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# Social & Political Review

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# Social & Political Review

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# Preface

Welcome to the twenty-second volume of Trinity College Dublin's *Social and Political Review*, or 'the SPR,' as it is more often known. At the time of writing, the United Nations General Assembly has passed a non-binding resolution, sponsored by the League of Arab States, condemning the violence of Bashar al-Assad's regime in Syria. Yesterday in Dáil Éireann, Micheál Martin called on the Taoiseach to re-examine the decision to close Ireland's embassy in the Vatican, whilst in the US, same-sex marriage was signed into law in Washington state on Monday. The European Union, of which most of us hold citizenship, continues to adapt in response to challenges in matters such as economics, social policy and constitutionalism. This is truly a time of great transition.

In January of this year, our annual SPR Panel convened to reflect upon the task of '*Changing Ireland: Shaping Our Future*.' A sense of change is similarly reflected in the articles contained in this year's journal. From the relationship between science and public policy, and the protection of the human rights of sexual minorities, to the Arab Spring and the responsibility to protect under international law, the articles that follow this introduction engage with some of the major transformations taking place in the world today.

Every year, the SPR provides an invaluable opportunity for students to publish their work and acts as a forum for lively debate and discussion of national and international social and political issues. This project would not have been realised, however, were it not for the members of the SPR team, each of whom has given so much of their time, thought and energy to Volume XXII. Thank you. The Departments of Political Science and Sociology at Trinity College continue to support and guide us, and for this we are very grateful. On behalf of the SPR, I would like to extend our thanks to Damien Carr of Trinity Publications, Ursula Ní Choill of the College Historical Society and Bruff O'Reilly for their generosity and kind assistance, without which, things would not have proceeded so smoothly. Thanks must also go to the authors of this year's articles, who represent the wealth of academic talent and social and political engagement to be found in our university.

As the SPR continues to evolve, it is our hope that students of all disciplines will be inspired to embark upon their own investigations and critical analyses of the most pressing social and political issues of our time. The

articles contained in this volume should serve our readers well in this regard. I hope you enjoy them.

Chris Flood,  
Editor-in-Chief  
16th February 2012

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# Tu Ne Cede Malis – Do Not Submit to Evil: The science of happiness and public policy

JOHN ENGLE

SENIOR SOPHISTER

PHILOSOPHY, POLITICAL SCIENCE, ECONOMICS AND SOCIOLOGY

The role of government in facilitating the happiness of its citizens is one that has long been disputed by politicians, philosophers, scientists, and psychologists. For most of human history it has proven nearly impossible to define, let alone quantify, happiness or the effects of public policy on levels of happiness in society. However, in recent years there have been many breakthroughs in the field of neuroscience that have allowed researchers for the first time to consider the real effects of policies on individuals' brain states, peering into people's minds to see what makes them happy. This new science offers not only many potential opportunities for the budding social engineer, but also opens the door to numerous possible pitfalls.

The first section of this article will outline the present condition of the science of happiness. The second will examine the ways in which this science might be put to use by shapers of public policy. Various criticisms of the sci-

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ence of happiness itself will then be discussed. In addition, the problems that can arise from trying to implement public policy based on the maximisation or promotion of societal happiness will be explored. In conclusion, this article will address how the empirical data gleaned from research into the science of happiness might be useful to individual agents in society.

## **THE SCIENCE OF HAPPINESS CONSIDERED**

The science of happiness has become a major area of study among neuroscientists and psychologists in the past two decades. Researchers seek to understand the relationship between neuro-emotional responses and action in order to comprehend what in fact makes people happy. The first hurdle for the researchers of happiness is to determine what they mean by the term ‘happiness.’ The term must have an empirical, quantifiable definition in order for its measurement to be in any way scientific. Social scientists have grappled with this issue for centuries, with philosophers such as Jeremy Bentham and John Rawls describing the measurement of ‘utility.’ (Fleurbaey, 2008) According to both Rawls and Bentham, this utility is a quantification of happiness, which can be aggregated from across society to determine the maximum utility and happiness in society. The means of measuring this utility is never fully outlined by either scholar or their immediate successors. In recent years, however, somewhat more concrete measures have been devised. These consist largely of in-depth analyses of individuals’ neuro-chemical reactions to stimuli through the use of CT scanning and other neurological imaging technology, coupled with extensive surveys of subjective wellbeing. (Klein, 2006, p. 40) Proponents of this pursuit believe that “psychology has finally started to deliver the goods—hard facts about what causes human happiness.” (Miller, 1999) Most of the advocates for the science of happiness agree generally upon a conception of happiness that involves a sense of individual, subjective wellbeing. Richard Layard puts it quite succinctly: “By happiness I mean feeling good – enjoying life and feeling it is wonderful. And by unhappiness I mean feeling bad and wishing things were different.” (Layard, 2003a, p. 1) This is a general definition commonly taken by social scientists in their descriptions of happiness. This relative consensus on definition has in turn promoted discussion of how wellbeing and happiness can be promoted in society as a whole.

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## THE SCIENCE OF HAPPINESS AND PUBLIC POLICY

Armed with what they consider to be a means of empirically measuring individuals' happiness, social scientists have set themselves to the task of determining how public policy might be turned to the cause of promoting happiness in society. The primary aim of public policy, according to Layard (2003b) and Miller (1999), should be to maximise the happiness of everyone in society, particularly prioritising the welfare of the most disadvantaged. This can only be done if one has an understanding of what happiness is. Through rigorous surveys and matching neurological testing, many of these social scientists believe they have homed in on such an understanding. (Kahneman and Krueger, 2006, p. 22) This avowed aim has resulted in a number of policy recommendations.

One of the major recommendations made by these scientists of happiness has to do with wealth distribution. Many social scientists point to the issue that, though they have over time become materially better off, people in Western countries have not over time experienced increases in happiness. As Layard states, "[as] Western societies have got richer their people have become no happier." (Layard, 2003b, p. 3) People seem constantly to acclimate to their economic condition, so that boosts in salary, after a certain point, cease to make much lasting difference to individuals. The result has been a relative constancy in individuals' state of wellbeing over the past several decades, even as standards of living have increased manifestly. One of Layard's most valuable observations is worth considering here. He points out that studies regarding happiness do not simply show a lack of increase in absolute happiness, but also a propensity to experience happiness relative to the state of others. There are two factors at play in this. In absolute terms, survey evidence suggests that happiness ceases to correlate with income growth above a certain level. (*Ibid.*, p. 4) The second factor concerns the issue of relative wealth between individuals and its effect on individual wellbeing: "People also adjust their requirements in response to what other people have. This is the phenomenon of 'keeping up with the Jones' (*sic.*) – or of wishing to outdo them." (*Ibid.*, p. 5) The correct policy to mitigate for these factors, according to the social engineer, is to engage in a process of wealth redistribution far beyond what is conventionally considered palatable in Western capitalist societies. Layard goes so far as to suggest that any income that does not empirically increase an individual's happiness should be redistributed through tax, which will create a "sensible balance between work and leisure." (*Ibid.*, p. 6) This redistribution, social scientists claim, is more socially efficient and pro-

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motes equality, which makes everyone feel happier and more at peace with their own condition. The serious issues that arise from such radical social policy will be addressed at length later in this article.

The second means by which the science of happiness might be employed in public policy is the use of the government and state apparatus to shape people's preferences, 'for their own good.' This influence can be accomplished by using framing devices and choice-map limitation to help individuals make 'better' decisions for themselves. (Sunstein and Thaler, 2003, p. 1159) This public policy methodology of so-called soft, or libertarian, paternalism does not seek to fundamentally alter the social structure, as do the recommendations of Layard and his ilk. Rather, it seeks to build on evidence gathered from behavioural economics and the effects that irrational heuristics have on causing individuals to make suboptimal decisions for themselves. Cass Sunstein and Richard Thaler outline a number of ways in which individuals' choices are often constrained by bounded rationality. Bounds arise, for example, from a lack of information. When people are not in possession of full knowledge, it falls to the State to make what it considers to be the most appropriate choices. Further bounds arise from the issue of Framing. Depending on how a question or set of possibilities is presented to an individual, significantly different choices may be made. (*Ibid.*, p. 1180) The result is that some form of 'paternalism' must always exist, according to this school of thought, since every government service has to frame the choices it presents to consumers in some fashion, inevitably leading to an effect on the end decision. What libertarian paternalism suggests is that by taking advantage of these framing effects, government can, through public policy, affect people's decision-making processes for their own wellbeing. The case of organ donation is particularly telling with regard to these effects. Many countries in continental Europe operate under a system of presumed consent, meaning people can opt out of being organ donors, but are otherwise considered as having consented. The United States on the other hand operates a system of opt-in organ donation. The results are startling, with 90 percent of people remaining organ donors in countries with opt-out systems, while only 28 percent of people choose to opt-in under the US model. (*Ibid.*, p. 1192) This statistical fact finds itself as a centrepiece in much discussion of soft paternalism. Paternalists can make a compelling case that there are ways by which government can, through the way it carries out public policy and frames choices, actively benefit society and promote general welfare.

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## PROBLEMS WITH THE SCIENCE OF HAPPINESS

However, the very concept of a 'science of happiness' is deeply flawed. This section will detail why this is the case. First, the concept of happiness itself is a rather ambiguous one, one that continues to thwart any genuine consensus:

The views of prominent happiness scholars fail spectacularly to converge on a single conception of happiness that could be used as a standard for the evaluation of institutions and public policy.  
(Wilkinson, 2007, p. 13)

Philosophers continue to debate how happiness might be measured, and whether happiness can be measured at all or if it is the product of the purely subjective experience of the individual. Some psychologists and social scientists put great store in surveys of subjective wellbeing. Yet, these must always be imperfect and incomplete pictures because of the two basic problems of all surveys: respondents may not give genuinely accurate answers and the questions may not be exhaustive enough to constitute an accurate list. However, more pertinent is the fact that happiness itself may not be purely quantifiable as hedonic utility: "Surveys are fairly blunt instruments for probing into people's psyches." (*Ibid.*, p. 5) As soon as happiness becomes something unquantifiable, the concept of a science of happiness breaks down, since it no longer has a foundation.

The second major issue facing any effort to identify and explore a science of happiness is the incompleteness of our understanding of the human brain, upon which much of the 'science' of this subject relies. While the human brain is ever more thoroughly understood by scientists, it remains in many ways a black box. To suggest a full understanding of how the pleasure centres of the brain respond to different stimuli is misguided at best and hubristic at worst. Furthermore, present understanding of neuroscience in many ways undermines the claims of Layard *et al.* that to be happy is to feel various kinds of good, while unhappiness is to feel bad and to desire change of state:

[N]euroscientific studies have established that good and bad feelings do not exist on a single continuum – an increment of pleasure does not cancel out an equal increment of pain – and it is possible to feel happy and sad simultaneously.

(*Ibid.*, p. 11)

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The third, and perhaps most important, problem with a concept of a science of happiness is that happiness is something that is necessarily, even with all the surveys and brain scans now available to researchers, a personal experience. Efforts to amalgamate individuals' utility functions, as in the case of trying to determine the economic wellbeing of individuals, have proven notoriously difficult in historical analysis and contemporary survey. (Koberling, 2006, p. 375) This difficulty arises because individual utility and happiness is an ordinal concept, not a cardinal one. Therefore, it is impossible to aggregate quantities of happiness across individuals since even now, "there is no means of comparing and measuring the happiness of different people and of the same people at different times." (Mises, 1949, p. 617) This conclusion is borne out nearly universally in economic studies. Social scientists have thus sought to revive a concept of cardinal happiness without due consideration of the wealth of criticism already levelled against its conception.

## **PROBLEMS WITH A PUBLIC POLICY OF HAPPINESS**

There are very grave problems facing any effort to employ the science of happiness in shaping public policy. The first and most obvious is the problem inherent in the conceptualisation of understanding happiness as a science. Happiness is not a concept fully understood or definitively agreed upon by philosophers, or indeed most individuals. What makes people happy is deeply subjective, and thus any effort to use the apparatus of the State to increase societal happiness is wrongheaded.

The power of choice is one often forgotten by the proponents of activist social policies, and even decried by supporters of paternalist choice-framing of all stripes. When one has the ability to choose for oneself, unconstrained by state intervention, then one is truly free; free to seek one's own happiness and concept of the good life. At the most basic level, the State should have no right to tell people what it is to be happy since, "[men] cannot be made happy against their will." (Mises, 1929, p. 46) To do so far oversteps the remit of government. Furthermore, when the State intervenes to the extent to which Layard *et al.* desire, it opens the floodgates to abuse. The government that they would have actively intervening in people's lives is composed of fallible men and women. Politicians, bureaucrats, and technocrats are all human and susceptible to the same pressures and temptations as other mortals. Government is always a frightening thing to empower: "For millennia, governments have abused their control over the tools of violence. The historical track record insists that we treat any governmental intervention warily." (Glaeser,

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2007) The State is a dangerous thing to put one's faith in. To give government the power to tax heavily on the grounds of 'increasing societal happiness' awards the State a vast capacity for abuse and misuse of this mandate. Even when considering the seemingly more moderate proposals of Sunstein and Thaler, the risk of the State overstepping remains very real. When the State has the power to say people cannot make adequate choices for themselves, it gains a dangerous amount of power in shaping social policy for people's 'own good,' irrespective of whether they actually want it. In creating an opt-out rather than opt-in system of organ donation, for example, the State has effectively claimed default possession of the individual's body. Even if more organs might be harvested for good use, it does not make the concept of such a claim of physical ownership of a human person any less repugnant or worrying. (Locke, 1689, p. 126) Thus, soft paternalism can, at times, be even more dangerous than the more sweeping claims of Layard. As a result of its own claims of moderation, soft paternalism hopes government too will be moderate in its use of power. History, however, has shown government behaviour to be quite often the opposite.

Even if a science of happiness were devised that was precise and possible to implement, as a matter of ethical principle it would be unjust to do so. Even if it were not dangerous to give so much power to government as a policy of promoting happiness would entail, it would still be unjust because it would be a fundamental erosion of individual liberty. Surely it is better that people have access to their own freedom of choice than for their happiness to be catered for by the dictate of an external force. Wellbeing, simply put, is not the business of government. The business of government is the maintenance of security and the provision for basic needs. A paternalist nanny state is an insult to human self-reliance, and a significant revision of the social contract, as it is understood by most civil societies. What the giving up of the individual's core role in the derivation and location of personal happiness actually is, is a collapse of the individual as a creature of reason, as a being capable and worthy of autonomous action. Layard seems happy to claim the produce of humans' effort as the bounty of the State to be dispersed as it sees fit, to those it deems most worthy of its largesse. That is the very nature of the parasitic state, taking that which does not belong to it and then demanding more:

There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more.

(Nozick, 1974, p. 33)

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Such dangerous public policy as the science of happiness propagates should never find support from a free society.

## CONCLUDING THOUGHTS

It is clear that the science of happiness has progressed a great deal in recent decades and has made some significant findings regarding the understanding of neurological states associated with positive and negative emotion. However, it is also clear that this field is new and unproven, and its credentials as a science seriously doubtful. This article has demonstrated thus far that the science of happiness is unfit for use in the shaping of public policy. This lack of fitness does not mean, however, that the empirical data collected by social scientists in their effort to understand what makes people happy is without application. Rather, it can be most useful to individuals seeking to understand their own preferences. It can also serve to aid in the process of self-reflection, which is necessary for people to determine and understand what actually makes them happy. In this sense, happiness research is just one more piece of information available to aid people in their decision-making process. Without the coercion of a state apparatus, the science of happiness, when treated with the appropriate caution and dubiousness, might prove most useful to the curious person of introspection. Ultimately, life is a pursuit of happiness. Individuals can only embark upon that pursuit when their ability to choose is intact. Government intervention on the grounds of increasing happiness will only hamper, or even destroy, that power of choice. The best government policy is thus one that respects free choice and acknowledges the power to find one's own happiness, remembering Mises' admonition:

If a man drinks wine and not water I cannot say he is acting irrationally. At most I can say that in his place I would not do so. But his pursuit of happiness is his own business, not mine.

