequality.² Although the ROK's overall HDI indicated progress, gender-equality rankings are showing retrogression, dropping 13 ranks since 2006.

While international indices provide a comprehensive look at Korean society, they also represent standardized calculations with somewhat limited cross-cultural contextualization and sensitivity. However, a national study conducted by the Korean Institute of Criminology (KIC) on persisting gender-based violence (GBV) presented an even graver depth of gender discrimination. According to KIC's survey (2017) of 2,000 Korean men, 79 percent of participants reported having physically or psychologically abused a girlfriend. Of that 79 percent, 71 percent said they had controlled their girlfriends' behaviors and activities by excessively checking-in, prohibiting certain clothing, and restricting their interactions with friends or family members.³ Because violence against women, understood here as "the manifestation of historically unequal power relations between men and women," enforces women's subordinate position in personal relationships and society as a whole,⁴ it is imperative not to merely question why an individual may be abusing or discriminating against women, but to question what systemic factors allow for such behavior to prevail.

Evidently, the issues that relate to development and the lived praxis of feminism in Korea are deeply institutionalized and socialized, and, therefore, cannot be explained within a singular discipline. Rooted in intersectional postcolonial theory, this paper will tackle such issues using a multidisciplinary analysis of three major factors. Firstly, the historical factors of Japanese colonialism and American occupation will be considered to examine how gender-related laws and an equality-based constitution have been used as political tools of control and alignment. Secondly, factors relating to the politicization of gender equality agendas, as well as the Korean government's lack of implementational commitment will be assessed to argue that meaningful and substantial effort in institutionalizing gender equality is

1 "Human Development Reports," *UNDP*, 2020. <http://hdr.undp.org/en/countries/profiles/KOR>.

2 "Global Gender Gap Report 2020," *World Economic Forum*, 2020, <https://www.weforum.org/reports/gender-gap-2020-report-100-years-pay-equality>.

3 Nicola Smith, "Almost 80% of South Korean Men Have Abused Girlfriend, Study Claims," *The Telegraph*, August 24, 2017, <http://www.telegraph.co.uk/news/2017/08/24/almost-80-south-korean-men-have-abused-girlfriend-study-claims/amp/>.

4 "Republic of Korea: Submission to the Committee on the Elimination of Discrimination against Women for the adoption of the List of Issues." *CEDAW*, 2017.

needed to translate laws into practice. Lastly, the social factor of peers as socialization agents will be examined to understand why the Korean public often perceives feminist movements as “extreme,” which further ostracizes feminist practice. Using a postcolonial and intersectional framework, the paper comprehensively considers the elements that have legitimized gender inequality and the structures that allowed for it to persist. By understanding such contributing limitations in actualizing gender equality, the need for the government’s effective and committed implementation of gender parity legislation will be emphasized.

Literature Review

When considering gender inequality in Korea, many existing works focus on either the progressive legal reforms of the patriarchal legislation throughout history, or the current feminist movements against gender-based violence and discrimination.⁵ Scholars also debate the effectiveness of gender equality-based legislation. In 2020, the WEF’s annual report attributed to Korea one of the lowest positions in terms of gender equality, while CEDAW’s periodic report congratulated the government for its effort to implement the clauses.⁶ The government-based publications emphasized the efforts to implement legislation and pointed to the logistical difficulties that constrain immediate enforcement.⁷

In the past decades, with the changes of leadership in the Korean government, the discourse on women’s position in society shifted from pro-patriarchy and family values to pro-choice and women’s political participation.⁸ While there are minor fluctuations in culture and politics in Korea that affect the gender agenda, the overarching problem of gender inequality is best explained by systemic factors, such as the country’s colonial legacy, political will, and socialization agents. My analysis draws on the existing work of Jung Kyungja, *Practicing Feminism in South Korea: The Women’s Movement against Sexual Violence*, as well as on a multitude of international institution’s publications. Jung interviewed local women’s rights activists to gain an insider perspective into feminist praxis and considers the emergence and achievements of the movement from a chronological perspective.⁹ Her work demonstrates how, because of governmental inaction, women had to take it upon themselves to call for action. Drawing on Jung’s work will allow this paper to holistically evaluate criticisms towards the feminist movement in South Korea.

5 Kyungja Jung, “Practicing Feminism in South Korea: The Women’s Movement against Sexual Violence,” *GARLAND Science*, 2017.

6 Hyun-Back Chung, “Consideration of Report Submitted by State Parties under Article 18 of the Convention: Eighth periodic report of State Parties”, *Convention on the Elimination of All Forms of Discrimination against Women*, 2015

7 Ibid.

8 Archie Resos, “The Empowerment of Women in South Korea”, *Journal of International Affairs* (2014).

9 Jung, “Practicing Feminism.”

This paper will intervene in the existing debate by answering how historical, political, and social factors, when taken together, help us understand not only today's discrepancy between policy and practice of feminism, but also the delegitimization of feminist movements in South Korea.

Historical Factors

The Japanese Colonial Legacy of Legally Sanctioned Gender Inequality

Korea's history of socio-political struggle and transformation traces back approximately 4,000 years. From a relatively historically gender-equal society, the 17th century adoption of Confucianism shifted the politics of gender, as it positioned people according to dichotomous and innate hierarchies. When the Japanese colonized Korea in 1910, they considered such a gendered hierarchy to be an "authentic culture" worthy of being preserved. Thus, they used the colonial Civil Ordinance codes that "followed the Korean customs" to solidify systems of oppression.¹⁰ This legal sanctioning of gender inequality included the patriarchal Family Headship Law, which allowed only for the male adult family member to establish his own family as the representative, and the "Wise Mother and a Good Wife" ideology; the official teaching of normative femininity where womanhood was defined by domestic realms and maternal roles.¹¹ While different legal theories debate the impact of the codification of the gender inequality agenda, the interplay between customs and power is clear. As customary law theory and Japanese colonial legislators would argue, these laws were developed from authentic Korean customs. Thus, for the colonized population, the patriarchal laws may have become a part of the national identity as it appeared significant to Confucian history. On the other hand, positive law theory shows the role of political power. For the colonial legislators, the creation of systemic oppression through group-based hierarchies (which in this case was gendered) may have allowed for the effective maintenance of power structures.¹² Altogether, the codification of patriarchal laws allowed and justified discrimination against women on both the personal and national level.

The American Constitutionalism and Building Gender Equality on a Shaky Foundation

After the Japanese colonial era ended, Korea, like any other nation with generational traumas of colonial legacy, needed time to decolonize and heal. Unfortunately, the

10 Hyunnah Yang, "A Journal of Family Law Reform in Korea: Tradition, Equality, and Social Change," *Journal of Korean Law* 8, no. 1 (2008): 77-94.

11 Ibid.

12 Jim Sidanius, T.J. Sa-Kiera, George Davis Hudson, and Robin Bergh. "A Social Dominance and Intersectionalist Perspective." *The Oxford Handbook of Behavioral Political Science* (2018).

transitional period for Korea was rapid and muddled. Instead of being granted the time to process and decolonize from experiences of oppression and legally sanctioned gender inequality, the divided Korean peninsula endured three years of proxy civil war between the Cold War powers. This left a huge impact on the ROK government's commitment to gender equality, as the constitutional, international, and legal commitments to it were built on dubious foundations.