(Mises, 1936, p. 405)



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# The role of mandatory nutrition labelling in combating obesity in the EU

ALISON FYNES SCH

SENIOR SOPHISTER

LAW

The last three decades have witnessed a stark rise in obesity rates throughout the European Union (EU). (EU Commission, 2007, p. 2) The World Health Organisation has deemed this worrying surge “a global epidemic of overweight and obesity.” (WHO, 2003, p. 3) The organisation has indicated that obesity is now as pressing an issue as malnutrition. (*Ibid.*) In response, the EU has initiated a number of actions aimed at tackling obesity and “enabling citizens to lead productive lives well into old age.” (EU Commission, 2005, p. 4)

This article will assess the EU’s most recent attempt to combat obesity: Regulation 1169/2011 on the Provision of Food Information to Consumers. It will be argued that the regulation’s introduction of mandatory nutrition labelling represents a significant improvement on the prior voluntary nutrition labelling model which presently operates, and will continue to operate within the EU, until December 2016. (Regulation No. 1169/2011, Article 55)

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This article will first outline the extent of the obesity problem in the EU and the ineffectiveness of the voluntary scheme in terms of obesity prevention. It will then go on to address the merits and demerits of mandatory nutritional labelling and suggest a number of potentially problematic issues. A dual approach, which considers the impact of nutrition labelling from both consumer and food industry perspectives, will be used. In conclusion, it will be argued that although mandatory labelling alone will not solve the obesity crisis, it is an important step in the right direction.

## **VOLUNTARY NUTRITION LABELLING**

Global estimates indicate that approximately 1.5 billion people aged 20 or older were overweight in 2008. (WHO Fact Sheet N°311) The average Body Mass Index (BMI) for a Caucasian population rests between 18.5 and 25, with optimal levels in the range of 21-23. (Garde, 2010, p. 2) A BMI of or in excess of 30 constitutes obesity and 40 or beyond constitutes morbid obesity. (WHO, 2000, p. 9) Obesity has been deemed a 'multi factorial' problem, with no single factor responsible for its prevalence. (Garde, 2010, p. 59) However, a shift in diet, from largely plant-based foods to those which are high in fat and energy dense, coupled with a decrease in physical activity, have been earmarked as key catalysts in the global obesity crisis. (WHO, 2003, p. 6) There also exists a socio-economic dimension to obesity, namely the fall in the price of unhealthy foods and the rise in the price of fruit and vegetables, meaning that low income families are often unable to afford to eat healthily. (Garde, 2010, p. 13)

Obesity is a risk factor for numerous diseases and chronic illnesses, including cardiovascular disease, certain cancers, type 2 diabetes and stroke. (EU Commission, 2007, p. 2) The increase in obesity rates among children is of particular concern. (International Obesity Task Force, 2005, p. 3) It is estimated that one in five European children is overweight and that a further 400,000 children are becoming overweight each year, adding to the 14 million children already overweight. (*Ibid.*) Not only are many obese and overweight young people destined to become obese and overweight adults, but they are also developing 'diseases of old age,' such as those listed above. (*Ibid.*) The development of type 2 diabetes in children is indicative of the scale of the epidemic. It is only in recent years that this disease has affected children and it is thought to be solely attributable to the increase in obesity rates. (Garde, 2010, p.6)

Obesity also has an economic dimension. It is estimated that overweight

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and obesity account for 7 percent of healthcare costs in the EU. (EU Commission, 2005, p. 4) The direct costs include treatment costs, such as hospital admissions, consultations and drugs prescribed to help obese patients lose weight. (Garde, 2010) In 2007, diseases for which a high BMI is a risk factor cost the UK National Health Service (NHS) approximately £7.4 billion and £4.2 billion of this sum was directly related to overweight and obesity. (*Ibid.*) The indirect financial implications of obesity include sick leave, lower productivity and lower output. Such indirect costs were estimated to account for £2 billion and 18 million sick days in the UK per annum. (Garde, 2007, p. 378) The total direct and indirect costs of obesity in the EU have been estimated to amount to €32.8 billion per annum. (*Ibid.*)

Prior to the 2011 regulation, two directives were responsible for regulating the information which had to be conveyed to consumers. Directive 2000/13 (the Food Labelling Directive) was concerned with the labelling, presentation and advertising of foodstuffs and Directive 90/496 (the Nutrition Labelling Directive) regulated nutrition labelling. The Food Labelling Directive required a list of all product ingredients to appear on the label. While ingredient lists may aid the consumer in making healthy choices, it is fair to say that this provision has not stymied the obesity surge. Nutrition labelling, defined as

any information appearing on labelling and relating to energy value; the nutrients, protein, carbohydrate, fat, fibre and sodium; vitamins and minerals listed in the Annex and present in significant amounts as defined in that Annex,

is, until December 2016 (Regulation No 1169/2011, Article 55), only mandatory if a nutrition claim is made “on labelling, in presentation or in advertising.” (Directive 90/496, OJ 1990 L276/40, Article 2) It is important to note that this directive was not enacted with the aim of tackling the obesity ‘pandemic’ (Garde, 2010, p. 1) and thus its utility in this regard has been limited. A number of aspects of the pre-2011 scheme, which rendered it ineffective in obesity prevention terms, will be considered.

## THE CONSUMER PERSPECTIVE

A common thread in EU consumer policy is the notion that ‘prevention is better than cure.’ (Garde, 2007, p. 379) This has been interpreted to mean that while an individual is primarily responsible for his or her own health,

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only an informed consumer is in a position to make rational choices. (EU Commission, 2007, p. 3; Wandel, 1999, p. 212; Byrd-Bredbenner, 2000, p. 615) It is argued that consumers do not receive sufficient information under Directive 90/496 to make rational choices. Commentators have indicated that consumers are exhibiting a growing interest in nutrition and healthy living (Food Safety Authority, 2009, p. 6), yet research has shown that large numbers of consumers fail to understand nutrition information. (Cowburn and Stockley, 2005, p. 129) Problems of comprehension may be explained by both complex nutrition labels and a lack of general knowledge on the consumer's behalf. (Shine *et al.*, 1997, p. 286) The lack of clarity provided by Directive 90/496 has rendered it an ineffective anti-obesity mechanism.

A further problem which has arisen as a result of the 1990 Directive is the diversity of nutrition labelling approaches which have emerged. The extent of nutrition labelling presently varies within each EU Member State. Many food operators voluntarily supply nutrition information. (Health and Consumer Protection Directorate General, 2006, p. 7) For example, it is estimated that approximately 80 percent of pre-packaged foods contain nutrition labels in the UK, compared with 30 percent in Greece. (Ranilovic and Baric, 2011, p. 110) This contributes to consumer confusion. Those products containing nutrition labels may erroneously be considered a healthier option than products lacking such labels, or vice versa. The failure of the 1990 Directive to provide uniformity illustrates its ineffectiveness in the fight against obesity.

## THE FOOD INDUSTRY PERSPECTIVE

The voluntary nature of Directive 90/496 provides food operators with a considerable degree of flexibility. Many food operators provide nutrition information on their products. The provision of such information may be viewed as an acknowledgement on behalf of food operators of the role which private actors can play in combating obesity. More cynically, the voluntary provision of such information may be regarded as a promotional tool. (Muchna, 2006, p. 154) The impact which nutrition claims can have on sales was illustrated by the Kellogg's All Bran campaign in the 1980s. Sales increased by 47 percent in a six month period as a result of health claims made by the company. (Nestle, 2007, pp. 240-242) Indeed, it has been found that the provision of voluntary nutrition labelling is less likely on those products possessing negative qualities such as high levels of sugar or fats. (Impact Assessment Report on Nutrition Labelling Issues, 2008, p. 15) It is undesirable that Directive 90/496 facilitates the concealing of negative

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product characteristics.

It may be concluded from the outline of the voluntary labelling scheme that it contributes little, if anything to the prevention of obesity. As noted above, it is vital that consumers receive adequate information to enable them to make informed decisions in relation to food consumption. However, voluntary nutritional labelling has not always provided consumers with this information and when it has, there have been significant comprehension difficulties. Products which carry nutrition information tend to be overly complex and nutrition labelling schemes vary from one Member State to another, resulting in consumer confusion. Thus, Article 9 of the 2011 Regulation, introducing mandatory nutritional labelling is welcome from an obesity prevention strategy point of view.

## **MANDATORY NUTRITION LABELLING**

In October 2011, following a 2008 Commission proposal (Proposal for a Regulation on the Provision of Food Information to Consumers, Com (2008) 40), Regulation 1169/2011 of the European Parliament and Council on the Provision of Food Information to Consumers was published. One of the objectives of the regulation is to enable consumers to make “informed choices and to make safe use of food.” (Regulation No 1169/2011, Article 3(1)) Its most striking aspect is the introduction of mandatory nutrition declarations. (Hagenmeyer, 2008, p. 65) Mandatory nutrition declarations are required to include energy value, the amounts of fat, saturates, carbohydrates with specific reference to sugars, and salt. (Regulation 1169/2011, Article 9) A number of contentious issues arising from the regulation will be considered.

## **THE CONSUMER PERSPECTIVE**

Numerous consumer surveys have indicated that consumers are eager for food labels to contain more information (Health and Consumer Protection Directorate General, 2006, p. 9) , but there exists a danger that the regulation could result in “information overload.” (Leible, 2010, p. 324) A paradox is apparent. While consumers desire more information and more complete nutrition lists, providing too much information is counterproductive. (Food Labelling Group, 2002, p. 11) Research has shown that less information is beneficial to the consumer. (Hagenmyer, 2008, p. 67) Currently many consumers do not understand the eight and four line tables provided voluntarily on some products. (*Ibid.*) As the majority of voluntarily

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labelled products provide information in relation to four nutrients (Impact Assessment Report on Nutrition Labelling Issues, 2008, p. 46), the Article 30 requirement of a mandatory seven-line table will not address this problem. Bombarding consumers with excess information will increase consumer confusion. (Leible, 2010, p. 324)

Consumer requests for more information may be interpreted as requests for simplified and understandable nutrition information. The regulation would benefit from an accompanying education scheme. Research has consistently shown that consumers are lacking in the requisite knowledge to interpret nutrition information. (Food Labelling Group, 2002, p. 24) A dual approach, encompassing mandatory nutrition declarations coupled with a public education scheme would be welcome. However it is important to note that the limits of Union competences are governed by the principle of conferral.” (Article 5 (1) TEU) The EU is limited in the approach it may adopt in terms of formulating education policy. However, in light of Article 168 (1) TFEU, a public nutrition education campaign would be permissible. In addition, such a campaign might increase the number of consumers who meet the onerous threshold of the average consumer. (The Court of Justice of the European Union assumes that the average consumer is reasonably well informed and reasonably observant and circumspect. *See Case C-220/98 Estée Lauder* [2000] ECR-117)

A nutrition declaration will not be required for a number of foods listed in Annex V of the 2011 Regulation. The rationale behind these exclusions is “to avoid unnecessary burdens on the industry.” (Com (2008) 40) However, it is unclear why alcohol beverages have been exempted from the scheme. The Commission, in its 2008 proposal defended this exclusion on the basis that appropriate legislation is already in existence mandating the substances which can be used and the conditions of use of these products. (*Ibid.*) This line of reasoning has been criticised as unconvincing. Alcoholic beverages contain a high number of calories per 100ml and if obesity is to be successfully reduced, consumers ought to be made aware of this. (WHO, 2011, pp. 128-129) However, the 2011 regulation requires the Commission to produce a report within 3 years of the entry into force of the regulation concerning the application of the requirements to provide information on ingredients and nutrition information to alcoholic beverages. (Regulation 1169/2011, Article 16 (4)) While a welcome provision, this delay seems unwarranted and is indicative of the strong lobbying powers of the drinks industry at EU level. One may doubt the likelihood of the reduction in force of this lobby within the next three years and subsequently the likelihood of the imposition of manda-



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tory nutrition labelling on alcoholic beverages in the future.

At first glance a key advantage of the regulation for the consumer is the presence of an EU-wide approach. However, the regulation permits Member States to consider additional mechanisms for conveying information beyond mandatory nutrition declarations. Thus, Member States may utilise voluntary labelling schemes such as the traffic lights system in conjunction with compulsory nutrition declarations, provided “they are sound and based on scientifically valid consumer research.” (Regulation 1169/2011, Article 35) This is unlikely to provide consumer clarity. A European Heart Network survey in 2007 (European Heart Network, 2007) indicated that consumers were unable to differentiate between a variety of healthy eating schemes. (O’Rourke, 2008, p. 305) O’Rourke indicates the likelihood of similar confusion resulting from a diverse range of voluntary national schemes. (*Ibid.*) It is suggested that the EU has passed up a valuable opportunity to streamline voluntary labelling schemes and in the process take a step towards combating obesity.

## THE FOOD INDUSTRY PERSPECTIVE

The Health and Consumer Protection Directorate General in their 2006 report recognised the potentially “adverse affects” which mandatory nutrition labelling could have on small and medium enterprises in terms of costs. (Health and Consumer Protection Directorate General, 2006, p. 7) However, the regulation attempts to temper this issue, through the use of extended transition periods. Research prior to the introduction of the regulation indicated that a three year transitional period would significantly reduce costs by 94 percent in comparison with immediate implementation, and a five year transition period would allow most companies to amend their labels during the course of the normal labelling cycle. (Impact Assessment Report on Nutrition Labelling Issues, 2008, p. 39) The regulation thus adopts a five year transitional period in relation to mandatory nutritional labelling which should reduce the cost implications for small and medium sized enterprises. (Regulation 1169/2011, Article 54)

The regulation provides that in addition to the nutrition declaration per 100g or per 100ml, information may be expressed per portion as quantified on the label, provided that the number of portions contained in the package is stated. (Regulation 1169/2011, Article 33) This provision may be damaging for food operators, as it could lead to “a loss of comparability where manufacturers market different portion sizes.” (Hagenmeyer, 2008, p. 169) Hagenmeyer illustrates the potential for confusion using the example of 600ml ice

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cream packets which may be sold either as 20 portions of 30ml or 30 portions of 20ml, where the latter would be rated as containing considerably lower amounts of fat, sugar and energy per portion. (*Ibid.*) The resolution of this issue demands a balance to be struck between flexibility to facilitate the food operator and rigidity to prevent consumers being misled. A more positive indirect effect of the regulation is that that food operators may be encouraged to reformulate their products in light of mandatory nutrition declarations in order to achieve higher sales in a health conscious EU. (EU Commission, 2007, p. 7)

## CONCLUSION

It has been stated that “no one is forced to eat or drink anything, particularly if they feel insufficiently informed” about its characteristics. (Hagenmyer, 2008, p. 171) However, consumers are arguably indirectly forced to consume products which they may not wish to, as a result of lack of information or lack of understanding. Further, commentators have argued that as obesity continues to escalate despite the voluntary provision of nutrition labels on many products, mandatory nutrition declarations will also fail to alter consumer habits. (*Ibid.*) It is acknowledged that nutrition labelling cannot single-handedly redress the obesity crisis. (WHO, 2011, p. 338) However, it is submitted that mandatory nutrition labelling is an important step in the overall EU anti-obesity strategy. Coupled with consumer education, it is hoped that the EU may make some headway. From a consumer perspective, the objectives of the 2011 Regulation are to be welcomed. However, it is suggested that if the EU is serious about combating obesity, regard ought to be had to a number of potentially troubling provisions. Reassessing the amount of information required by nutrition declarations, introducing consumer education policies, removing the alcoholic beverages exception and adopting an EU-wide approach to voluntary labelling schemes would render the regulation more effective.