During the Cold War, the divided Koreas had to make their decisions in a bipolar world order led by the US and the Soviet rivalry for hegemonic power. Accordingly, the democratic South declared its ideological solidarity to the West, while the communist North aligned itself with China and the Soviets. Naturally, the promulgation of the Constitution of South Korea in 1948 was heavily influenced by the Cold War rhetoric and the US Military Government in Korea (USAMGIK)'s presence in the region.¹³ Consequently, the newly adopted constitution carried strong overtones of American laws and democratic values.¹⁴ As Ahn states in *The Influence of American Constitutionalism in Korea*, one of the USAMGIK's explicit goals was to "de-Japanize" the Korean legal system by replacing colonial influences with American laws. This included addressing the codified laws of legalized gender inequality. The US occupation pushed for women's suffrage in South Korea and eventually led to equal civil and political rights as promised under the imported constitution.¹⁵

Yet, the US was promoting democracy and gender equality while also supporting Rhee Syngman's presidency, which was known for its repressiveness and political corruption. While the political actions taken may have been influenced by the red scare, the Rhee regime employed the National Security Law to restrict political activity and press freedom. Therefore, in the era of US constitutionalism and USAMGIK occupation, constitutional equality became a political tool of ideological alignment, rather than a sincere commitment. Furthermore, the import of foreign ideology constituted a challenge to "post-colonial" discourse as it disregarded new forms of resistance arising from foreign exploitation and assumed that colonialism had ended.¹⁶ In a sense, Korean women were "spoken for" for political gains, and their chance to contextualize their needs was taken away.¹⁷ The gender equality agenda following Japanese colonialism was built around Cold War power relations more so than gender equality itself. As it was built on shaky foundations that did not need to be substantiated, the ROK government continued to fail to make future

13 Jiyoung Suh. "The 'New Woman' and the Topography of Modernity in Colonial Korea." *Korean Studies* 37 (2013): 11-43.

14 Kyong Whan Ahn. "The Influence of American Constitutionalism on South Korea," *Southern Illinois University Law Journal* 22 (1997): 71-116.

15 Ibid.

16 Linda Tuhiwai Smith. *Decolonizing Methodologies: Research and Indigenous Peoples* (London: Zed Books, 2002), 1-18.

17 Linda Alcoff, "The Problem of Speaking for Others," *Cultural Critique* (1991-1992): 5-32.

implementational commitments.

Political Factors

The ROK Government's Use of Gender Equality for Political Alignment

Similarly, the ROK government's ratification of CEDAW in 1984 as well as legal reforms to ensure gender equality have been part of a process of decolonization and alignment with the Global North. According to Frances Raday, a member of the UN Human Rights Council Working Group on Discrimination against Women, "CEDAW's tools for addressing cultural, social, and economic intersectional differences between women are offshoots of the core right to equality." Yet, this conceptual clarity has not been met in the state parties' implementation.¹⁸ In other words, while CEDAW functions to provide theoretical and normative tools for nations to overcome their gendered discrimination, there exists a gap between *de jure* and *de facto* in application.

Article 28 of CEDAW is a reservation clause, which allows for "a state to ratify an international treaty without obligating itself to provisions it does not wish to undertake."¹⁹ The nature of the international convention allowed for the ROK government to express solidarity with the international community on women's human rights without committing to the decisions included in the convention. When the ROK ratified CEDAW in 1984, they entered reservations to Article 9 and Article 16(1)(c), (d), (f), and (g) without explanation.²⁰ Article 9 states that "State Parties shall grant women equal rights with men to acquire, change or retain their nationality" and to "grant women equal rights with men with respect to the nationality of their children. Article 16 states that "State Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations," including (c) "the same rights and responsibilities during marriage and at its dissolution," (d) "the same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children," (f) "the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children," and (g) "the same personal rights as husbands and wife, including the right to choose a family name, a profession and an occupation."²¹ While the other

18 Frances Raday, "Gender and democratic citizenship: the impact of CEDAW," *International Journal of Constitutional Law* (2012): 512-530.

19 Jennifer Riddle, "Making CEDAW Universal: A Critique of CEDAW's Reservation Regime under Article 28 and the Effectiveness of the Reporting Process," *The George Washington International Law Review* (2002).

20 Marsha Freeman, "Reservations to CEDAW: An Analysis for UNICEF," *UNICEF*, 2009.

21 "Convention on the Elimination of All Forms of Discrimination Against Women," *United Nations Human Rights Office of the High Commissioner*, December 1979, <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

reservations were withdrawn in the 1990s, ROK's reservation to Article 16(1)(g) remains today. In fact, the State Party's Sixth Periodic Report to CEDAW in 2008 stated that the ROK shows no intention to withdraw from its existing reservations, and noted that such persisting patriarchal attitudes and normative gender roles are reflected in women's career opportunities, limited participation in public life, and continuing gender-based violence.²² This suggests that despite the ratification of CEDAW, the Korean government continues to hold on to the patriarchal structures that allow for gender inequality to persist.

On a national level, while there are still limitations to implementation, the ROK government undertook numerous legal reforms to reverse the discriminatory gender laws with an equality-based constitution and an international commitment to gender equality. Some notable reforms include The Equal Employment Opportunity Act of 1987 and the Decriminalization of Abortion in 2019. There were also a series of Family Law Reforms that took place in 1990 and between 2005-2008. The Family Law Reforms are comprehensive reforms of the Confucian Patriarchal structures, including family structures and property rights.²³ These series of reforms focused on redefining "family", the abolition of the ban on women's remarriage period, separate property systems, and permitting marriage between parties with same surnames. Most importantly, the Head of the Family system, which positioned men as the head of the family and the rest as "members", was abolished in 2005.²⁴ However, despite legal efforts, progress is stagnating: the "Global Gender Gap Report" shows a 13-rank drop since 2006. Although laws, as a socialization agent, align people's behaviors with national written expectations, the failure to actualize gender equality suggests that there may be larger systematic factors that allow gender inequality to prevail.

The Lack of Commitment and Implementation

While the lack of political commitment to gender equality was exemplified by Korean presidents throughout the 20th century, contemporary politicians have publicized their commitments and efforts. However, the ways in which gender-equality laws are being enforced show otherwise: gender equality laws have ineffective or no monitoring mechanisms, and there is a lack of private sector intervention. Effective implementation mechanisms are key to turning women's rights from a principle into a reality; and if the gender equality framework does not contain meaningful implementation or enforcement mechanisms, it will once again be a façade only

22 "Consideration of State Party Reports, Sixth Periodic Report of the Republic of Korea," CEDAW, March 2007, <http://daccessdds.un.org/doc/UNDOC/GEN/N07/262/87/PDF/N0726287.pdf?OpenElement>

23 Whasook Lee, "Transformation of Korean Family Law," *International Survey of Family Law* (2008): 237-252.

24 Ibid.

useful in upholding the perceived progressive status of the country.²⁵

In the ROK, gender equality and family fall under The Ministry of Gender Equality and Family (MOGEF). This categorization not only reinforces the gender normativity around familyhood, but also raises the concern that gender equality might be overlooked in order to uphold family structures and values.²⁶ Furthermore, according to the Ministry, “gender” exclusively refers to heterosexual and cis, a biological dichotomy-based binary use which disregards the LGBTQ+’s legal rights and protection. This problematic definition fails to embrace the equality clause of both the Constitution and CEDAW. Hence, by hiding behind gender equality, the very ministry in charge of women’s human rights is implicitly perpetuating heteronormativity, gender norms, and patriarchal family values.

Furthermore, MOGEF has one of the lowest budgets among the Ministries, accounting for only 0.18 percent of the entire government budget. Only 43.3 percent of its funds are used for main projects and programs, while 56.7 percent are dedicated to labor and “logistics.” Of the 43.3 percent, only 9.2 percent are devoted to “gender equality and women’s economic participation,” while the rest is used for children and family, national development, or comprehensive development.²⁷ This means that only 0.00016 percent of the entire government budget contributes to gender equality efforts. Budgeting is the most evident way of prioritizing government agendas. That the Ministry of Gender Equality is not only grouped together with Family but also receives one of the lowest budgets testifies to the government’s lack of sincere commitment to the effective realization of gender equality laws.

Monitoring, reporting, and implementation difficulties are natural consequences of the lack of budget available to the Ministry of Gender Equality and Family. Gender Equality Policy encompasses six major projects and 22 implementation strategies, including cultural, economic, representational, social, safety, and implementation.²⁸ Yet, none of the implementation strategies involve direct intervention in private sectors, nor does it include any reporting and monitoring mechanisms. The Gender Equality Framework Acts forces all sectors to provide mandatory training on the prevention of sexual harassment and violence towards women. However, as there is no monitoring and evaluation mechanism, the participation of senior managerial officials was low and most training sessions

25 “In Larger Freedom: Toward Development, Security, And Human Rights for All.” *General Assembly Report of the Secretary-General A/59, United Nations*, 2005.

26 Chung, “Convention on the Elimination of All Forms of Discrimination against Women,” 2015.

27 Sojung Huh, “Status of Budget.” Ministry of Gender Equality and Family, “*Department for Planning and Finance*, 2019.

28 “Gender Equality Policy,” Ministry of Gender Equality and Family, 2015. http://www.mogef.go.kr/eng/pc/eng_pc_f001.do.

were done in collective settings through handout materials.²⁹ Since most workplace sexual harassment is characterized by the abuse of hierarchical power structures, the lack of senior officials' participation makes training ineffective and reinforces the idea that their status exempts them from such accountability.³⁰ Furthermore, even in school systems, the training and awareness-raising policies listed in CEDAW and national laws are not integrated into curricula. After more than three decades of CEDAW, an "in-process" status should no longer justify the lack of government effort to structurally translate gender-equality policies into common lived praxis.

The lack of governmental efforts to implement and monitor gender equality practices indicates that the goals of progressive reforms and the ratification of CEDAW were not to reach gender equality itself, but rather to "modernize" Korean society and align the country with other Global North nations. The lack of awareness, integration, and implementation encourages societal compliance and allows for discrimination and GBV to prevail. Unless rights are effectively translated into realities through efficient implementation and enforcement efforts, the laws will remain tools of political leverage, and systematic gender inequality will persist.

Social Factors

"Peers" as Socialization Agents that Silences Women Who Resist

Living a Feminist Life considers feminism as experiential, subjective, and intersectional.³¹ In other words, the author argues that women who are discriminated against and hold "theory in flesh" must speak for themselves to effectively change the status quo in gender inequality.³² If women are silenced, there is no way to theorize or realize gender equality in society. Korean women did not remain silent despite governmental inaction or media reinforcement of gender inequality. Their efforts contributed to numerous legal reforms. However, "peers," as socialization agents, largely othered the feminist movement in Korea, which harmed the gender equality agenda both politically and socially. "Peers" here should be understood as people within proximity to an individual, who provide direct negative or positive feedback to actions taken. To study the silencing of women through the socialization agents of "peers" and understand how the societal rhetoric around feminism was established,

29 Korean Women's Association United, "Republic of Korea: Submission to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) for the Adoption of the List of Issues," *CEDAW*, 2017, 1-8.

30 Steven H. Lopez, Randy Hodson, and Vincent J. Roscigno, "Power, Status, and Abuse at Work: General and Sexual Harassment Compared," *The Sociological Quarterly* 50 (2009): 3-27.

31 Sara Ahmed, "Bringing Feminist Theory Home," in *Living A Feminist Life* (Durham: Duke UP, 2017).

32 Cherrie Moraga, "Theory in the Flesh" in *This Bridge Called My Back: Radical Writings by Women of Color* (San Francisco: Aunt Lute Books, 2015), 23.

the comment sections of the top eight South Korean newspapers were analyzed.

Analyzing the comment sections of articles related to large feminist protests that held place from August 2018 to March 2019 in South Korea showed how people silenced women who spoke out by framing them as “irrational,” “angry,” “unfair,” “men-haters,” and “extreme.” There were also frequent patterns of victim-blaming and references to “reverse sexism.” In studying news articles on the protests that received the most attention from the eighth major newspapers – whether those were conservative, central, liberal, government-produced, or independent – there were only two comments that stood in solidarity with the women who took part in the demonstrations.

One striking and common characteristic in the comment sections was the generalized association of feminist movements with “Megal.” *Megalian* was a website shut down by the government in 2017 because of its misandry and crime towards men. *Megalian* contained homophobia, criticism of conscription and soldiers, child molestation, and the spread of illegal videos. It is considered to be a dark chapter in the history of “bad feminism” in South Korea.³³ “Peers” logic, however, is that all feminism equates to *Megalia*. Through that association, they are depicting anyone who speaks out for women’s rights as extreme and misandric. According to Kimberly Norwood, the particularized stereotype of women as angry often “deflect[s] attention from the aggressor and project[s] blame onto the target.”³⁴ While *Aggressive Encounters and White Fragility* focuses on the intersectional experience of Black women, it successfully argues that the worst negative stereotypes, including “disagreeable, overly aggressive, and physically threatening,” shift the attention from underlying injustices to deflecting the blame on women. The process of “othering” women who resist by associating them with the most extreme stereotypes dismisses and ostracizes the overarching feminist movement, and consequently promotes existing patriarchal social behaviors.

Another common trait was justifying GBV through victim-blaming. Feminist protests were also a reaction to Spy Cam and drugging incidents that happened at Burning Sun, a major nightclub run by a Korean celebrity. In these incidents, some female women were intoxicated. Peers commented: “If there are 10 bad men, there are 100 women who fall for him. They know that nightclubs are filled with them, but still insist on going. And when they become ‘victims’, they don’t blame themselves.”³⁵ Another wrote: “The protestors are all feminist pigs. Do they think all women get filmed? All the women who are worthy of being filmed are on a date because

33 Sooyeon Lim, “‘Megalia, Warmad’ Comments, Clearly Slander,” *Media Today*, July 28, 2018. <http://www.mediatoday.co.kr/news/articleView.html?idxno=143783>.

34 Trina Jones and Kimberly Jade Norwood, “Aggressive Encounters and White Fragility: Deconstructing the Trope of Angry Black Woman,” *Iowa Law Review* 102 (2017): 2017-2069.

35 JTBC, “Gender Discriminatory Spy Cam Investigation: The 4th Protest at Gwangh-wamoon Gathers 10,000 Women.” *JTBC News*. Aug 4. 2018.

it's a Sunday. It's not you, don't worry."³⁶ These types of narrations contradicted themselves by shaming women who were victims of GBV, while arguing that no man would desire feminists. They are depicting feminists as sexually undesirable, aggressive, unwanted, and deserving of the violations. This rhetoric also contributes to "othering" and silencing women who speak out by shaming and invalidating their claims.

While understanding that real-life "peers" may be different in their expression of thoughts towards feminism and that online discourse may be more exaggerated, these types of framing of feminist movements leave detrimental impacts on feminist praxis. Describing all feminist movements as man-hating "Megals", victim-blaming, and depicting the women who speak out against societal injustice as "crazy" and undesirable polarizes the conversation. This may lead to women siding with normalized sexism to feel accepted in workplaces where men hold positions of power, and within friendships so as not to be ostracized. This leads to the isolation and silencing of feminist movements as a whole. The most important aspect of feminist praxis, the experiential, is removed from legal and social conversations through the silencing of women. This, together with the lack of the government's effort to implement the laws more effectively and the media's reinforcing of gender stereotypes and promotion of toxic masculinity, essentially disempowers the realization of feminism in Korean society.

Conclusion

The quick switch from the codification of gender equality during Japanese colonialism to the import of equality-based constitutional principles during the American occupation shows how gender-equality has been used as a political tool of control or alignment. While the discrepancy between *de jure* and *de facto* may have begun here, the current Korean government's lack of implementational commitment and the socialization agents that promote conformity allow for the persistence of discrepancy within gender inequality. The failures of the gender equality agenda in the rapidly developed ROK persists due to these elements that create a society where gender inequality can prevail without consequences, and perhaps, even be rewarded. Thus, the ROK government must bridge the gap between legal and constitutional promise of gender equality and praxis by effectively implementing monitoring and enforcement mechanisms. Further, both the laws and peers' roles as socialization agents in perpetuating and reinforcing gender normativity and patriarchy must be examined. Lastly, the experiential theory of women's experiences needs to be heard, rather than silenced. By understanding the historical, political, and social causes behind unachieved women's human rights, future study in how to effectively change the dialogue around gender equality and how to successfully implement the legal promises is required to finally fulfill the long-overdue promises of an equality-based

36 Sangji Hong, "The Era of New Feminism: Why Did 60,000 Women Shout "Jai-Ting" At Hyehwa Station?" *Jung Ang News*, July 8, 2018.

constitution, women's rights laws, and feminist praxis in the ROK.