From the food industry perspective, this regulation will entail significant change and a certain degree of expense. However, the transitional implementation of mandatory nutritional labelling will ensure that implementation costs remain as low as possible. It has been stated that the overall costs incurred in implementing mandatory nutrition declarations would be easily outweighed by savings in healthcare costs, should obesity rates decline. (Garde, 2007, p. 381) Although this is unlikely to be sufficient consolation to the food industry, it is suggested that the goal of eradicating obesity trumps

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the cost issue. In conclusion, despite its deficiencies, Regulation 1169/20 represents a step in the right direction in the fight against obesity in the EU.

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# Explaining the development of social policy at the EU level

JOSEPH CURRAN

SENIOR SOPHISTER

HISTORY AND POLITICAL SCIENCE

Scharpf claimed a “political decoupling of economic integration and social-protection issues ... characterized the real process of European integration from Rome to Maastricht.” (Scharpf, 2002, p. 646) This article seeks to explain EU-level social policy development, both in terms of the nature of policies pursued, and how they have been formulated. It will argue that EU Member States have prioritised economic integration above harmonisation of traditional social policy and this has influenced both the extent of the EU’s formal competence and the nature of its provisions. While intergovernmentalism can explain some of this development it cannot account for all aspects and it will be seen that supranational governance and neofunctionalist theories are also useful. Although recent evidence suggests a reassertion of national control in the social policy field, it will be argued that past decisions affect the options available to both Member States and EU-level institutions, and that the concept of ‘path-dependence’ is helpful when considering the development of EU-level social policy as a whole. (Pierson, 1996, p. 131-150) The reasons Member States have prioritised

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economic rather than social harmonisation and how this has affected social policy development will first be considered. The success of different theoretical approaches in explaining this process will then be discussed. Particular attention will be given to the policy areas of health and employment equality. These examples will allow the dynamics of EU-level social policy development to be appreciated.

## ECONOMIC PRIORITIES

The Treaty of Rome focused on economic issues, mentioning only a few social policy concerns like equal pay for men and women and workplace health and safety. (Bache and George, 2006, p. 115, p. 364) The Single European Act (SEA) and the Maastricht Treaty contained provision for enlarging social policy competence but this was relatively limited compared to plans for market integration and monetary union. (Young, 2010, pp. 113-115; Hodson, 2010, pp. 161-162; Leibfried, 2010, pp. 258-261) The Treaty of Amsterdam gave more attention to social issues but this led some to characterise it as less important than other treaties which were seen as doing the EU's 'real' work, while the Nice and Lisbon treaties contained few social provisions. (Bache and George, 2006, pp. 185-188; Falkner, 2010, p. 279) Thus formal social policy competence was limited. (Falkner, 2010, pp. 277-278)

It has been argued that this economic focus occurred because producers can organise more easily than consumers or workers and thus the demand for EU-level economic policy was articulated more successfully than social concerns. (Stone Sweet and Sandholtz, 1998, p. 15; Hix, 2005, p. 264) While the size of the business lobby in Brussels suggests their influence should not be underestimated (Chari *et al.*, 2010, pp. 47-48), limited EU-level social policy competence does not necessarily mean those responsible were 'anti-social protection.' Some governments opposed common policies because they feared dilution of their national standards. (Kvist and Saari, 2007, p. 239; Smismans, 2005, p. 237) For example, when negotiating the Charter of Fundamental Rights, they specified a right to medical treatment but this was to be delivered "under the conditions established by ... national laws and practices." (Hatzopoulos, 2005, p. 111) This stance can be partly explained by the diversity of member state social policy regimes. This variety, especially regarding health and welfare benefits, would make harmonisation very difficult and hence would not be expected to be a major goal of Member States. (Scharpf, 2002, pp. 650-651; Nugent, 2010, pp. 342-343)

Focusing on economic integration while attempting to keep social issues



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a domestic concern not only prevented development of an EU-level welfare state but also influenced the type of measures that were pursued. (Majone, 1993, pp. 162-168) The Treaty of Rome's provision regarding equal pay for men and women was agreed not primarily for normative reasons, but as a concession to France which already had such laws and feared they would be at a competitive disadvantage unless others also adopted them. (Bache and George, 2006, p. 364) EU-level employment equalities legislation and measures such as allowing migrant workers access to benefits were initially designed to aid economic integration and growth. Providing a 'safety-net' for migrants would encourage free movement of labour, while preventing discrimination against women can be seen as an attempt to harness every worker's potential. (Falkner, 2010, p. 277; Annesley, 2007, p. 200; Hatzopoulos, 2005, pp. 128-129) These might be considered 'social regulatory policies' as they focus on lifting barriers to economic change rather than granting the redistributive benefits associated with traditional welfare states. (Majone, 1993, p. 168) The Common Agricultural and Cohesion Policies are redistributive but these differ significantly from traditional social policy. (Falkner, 2010, p. 276) Increased competence in areas less obviously related to market integration, like regulation of working hours or pay (with the exception of equal pay issues) were either introduced much later or excluded from the EU level.

Significant increases in social policy competence did not occur until the 1980s. Although the Social Protocol covered a number of issues, most of those for which Qualified Majority Voting (QMV) was allowed were regulatory in nature while issues regarding wages or strikes were not included at all. (Chari and Kritzinger, 2006, pp. 153-155) It might be argued that this belated increase in competences indicated some desire for social policy harmonisation but there is evidence to suggest that the Social Protocol's measures were introduced in order to make European Monetary Union appear more attractive rather than as an end in itself. (Lange, 1993, p. 27)

## **NATIONAL GOVERNMENTS VS. SUPRANATIONAL ACTORS**

These examples may suggest social policy development can be explained using intergovernmentalist theories which portray Member States as the most important actors in EU-affairs. (Pollack, 2010, p. 19) The agreements discussed were negotiated by Member States that all had the right to veto proposals, and so the agreements presumably reflect their preferences. (Moravcsik, 1999a, pp. 298-299) Intergovernmentalism can even be used to explain situations where Member States agreed to social policy developments

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which initially seem to their disadvantage. Lange suggested states with lower social standards agreed to extend QMV to regulation of some of these areas, even though this damaged them competitively in the short-term, because they could be compensated with side-payments which if nothing else would decrease domestic pressure on them, allowing time for the policies to work to their long-term advantage. (Lange, 1993, pp. 17-25) Thus even in this case, policy formation can be presented as controlled by, and reflecting the preferences of, Member States.

Intergovernmentalists claim that Member States maintain control over EU policy-making and are aware of the consequences of their actions. (Hix, 2005, p.16; Moravcsik, 1999b, pp. 490-491) However, some EU-level social policy developments happened in ways national governments did not intend and in these cases supranational governance and neofunctionalist theories are more valuable. A good example is health policy, where, although official EU competence is limited (Greer, 2008, p. 219), the application of rules dealing with market integration by institutions such as the Court of Justice of the European Union (CJEU) have impacted significantly on Member States. (Hervey, 2005, p. 325) Changes to the Working Time Directive (WTD), a market-related piece of legislation, in 2002 put limits on junior doctors' working hours, and judgements of the CJEU defined these to include time spent on call, even if asleep. (Greer, 2006, pp. 140-142) This was not intended by national governments who estimated it would play havoc with their budgetary plans. As Greer points out, this was an example of what neofunctionalists call 'spillover,' in which rules on an area of established EU competence were applied in such a way as to impact on matters where the EU had little formal responsibility i.e. the running (and financing) of Member State health services. (*Ibid.*)

The CJEU, applying regulations relating to the single-market in *Kohll* and *Decker*, ruled national governments had to reimburse citizens for certain health services obtained in another Member State without prior permission, even if the same services were provided in the Member State of origin. This again directly imposed upon a national government in the running of its health service. (Hatzopoulos, 2005, pp. 128-129) It is clear that social policy development has been influenced by the CJEU in ways that Member States were not expecting. Therefore in these cases, supranational governance theories, which stress the role of such supranational institutions, would seem to provide a better explanatory framework than intergovernmentalism. (Chari and Kritzinger, 2006, p. 41)

Neofunctionalism and supranational governance claim the demand cre-

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ated by transnational civil society, for action at the EU level, can help increase EU competence in new areas. (*Ibid.*; Stone Sweet and Sandholtz, 1998, p. 2) This may have happened regarding healthcare, where relevant interest groups like health-sector trade unions established offices in Brussels in order to influence policy-development. (Greer, 2006, p. 148) It may also help explain “the silent revolution to promote anti-discrimination in the treaties.” (Leibfried, 2010, p. 263) While all Member States must agree to the treaties, some resulting changes seem difficult to explain from a purely intergovernmentalist viewpoint. It is not completely clear why the provisions of 1970s gender equality directives were more stringent than the national laws of almost all Member States or why governments later agreed to place the burden of proof in discrimination cases on employers, which was not the case in most domestic legislation. (Hix, 2005, p. 260) It is possible that unhappy Member States could have been compensated by deals on other issues but it is still surprising that EU standards tended to be set above national ones. (Moravcsik, 1999b, pp. 8-10) Another possibility is that women’s rights groups played a significant role by creating a demand for new EU-level competences. (Bache and George, 2006, p. 364; Pierson, 1996, pp. 150-151)

Earlier developments in employment equality legislation also seem to have encouraged other interest organisations, like those desiring legislation prohibiting discrimination against the disabled, to lobby Brussels. (Quinn, 2005, pp. 300-301) The nature of the language used in EU directives on employment equality for disabled people suggests they have been influenced by ideas promoted by disability interest groups. (*Ibid.*, p. 287-304) This might be interpreted in a neofunctionalist light with equality legislation relating to one group creating a demand for its extension to others. (Pollack, 2010, p. 18; Pierson, 1996, p. 151) EU supranational institutions have also been influential. The CJEU’s broad definition of indirect employment discrimination on the basis of gender expanded the EU’s competences in this area. (Sohrab, 1994, pp. 267-268) This again suggests that supranational governance may be more useful than intergovernmentalism for explaining social policy development in certain cases.

## THE IMPORTANCE OF HISTORY

Does this imply the focus of Member States on economic integration as set out in the treaties has had less impact on social policy development than suggested above? It still had a significant effect on the type of policies pursued, even in areas where EU-level activity was unexpected. The concept

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of 'path-dependence' is useful here. (Stone Sweet and Sandholtz, 1998, p. 22) It has been used to show how national governments' choices are restricted by past developments, especially the activities of supranational actors (*Ibid.*) but it can also be applied to supranational institutions themselves. If Member States find it difficult to completely alter the trajectory of EU policy development due to 'lock-in' effects of earlier decisions, agreements between national governments can also be considered 'critical junctures' shaping future policy formation. (Pierson, 1996, p. 146; Hall and Taylor, 1996, p. 942)

As has been seen, many EU-level social policy developments have resulted from the application of single-market legislation. Moves towards employment equality have generally been pursued using provisions relating to economic development. (Millns, 2007, p. 233) Political actors who wanted to extend EU competence in relation to working conditions more generally had to work within the existing treaty base and frame them as health and safety concerns, which, being considered single-market issues, could be decided by QMV. (Majone, 1993, pp. 156-157; Falkner, 2010, p. 278) This allowed legislation to be agreed upon but also restricted what could be achieved, as it had to be possible to demonstrate that new laws had some health and safety impact. (Rhodes, 2010, p. 289) Likewise it might be argued that *Kohll* and *Decker* increased patients' rights but were possible because they happened to relate to single-market issues. Social policy has developed in ways Member States may not have expected. However, supranational institutions were not given free rein; social policy competences have been extended using the tools provided in the treaties, which means that changes have often related to regulatory rather redistributive issues. (Caporaso, 1996, p. 39)

The above examples show how supranational and transnational actors have influenced social policy. However, the development of EU-level competence is not a deterministic process, with supranational institutions inevitably destined to increase their power. (Hix, 2005, p. 15) Actors' influence has oscillated over time. (Tsebelis and Garrett, 2001, pp. 358-359) Member States may recently have regained some control over social policy developments (Chari and Kritzinger, 2006, pp. 156-157; Rhodes, 2010, p. 298); their prevention of the Commission's attempts to further liberalise the health-market in 2008 might be considered a reassertion of Member State authority. (Lamping and Steffen, 2009, pp. 1371-1372) The Open Method of Coordination (OMC), which has been introduced into some social policy areas, including employment, health and long-term care, also suggests this. It uses 'soft law' methods like 'naming and shaming' rather than legislation and there are no concrete plans to develop harmonised EU-level policies from the process. (Hix, 2005,

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p. 247; Mosher and Trubek, 2003, pp. 63-64; Smismans, 2005, pp. 217-219; Greer, 2008, p. 228)

Thus, although difficult to judge at this early stage (Falkner, 2010, p. 286), social policy may be developing in a way that hinders further EU-wide initiatives. Employment equality policies may now be less likely to be developed at EU level than framed at the national level under the European Employment Strategy. (Mailand, 2008, p. 355-359; Rubery, 2002, p. 505) Nevertheless, Member States' decisions continue to be affected by past EU-level events. (Hix, 2005, p. 17) For example, although Member States were unhappy with the WTD's provisions regarding junior doctors, they did not automatically scrap them. Instead, a consultation process was set up. However, amendment has not yet occurred, indicating that governments still find it difficult to alter past decisions that are not to their liking. (Greer, 2008, pp. 224-225, European Commission, 2011)

While OMC may be preventing the enactment of further EU-level gender equality legislation, national governments must still accept the existing acquis, and given the difficulty of legislative change (Greer, 2008, pp. 224-225), it seems very unlikely that existing equality provisions would be scrapped, especially considering the level of opposition that could be mobilised by interest groups. (Pierson, 1996, p. 151) This indicates that national governments, even if they have reduced the proportion of new social policy measures that are introduced through binding provisions at EU level (Chari and Kritzinger, 2006, pp. 156-157), they, like supranational institutions, have to deal with past decisions that continue to affect the nature of EU-level social policy.

## CONCLUSION

Member States' desire to maintain control over most areas of social policy has affected not only the number of issues for which the EU has formal competence but also the nature of the issues in which competence has developed and how this process has occurred. It can be seen that many social policy issues dealt with at EU level, like employment equality legislation, are regulatory in nature and have often been pursued to aid market integration rather than as ends in themselves. While intergovernmentalism can explain some of this development, it can be seen that the EU has sometimes affected social policy in ways Member States had not expected, suggesting supranational governance theories are more useful in examining these cases. While supranational institutions can be seen to have had an important impact on how social policy developed, especially in the area of health, it

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was argued that there may be evidence for recent reassertion of member state control, with 'soft law' methods being introduced instead of 'harder' EU-level legislation. It was argued, however, that whether supranational institutions or Member State governments have been the main influence on social policy, past actions tend to exert an important influence on how policy has been formulated and the concept of path-dependence is extremely useful for understanding the nature of social policy development at the EU level.

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# Mobile, Global & Urban: Harnessing the potential of globalisation in the form of migration and tourism for a better life in cities

ELEANOR FRIEL SCH

SENIOR SOPHISTER

PHILOSOPHY, POLITICAL SCIENCE, ECONOMICS AND SOCIOLOGY

**T**his article intends to examine the interconnectedness of two prominent features of globalisation, both of which serve equally as causes and consequences; namely, migration and tourism. Both are forms of mobility that certainly differ in motivations and manifestations, yet may have more in common than would appear on the surface. Indeed, the role that both of these forms of mobility play in development is of great significance, and as globalisation accelerates, so does their importance. For a clearer understanding, this article has been framed against the background of cities, as it is in urban settings that the phenomena can be said to be most pronounced. Following a general overview of the relevance of globalisation and cities to this article, an exploration of the connections between migration, urban poverty and ethnic places will be car-

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ried out. Subsequently, there will be an examination of tourism as a modern mobility, and the case of slum tourism will be given a closer look. The closing paragraphs of the article offer possible approaches for urban policy, with an emphasis on holistic cooperation between parties. In this way, it hopes to elucidate the argument that migration and tourism can be mutually beneficial in the urban context.

## **GLOBALISATION IS MULTI-DIMENSIONAL**

In a world where globalisation is ever-accelerating, it is often easy to overlook peripheral actors and effects. Mowforth and Munt describe this phenomenon as

a process by which an ever tightening network of ties that cut across national political boundaries connects communities in a single, interdependent whole, a shrinking world where local differences are steadily eroded and subsumed within a massive global social order.  
(Mowforth and Munt, 1998, p. 12)

Yet in this shrinking world, it is important to recognise the interconnectedness with marginality: foreign workers can be a socially marginalised force and are a product of globalisation. As globalisation grows, so too do the flows of international migration. (Azarya, 2004, p. 964) Yet still linked, on a different note but involving the same theme of mobility, this opening up of the global landscape has allowed for greater flows of global travellers and tourists seeking out new forms of human experience. This is “all part of the same globalization trends that also generate the consumer appetite for the packaged exhibit of the other, of the different.” (Azarya, 2004, p. 954)

As we see, globalisation takes place across multiple and vast dimensions. We will narrow our focus, geographically, to urban settings, as to examine each and every facet would be far beyond the scope of this article. A key contributing factor to the growth of cities, and the major focus of this article, is rural-urban migration. Indeed, both temporary and permanent movement to the cities plays an important role affecting the scarcity of resources, poverty and the creation of slums:

[A]s the world's urban population grows, so too does the popula-

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tion of the urban poor. Of the three billion urban residents in the world today, one billion live in slums, vulnerable to disease, violence, and social, political, and economic exclusion.

(Beall and Fox, 2007, p. 5)

It is for these reasons that this article draws on urban spaces as an appropriate backdrop against which to situate an examination of contrasting contemporary mobilities.

## **MIGRATION: ACKNOWLEDGED HYPER-MOBILITY VERSUS INVISIBLE ECONOMIC NECESSITY**

It is notable that the free movement of goods and services also enables free movement of persons-in-transit to enter the country of destination. “The same infrastructure designed to facilitate cross-border flows of capital, information, and trade also makes possible a range of unintended cross border flows.” (Sassen, 2002, p. 273) What happens on arrival to the city, however, is where the phenomena of tourism and migration diverge greatly. This is represented by Burns as a “continuum of mobility, with the poles represented by economic need at one end and hyper-mobility at the other.” (2008, p. xviii) At one end of the spectrum, the tourist – who paradoxically may be seeking to experience a ‘peripheral other’ – will carry out a bona fide existence during their temporary stay, generally acknowledged and welcomed by authorities. At the other end, urban refugees and economic migrants will often become faceless figures in ever-growing invisible populations, vulnerable to a multitude of problems and often lacking in support: “While urban communities often provide informal mechanisms of migrant assistance, many individuals and families fall through the cracks.” (Beall and Fox, 2007, p. 15) This situation proves problematic for administrators in whose interests it is to profile and register these dispersed groups in cities.

The actual number of refugees, IDPs, returnees and stateless persons in urban areas is extremely difficult to ascertain ... Urban displacement is clearly a global phenomenon but one with localised effects. It is accordingly a matter of growing concern for city authorities and central governments as well as humanitarian and developmental organisations.

(Guterres, 2010, p. 8)

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What can become of economic migrants after their arrival to the cities is deserving of deeper investigation.

## **URBAN POVERTY: A PATHOLOGICAL REALITY FOR MANY MIGRANTS**

Migrants to the cities suffer disproportionately from poverty-related issues, yet it is vital that they not be viewed in isolation, but rather that they be considered alongside the wide spectrum of inhabitants in an area:

The plight of refugees and others of concern in urban areas cannot be treated in isolation but needs to be responded to in the broader context of the urban poor ... If we want our efforts to have the desired impact we cannot see these populations in isolation from local communities.

(Guterres, 2010, p. 9)

Aside from the obvious injustice implied by any multi-tier city, there are risks associated here too: an unequal access to fundamental needs; housing, education and health, for instance, will have political ramifications. Sadly, these slum zones are but a short distance from the cosmopolitan hub where all of the wealthy's needs are catered for. (Baker, 2008, p. 10) There is undoubtedly social upheaval for all individuals attempting to create a basic living in such rapidly changing circumstances as the twenty-first century city: traditional ways of managing health risks, economic insecurity, and social tension often collapse in these 'melting pots.' Often, the outcome is a sense of tension and frustration in these areas, particularly where there is a visible disparity in opportunities for those who feel excluded.

## **ETHNIC PLACES: TRANSFORMING NEGATIVE NEIGHBOURHOODS INTO POSITIVE POSSIBILITIES**

One visible manifestation of this disparity, historically, has been the formation of ethnic enclaves within cities. The Chicago School of Sociology viewed urban ethnic places as 'decompression chambers' for newly arrived immigrants, which facilitated their economic adaptation and cultural assimilation into local life. (Lin, 1998, p. 324) Yet so-called 'urban ghettos' have frequently been viewed as representing segregation, discrimination

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and inequality between migrants and native citizens, and as such, often have very negative connotations. Beall and Fox contend that, of late, this urban ostracism has been “exacerbated by the proliferation of gated communities, no-go ghettos, and sanitised shopping malls.” (Beall and Fox, 2005, p. 17) Yet in our globalised world, the potential of these spaces is increasingly being recognised. Lin describes them as being conspicuous as emblematic ‘transnational spaces,’ conveying broader processes of economic and cultural globalisation:

The Chinatowns, Korea-towns and Little Havanas of the post-industrial city have rejuvenated warehouse districts, retail corridors and residential quarters of the zone-in-transition ... The new central-city ethnic places are primary purveyors of transnational commerce as well as culture, articulating closely with the world trade functions characteristic of global cities. Local state actors have found it advantageous to link ethnic commercial and cultural districts with economic devices.

(Lin, 1998, p. 314)

These historic areas are now being opened up, and often connected with new developments such as commercial centres, arts promotion, and indeed urban tourism. This brings us to the wider topic of tourism, which itself warrants a thorough examination.

## **TOURISM: A MODERN MOBILITY SEEKING OUT THE MARGINS OF EXISTENCE**

If we agree that tourism can be described as “a global process of commodification and consumption involving flows of people, capital, images and cultures” (Meethan, 2001, p. 11), then it is plausible that it may be juxtaposed with migration in order to set out a more holistic vision for urban environments in the future. The interconnectedness of migration and tourism is further backed up when viewed from a postmodern perspective. Theorists such as Urry posit that the previously differentiated institutional and normative spheres of morality, the State, economy, science and the aesthetic are converging. (Urry, 1990, p. 84) Consequently, it is possible to argue that established distinctions between tourism, work and leisure are growing ever harder to sustain. Taking this idea to the micro level, Tucker

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remarks that: "Tourism is basically about gazing at particular scenes that are different from those encountered in one's daily life." (Tucker, 1997, p. 107) As the globalised world becomes ever more homogenised, encountering that new and exciting experience is increasingly difficult. There is a paradox here: "As more people want to go 'beyond the beaten track,' those tracks are worn out by the many who follow the same route and hence lose their attraction." (Azarya, 2004, p. 952) Thus from a central, generalised existence, tourism is no longer equated strictly with luxury or leisure. Rather, it can be understood as a trip to the margins of human existence. Duarte claims that tourism "is able to contribute to higher causes such as improvement of understanding and connection among human beings." (Duarte, 2010, p. 12) Thus this phenomenon is deserving of further examination, in terms of what it can mean for all parties involved.

## **SLUM TOURISM: AN OVERVIEW**

Newly-arrived migrants to cities often end up in slums. Recent years have seen an explosion in the popularity of 'slum tourism.' This is not a new trend – indeed it has appeared throughout history in various guises: "During the late 1800s, lines of wealthy New Yorkers snaked along the Bowery and through the Lower East Side to see 'how the other half lives.'" (Odede, 2010) Lately, its popularity has grown exponentially, as the quest to seek out the so-called 'other' has become ever more difficult as a consequence of globalisation:

Manifestation(s) of extreme poverty or substandard living, a shantytown, a refugee camp, a treatment centre for the sick, the addict, the deviant may, and in fact have, become tourist destinations as a side-effect of globalization. In addition to eco-tourism and adventure tourism, one increasingly hears about 'reality-tourism,' some of it with clear political overtones, in which visitors are taken to ... see how people live, and presumably suffer.

(Azarya, 2004, p. 956)

As such, it has only recently become the subject of academic research and debate, and there seems to be no overarching consensus as to whether or not it is ethical. The controversy seems to stem for the most part from the fact that it is an offshoot of new, postmodern, or even transmodern values. An amal-



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gamation of poverty and leisure is bizarre to western morals. The two have always been considered separate, so their combination appears disjointed. (Duarte, 2010, p. 8) What is important to note is that the western attraction to a generalised primitivism has a significant impact on those urban dwellers, be they newly arrived migrants or permanent residents indigenous to the country, who are the objects of this attention.

## **OPPOSITION TO SLUM TOURISM: EXPLOITATIVE VOYEURISM**

There is strong opposition to slum tourism in some quarters. Primarily, its detractors suggest that the commodification of others' suffering cannot be justified under any circumstances: "Visits to poor areas are motivated by a desire to consume real poverty leading to the commoditization and aestheticization of poverty that can, in fact, disempower the community." (Duarte, 2010, p. 5) The suggestion here is that the poor should remain poor in order to compensate for some sort of deficiency created by globalisation:

The outcome of the exhibit is therefore a greater incorporation in the new economy and society, but also a continuity of cultural marginality. One has to live in that culture sufficiently and be familiar with it in order to exhibit it to visitors and pass it on to new generations so that the exhibit could be sustained over time. Also, the indigenous culture has to remain different from that of the tourist in order to be of commercial value in the context of the tourism industry.

(Azarya, 2004, p. 962)

The temporary, expendable nature of the existence of slum dwellers as material offerings for wealthy visitors suggests that capitalism in urban areas can appreciate the value of slums, but not their values, turning poverty into entertainment. (Odede, 2010) The fact that there is a sizeable inequality between the parties involved here cannot simply be overlooked.

It has been argued that the encounter between favela dwellers and tourists is based on asymmetric interaction. If favela dwellers accept tourists it is because they are not aware of the humiliation

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that is taking place. According to this view the contact zones created by this form of tourism are a form of humiliation and exploitation of the visited people.

(Duarte, 2010, p. 5)

It seems that the terms of the encounter are dictated by the observers as opposed to the observed: "Aside from the occasional comment, there is no dialogue established, no conversation begun. Slum tourism is a one-way street: They get photos; we lose a piece of our dignity." (Odede, 2010) However, there are two sides to every story.

### **PROPONENTS OF SLUM TOURISM: OPPORTUNITIES FOR COMMUNITIES**

Those who support this phenomenon say that ignoring poverty won't make it disappear, and that it is futile to turn a blind eye to a very real urban situation. There are undoubtedly direct and indirect economic benefits for local communities, such as employment for guides and souvenir vendors, as noted by Weiner (2008). There are further economic spin-offs as it fosters an entrepreneurial spirit that goes beyond hand-outs and charity. Understandably, many slum dwellers resent being an object for ogling, but it seems that others take up the role of cultural broker gladly. They are "happy to profit from it economically and even try to place themselves in positions of mediation between the tourists and the locals." (Azarya, 2004, p. 962) This is one aspect of the broader potential for tourism's potential to bring about more widespread social transformation. Indeed, the positive contribution of tourism within favelas and other urban areas may be seen as an occasion to reduce the social and geographical barriers between slums and other areas, promoting what Scheyvens (2001) refers to as a more "integrated city." (Duarte, 2010, p. 8) One could even say that excluding deprived areas such as slums from the so-called tourist circuits within a city is, in fact, simply a reinforcement of the isolation of such places, both economically and socially. Duarte, defending favela tourism, points to "the increase of self-esteem and the positive repercussion on the community self-image" (2010, p. 6), and in response to its criticisms, claims that in the majority of cases these are made by outsiders such as researchers, journalists and tourists. (*Ibid.*, p. 2) It seems fair to surmise that slum tourism, when operated as a platform for social transformation, may prove healthy to communities, but if undertaken solely

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for economic profit, the reverse would prove to be the case.

## **TOURISM POLICY: GETTING THE BALANCE RIGHT**

There is an unprecedented opportunity here for urban communities to capitalise on the emerging demand for an ‘experience economy.’ However, this comes with a note of caution for all parties involved. Politics can be infused into tourist practice when it is remembered that tourism is globalisation, not a mutually exclusive mobility and since globalisation can result in the marginalisation of particular voices, then tourism can likewise become implicated in the same process. Demand for encounters with the ‘marginal’ generally comes from overseas, in particular from tourists from developed countries travelling to developing regions, but it is governments and local authorities that encourage and facilitate this movement. Tourism can become an important facet of these countries’ economies and thus many governments elect it as their central development strategy. (Azarya, 2004, p. 963) This is a delicate task that cannot to be taken lightly: “How to portray a country’s heritage obviously constitutes a powerful message about the national identity that is conveyed to both tourists and locals.” (*Ibid.*, p. 963) All possible effects of tourism in the cities must be considered, in order to avoid harmful practice. For instance,

[a]s polyglot honeypots, ethnic places may serve as multicultural tourist attractions and conduits of international trade and services, contributing both to the livelihood of ethnic contenders and municipal programs of globalization. But the revalorization of ethnic places also implicates them in broader strategies of gentrification and transnational capital accumulation, which ultimately may displace local ethnic residents and commercial merchants.

(Lin, 1998, p. 335)

A holistic approach, outlined below, ought to remedy damaging side effects.

## **MIGRATION POLICY: RECOGNITION WITH COOPERATION**

As Sassen puts it: “The dominant narrative of globalisation concerns itself with the upper circuits of global capital, not the lower ones, and with the hyper-mobility of capital rather than with capital that is bound to [a] place.”

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(2002, p. 254) If we are to create the best possible cities for the future, this requires urgent change. Narratives must involve parties at all levels, particularly those whose voices are often ignored. Saying this, a balance needs to be struck. To ignore this movement to the cities will be to fail vulnerable populations, but there is also the danger that over-regulation can be equally damaging. As with all dimensions of mobility, flows of transactions, services, people and goods will take place in spite of boundaries, and boundaries will exist in spite of these flows (to paraphrase Barth (1998, p. 21)). Effective strategies must be employed in order to make the most of these movements, and this involves mutual recognition on all sides of the actors involved – civil society, government and the private sector. There is a temptation to only focus attention on urban poverty when it is too late – something which must be avoided at all costs. (Beall and Fox, 2007, p. 21) For an effective mitigation of this problem, there must be cooperation and dialogue on the parts of governments, local authorities, entrepreneurs, tourist agencies, NGOs and above all the communities involved. The positive repercussions involved cannot be overstated:

Establishing formal institutions and organisations to help migrants assimilate into the social and economic fabric of the city is important to mitigate social fragmentation and personal economic insecurity where perceived opportunities exceed actual opportunities.

*(Ibid., p. 15)*

## **URBAN POSSIBILITIES: THINKING OUTSIDE THE BOX**

One obstacle here is that in developing urban initiatives, actors are not working with a blank canvas. The biggest challenge is to develop a workable system within the existing institutional framework of municipal and civil society organisations. (Zetter and Deikun, 2010) Going forward, there is a widespread consensus that a holistic approach to developing urban policies must be adopted. By this, one means approaching development as a complex system, where everything is interconnected. (Burns and Novelli, 2008, p. xvii) Alternative strategies must be examined, for as globalisation presents new challenges for cities, so it also brings with it new opportunities to foster harmony between communities, be they locals, migrants or tourists. One example is the regeneration of public spaces, with the explicit aim of linking communities and encouraging mass participation in urban development.