BLURRING DISTANCE AND DIGITAL LINES: THE ROLES OF REAL PERSON FANFICTION IN PARTICIPATIVE K-POP FANDOMS

Aimee Beatriz Lee

Yonsei University

The growth of the online community as a space for various types of content creators has ultimately led to an influx of fanfiction — written works published by fans for fans — which is, in part, composed of real person fanfiction (RPF). While RPF has always maintained some sort of following throughout the years, especially with regards to musical acts such as One Direction, arguably one of the largest contributors to its growth in the last decade is the K-Pop community. Based on the statistics on the currently leading repository for multi-fandom and multi-genre fanfiction, Archive of Our Own (commonly known as AO3), ‘K-Pop’ as a whole is the leading category under Music and Bands, with a total of almost 360,000 works to date, rivaling the entire ‘Real Person Fiction’ section with less than 350,000 works. However, while scholarly research on fanfiction has also accumulated and diversified over time, the topic of RPF still presents gaps when surveying current literature — K-Pop RPF, for how much it has contributed to the growth of digitally published fanfiction as a whole, still has facets and aspects yet to be explored. Thus, the goal of this paper is to examine and analyze the role of RPF in participative K-Pop fandom culture. It draws information and insight from a survey that collected opinions and answers from over 500 respondents that identify themselves as an active part of the K-Pop community that has had experience in consuming, if not creating, K-Pop RPF. In doing so, this work presents the argument that fanfiction in K-Pop does not only fulfill fantasy and bridge gaps in one’s experience in the fandom but is also an avenue towards identity building as well as further participation with and influence on an idol, their company, or even the collective fandom in itself.

Introduction

Fanfiction in and of itself is no new phenomenon; as a general literary practice, it has been in existence as early as the 20th Century, when a distinction between a character’s original author and another author who had used the same character in

a different work or context needed to be made.¹ Over time, the concept of fanfiction needed constant revision and delineation to set itself apart from original fiction, and much has needed to be established, adjusted, and reconsidered to give way to the constant transformation that it has gone through. Now, with the digital space (which acts as the main medium for modern day fanwork) larger than ever, the practice of creating and consuming fanfiction in general becomes more evident and widespread. Fanfiction, at its core, is derivative; it is created as a kind of juxtaposition that both (a) strikes a delicate balance between its source work and the ideas that make it “unique” or transform it and, at the same time, (b) blurs the line that is meant to visibly separate what is “original” by the first author and what is “original” by the fanfiction writer in order to make sure that the elements the latter adds or changes can still exist in harmony with the basis of the initial text. The complexity of the issue and the arbitrariness of what is acceptable and what is not in fanfiction has led to multiple issues that are no closer to creating a unanimous perspective on the craft.

The lines become blurrier and the boundaries and ethics of the craft become much more difficult to dissect when considering works that take inspiration from or build foundation off of reality. Real person fanfiction (RPF) brings up unique points of what is acceptable and what should be condemned not in terms of a work’s premise but a person’s identity. It consistently and ceaselessly begs questions about the extent to which a real person without a fictional identity can be manipulated within a work of fiction and the manner in which one can derive from their personal, real-life context, if at all. For the most part, RPF has been limited to certain niche fandoms with a particularly strong following — this much will be seen later in the discussion — but RPF has since become a larger phenomenon following the rise of K-Pop and the strength of K-Pop fans as a community of proactive and participative consumers that not only seek to mitigate gaps or counter truths but also aim, in some ways, to influence reality to a certain degree. The agency of K-Pop fans within their fandom and with regards to communication with the idols and their companies is unprecedented, and this much is true in how they participate — fanfiction creation and consumption included.

The purpose of this paper is to examine and analyze the diversity of RPF in the K-Pop fandom. In doing so, it argues that fanfiction in K-Pop does not only fulfill fantasy and bridge gaps in one’s experience in the fandom but is also an avenue towards identity building as well as further participation with and influence on an idol, their company, or even the collective fandom in itself.

Literature Review

By its transformative nature, fanfiction is considered a hypertext. Any work that falls under this category is the later “text B” that calls back to the earlier hypotext

1 Bailey Gribben, “Fanfiction: A Legal Battle of Creativity,” *Reporter*, Feb 5, 2016, accessed June 22, 2020, <https://reporter.rit.edu/views/fanfiction-legal-battle-creativity>.

“text A” in a manner that is not just commentary but, in many ways, transformative.² Fanfiction is also highly archontic, which means that it is literature that refers to and builds on already existing literature as reference.³ In other words, fanfiction cannot just be derivative of a work or a body of work; it must also be *expansive* and offer new information, integrate new elements, and propose itself as something of a supplement (or, to some extreme degree, an alternative) to the original work.⁴ When understanding fanfiction as separate, simply as a type of literature, it is fairly straightforward in its approach and role. It appears to act simply as a means for fans to further explore a fictional work through a specific lens that suits them and to push the limits of their own creativity and understanding of the hypotext/text A. However, fanfiction as both malleable text and a tool for reshaping existing information makes its nature, purpose, and consequent role much more complicated and open to interpretation.

Experts in fan studies have since debated the place and role of fanfiction as a part of the dynamics of society and through a more anthropological lens; this lens is meant to treat fanfiction — as a part of the larger umbrella of fan work — as discourse, education, and negotiation. While it is not the main goal of this paper to elaborate on fanfiction as a resource for learning, much research has delved into the value of online-specific literature to engage English as a Second Language (ESL) students and sharpen their linguistic skills.⁵ Some studies would actually see it as a form of resistance; the first wave of fanfiction studies theory was almost always linked to a heavily Marxist perspective,⁶ where the art of writing was seen as a means to overcome oppression. In this case, the fans are the literary proletariat that struggles to find a space of empowerment against corporations that claim ownership to characters and their contexts.⁷ In this kind of perspective, we see fans as those that fight for agency, employing fanfiction as a tool or a weapon of revolution specifically created for carving out a more even playing field rather than transformation for artistic transformation’s sake. To a less aggressive degree, fanfiction was one of the main tools that fans of musical TV series *Glee* used to express their dissatisfaction:

2 Gérard Genette, *Palimpsests: Literature in the Second Degree*, (Lincoln, Nebraska: University of Nebraska Press, 1997), 5.

3 Abigail Derecho, “Archontic Literature: A Definition, a History, and Several Theories of Fan Fiction,” in *Fan Fiction and Fan Communities in the Age of the Internet*, eds. Karen Hellekson and Kristina Busse (Jefferson, NC: McFarland Press, 2006), 61.

4 Sara K. Day, “Pure Passion: The Twilight Saga, “Abstinence Porn,” and Adolescent Women’s Fan Fiction,” *Children’s Literature Association Quarterly* 39, no. 1, (2019): 29.

5 Amy C. Hutchinson, Lindsay Woodward, and Jamie Colwell, “What Are Preadolescent Readers Doing Online? An Examination of Upper Elementary Students’ Reading, Writing, and Communication in Digital Spaces,” *Reading Research Quarterly* 51, no. 4 (Winter 2016).

6 Bronwen Thomas, “What Is Fanfiction and Why Are People Saying Such Nice Things about It?,” *Storyworlds: A Journal of Narrative Studies* 3 (2011): 3.

7 *Ibid.*

“In the case of *Glee*, some works of fan fiction take care to explicitly call out *Glee*’s inadequacies, especially as a moral or progressive text, and/or to punish characters for their homophobic bullying, or to educate and rehabilitate characters whose ignorance remains intact in *Glee*.”⁸ However, this perception of fanfiction as a tool for battle or, at the very least, for rectification, suggests that all transformative works are inherently oppressed by the original text. While this may be true in some cases, it is not for all. With the exponential growth fanfiction has undergone, it has not only been able to thrive in harmony with the original text but has expanded to become a diverse genre (and not just a subgenre) of its own.