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Beall and Fox describe a major initiative in Rio de Janeiro, Favela-Barrio, as

aiming not only to improve infrastructure in the favelas but also to build parks on their edges in the hope that these would help draw in outsiders to mix with favelas residents, as well as the Cato Manor urban upgrading project in Durban, South Africa [which] deliberately made available plots of land to women wishing to purchase housing with government subsidies, so that they not only had access to land but could be neighbours.

(Beall and Fox, 2005, p. 19)

These are cases where new, unconventional ideas have enabled the improvement of urban environments in neutral settings. In this way, tourists and migrants can be mutually beneficial to one another without impinging on personal freedoms. Furthermore, this variety of project promotes the fostering of previously non-existent links.

## CONCLUSION

It is my hope that the above discussions and cases have outlined the interconnectedness of two prominent forms of contemporary mobility. Tourism and migration are both, in themselves, phenomena of interlocking networks. The fundamental issue here is for city administrators to acknowledge the interconnectedness of mobility in its many guises, whether people are moving for business, leisure, work or family reasons, and whether it is intended as temporary or permanent, an explicit effort must be made to provide both migrants and tourists with the best the city can offer them, and in return to make the most of what tourists and migrants have to offer the city. This is no simple task:

Twenty-two of the world's thirty largest cities in 2015 will be in less-developed regions ... The sheer size of the urban population living in squalid conditions presents enormous challenges to municipal and national governments everywhere, and the previously unimaginable size of our contemporary cities is placing a huge strain on our environment.

(*Ibid.*, p. 5)

It will require a drastic shift in how we think and plan, and involve estab-

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lishing and strengthening partnerships. This article outlines, amongst other instances, the case of slum tourism as an example of how, if carried out in a holistic manner, migrants and tourists can mutually engage in a reciprocally beneficial relationship. This is only one of many possibilities. Whilst we don't already have all the answers, it is certain that the future is looking bright. Indeed, as United Nations High Commissioner for Refugees, Antonio Guterres, puts it: "City and town planners around the world are innovating, experimenting and learning." (Guterres, 2010, p. 9) It is my hope that all of us, as mobile citizens in a global world, are doing likewise.

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# The United Nations declaration on sexual orientation and gender identity 2008: Tracing the evolution of LGBT minority rights within the UN

CATHERINE WOLFE  
JUNIOR SOPHISTER  
LAW AND BUSINESS

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(Article 2, Universal Declaration of Human Rights)

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The Universal Declaration of Human Rights (UDHR), as a construct, was the ultimate expression of optimism from a world still reeling after the Second World War - it arose from a desire to safeguard against the horrors of genocide. Yet the principle of non-distinction or non-discrimination has never been explicitly defined as pertaining to human rights of sexual and gender minorities (for the purposes of this work sexual minorities are defined as those identifying as lesbian, gay or bisexual, as well as those gender minorities who do not fit the binary gender grouping of male and female, and namely encompasses transgender and intersex persons).

Until the United Nations' (UN) declaration on sexual orientation and gender identity was signed in 2008 by sixty six of its Member States, the UN had deliberately chosen not to engage in interpretation of rights, enshrined in the UDHR, in the context of sexual orientation or gender identity. The declaration, therefore, sought to address the issue of lesbian, gay, bisexual, and transgender (LGBT) rights at an international level, and it now forms the foundation for building an international consensus on the protection of these rights. Furthermore, it is the most widely supported declaration to explicitly recognise and protect these vulnerable groups. This article will first discuss how and why the declaration came into being. After analysing its aims, the obstacles to its ratification will be discussed, and its strengths and weaknesses will be evaluated. This article will conclude with an acknowledgement of the position of LGBT rights as they currently stand in the context of international law, and explain how these rights are likely to gain increased protection in the future.

## **BACKGROUND**

At the time of the presentation of the 2008 declaration on sexual orientation and gender identity, seven countries retained the death penalty for consensual same-sex practices, namely Iran, Mauritania, Saudi Arabia, Sudan, United Arab Emirates, Yemen, and Nigeria, and more than eighty countries, both then and now, maintain laws that make same-sex consensual relations between adults a criminal offence. (ILGA, 2010) Even societies regarded as liberal and progressive have demonstrated equivocality in their handling of sexual orientation and gender identity. Transgender people are particularly vulnerable, even within what are ostensibly perceived as very tolerant societies. A sad example of this is the Netherlands, which although frequently

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praised for its open-minded policies on sexual orientation, disturbingly requires transsexual people to undergo sterilisation before permitting them to change their gender on official documents. (*Ibid.*)

Despite a distressing catalogue of human rights violations against these vulnerable groups, traditionally the UN has shied away from any proposals advocating sexual and gender minority rights. A resolution on extrajudicial, summary, or arbitrary executions in 2000 was the first to mention 'sexual orientation.' (UN Commission for Human Rights, 2000, E/CN.4/RES/2000/31) Transgender issues have been starkly absent from UN human rights debates. Fundamental to this neglect has been the inevitable backlash from more conservative states which are unwilling to negotiate a consensus enshrining basic human rights for these groups. This is best exemplified by the tortuous path of previous proposed declarations pertaining to sexual orientation and gender identity.

The first resolution to explicitly decry human rights violations based on sexual orientation was presented to the former UN Commission on Human Rights in 2003. This was immediately met with a 'no action' motion by states opposed to the resolution. The motion was narrowly defeated, but all opposing states threatened to paralyse proceedings by bringing hundreds of amendments to the text. This resulted in a decision by the Commission to deter the resolution until the 2004 session. At the 2004 session, Brazil was persuaded to further defer presenting the resolution, and indicated in a press release at the time that "it had not been able to arrive at a necessary consensus." (Commission on Human Rights, Summary record of the 49th meeting, 22 April 2004, para. 100) The resolution was carried over until 2005, at which time Brazil chose not to pursue it further and the resolution lapsed on the Commission's agenda.

When it became apparent in 2005 that Brazil would not pursue the resolution any further, New Zealand delivered a joint statement on sexual orientation and human rights on behalf of a cross-regional grouping of thirty-two states, asserting that states "cannot ignore" the evidence of human rights violations based on sexual orientation and calling for the Commission to respond. By the December 2006 session of the Human Rights Council, support for a similar joint statement, delivered by Norway, had grown amongst fifty-four states from four of five UN regions. This statement acknowledged that the Council had received extensive evidence of human rights violations based on sexual orientation and gender identity within their relevant mandates. It urged the President of the Council to allocate time for discussion of

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these issues at an appropriate future session. It is pertinent to note that some recognition of these concerns had already been articulated in UN resolutions, although this had been limited to resolutions addressing matters of extrajudicial executions and the death penalty, rather than the full range of human rights violations. (O'Flaherty and Fisher, 2008) The Norwegian joint statement also represented the first time that 'gender identity' had been included in a UN statement.

The NGO, International Day Against Homophobia (IDAHO), inspired an initiative by France and the Netherlands to develop the statement read to the Assembly on the 18th of December 2008 by Argentina, on behalf of sixty-six states (including six in Africa, but not the USA). (United Nations General Assembly, 2008) The declaration is in part a response to summary executions of LGBT activists in Uganda and other parts of East Africa. It is equally a culmination of the aforementioned push for a UN declaration recognising sexual orientation and gender identity as grounds for protection under international law. The 2008 declaration represents the first time such a motion was placed on the UN agenda and with sixty-six signatory states it represents the broadest base of support for such an intervention yet.

The declaration was presented by Argentina. Argentina had previously been one of the signatories to the Organisation of America States (OAS) General Assembly Resolution of June 2008 on 'Human Rights, Sexual Orientation and Gender Identity.' (AG/RES 2435 XXXVIII-O/08) As detailed above, this was the second occasion on which a South American state had sought to further the agenda of LGBT rights. On behalf of the European Union (EU), the current declaration was drafted by both France and the Netherlands. France has traditionally been regarded as a critical player within the EU, hence its ability to lend political credibility to the motion, while the Netherlands has a reputation for progressive legislation with regard to sexual and gender minorities, being the first country to legalise same-sex marriage in 2001.

Signatory states originated from all continents but predominantly represented states with an already good track record, at least on paper, with the accordance of rights to sexual and gender minorities. Not surprisingly, European countries were well-represented (thirty-nine countries from sixty-six signatories). The United States did not sign the original 2008 draft but did sign a subsequent altered draft in 2009. The US' reluctance to initially sign may be interpreted as an expression of their equivocality surrounding the issue of rights for sexual and gender minorities. Lau (2008) gives an excellent

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account of US exceptionalism in the area of sexual orientation and gender identity law, despite its endorsement of universality in almost every other aspect of international human rights covenants.

Significantly, only six African countries signed, in many cases as the result of considerable lobbying efforts on behalf of NGOs working in this area. Nonetheless, this is a success. The ILGA report on state-sponsored homophobia's reference to the African continent makes for particularly sobering reading. By far, it is the continent with the severest laws which violate the rights of homosexual individuals and other sexual minorities. This can be attributed to colonial-era laws, political, cultural, and religious beliefs. Over fifty percent of governments (thirty-eight countries) criminalise homosexuality, two of which impose the death penalty (Nigeria and Mauritania).

## **GENDER EQUALITY UNDER INTERNATIONAL LAW**

When commenting on the potential future success of any, as yet hypothetical, human rights conventions on sexual orientation and gender identity, it is interesting to look at the trajectory of women's rights internationally. Despite the fact that women's rights have been the focus of UN scrutiny, one can argue almost since its inception (Article 2), but certainly since the 1978 CEDAW, they have yet to achieve the status of customary law. This is in contrast to the tenets of the UDHR, which have been almost universally accepted. Although the UN human rights conventions are implicitly underpinned by the principle of universality, disparities still exist. This may be attributable to cultural relativism dictating how rights are adopted, underpinned at a domestic state level. (Bederman, 2010 p. 97) This represents a particular challenge when the rights of one group conflict with what is customary both socially and legislatively at a state or even regional level.

## **THE DEBATE BETWEEN CULTURAL RELATIVISM AND LEGAL UNIVERSALITY: *TOONEN V AUSTRALIA***

'Sexual rights' has been described by Rosalind Petchesky as "the newest kid on the block" (Waites, 2009, p. 140) in international debates about human rights. In an even more emotive statement, Saiz has described 'sexuality' as a "battleground within the UN human rights system." (Saiz, 2005, p. 4) The landmark case of *Toonen v Australia* in 1994 represented the "first juridical recognition of gay rights on a universal level." (Morgan 2009) In the years

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since *Toonen*, there has been increasing momentum behind a reinterpretation of existing human rights conventions to cover sexual orientation. The Human Rights Committee's judgement of the ICCPR in *Toonen* covered the rights of sexual minorities, despite the fact that such groups are not explicitly defined in the text of the International Covenant on Civil and Political Rights. This represented the first formal UN acknowledgement of sexual orientation as an area of protection.

Lau (2008) considers *Toonen* to be additionally noteworthy because it expressly dismissed cultural relativism as a substantive argument for state-based discrimination. Lau records that Tasmania had argued against extending privacy rights to same-sex couples because of Tasmania's local moral culture. The Committee responded: "[We] cannot accept that for the purposes of article 17 of the covenant, moral issues are exclusively a matter of domestic concern." (*Toonen*, para. 8.6) In many respects this could be seen as a logical extension of the principles of universality and non-discrimination enshrined in the UDHR and other human rights instruments.

## THE AIMS OF THE 2008 DECLARATION

The 2008 declaration sought to address an absence of formal acknowledgements of sexual and gender minorities as a 'vulnerable' group, with specific concerns deserving of protection under international law. This is in spite of copious evidence internationally of human rights violations, ranging most disturbingly from "summary executions" to "arbitrary arrest" and "deprivation of economic, social and cultural rights." (UN declaration on sexual orientation and gender identity, 2008) The declaration could be seen as the political arm to ongoing efforts to position the rights of sexual and gender minorities on the international stage. The legislative framework for realising this equality aspiration had already been voiced in the formulation of the Yogyakarta Principles two years earlier (2006). The Yogyakarta Principles represent the conclusion of efforts to create a legal consensus internationally for the articulation of LGBT rights. The twenty-nine principles were expressed in a manner that reflected the formulations in the international human rights treaties, whereby their authority as a statement of legal standards would be reinforced. In this respect, the 2008 UN declaration represented the first formal undertaking to incorporate these soft law principles into the international legal framework.

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## THE OBSTACLES WHICH EMERGED DURING THE CREATION PROCESS

It is necessary to acknowledge that any discussion of enshrining sexual orientation as an explicit protective category within new declarations and resolutions has consistently been met with unyielding opposition, the most militant of which arising from members of the Organisation of the Islamic Conference (OIC) and the Holy See. Thus despite the relatively innocuous content of the declaration, an immediate and reactionary counter-statement was signed by fifty-seven states, promoted by the OIC and read by Syria. The statement disputed “so-called notions” of “sexual orientation” and “gender identity” on the grounds that such terms have “no legal foundation.” Furthermore, it expressed concern that

the notion of orientation spans a wide range of personal choices that expand way beyond the individual’s sexual interest in copulatory behaviour with normal consenting adult human beings thereby ushering in the social normalisation and possibly legitimization of many deplorable acts including paedophilia.

(UNGA, 2008, response to SOGI Human Rights Statement)

The counter-statement goes on to relay concerns regarding the application of the UDHR to the explicit protection of the rights of sexual and gender minorities. Its authors consider such a move a “misinterpretation’ of the Universal Declaration and international treaties to include such notions that were never agreed by the general membership.” Such an interpretation, they continue, is considered as possessing the potential to “jeopardize the entire human rights framework.” In a rather loaded reference, the statement reaffirms Article 29 of the UDHR and “the right of Member States to enact laws that meet ‘just requirements of morality, public order, and general welfare in a democratic society.’” It ends with a call on all Member States, the United Nations system, and non-governmental organisations to continue to devote special attention and resources to protect the family as “the natural and fundamental group unit of society.” Similarly, the Holy See argued that the categories ‘sexual orientation’ and ‘gender identity’ used in the text find no

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recognition or clear and agreed definition in international law. (Archbishop Celestino, Holy See's permanent observer at the UN, Morgan 2009)

The concerns addressed by the counter-statement are interesting because they rigorously seek to undermine the legitimacy of LGBT rights as an international human rights concern by denying any element of biological determinism or 'genetic factors' to aetiology of sexual orientation. The subtext appears to be that "sexual orientation is a deliberate choice" and if it is possible for individuals to choose their sexual orientation then it is also permissible for a state to punish individuals for that choice, justifying this by invoking the limiting provisions contained in Article 29 of the UDHR. There also seems to be a subtle inference that the push for sexual and gender minority rights is a function of zeitgeist, imbuing an interpretation on previous human rights conventions to include notions that were never agreed upon by the general membership of the time. However, in order to prevent stagnation in the law, courts frequently interpret legislative instruments broadly, so as to accurately reflect the customs and social norms of the age in which we live. The Human Rights Committee believes that for the purposes of International Covenant on Civil and Political Rights, 'sex' is to be interpreted as including 'sexual orientation.' (*Toonen v Australia*, para. 8.7) However, in international law, judicial decisions are not binding and their holdings are merely of persuasive authority. The counter-statement also illustrates the notion of cultural relativism quite starkly. By invoking Article 29, the inference seems to be that sexual orientation and gender identity are moralistic issues over which nations have the jurisdiction to legislate.

## THE PROVISIONS OF THE DECLARATION

The declaration represents a milestone in UN history and a shift in the perception of sexual minority rights internationally. After numerous failed attempts it was the first time the concerns of sexual minorities had been formally placed on the General Assembly's human rights agenda. By extension, it was the first time the UN formally acknowledged that sexual orientation and gender identity represented a legitimate human rights domain. Indeed, the declaration has the support of sixty-six countries. Central to the declaration is the affirmation that the principle of non-discrimination applies to all human beings regardless of sexual orientation or gender identity. It condemns human rights violations of LGBT people and urges all states to



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take all the necessary measures, in particular legislative or administrative, to ensure that sexual orientation or gender identity may under no circumstances be the basis for criminal penalties, in particular executions, arrests or detention.