More recent and developed studies on fan culture and fanfiction paint such derivative works as no longer just a secondary creation but an essential part of pop culture engagement. Fans are no longer slaves to the grind that have to kowtow to franchise and corporation will nor are they using their works as retaliatory or resistant. Rather, they write fanfiction to broaden their own interaction not just with the text but also with the fandom itself. Thomas points out that the act of writing becomes more personal, intimate, and reflective in this case:

*... [It] is distinguished by a greater self-reflexivity about the theorist’s own motives and positions and by a shift in emphasis toward exploring the contributions of fans to contemporary culture. Theorists reflect in a much more person- al way about their own engagement with fandoms and with fan texts, and instead of fans being seen as isolated or marginal, their activities are treated as a fundamental aspect of everyday life.*⁹

The takeaway from this perspective is that fanfiction is (a) in-depth textual engagement, (b) fandom participation and contribution, and (c) self-reflection all in one. In looking at it as something with multiple purposes it can also be seen as something with multiple effects and different kinds of significance. Fanfiction becomes empowerment in a different way; rather than fighting against those who have the upper hand in a more traditional sense (that is, one of power), it is a way to introduce and explore things like queer discourse and feminism which may not be tackled adequately — or in some cases, at all — in the context of the original text.¹⁰ Stark, somewhat extreme examples of this would be the characterization of the Babadook (the demonic antagonist in the horror movie of the same name) as an “LGBTQ+ icon by Tumblr and other fanfiction websites” as well as the romanticization

8 Louisa Stein, “Dissatisfaction and *Glee*: On Emotional Range in Fandom and Feels Culture,” in *Anti Fandom: Dislike and Hate in the Digital Age*, ed. Melissa A. Click, (NY: NYU Press, 2019), 90.

9 Thomas, “What is Fanfiction,” 4.

10 Diana Koehm, “Revision as Resistance: Fanfiction as an Empowering Community for Female and Queer Fans,” *Honors Scholar Theses*, 604, (2018).

of the antagonist of Stephen King's *It*, Pennywise.¹¹ Though odd as an approach and as parodic as it may seem, the widespread acceptance of such traits attributed to these antagonists in either an attempt to humanize them or, to some degree, even create space for personal relatability or representation in texts that do not offer such space to its fans is indicative of the diversity of fanfiction's role in the fandom.

In the context of a different fandom, we can look at the television series *Supernatural*, which has an immensely large following. Despite having a highly complex and diverse plotline, *Supernatural* is still subject to fan remixes that are often built on canon divergence — that is, an intentional departure from the key points of the source text's original and, thus, 'canonically accepted' plot — and audience-perceived subtext. In fact, it is interesting to note that despite the much longer story *Supernatural* offers, with fifteen seasons under its belt, fans still generate more fan work, most especially fanfiction. In other words, an original text need not be necessarily lacking for it to have supplementary works. Hypertexts multiply in proportion to the growth of the hypotext; there is more to be explored and more desire to explore if there is more original content. Thus, it can be said that fanfiction is not just inevitable but infinite; fans create it not specifically with the *need* to transform the text in mind but the desire to do so, and desire, in this case, grows more rapidly and exists more visibly than necessity. Thomas states that:

*Fanfiction thus poses an important challenge to conceptualizations of storyworlds that focus on their universality and familiarity, demonstrating that, in fact, readers' and audiences' relations with those worlds are diverse and sometimes conflicting. These fan-produced narratives also underscore that work focusing on how storyworlds are triggered by textual cues must be supplemented with research addressing the whole question of what readers and audiences do with those worlds—how they inhabit them, transform them, make them their own.*¹²

Finally, if one looks at the case of *Supernatural*, it is clear that fanfiction is also an essential avenue for indirect contact and interaction with those who control the franchise at its core. Granted, the producers and writers of the show are seemingly more aware of the discourse about the show that fanfiction creates, but their knowledge is also interestingly translated into the original text itself. Time and time again, the show's writers insert subliminal (or even explicit, at times) references to fan culture known as "easter eggs" into the actual dialogue or plot, introducing fandom-specific knowledge, jokes, and theories as canon. This is what Reijnders et al. call ascended fanon — "a case where a media producer uses fannish ideas,

11 Sherin John Francis and Kavya Purushothaman, "Fanfiction: A Study as An Uprising Genre in Literature," *UGC Care Journal* 31, no. 30 (May 2020): 30.

12 Thomas, "What is Fanfiction," 7.

jokes, or other contributions in canonic texts.¹³ Supernatural injects fanon into the plotline, as a crucial element in an episode, or even just as comedic dialogue. For instance, in one episode, there is a “super-fan” named Becky who had an unhealthy obsession with the story, and it is through her that the main characters find that their entire lives up until that point (that is, the show’s entire history so far) is published as a series of books. While the encounter in itself appears to be only a lighthearted representation of the show’s strong and highly visible fandom, like in how Becky makes them aware of the “Wincest ship,”¹⁴ possibly the most popular romantic pairing in the fandom’s vast body of fanfiction works, it also becomes a springboard for the show’s many turning points, as seen in the fact that the writer of these meta-books is later revealed to be “God,” hiding on earth. The inclusion of the show’s history into the plot itself also allows writers to tackle or expose certain critiques and theories the fans have made.¹⁵ In doing so, Supernatural proves that being a part of a fandom also usually means being highly participative in shaping and negotiating the content and impact of a work, making it polymediated media (in essence, media formed with ideas from different sources); “Supernatural fans have gained a measure of power that will help them feel more included in the general fanbase, communicate better with the creators, and, possibly, force the creators to address critical and difficult problems in the show — all through transformative fan works.”¹⁶ Through this, it becomes clear that fandom and fanfiction now have a level of agency on what they consume and how they can consume it that is given to them through the expansion of the digital space and the fan made content they create through it. The relationship between the fan and the franchise or the “big machine,” then, is no longer simply passive on the former’s end.

Much of the framework of this discussion is taken from theories and analysis of fanfiction of fictional works because the derivative relationship between them is much more clean-cut. However, this link becomes muddled when considering the specific subgenre of RPF, which is considerably less explored in academia and, thus, has more gaps and raised questions. Real person fiction (RPF) is most associated with music acts, and the phenomenon in itself is strange in that music acts do not really have stories that are comprehensively published and can thus be interacted with or analyzed in the traditional sense.¹⁷ However, the roles of RPF in music act-based fanfiction, in some ways, intersect with the aforementioned roles of fanfiction

13 Stijn Reijnders Abby Waysdorf, Koos Zwaan, and Linda Duits, “Fandom and Fanfiction,” *ResearchGate*, March 2017, 6.

14 Art Herbig and Andrew F. Hermann, “Polymediated Narrative: The Case of the *Supernatural* Episode ‘Fan Fiction,’” *International Journal of Communication* 10 (2016): 758.

15 *Ibid.*, 757.

16 Deepa Sivarajan, “Tiön, fandom, and source text: The effect of fan works on the narrative of *Supernatural*,” in *Saving People, Hunting Things*, ed. Catherine Tosenberger, *Transformative Works and Cultures Special Issue*, no. 4, (2010).

17 Ross Hagen, “Bandom Ate My Face’: The Collapse of the Fourth Wall in Online Fanfiction,” *Popular Music and Society* 38, no. 1 (2015).

in fiction fandoms, with some nuances. It is still a means to express dissatisfaction or, at the very least, bridge gaps in what one knows or understands and what one wants. One difference, however, is that there is a much heavier reliance on other fanfiction or, at least, other works created through different mediums (such as fan art and social media content) or ideas by other fans to build such bridges from fiction over to reality. This is what is called “intertextuality to the second degree,” wherein interaction is not just limited between the hypertext and the hypotext as isolated cases but extends between hypertexts themselves.¹⁸ These collectively agreed-upon “headcanons” are trickier and more subject to discourse and, thus, contention. Since there is no actual hypotext that serves as the origin for such ideas, fanfiction writers have to come to some kind of agreement on what is “true” and what “original elements” must be maintained to perpetuate the work as one of fanfiction and not just original fiction.

The concerns regarding RPF magnify and expand the deeper one delves into this subgenre. When looking at fanfiction as hypertext, the question of the original text is underscored. Fans consistently underscore their unanimous understanding and protection of the humanity and subsequent privacy of these celebrities but still see no issue with fictionalizing them. Crude as it may sound, the act of integrating these people into fiction suggests that the “reality” of the person and their “fictionality” as a celebrity are not always mutually exclusive. This much is seen in how fans of popular punk rock/emo bands My Chemical Romance, Panic! At The Disco, and Fall Out Boy would create ship/slash fanfiction of the members despite claiming their loyalty to the bands’ desires for privacy. Hagen points out that “The boundaries between fiction and reality are relevant because RPF is built around the assumption that a celebrity’s public identity is in some sense fabricated,”¹⁹ which means that, in many ways, despite arguing the need to maintain the humanity of these celebrities, fans also simultaneously view their images, personalities, and experiences (to the extent that these things are publicized) as aspects of the overall hypotext that is the human, which challenges and expands the concept’s traditional definition.

However, there are more issues and points for consideration when it comes to viewing a human as text that one can “derive” from. Stardom often seems to justify the liquefaction of lines and boundaries that delineate the celebrity as a fan object, the celebrity as a character, and the celebrity as a real person.²⁰ The ethics of RPF are also often put into inquiry. As fanfiction is meant to be a further exploration of a text, RPF begs the question: if one is exploring the private life of a celebrity, then is it, in some way, a violation of it? The argument continues, and there is no clear answer, but it is evident that RPF is a more sensitive genre to cross over into. This much is seen in the case of One Direction, arguably the most popular boy band of the century to date. Much of the fanfiction that is published about them is slashfic —

18 Milena Popova, “When the RP gets in the way of the F”: Star Image and Intertextuality in Real Person(a) Fiction,” *Transformative Works and Cultures* 25, (2017).

19 Hagen, “Bandom Ate My Face,” 48.

20 Popova, “When the RP gets in the way of the F.”

the romantic pairing of two members, Harry Styles and Louis Tomlinson, categorized under the shipping portmanteau “Larry Stylinson.” This pairing continues on as one of the most popular RPF ships to date, even after the group’s disbandment and both Styles’s and Tomlinson’s explicit denial of the truth behind this pairing and their consequent discomfort and distancing from one another.²¹ Fandom not only created but perpetuated this act of shipping, and despite there not being any more interaction between these members, the steadiness of fan content for it only showcases the transgressive nature of fandom power and agency: that it not only has the ability to ignore what is true but to transcend it, even affect reality to some degree.

However, the purpose of this paper is not to argue the ethics of RPF nor to condemn the perspectives or possibilities in its creation. Rather, this literature review is meant to provide a framework for this work’s analysis of the multi-faceted role of fanfiction in the context of K-Pop. Not much seems to have been delved into with regards to this, in large part because K-Pop, in itself, is a relatively newer phenomenon than Western music/Western fan studies and also operates in a different manner. Thus, this literature review is meant to be a springboard for a better understanding of how K-Pop-based RPF is adherent to the same purposes and pitfalls mentioned above as well as how the intricate workings of K-Pop fandoms make its role unique.

Methodology

The researcher conducted a qualitative survey that collected answers on the experiences, thoughts, and knowledge of K-Pop RPF from 578 respondents across the internet, through two major channels: Twitter, where the researcher’s followers are mostly K-Pop fans from various countries that subscribe to the fandom workings of multiple groups, and Tumblr, through the researcher’s writing blog. To generate results as close to true randomness as possible, the survey link was disseminated to an open audience and through word of mouth (reblogging/retweeting).

The ages of the respondents varied between 18-32 on average, and the nationalities were highly diverse. 487 respondents (84%) classified themselves as “beginners” in Korean or not having any literacy or fluency in it at all, which limits this analysis to a collectively international experience (that is, it only takes into account fanfiction writers, readers, and works available in English or any other language that is not Korean, if any). Most fans were those dedicated to boy groups like EXO (48%), BTS (31%), and NCT (50%), although Red Velvet as a girl group was the most mentioned (34%). The experiences of fans in relation to becoming interested in K-Pop is fairly homogenous (67.6% from YouTube surfing, 51.9% from recommendation from other fans, and 28% from accidental exposure), and they have varying lengths of stay in K-Pop fandoms as a whole (30.4% of respondents have been fans of any kind of K-Pop for 4-6 years; 30% for more than 10 years, and 22.7% for 2-3 years). It is clear that, in this amount of time, most if not all respondents

would have been exposed to some kind of fan work, especially fanfiction.

Out of these participants, 67.6% (391 respondents) identify themselves as both fan work creators and consumers while 31.5% are passive fan consumers. The 0.7% of respondents that stated they did not consume nor create fan content were automatically led to a page that thanked them for their response to avoid gathering inaccurate information from them. More than 300 fan creator respondents (61.7%) answered that they had created fanfiction at one point, and 99.1% (569 respondents) of fan consumers say that they have consumed fanfiction at one point in time. The latter part of the survey used a five-point Likert scale ([1] strongly disagree, [2] disagree, [3] neutral, [4] agree, and [5] strongly agree) that posed K-Pop fandom and fanfiction specific statements to gauge each respondent's agreement or disagreement with them. After this, the respondents were encouraged (but not required) to elaborate on some of their answers from the Likert scale, and these results were carefully perused and compiled to create generalizations based on repeated themes that highlight the key perspectives on and roles of RPF in the fanfiction community. The researcher acknowledges that there is always a margin for error in drawing conclusions from highly diverse answers, and while they attempted to maintain a professional objectivity in distilling answers, they acknowledge the possibility of researcher bias (although curtailed to be as minimal as possible) as a limitation to the way in which such generalizations were developed.

Data Analysis

Fanfiction as Space for Negotiation

Possibly the most diverse answers within this survey had to do with idol image — its creation and negotiation within the fandom and, to a larger scale, between the fans and the idols themselves. Fanfiction, to a certain extent, requires the creation and perpetuation of an image that essentially and inevitably flattens their dimensions to re-envision them as a *character* that can fit certain plots or tropes. For instance, according to Haasch, the character of “Min Yoongi” within fanfiction is very often aligned with the typical ‘bad boy’ persona that is a staple in teen fiction.²² Despite this, most fans know him to be “staunch in his opinions but respectful and well-spoken in interviews.”²³ The discrepancy between who he is portrayed as in fanfiction and who he appears to be “in real life” (at least, to the extent of fans’ knowledge) indicates that fans use fanfiction — whether by choice or subconsciously — to re-envision their idols and, thus, re-negotiate their image collectively. In this, fanfiction writers take advantage of the celebrity image as *text* to diversify analysis of them and present an alternative that better suits their needs or expectations.

22 Palmer Haasch, “Community, Soul-Searching and Pleasure: The Significance of Real Person Fanfiction in BTS Fandom,” *Undergraduate Thesis*, University Honors Program, University of Minnesota, 28.

23 *Ibid*, 29.

This malleability of image and celebrity persona, though, is subject to much juxtaposition. When presented with the statement “fanfiction is meant to be an extension of the idols’ lives and must be as accurate to their personas as possible,” 46% of respondents strongly disagreed (almost 30% somewhat disagreed). This indicates that many fanfiction readers and writers see the celebrity image as almost entirely flexible — that is, the ownership of the hypotext (in this case, the idol), is almost completely transferred to the fan creator²⁴ and can be reshaped. This calls back to what Hagen says about the celebrity image as fabricated and the fans’ knowledge of this as fiction that is *offered* and sold to them, thus becoming, to some degree, fandom possession. However, a contradiction arises when it comes to responses to the statement “Alternate universe fanfiction strips idols of their identity as real persons”; 41% responded with “strongly disagree” and 27% with “somewhat disagree.” Thus, in the context of completely different settings or timelines, the “core essence,” to most writers and readers, must remain; in other words, despite using them as fictional characters by displacing them from their current reality, fans have a strong awareness of the *truth* of them as real people. Some people who elaborated on their answers mentioned that authors should and do take care to have their characters stay as *accurate* to their real-life counterparts as possible, and this is what distinguishes AU RPF from original fiction.