(2008 declaration, point 11)

Aligned to this, it reiterates the universality of human rights as enshrined in the Universal Declaration of Human Rights, Article 1 of which proclaims that “all human beings are born free and equal in dignity and rights.” In seeking to build on the Universal Declaration, the 2008 declaration reaffirms the principle of non-discrimination, referenced as “non-distinction” in Article 2 of the UDHR. It asserts that the “principle of non-discrimination requires that human rights apply equally to every human being regardless of sexual orientation and gender identity.” It directs for safeguarding against “violence, harassment, discrimination (and) exclusion,” noting that “stigmatization and prejudice are directed against persons in all countries of the world due to their sexual orientation or gender identity.” It references the statement on sexual orientation and gender identity adopted by the Organisation of American States, 2008. Most notably, however, the issues of sexual orientation and gender identity have finally been formally addressed by the UN.

### **THE WEAKNESSES OF THE DECLARATION, IN PARTICULAR, AND OF THE UN AS A WHOLE**

However, while the declaration condemns these human rights abuses and acknowledges that human rights law applies to sexual and gender minorities, it does not formally enshrine sexual and gender rights. As such, the application of human rights principles to sexual and gender rights issues still remains a matter of broad interpretation, since the declaration offers no framework for assessing sexual and gender rights claims. While unquestionably a significant victory for advocates of these rights, the declaration represents a starting point rather than an end in itself. Of broader concern, however, is the capability of the UN as an international organisation to have a significant impact on state policy. If all rights are institutionally referential, then international law embeds fundamental human rights at a level that transcends the State. Yet critics of the UN have described the institution as a ‘toothless tiger,’ largely as a consequence of its policy of non-intervention and consequent incapability to influence the domestic policies of Member States. (Carpener,

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2001; Anstee, 2001; Harding, 1980) These difficulties denote the challenges the UN faces in enforcing treaties, even after a country has consented to their implementation. Hence, the power of the UN lies not in strong-arming international opinion but in the creation of an international consensus. This should ideally filter through individual state consciousness and more importantly legislature. Therefore, the significance of the 2008 declaration lies in setting a precedent and instilling the idea that discrimination against sexual and gender minorities are legitimate areas of human rights concern.

## CONCLUSION

Prior to 2000, no UN instrument relevant to human rights had ever made reference to sexual orientation, much less gender identity. The UN declaration on sexual orientation and gender identity of 2008 represented a critical turning point in the struggle for equality, as it formally acknowledged the legitimacy of these issues in the context of international human rights discourse. Further still, it inspired a marked push for equality which generated the resolution of 17th June of 2011, which requested the High Commissioner for Human Rights to

document discriminatory laws and practice and acts of violence against individuals based on their sexual orientation and gender identity ... and how international rights law can be used to end violence and related human rights violations.

(UN General Assembly, 17th session, agenda item 8)

However, despite these efforts and the support of notable figures such as Hillary Clinton, much remains to be done. The potencies of religious fundamentalism, gender oppression, homophobia, and sexual discrimination continue to stand in the way of sexual minority rights becoming universal rights. The universal recognition of these rights will depend heavily on the ability of states to build an international accord that is both strong enough in its breath, and in its conviction, to surmount the entrenched opposition that exists around the world towards gender and sexual emancipation. The fundamental task lying ahead, then, is the creation of an international condition in which abstract principles are transformed into lived reality. To date the push for protection of sexual and gender minority rights, at international level, appears to be one of great effort and incremental success.

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# Regulatory Limbo: A contemporary application of Durkheimian anomic theory to Irish society

NATHAN MCGIBNEY & ROBERT WHELAN

JUNIOR SOPHISTER

SOCIOLOGY AND THEOLOGY

**T**he view of society offered by Émile Durkheim (1858-1917) suggests that finite human beings have unlimited desires that subsequently need socially-designed boundaries to make them feasible and to avoid losing themselves in infinite possibility. In this work, we compare Durkheim's notion of deregulation as a factor contributing to social anomie between different class groups and also within groups. The regulatory body that once offered this social boundary has shifted in conjunction with the progression of Irish society, from the Church, to the State, to the market. Yet the collapse of the market and the subsequent collapse of the regulatory body have plundered the populace into what we term 'regulatory limbo.'

This work will first demonstrate how social anomie as presented by Durkheim is used by us as a theoretical tool to explain current and potential social conflict, which is a result of structural shifts in the source of social

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regulation and coherence. Anomie occurs when there is an acute disjunction between cultural norms and goals, and the socially-structured capacities of members of the social grouping systems to act in accordance with them. (Ritzer, 2008, p. 256) In short, the individual is faced with a lack of normative social ethical standards by which they can order social life.

Second, Durkheim's understanding of anomie is presented to elucidate the pragmatic aspect of a social focal point. The shift in the Irish State from one centred around the teachings of the Church-State model, to the more secularised liberal market model and its subsequent collapse, have put society in a 'regulatory limbo.'

The limitless desires that Durkheim sees as inherent to the human being require boundaries for individual gratification and social cohesion. An absence of any boundaries, whatever they may be, leads to individual (existential) and social confusion, as a direct consequence of anarchic social structures. In light of this, what can be seen in Irish society is a loss of social predictability, growing conflict in relation to migrants and internal fractures between classes.

The final section of this article will investigate the potential for a contemporary state of nature. The current society, through lack of regulation, is characterised by a mix of Durkheim's and Marx's emphases, that anomie has created a heightened class conflict. This probable conflict can be characterised as a contemporary state of nature, in so far as the liberal market state is incapable of ensuring confidence and subsequent control.

This article will conclude on the sobering note that, in light of the social anthropology that characterises Durkheim's need for social regulation, we are now faced with an unregulated society that is essentially in regulatory flux, or limbo.

## **DURKHEIM'S ANOMIE**

Humans have infinite expectations and horizons. "The malady of infinite aspiration," as Durkheim defined it, characterises individual suffering resulting from insufficient regulation. (Lukes, 1994, p. 78) Capitalism is a state of moral anarchy in the economic sphere; our thoughts and desires are not controlled sufficiently and subsequently the individual is not in harmony with his condition. (*Ibid.*, pp. 80-90)

By nature, humankind is not inclined to curb itself and exercise restraint in its endeavours: "Those who have an empty space above them will without doubt be lost within it." (*Ibid.*, p. 78) For Durkheim, the division of

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labour is essential. Humanity needs discipline in order to achieve progress in light of natural tendencies towards individual pursuits. Aspiration ceilings restrict individual potential but also offer more attainable gratification; therefore an external force must limit the subject. For Durkheim, this external force was state governance. In the 20th century Irish context, it was the Church-State relationship; this agglomerative body acted to reinforce its own norms, thus creating the collective conscience of society. This authority acted to sustain the common social milieu, and maintain the power of collectivity, “for the only moral entity which is above that of private individuals is the one constituted by the collectivity.” (Durkheim, 1997, p. xxxiv)

## IRISH REGULATORY SHIFT

The emergence of the Irish Free State in 1922 was characterised by its dependence on and involvement with the Roman Catholic Church. The society that characterised the emergence of the Irish Republic was one saturated by the demands of the Church. The evidence of this is to be found in the initial drafts of the Constitution of Ireland (Bunreacht na hÉireann) and the subsequent traditions that have remained. Furthermore, the continued use of Christian prayers in the Dáil, the broadcasting of the Angelus on national television and radio, and the presidential oath, which invokes the presence of God (Bunreacht na hÉireann, Article 12.8), imply a religious affiliation on the part of the State, as highlighted by the Constitution.

All powers of government, legislative, executive and judicial, derive, **under God**, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

(Bunreacht na hÉireann, Article 6.1)

The moral focus and subsequent expectations of the institution gave focus and bounded desires to the many ascribed. Broadly defined, everyday norms and values of the Church circumscribed one's position within the broader social framework. Most notably the role of women within the State reflected interpretations of the secondary supporting role of women in the Church: “In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.” (Bunreacht na hÉireann, Article 41.2.1°)

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Many of the institutions that would now be considered the responsibility of the welfare state, such as schools and hospitals, were initially set up by the agglomerative Church-State body. The decline of the Church as a social regulatory institution is illuminated by its disjunction from these institutions. Currently these institutions are funded by the tax payer, and though presented as being affiliated with religious orders, the Church's influence and funding has for the past several decades been in decline. (Carr, 2011)

The accession of Ireland to the European Union, the influx of capital, and the self-inflicted wound of sex scandals and their mismanagement were not without effect. Incidents of mismanagement such as these further diminished the prominence of a once powerful institution and its regulatory role. The supposedly secular State and the demands of EU integration became a regulatory focal point. The opening of the Irish market and the influx of multinational corporations drawn by qualified labour and low corporation tax drastically altered not only the labour market but also social values themselves, for example, the legalisation of divorce and contraception, fuelled by feminist critiques (Butt, 2010) of a largely patriarchal Roman Catholic society.

When one considers the so-called boom years of Irish economic prosperity, what the social milieu was, the micro-social level is generally overlooked. Individual relationships were notably affected, although this has been largely ignored, and has created little in the way of sociological discourse. The decline of collectivism under the all-encompassing regulatory role of religious institutions has led to the Irish consciousness of homogeneity shifting to an Irish consciousness of diversity, whereby all strata of society experienced some level of financial augmentation, most notably the consistent increase in the minimum wage. (Savage, 2006) This shift transpired while concurrently remaining proportionate to one's individual social standing. Possibly for the first time ever, the general population of Ireland experienced a moderate-to-great increase in prosperity in a comparatively short period of time. Regulation under capitalism and the pursuit of self-gain in light of the rise of individualism altered the aspirations of society. (Mageria, 2002) The State-population dichotomy was in new territory; consequently boundaries on regulation became dependent on the market.

## **IDEAL SOCIETY AND THE IRISH CONTEXT**

A Durkheimian view of a healthy society is one characterised by organisation and meritocracy. Citizens are attached to intermediary groups by stable and visible loyalties and fulfil determinate functions. (Giddens, 1972, p. 175) The



conscious collective is represented fully and enables a diverse society to think for itself. A natural and necessary milieu, given by occupation rather than birth, is created. Activity within a profession can only be effectively regulated through a group close enough to that profession to be thoroughly aware of how it functions, capable of perceiving all its needs and following every fluctuation in them. (Durkheim, 1997, p. xxxv)

The sole group that meets these conditions is that constituted by all those working in the same industry, assembled together and organised in a single body, thus allowing specific employment sectors to act as regulators for agglomerated groups of society. Social life is impossible without interests superior to the interests of the individual which consider his or her conduct; this consideration incorporates a different form of individualism, the individual in abstraction. (Giddens, 1972, p. 180)

Conversely, the influx of investment into the Irish labour market highlighted growth visible across most strata of society, as is suggested by employment trends:

% of population aged 15-64 employment levels

Year	Persons	Males	Females
1995	54.0	66.5	41.4
1996	55.1	66.8	43.3
1997	56.1	67.6	44.6
1998	59.7	71.1	48.1
1999	62.5	73.6	51.2
2000	64.5	75.7	53.2
2001	65.2	76.2	54.0
2002	65.1	75.0	55.2
2003	65.1	74.7	55.3
2004	65.5	75.2	55.8

(Central Statistics Office (CSO), 2007)

Growth, however, remained proportionate to one's class group with the notable exception of the construction industry, where aspirations were specifically linked to a higher market demand for this particular industry. Coupled with the influx of migrant labour, a vast majority of the national population experienced some form of ascending social status, whether in purely financial terms or via labour market competition. (Harris, 2002, p. 45)

This cosmopolitan, multicultural Ireland superseded the previous hegemony of an undifferentiated white, Roman Catholic society. A unity in

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homogeneity had shifted to a unity in diversity. In other terms, the unity of the Church-State agglomeration was replaced by a unity in the diversity of labour forms. A potential voluntary commodification of labour denounced previous norms and values in pursuit of financial security and prosperity. Essentially the potential for monetary gain through the social regulation of the unregulated neo-liberal market led to people viewing occupation as a necessity, a lifestyle, simply as a means to an end.

The fragility of the market-based regulatory system during Ireland's period of economic prosperity was greatly overlooked. The convolution of the stance of the liberal market acting as a pinnacle for social regulation was not afforded sufficient attention. Allowing individual aspirations to fluctuate in concert with market conditions left society vulnerable to harsh austerity. Here is the evident distinction between neo-liberal market economics as a self-regulating entity and its inapplicability as a social regulatory system. It cannot reflect the desires of a diverse population. It subtracts the 'human' from 'human capital.'

## **ECONOMIC RECESSION AND LOSS OF REGULATION**

The global economic crash exposed the aforementioned fragility and subsequently contributed to the collapse of the market-based regulator. The structures of the regulatory system diminished, resulting in the peaks of national aspirations across social strata not being met. The awakening from the slumber of labour commodification and national purpose of employment led to an alienation through lack of employment (unemployment stood at 14.3 percent at the end of 2011 (CSO, 2011)), rather than the traditional Marxist sense of through the banality of labour itself.

The natural process after the fall of market regulation would be the succession of a new regulator or in the Irish case a reversion back to the State. However, the inability of the State to regulate and monitor its own institutions and bodies credibly has led to a lack of confidence amongst the public. Furthermore, the failure to develop a consensus amongst EU leaders has led to diminished credibility of its capabilities to reflect and protect the national interests of Ireland. Consistent economic austerity and pessimism towards the labour market has created a condition that may spill into the social sphere. As Durkheim professed, "the lack of any economic discipline cannot fail to produce effects that spill over beyond the economic sphere, bringing with it a decline in public morality." (Durkheim, 1997, p. xxxiv)

Inevitable increases in disparity between social classes due to concen-

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trated economic austerity will complicate our ability to observe resulting social fragmentation. Retracting aspirations and normalising values in keeping with contemporary austerity is swift in the economic sphere but not in the social. As such, conflict ensues. The problem is not so much the substance of this collective conscience but rather socialising the next generation into it. (Pickering, 2001, p. 154) In turn, a new source of regulation has to compete with the difficulty of identifying social groups and integrating them into a new bounded social framework, whether based on the State or a new market approach.

For Durkheim, class was mediated by occupation. Occupation and class involve groups constituting distinct socio-cultural milieu with a sense of their own identity. (*Ibid.*) Areas of concentrated unemployment, in a Durkheimian sense, can be seen to lack such a form of identity. Lacking an individual and a subsequent collective identity, an anomic condition may ensue. For, as Durkheim proclaimed,

anomie is an evil, it is above all because society suffers through it, since it cannot exist without cohesion and regulation ... to be shot of anomie a group must thus exist or be formed within which can be drawn up the system of rules that is now lacking.

(Durkheim, 1997, p. xxxv)

One can hypothesise an ensuing condition of conflict and violent competition, a social phenomenon akin to a contemporary Hobbesian state of nature bounded by a sheer lack of an all-encompassing social regulator.

## STATE OF NATURE

Hobbes described the condition of human beings in the state of nature as solitary, nasty, brutish and short. (Hobbes, 2008, p. xiii) For Hobbes, it was a logical account of the origins of society. It was, however, a constant reoccurring possibility if society lacked a common power to maintain social order:

A Principle well know to all men by experience and which everyone admits, that men's natural Disposition such that if they are not restrained by fear of a common power, they will distrust and fear each other, and each man rightly may, and necessarily will, look out for himself from his own resources.

In the state of nature, every voluntary encounter is a product either of mutual need or of the pursuit of glory. As such, we are driven by mutual fear to believe that we must emerge from such a state and seek allies. Consequently, humanity seeks the formation of a civil governance to escape the state of nature. In the neo-liberal context where minimum state intervention, privatisation, and a free market approach are encouraged, one must endeavour to comprehend a contemporary appreciation of this form of Hobbesian governance. In the contemporary Irish context and in light of the aforementioned occupation identification (societal identity formation through employment), various bodies, non-governmental organisations and multinational corporations, for example, have been afforded great influence and have acted as regulators of individual aspiration due to their powerful market position. Thus, the State should be considered much more than the elected government and national institutions; it should include various national and international private institutions that are both players in, and susceptible to market fluctuation.

One must evaluate the ability of such contemporary state bodies to offer cohesion and verify the existence of a common power sufficient to maintain social order. Evident examples of internal fragmentations and the pursuit of one's individual means can be seen in recent events such as the London riots of September 2011 and the Occupy movements that have swept across the West. Such negation of collective moral consciousness and regard for state authority, as seen in the London riots, is an example of class-concentrated reaction to failed identity formations through occupation, due to the loss of market regulatory control. Internal fragmentation has replaced in many ways the traditional view of migrants as a cause for economic fracture and stagnation. The neo-liberal regulatory system is fundamentally crippled by the diverse nature of labour conditionalities, in so far as it cannot offer an all-encompassing purpose, such as that provided by homogenous religious social morality.

The question is now, where does Ireland sit in terms of social regulation? Are we in unique, unfounded territory? Are we destined for a future of conflict? The condition of regulatory limbo argues for a contemporary state of nature. Yet what kind of social contract could we avail of to rectify this problem? Governing state bodies will fail to reinstate their authority by imposing high levels of austerity that do not correlate with previous overreaching neo-liberal, market-based aspirations. The market-human dichotomy has come to the fore.

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## CONCLUSION

This article has attempted to apply Durkheim's anomic theory to contemporary Irish society as an avenue to explain current and indeed potential future conflict. We have argued that a cohesive focal point for social regulation is a necessity for a functioning society, based upon Durkheim's essentially anthropological position of human beings as having unlimited desires and aspirations. We have briefly traced the lineage and subsequent shifts in the regulatory position in Ireland, from the Church-State model, to the neo-liberal market model, to its collapse and the current position of what we term 'regulatory limbo.' Consequently, efforts to define an existent regulatory system have become problematic. We feel that unless a new, perhaps unique, focal point emerges as a focus for society, a growth in social conflict will ensue; the aspirations of the populace if gone unchecked will provoke further tensions and social fragmentation. Herein lies the limitations of the hypothesis, to define a contemporary regulatory body, for unique circumstances require equally innovative responses.

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# Atlantis, Narnia and Statelessness: How political and environmental factors can cause statelessness

RÓISÍN COSTELLO  
JUNIOR SOPHISTER  
LAW

Throughout history the state to which we belong has held sway over how we see ourselves, how others see us, what values we identify with, and what we consider acceptable, important, and possible. It is perhaps the state we are born into and our nationality which have the greatest potential to influence the characteristics we develop. In light of this it is interesting to consider the repercussions on the individual if the state we identify as belonging to, the idea of national sovereignty and specific identity which so many take for granted, is challenged. What if the country of our birth ceased to be a reality?

This article will endeavour to examine the manner in which a state, and thus a people's social and political identity, can potentially cease to exist as a political, geographical, or physical reality. The principle issues considered will be how states have ceased to exist in the past and the potential of climate change to cause states to cease to exist in the future.

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## THE DEFINITIONS OF 'STATE' AND 'PEOPLE' IN THE TWENTIETH CENTURY

Weber (1946, pp. 84-87) defined statehood as "the monopoly of the legitimate use of violence." Elsewhere, it has been theorised that a 'nation' is composed of a community with a shared belief and mutual commitment, extended by history, active in character, connected to a particular territory, and marked off from other surrounding communities by its culture. (Miller cited in Clarke 1998, p. 252) Yet these criteria are offered as neither necessary nor sufficient. For instance, Somalia spectacularly fails to meet Weber's criteria (O'Brien 1993, p. 60), yet is still considered a sovereign state. How then can we define a state? The most common alternative method of recognition is identification by an external body, although others exist which will be outlined later.

The United States Department of Homeland Security lists two hundred and fifty one choices for country of residence on its visa applications (The Economist, 2010), including Bouvet Island, an uninhabited knoll under Norwegian control which sits in the South Atlantic; South Yemen which has not been an official state since 1990; and the "neutral zone," a diamond shaped area of uninhabited desert between Saudi Arabia and Iraq which ceased to exist after the Gulf War in 1991. Conversely, it excludes Abkhazia and South Ossetia, which both claimed independence from Georgia with Russian backing in 1999 and 2008 (BBC News, 2011) respectively, while it recognised the Republic of South Sudan, following democratic elections, as an independent state as late as the thirteenth of October this past year. (The Federal Register, 2011; also Permanent Court of Arbitration, *The Government of Sudan / The Sudan People's Liberation Movement/Army (Abyei Arbitration)*) In contrast, Hotmail offers a choice of only two hundred and forty two (The Economist, 2010), a list which also includes Bouvet Island but fails to recognise Kosovo (The Economist, 2010a) and Western Sahara. (United Nations list of Non-Self-Governing Territories)

Perhaps the most authoritative form of recognition internationally of a state is by the United Nations (UN). Yet even diplomatic recognition from an authority such as the UN is not a definition of a state's existence. Israel joined the UN in 1949, yet some ten percent of the one hundred and ninety-two other members refuse to recognise the state (United States Congress House Resolution 1249, 2008); similarly, the Vatican is merely an observer and not a full member of the UN, though few would question its existence, while Kosovo remains as yet unrecognised by the Council. The reality is that acquiring membership of the UN is a politically fraught process, as much dependent

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on the allegiances and inclinations of the pre-existing Member States as the legitimacy of the state applying. While membership in the UN is, therefore, arguably not as definitive an indicator of statehood as some may think, lack of recognition from the UN can present certain practical problems for excluded nations.

How, then, should a state gain recognition? Through the issuance of official documents? Many of the countries that don't recognise Kosovo still accept those who travel with a passport issued by the Kosovan Government (Kosovan Ministry for Foreign Affairs, 2011), while Lithuania's exiled diplomats during the Cold War issued documents from various locations worldwide during Soviet rule in their home country. (Vahur, 2011) The Sovereign Military Order of Malta issues not only passports but also stamps, and has diplomatic relations with some one hundred countries despite the fact it is not a state, but an organisation. (Council of the European Union, 2010)

The issue is one which claims multiple methods of resolution through varying means of classification and recognition. In the end, it is ventured that the only truly concrete method of identifying a state is a shared consensus of a people of being one, while subsequent external recognition depends precariously on international bodies and other states.

## **GEO-POLITICAL ENTITIES**

States can cease to exist in numerous ways; they can be conquered, be subsumed within larger territorial entities or cease to exist as geo-political realities (Cohen, 2003), such as when the Soviet Union fell and Russia and the Ukraine became new sovereign areas. The world has seen numerous such extinctions; they are by no means a modern phenomenon, but rather are a feature familiar to those with even the most cursory knowledge of world history.

In the lifetime of many readers of this article, the most notable and constant conflict involving the nature or, indeed, the disputed nature of a geo-political reality has been that of Israel and Palestine. (Harms and Ferry, 2005) Both sides in the conflict seek Europe's support in gaining recognition, yet neither has become an uncontroverted or universally recognised geo-political reality, as there are partisans on both sides who support and decry the claims of both nations in equal measure. (Council on Foreign Relations, 2011)

The Palestinians' quest for full membership in the UN, which culminated earlier this year (United Nations, 2011) is almost entirely certain to be vetoed by the United States in the Security Council (BBC News, 2011a), but could

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secure sufficient votes in the General Assembly to upgrade their status from a non-member 'observer entity' (BBC News, 2011b) to a non-member 'observer state,' the title currently held by the Vatican and which has been held, in the past, by Switzerland and West Germany. However, European support for Palestine in its campaign for membership could leave the United States isolated in the Security Council, while a refusal of support could lead to the opposite, stranding Palestine in the General Assembly with a symbolic improvement in its position that, in reality, amounts to little more support than it currently enjoys. (The Economist, 2011a) Prior to the commencement of deliberations in September, several European members favoured the Vatican option whereby Palestine would become an 'observer state,' not a full member, but more than an 'entity.' (The Economist, 2011b)

In theory, Israel experiences no less anguish over recognition than Palestine. In practice, however, due to an unwavering baseline of support from the United States, it retains more than a mere foothold in the territory and in international circles of recognition. (Mearsheimer and Walt, 2007)

Similar controversy over whether certain states are geo-political realities can be found much closer to home. In mainland Europe, the struggle for recognition and independence fought by ETA (Sullivan, 1999, p. 50 and Nunez, 1997, p. 5) over the Basque region in northern Spain and southern France, or the more muted yet no less strongly contended claims of separate identity which are at play within Belgium (Heisler, 2011 and Stephenson, 1972, p. 503) show that recognition of statehood is not an issue confined to the Middle East or to the past.

Geo-political realities may seem a neat academic heading under which to categorise states or non-states. The reality, however, is that while it may be a category which allows us to discuss the dissolution of federations such as the USSR or the collapse of states through war or political turmoil in a sanitised way, such neat categorisation fails to adequately appreciate the nuances of statehood. In the end, when the Berlin Wall fell or when the USSR dissolved, it is unlikely that any of the people living in those regions thought of themselves as freed from a geo-political reality. It is equally unlikely that those struggling to have their country recognised today consider gaining recognition as a geographical state the ideal end to their campaign. It may be a satisfactory means for attaining political recognition and identification but it certainly could not be considered an adequate measure of the State as a social unit.

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## PURE GEOGRAPHICAL ENTITIES

States can also cease to exist in a more dramatic way. States can sink, (The Economist, 2011) or, perhaps more appropriately, seas can rise. There are few children who are not familiar with the myth of Atlantis. With the threat of global warming, and the predicted rise in sea levels it may cause, becoming a modern day Atlantis is a very real threat for some states. The Maldives rest, at their highest level, just 2.4 metres above sea level (CIA, 2011), while some fifty-five per cent of the Netherlands' land is either below sea level or threatened with serious flooding, should any rise in sea levels occur. (Reuters, 2011)

What then does this mean for states? Several small South Pacific islands, as well as the Maldives in the Indian Ocean, rest only fractionally above sea level and are threatened with submersion by a continued rise in sea levels. (Barnett and Adger, 2003, pp. 324) Are states still states once they are submarine? Current international law lays down that islands can only support economic rights in their maritime, exclusive economic zone. Uninhabitable rocks which support neither a population nor an economy retain no such rights. (Kwiaowska and Soons, 1990, p. 143) Japan has been spending heavily to shore up Okinotori Island, which the Chinese claim is just a rock but which, if claimed as Japanese territory in the form of an island, would significantly increase the country's exclusive economic zone. (Onishi, 2005) Similar controversies also exist far closer to home involving the contending claims of Ireland as well as the UK and Norway over Rockall Island which has the ability to extend Irish or British economic zones to include seafloor thought to contain oil reserves. (Symmons, 1998, pp.78) Grote Stoutenburg has theorised that as long as an artificial floating structure remained above sea level at the location once occupied by a landmass, and such a structure remained occupied by the people of the submerged state, the rights of the state could be maintained. (Stoutenburg, 2011, p. 263)

Under admiralty law, coastal states and islands are entitled to territorial waters of twelve nautical miles and an exclusive economic zone of two hundred miles, and can claim rights over continental shelves up to three hundred miles away. (United Nations Convention on the Laws of the Sea, UNCLOS III, 1994) On this basis, a state could be said to retain control of the area which formerly came within the admiralty zone of its territory as it previously existed. Some scholars argue that it should be calculated from the baseline which recedes as the coast does. (Knauss, 1985) Others postulate that the baselines never change once chosen, therefore protecting states from future

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developments such as coastal erosion or earthquake which may change the coastline but not the baseline. (Alexander, 1982, p. 503)

Elsewhere, Rosemary Rayfuse has posited that the international community, in light of the geographical shifts threatened by climate change, may need to rediscover the idea of 'de-territorialised states,' such as the Order of St John or the Order of Malta, which, although they have virtually no property and no territory, are treated as sovereign states, with the individuals attached to them retaining documents and rights associated with those de-territorialised entities. (Rayfuse, 2010, p. 53)

## STATELESSNESS AND CONSEQUENCES OF THE DESTRUCTION OF STATES

Statelessness creates legal difficulties, in so far as the individuals affected are aliens everywhere, lacking protection under the laws of their 'homelands' and unable to seek asylum in another country, as they do not possess the legal character necessary to hold the documents. The individuals may also be unable to comply with the formalities which are required of aliens in order to enjoy certain rights or to establish citizenship in another jurisdiction.

Such stateless individuals often arrive in a condition of poverty and live in challenging material and psychological conditions in which they may be subject to suspicion. This discriminatory view of the 'men without papers' is likely to lead to a self-perpetuating cycle in which the society views the group lacking citizenship as suspicious and refuses to grant them recognition, further marginalising them. (Weis, 1954, p. 194) On an individual level, the plight of stateless individuals is aptly illustrated by the case of *Kaftailova v Latvia*. In that case, the applicant was a citizen of the Soviet Union, of Georgian origin specifically; she married a Latvian man and made her home with him in Latvia. She was unable to obtain Latvian citizenship, despite her marriage, but continued to live in that jurisdiction with her husband, and had a child. Sometime later the applicant and her husband divorced, around the same time the Soviet Union was dissolved. The applicant was left in Latvia without citizenship of the country of which her child was a citizen and without any original jurisdiction of which she could claim citizenship, leaving her effectively stateless and thus without any legal rights or protections deriving from any nationality.

The most readily identifiable group of stateless individuals in modern history occurred with the resettlement of about a million Bolshevik refugees who had left Russia after the Revolution of 1917. The solution which emerged in the context of that event was the creation of the 'Nansen Passport.' (Weis,

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1954, p. 155) This was a single sheet of paper, issued to Russian refugees, indicating their citizenship and thus allowing them to emigrate and establish themselves elsewhere. The 'Plan for the Issue of Certificates of Identity to Armenian Refugees' of May 31, 1924 made similar provisions for Armenians shortly thereafter.

Today there are estimated to be over twelve million stateless individuals in the world (United Nations Refugee Agency, 2011), a number which includes over one million Muslim Rohingyas in Myanmar (formerly Burma), 300,000 Estate Tamils in Sri Lanka, and 300,000 Biharis in Bangladesh, who are all denied recognition and citizenship. Other groups similarly neglected, include the Banyarwanda population in the Democratic Republic of Congo, estimated to exceed 1.5 million, and some 500,000 ethnic Ethiopians and Eritreans in the Horn of Africa, as well as much smaller groups, such as the 15,000 Meskhetian Turks in Russia and the 17,000 'erased' citizens of Former Yugoslavia in Slovenia. (Sokoloff, 2005)

In modern-day Myanmar, over one million Rohingyas are 'stateless' as a result of the state's long-term policies of discrimination and exclusion, under which they are not recognised as indigenous to the nation. (Lewa, 2003) At this time any potential for a change in their situation seems remote. (*Ibid.*) Their treatment by the State of Myanmar prompted the Rohingyas to flee to Bangladesh on several occasions between 1978 and 2006. In 2006, when some 3,000 Rohingyas were forcibly repatriated to Myanmar, the Bangladeshi government was unwilling to recognise them as refugees, and stated that they considered the Rohingyas to be economic migrants. (Refugees International, 2003)

Elsewhere, it is estimated that there are 1.5 million Banyarwanda living in the North and South Kivu provinces of the Democratic Republic of Congo (DRC) who are similarly denied citizenship and remain stateless. The issue of ethnicity as a basis for citizenship has been at the centre of the majority of conflicts in the region and is largely a product of the area's colonial past (and the development of a two-tier citizenship structure, that of the rulers and the indigenous occupants) and subsequent haphazard partition of geographic areas into incongruent nations. When Congo declared its independence in 1960, the Banyarwanda considered themselves to be citizens of the new state, and in January 1972 citizenship was granted to all natives of Rwanda and Burundi who had settled in the country before 1950. However, in 1981, in response to significant pressure from the eastern provinces, a Citizenship Law invalidating the 1972 decree was enacted, providing that only individuals with an ancestral connection to the population who had been residing in

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Congo in 1885 would retain Congolese citizenship, thus stripping the Banyarwanda of theirs and leaving them stateless.