What this juxtaposition proves is that fandoms are in a constant state of negotiation about idol images and that these negotiations have yet to find the ultimate balance between respecting what is real and expanding what is fictional. While many answered that it is not a priority to maintain real-life accuracy in fanfiction (as the celebrity acts as text), many of the same respondents stated that there is a need to keep these characters informed by the real idol’s personality. Constantly having to navigate the tricky line between what is “real” and what is “mine to transform” becomes more complicated when considering the discussion of privacy. Because of the existence of *sasaeng* fans (a term coined from the Korean word ‘*sasaenghwal*’ meaning ‘private life’ that refers to fans who infringe a celebrity’s private life to the point of physically stalking them), K-Pop fandoms have a stronger sense of protectiveness over their idols’ private lives, which is likely the reason why *seeing* fanfiction as speculative of their “real persona” seemed wrong to most respondents. However, it is also clear, even just through the massive archiving of K-Pop fanfiction across the internet, that these written fan works are a means for fans to perpetuate internal analysis and deeper negotiation about what these idols might be like in the private sphere and how these assumed personality traits and skills would play out *if* they were open to the public. Thus, it is clear that fanfiction is essential to the act of participating in fandom negotiation, where one can not only accept or negate prominent perceptions of an idol within the community but also elaborate upon these perspectives in detail to arrive at a more fine-tuned view of the idol image that serves as the fandom hypotext.

24 Gino Canella, “Fan Fiction and the Transformation of Ownership,” presented at the *International Communication Association annual conference*, 2015.

Fanfiction as Idol and Concept Blueprinting

Not only is an idol's image constantly in negotiation between fans through fanfiction, but fan writing also has its effects on idol images even within the companies and for the idols themselves. When asked to respond to the statement "It is evident that fanfiction influences the way idols act," 40% responded with "strongly disagree." This appears to be truer for newer idol groups like NCT as well as girl groups, but many fans of older boy groups (TVXQ, Super Junior, EXO, to a degree) recount instances in which certain actions appear to *at least* be aligned with very popular fanfiction representations of the idols. Many respondents mention Super Junior's queerbaiting, most especially instances that involved member Choi Siwon. Choi is known for his highly Christian approach to homosexuality and is vocal and explicit about his disregard for it; however, his image in fanfiction is often at least secretly homosexual or even overtly so. For many idols, fan service is a surefire way to generate interest or maintain fandom loyalty, and many ideas that these acts of service are borne of come from fanfiction, especially in the realm of shipping (whether platonic or romantic) and even sometimes individual personality.

Catering to what fans want despite it being misaligned with one's personal perception or actual personality not only generates interest in one's work/persona but also indirectly communicates to fans that what they *desire* from the "canon" that they diverge from through fanfiction can also come true (at least, to a certain degree); "As celebrities become more and more involved in sort of curating their lives on Instagram and understand that people telling stories about them is one of the things they're selling...it will become a part of a media strategy,' Jamison says."²⁵ In actively attending to fans' whims and using common fanfiction elements or stereotypes as foundations for their actions, idols can enhance the strong feelings of love and want that is usually the basis for fan loyalty. It is an expansion of the emotional economy that creates something of a two-way relationship between idols and fans.²⁶ While it cannot be ascertained that Choi or any other Super Junior member has read fanfiction for themselves, it is clear that popular ships, portrayals, and especially the tropes of "stage gay"²⁷ in fanfiction are disseminated within the industry and to the people involved in creating and maintaining idols' images — inclusive of the idols themselves. Despite there being discrepancy between private persona and public image, the fact remains that the celebrity image, being performative in nature, is in a constant state of metamorphosis that is highly influenced by fan creations and the discourse that it is based on as well as creates.

25 Tonya Riley, "The Dubious Ethics of Real-Person Fiction," *Dark(Ish) Web*, Jan 13, 2018, accessed June 24, 2020, <https://medium.com/s/darkish-web/the-dubious-ethics-of-real-person-fiction-5cd6bd498c16>

26 Q. Zhang and A.Y.H. Fung, "Fan economy and consumption: Fandom of Korean music bands in China," in *The Korean wave: Evolution, Fandom, and Transnationality*, eds. Yoon Tae-Jin and Dal Yong-Jin (NY: Lexington Books, 2017).

27 Hagen, "Bandom Ate My Face."

Furthermore, it is not just in terms of the individual idol that fan works, especially fanfiction, become blueprints; for agencies, fan-driven information and the shared narrative they create for the idols and the groups are springboards for the expansion of popularity or profit. Many respondents to the survey mention the likelihood of companies using fanfiction as key points of market research to gain a better understanding of what fandoms are collectively invested in. The prime example of this is the BTS Universe (what fans call BU), which was specifically shaped by fan theories and consequent fanfiction that exploded in 2015. The *I Need U* and *Run* music videos featured elements of those fan-created theories that not only sparked interest in the fan works but also helped the group itself gain traction not just as performers but as “artistic storytellers.” To a lesser degree, fanfiction — especially in terms of shipping — also sets the tone for merchandise pitches and concepts; a clear example of this is the recent inclusion of “couple photocards” in albums in tandem with single ones. One notable group to have done this is NU'EST, who have admitted to reading fanfiction of themselves; fans noticed an increase in “shipping subtleties” in merchandise as well as member-to-member interaction. These examples illustrate not just the more potent relationship between the machine and the fans but also the heightened level of agency that K-Pop fans have with regards to how what they do can both directly and indirectly influence marketing and performance decisions.²⁸ While the takeaway is not that specific works of fanfiction directly influence idol or company action, it is clear that the popularity of fanfiction and the tropes or concepts it presents is often integrated into K-Pop — perhaps even more so than in any other music industry around the world.

Fanfiction as Fandom Identity, Participation, and Networking

The act of writing is greatly individualistic in its process. However, literature, especially in fanfiction, is formative in many ways, not just in terms of the idol or their image but also in terms of the fandom and the individual fans themselves. In the context of K-Pop, identity and camaraderie seeking are essential to international fans, in large part because they are already geographically disconnected not just from the idols themselves but from the frontline fanbase: the Korean fans. Furthermore, K-Pop, especially outside of Asia, is still a highly niched interest; it does not have the same public acknowledgment as interest in Western music does. As such, fans need not only to connect with their fandom but also find their places in it. SNS set the stage for such interaction to begin,²⁹ but in communities as large as K-Pop ones are and on sites like Facebook, Twitter, and Tumblr where it is much too difficult to filter

28 Jungbong Choi and Roald Maliangkay, “Introduction: Why fandom matters to the international rise of K-pop,” in *K-Pop: The International Rise of the Korean Music Industry*, eds. Jungbong Choi and Roald Maliangkay, (Oxon: Routledge, 2015).

29 L. Leung, “#Unrequited love in cottage industry? Managing K-pop (transnational) fandom in the social media age,” in *The Korean wave: Evolution, Fandom, and Transnationality*, eds. Yoon Tae-Jin and Dal Yong-Jin (NY: Lexington Books, 2017).

users based solely on their proclaimed interest in a group, there has to be a way to create a network that is more specific to one's own preferences and allows them a safe stage on which they can participate. Swan mentions the phenomenon of reaction videos and YouTube, as the receptacle, as one of the means by which fans participate. Through this "user-generated text," fans feel like they are more visible and have created an intimate place on a highly-visited platform where they can be heard and reached out to by other fans.³⁰

Fanfiction, in the same vein, acts as one other hub for fans with more particular interests to gather, and this much is clear from the results of the survey. Almost 50% answered that the "inner circle" of their social media networks was built on similar interests in fanfiction, either partially or completely. Some respondents even admitted that fanfiction has become their primary avenue of interaction with other fans and their most important source of entertainment and contribution in the fandom when idols are not promoting. Leung states that fans are cultural intermediaries, consumers, and creators,³¹ and fanfiction is one of the primary means by which their involvement and participation are elevated. The act of simultaneously adding to the content that the fandom creates and consuming others' works with a similar level of enthusiasm as one would with an idol's releases ostensibly creates a new, more specific sense of unity and belonging with other fans, wherein all participate in perpetuating a core activity within the fandom.

Interestingly, 54% of respondents also said that they have since created some level of distinction between the "fellow fan" and the "fellow writer/reader," which also brings up a different side of community existence—the creation of personally adhered-to hierarchies and the act of distinguishing the "other" from the "self." This is also seen in how fans perceive other consumers of fanfiction; when asked if they believe that fanfiction has affected their image of an idol, 40.5% of respondents strongly disagreed; only 3% agreed. However, when asked if they believe that *others* have been somehow affected by the fiction they read, 65% of respondents agreed to some extent. Many of the answers that elaborated on these responses carried similar if not identical messages that boiled down to "I personally am unaffected by fanfiction given that I know they are real people, but I am also certain that *others* are affected." Who the "others" are is not clear, but fanfiction also appears to be a trigger that delineates "music-focused fans" that only read for entertainment from the supposed, much larger fans that take it too far — who the former would brand as "delulu," a colloquial collective term for those who are unable to separate fanfiction from reality. Lamerichs talks about how even in the context of a shared and agreed-upon narrative, hierarchies can be created: "Media fans have a shared lingua franca and social protocols. However, they also have hierarchies that result in part from

30 A.L. Swan, "Transnational identities and feeling in fandom: Place and embodiment in K-pop fan reaction videos', *Communication, Culture and Critique* 11, no. 4(2018): 548-565.

31 Leung, "Unrequited Love."

their interpretive and creative competences.”³² In creating this distinction through othering, specific fans reinforce their identities to themselves and to their peers in their journey of participation within the fandom.

Conclusion

By no means is this discussion meant to be a comprehensive run-down of all the many roles that fanfiction plays within the K-Pop fandom; if anything, it only serves to highlight the complexity of its role in making fans more participative as they engage in content about and *with* the idols. While fanfiction of fiction serves some similar purposes as that of RPF in K-Pop like in fantasy fulfillment and in bridging gaps in knowledge or addressing criticism or dissent, K-Pop RPF offers specific opportunities that make the experience of engaging in it fairly unique. It serves as a wide space for negotiation in terms of how idols are perceived (as celebrity texts or as real people), and it offers certain image blueprints for the idol and the company that further underscore the involvement of the fandom in creating the idol inasmuch as the idol and the company create the fandom. Finally, it is an avenue for networking and identity formation; through participating in and contributing to the culture of creation in K-Pop, fans find a place within the community that speaks to their more specific interests and tastes. All of this is proof that fanfiction is *key* to the fandom experience, most especially if one is a K-Pop fan; it is not just essential but inevitable, and it acts as a bridge that connects proactive, participating fans to the idols, the industry, and to each other.

32 Nicolle Lamerichs, “Shared Narratives: Intermediality in Fandom,” in *Productive Fandom: Intermediality and Affective Reception in Fan Cultures*, (Amsterdam: Amsterdam University Press, 2018).

INTERVIEW

INTERVIEW WITH MR. KWON CHIL-SEUNG

Mr. Kwon Chil-Seung is a second term Assemblyman in the Republic of Korea. He is from the Democratic Party and represents Hwaseong district. As a member of the Health and Welfare Committee, he has put forth various legislations including legislations on hospital surveillance and the protection of patient's rights. He discusses how COVID-19 has impacted the Committee of Health and Welfare and the protection of patients' rights through legislation.

YJIS: Please introduce yourself and your field of work.

KCS: My name is Chilseung Kwon. I am part of South Korea's Democratic Party and my district is Hwaseong-si B (). Currently, I am a member of the Health and Welfare Committee and I am serving as the chair of the Sub-Committee on Budget.

YJIS: How has the role of the Ministry of Health and Welfare changed during COVID-19?

KCS: Since the early 2000s, infectious diseases like SARS, MERS, Ebola, and swine flu have been threatening humanity. Recently with the outbreak of COVID-19, the Ministry of Health and Welfare has been increasing fiscal and policy support to combat COVID-19.

YJIS: As a member of the Committee of Health and Welfare, have you been impacted by COVID-19 in terms of work or legislation priorities?

KCS: I have been focusing more on public health and welfare policies amid the COVID-19 outbreak. I am currently doing my best to ensure the citizens' right to health that is promised by our national Constitution.

YJIS: What significance does the legislative body hold in pandemic control?

KCS: By conducting legislative activities, Congress serves as a legal support system for the better execution of pandemic control measures. Congress also functions as a financial support system through creating and confirming budgets.

YJIS: You recently introduced a bill to install surveillance cameras in all hospital surgery rooms. What is the significance of this in the protection of citizens and why is this important?

KCS: I co-sponsored the amendment introduced by Congressman Nam-kuk

Kim from the same party. Surveillance cameras in operating rooms can serve as protection against unethical medical practices for patients.

YJIS: How are the rights of the patients related to human rights?

KCS: All human beings are born with rights. Patients, as human beings, are also entitled to these rights. Bodily autonomy, one's right to one's own body, is an example of a right that all humans are born with. As patients have to entrust their body and its diagnosis to doctors, bodily autonomy can be a significant issue. It is important for patients to still have bodily autonomy throughout this process. Ensuring this right is not just up to the patients' effort, but also to the doctors and the government bodies' efforts.

YJIS: The bill seems to have some opposition from certain doctors. What is your response to that argument? How would you guarantee that the rights of medical staff will also be protected?

KCS: Surveillance cameras are already used as defense tools for doctors. Mandating surveillance cameras in operating rooms will increase the public's trust in these cameras so that they can be used to defend both doctors and patients.

YJIS: What advice can you give to those hoping to work in the National Assembly or the legislative body of the government?

KCS: Social issues are rarely ever black and white. They are in the gray area. Therefore, it is crucial to consider all sides of an issue and to approach it from different perspectives. Especially for those hoping to work in government, it is essential to consistently maintain this attitude once cultivated.

GUIDELINES

FOR SUBMISSION

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

PAPERS This section includes feature length articles of original research and must include proper citations. It is this section that showcases compelling and stimulating research that provides a collage of situations and cases. Inclusions should range from 3,000 to 8,000 words.

ESSAYS Dedicated to editorials, recommendations, and reflections, this section includes essays that takes stances on issues and develop sophisticated arguments. Though not limited to a particular theme, these essays can discuss past events, current situations, and future perspectives. Inclusions should range from 1,500 to 3,000 words.

REVIEWS This section focuses on evaluations and reviews of existing arguments contained in essays, articles, and books, in addition to policy reviews. The pros and cons of each argument or policy reviewed should be provided for a broader and more comprehensive understanding of not only the argument, but the situation of the assertion in a greater context. Inclusions should be no longer than 2,000 words.

The following guidelines should be adhered to for all submissions:

1. All submissions must be sent as a Microsoft Word file.
2. Citations should appear as footnotes as per the Chicago Manual of Style, 17th Edition.
3. Pages should not be numbered or marked with the author's name.
4. All submissions should include a proposed title.
5. Papers and Essays submissions should include an abstract of no longer than 250 words.
6. A short author biography should also be included with each submission.
7. Foreign words should be romanized according to the following systems:
 - Japanese: Revised Hepburn
 - Korean: Revised Romanization
 - Chinese: Pinyin
8. American English spelling and punctuation should be used in all submitted pieces.

Submissions that neglect these guidelines will take further time to review and may be sent back to the author for revisions or rejected altogether.

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