Statelessness can also occur through a simpler process. In certain countries, mothers cannot pass citizenship on to their children; rather, it must pass from the father of the child. (Aleinikoff and Klusmeyer, 2001, p. 89) This causes problems when fathers are absent either through death, estrangement, or in times of war when records are lost and destroyed and paternity is difficult to substantiate later, leaving the child without any legal claim to citizenship of a country. Fortunately, there is a growing trend for states to take action to remedy this injustice and reduce statelessness. In the last ten years, Egypt (2004), Indonesia (2006), Bangladesh (2009), Kenya (2010), and Tunisia (2010) have all amended their laws to recognise citizenship through the maternal line. (The United Nations Refugee Agency, 2011)

## CONCLUSION

In the past, measures such as the Nansen Passport were needed to ensure that in times of conflict people did not fall off the map and lose the benefits of citizenship. As we look to the future we must consider the new challenges climate change will pose to our ideas of nationality, statehood, and sovereign territory. Statelessness and its personal, social, and political impact worldwide need attention, and models of effective assistance programmes for the benefit of stateless individuals must be developed. The international community must continue to press for the development of principles to deal with relocation and the rights of stateless individuals, similar to those developed a century ago by Nansen for addressing the issue of internally displaced persons.



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# Rethinking the norm of responsibility to protect: Towards a better use of Chapter VII?

STEPHEN KIRWAN  
SENIOR SOPHISTER  
LAW

Throughout the 1990s a political debate unfolded around the right of states to use force in order to protect civilians from atrocities committed by their own governments. This debate about *ius in bello* rights was accompanied by a theory-based debate about whether the provisions on the use of force contained in the UN Charter were to be interpreted permissively or restrictively. (Shaw, 2009, p. 1149) This debate was largely centred on Article 2(4), which prohibits the use of force “against the territorial integrity or the political independence of any state,” as the UN Security Council had not previously addressed the issue. (Harris, 2010, p. 723)

Formally, the post-war consensus surrounding the inviolability of borders and sovereignty remains intact. (Brownlie, 2003, p. 701) However, the decade following the Cold War saw Security Council resolutions authorising Chapter VII interventions in Somalia, Liberia, Rwanda, Haiti, Sierra Leone and

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Kosovo. (Hamilton 2008, p. 289) This led many to posit the emergence of a challenge to the assumed inviolability of state sovereignty and the emergence of a norm of humanitarian intervention. (Shaw, 2009, pp. 1155-1156)

The growing desire to establish a doctrinal norm of humanitarian intervention has dominated the international agenda in recent years. The current formulation centres on the concept of an international and domestic 'responsibility to protect' (R2P) civilians from humanitarian catastrophe. R2P appears to be "the new normative instrument of choice to convert a shocked international conscience into timely and decisive collective action." (Bellamy, 2006, pp. 149-151)

In assessing the R2P doctrine, this article will first discuss the origins of humanitarian intervention and the subsequent development of R2P. The extent of the development will then be demonstrated, with particular reference to the recent conflict in Libya and the emergence of Security Council Resolutions 1970 and 1973. Criticisms of R2P will then be outlined, with particular reference to the institutional difficulties of its current formation. In conclusion, it will be argued that the shortcomings of the R2P doctrine do not necessitate its abandonment; but the emerging norm does require a serious rethinking of its conception and implementation, in order to achieve its intended goal.

## **NORMATIVE REVOLUTION: THE AGENDA FOR HUMANITARIAN INTERVENTION**

The use of force against Serbia by NATO in Operation Allied Force was a clear instance in which a strong divergence between the legality and the moral legitimacy of the use of force became starkly apparent to many. (Bellamy, 2010, p. 151) The British stance on the issue perhaps provides the most interesting insight. As early as 1986, a Foreign Office paper declared that in the absence of Security Council authorisation and provided certain criteria are satisfied, force can be justified on the grounds of "overwhelming humanitarian necessity." (Foreign Office, 1986, p. 614) Coming even closer to espousing a new legal norm, the Foreign Secretary Robin Cook described the legal basis for the Kosovo war as being based on the right of the international community "to use force in the case of overwhelming necessity." (Cooke, 2000, p. 64)

Despite a trenchant defence by a number of supporting nations, the NATO action was considered illegal by Russia, China and India, amongst others. (Shaw, 2009, p. 1154) The representative of the Russian Federation at



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the Security Council, Mr. Boris Lavrov, stated that

those who carry out the unilateral use of force against sovereign states ... must realize the heavy responsibility they bear for subverting the Charter and other norms of international law and for attempting to establish in the world, de facto, the primacy of force and unilateral diktat.

(Security Council, 1999; Harris, 2010, p. 782)

The internal conflict over the necessity of Security Council action left a massive question mark over the role of humanitarian intervention in shaping international law, relations and politics. (Security Council 1999, De Sousa 2010, p. 68)

### **FROM RIGHT TO RESPONSIBILITY: WHEN SHOULD STATES INTERVENE?**

An attempt to tackle the challenge of when and how to intervene came in 2000 in the form of an international panel of experts, sponsored by the Canadian Government. The report which followed, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (ICISS, 2001), contained contributions from an array of states, reflecting a range of geographical and political backgrounds. (Evans, 2006, p. 713) Kofi Annan had challenged the international community to formulate a solution to problems of mass atrocities and to circumscribe the overly broad justification of humanitarian intervention in a more politically acceptable fashion. (Hehir, 2011)

As illustrated during the Kosovo humanitarian crisis, and prior to the establishment of ICISS, the focus of the international community centred on the concept of absolute sovereignty and whether it could ever be legitimate to intervene in another state's affairs. (Harris, 2010, pp. 784-786) Soon there emerged a need for a reaction to mass atrocities. There was a desire to establish a doctrine based on something other than a *carte blanche* right to 'humanitarian intervention.' (Stahn, 2007, p. 101) Thus, instead of focusing on the longstanding debate over whether a 'right to intervene' existed, the Commission tried to find an innovative way of talking about protection against atrocities while mandating a respect for sovereignty as proposed by the UN Charter. (ICISS, 2001, p. VI-X)

Gareth Evans explained the debate as "not being about the 'right' of states

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to anything, but rather about their ‘responsibility’ – one to protect people at grave risk.” (Evans, 2004, p. 706) The attempt to move beyond the contested label of ‘humanitarian intervention’ while also attempting to shift the international position of absolute sovereignty to a conditional form of sovereignty was a radical move. (Weiss, 2011) The central normative tenet of the R2P, on this basis, is that if a state is unable or unwilling to exercise its responsibility, its sovereignty is abrogated. Sovereignty thus entails duties in addition to rights. (Weiss, 2011)

Having established the existence of R2P, the Commission now sought to tackle the issue of where this responsibility lies. One of the ICISS’s most important contributions was its assertion that if international intervention was to be effective in responding to mass atrocities, the parameters of the concept would have to include action to prevent conflict as well as to help rebuild after the event. (ICISS, 2001, p. 18) Thus a second key feature of the R2P doctrine saw the idea of military force being sandwiched between the twin concepts of prevention and post-conflict building. (Weiss, 2011) The Commission was at pains to stress that the R2P was a three dimensional duty in a bid to drive debate forward from the idea that humanitarian intervention only involved the use of armed force. (Thakur, 2007, p. 258)

Indeed, the ICISS stated that this type of action should only be considered in “extreme and exceptional cases” which it defined as “cases of violence which ... genuinely shock the conscience of mankind or which present a clear and present danger to international security.” (ICISS, 2001, p. 433) The ICISS approach is based on the belief that cooperation is more likely to lead to effective action than confrontation. (Feinstein, 2006, p. 26) Despite this claim, when the state in question is unwilling or unable to act, and the population faces serious harm as a result of internal war, insurgency, repression or state failure, the ICISS argued for this responsibility to be elevated to the international level. (ICISS, 2001 p. XI-XII)

In spite of this three-pronged approach, the notion of intervention itself remained problematic. (Hamilton, 2006, pp. 290-293) Instead of attempting to provide a definitive checklist for intervention, the ICISS argued that the decision would be best determined on a case-by-case basis. (ICISS, 2001, pp. 288-290) To assist in this process, the Commission espoused a series of principles to determine when and how military force was to be used. Above all, a ‘just cause’ would have to be seen to exist. (*Ibid.*, p. 613) In order for this threshold to be satisfied there would have to be a large-scale loss of life or ethnic cleansing, either actual or imminent.

Even when this ‘just cause’ threshold is crossed, intervention is then to be

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guided by four cautionary standards: right intention, last resort, proportional means and reasonable prospects. (Secretary General, 2005, pp. 201-202) By rooting the ambit of R2P in concrete principles, the Commission attempted to enhance the doctrine's legitimacy. While this *de minimis* approach appears uncontroversial given the plethora of available safeguards against intervention, it is the Commission's concern with which body should be charged with authorising interventions that has led to the most contentious debate. (Thakur, 2007, p. 302)

## THE AUTHORISATION QUESTION

In addressing the question as to which body was to assume responsibility for the authorisation of intervention, the Commission came down firmly in favour of the Security Council. The report states that:

The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better in relation to questions of a responsible use of the right of intervention.

(ICISS, 2001, p. 614)

While according explicit recognition to the potential for interventions to be blocked by permanent members with a right to veto, the Commission called upon these members to refrain from using it "in matters where their vital state interests are not involved." (*Ibid.*, p. 619)

## THE 2005 WORLD SUMMIT AND OUTCOME DOCUMENT

The following year, at the World Summit 2005, the UN General Assembly codified this principle as the

responsibility to use appropriate diplomatic, humanitarian, and other peaceful means ... to help protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

(World Summit Outcome, 2005, para. 138)

Here there is recognition that each state has a responsibility to protect its citizens and that when that responsibility is not, or cannot, be discharged, the international community has a responsibility to protect people. (World

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Summit Outcome 2005, para. 139)

However, the process of diplomatic negotiation inevitably led to concessions and compromise which in turn resulted in a number of subtle differences between the Outcome Document produced at the Wold Summit and previous attempts to fashion a norm of R2P. (Bellamy 2010, p. 145) Perhaps most notable is the complete lack of reference to the list of precautionary principles to guide humanitarian interventions. Similarly absent is any reference to the exercise of restraint when employing the right to veto, along with any indication as to what should happen in the event of the Security Council's failure to act. Thus, while great steps have been taken since the doctrine's inception, the same deadlock between moral legitimacy and the international law persists. (Foust, 2011)

## **BAN KI-MOON ERA: IMPLEMENTING THE RESPONSIBILITY TO PROTECT**

On 12th January 2009, Secretary-General Ban Ki-moon submitted his report on "Implementing the Responsibility to Protect." (Ban, 2009) The Report was prepared in response to the 2005 World Summit Outcome which stated that "each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity" and once again attempted to resuscitate and clarify the obligations of the international community's obligations to assist. (*Ibid.*) Like the report of his predecessor Kofi Annan, Ban has sought to alleviate the controversy surrounding R2P. (Weiss, 2011) His January 2009 report emphasised three supposedly equal pillars underpinning R2P: state responsibility, capacity building, and international responses. (*Ibid.*)

The report deals more delicately than the 2005 Outcome with the "abiding principles of responsible sovereignty." (O'Brien, 2010) Proponents of R2P stress that only the UN Security Council can authorise such intervention. (Weiss, 2011) However, Ban's report does mention the General Assembly's Uniting for Peace procedure. (Ban, 2009) In another significant departure from the 2005 document, the paper outlines a wide range of measures that individual states, regional organisations, and the UN system might consider in order to implement R2P's three pillars. (O'Brien, 2010) The report emphasises, for example, that the responsibility to protect does not provide any additional basis for the use of force under international law. Rather, it reinforces the prohibition of the use of force and the limited exceptions to that prohibition under the UN Charter, namely self-defence and Security Coun-

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cil authorisation. (Slaughter, 2011). A number of newer aspects exist within the document. Paragraph 47 of the report provides that: “[t]he rule of law is fundamental to preventing the perpetration of crimes relating to the responsibility to protect.” (Ban 2009, p. 21) According to Patricia O’Brien, head of the Office of Legal Affairs and Key Adviser to Ban’s administration, “the presence in any society of a strong culture of rule of law is a guarantee for preventing, or minimising the risk of that society’s deterioration into a “R2P” situation.” (O’Brien, 2011) This shift towards the homogeneity of a world built on the contested and vague principles of liberal democracy shall either prove to be a nice sound bite or may stand up as a proposition for the end of totalitarianism.

Initially, many suggested that the General Assembly debates on the issue in 2009 would lead to a diluting of the September 2005 commitment. As James Pattison reminds us, “humanitarian intervention is only one part of the doctrine of the responsibility to protect, but ... it is part of the responsibility to protect.” (Pattison, 2010) That reality became clear once again with the R2P’s first unequivocal application to justify the international action in Libya.

## **THE LIBYAN RESPONSE – SECURITY COUNCIL RESOLUTIONS 1970/1973**

The first apparent reference to the ‘responsibility to protect’ came as a response to the civil upheaval against the Gaddafi regime in Libya in 2011. Security Council Resolution 1970 had unanimous support for a substantial package of Chapter VII efforts (arms embargo, asset freeze, travel bans, and reference of the situation to the International Criminal Court). (Hehir, 2011) Following Resolution 1970, the Security Council met on 17th March to confront the increasing threat to civilian populations and voted on Security Council Resolution 1973, calling for a no-fly zone as well as a ceasefire in Libya. (Joseph, 2011) In a key textual revolution, the resolution called for the use of “all necessary measures” short of the occupation of Libya “to protect civilians and civilian-populated areas,” clearly alluding to the R2P doctrine in the process. (Groves, 2011)

With unanimous backing, Resolution 1973 was enforced as Operation Odyssey Dawn was launched within 24 hours of the resolution being introduced. An international military coalition destroyed Libya’s air defence system, targeted tanks, established a naval blockade and patrolled Libya’s skies to enforce the no-fly and no-drive zones until they were lifted on 27th Octo-

## **FALLOUT FROM LIBYA: UNANSWERED QUESTIONS?**

The endorsement of Resolution 1973 appears to many to be a landmark moment in the development of R2P. The deliberation amongst UN Member States around the situation in Libya appears not to be about whether to act to protect civilians from mass atrocities but how best to do so. This prioritisation of the protection of civilians appears to reflect the nature of the 2005 Outcome Document. Immediately after the decision, Ban Ki-moon stated that Resolution 1973 “affirms, clearly and unequivocally, the international community’s determination to fulfil its responsibility to protect civilians from violence perpetrated upon them by their own government.” (Ban, 2011)

However, it is worth noting the contrary view. The term ‘responsibility to protect’ does not appear in either resolution 1970 or 1973. Likewise, Steve Groves points out that President Obama’s landmark speech on 28th March made no mention of R2P. (Groves, 2011) Thus it is arguable that this cannot reasonably be said to constitute anything more than a welcome aberration consistent with resolutions passed in the 1990s before R2P. (Hehir, 2011)

## **THE INSTITUTIONAL DIFFICULTY**

Noam Chomsky has weighed in heavily on the issue of R2P. Chomsky has highlighted the numerous inconsistencies in Security Council policy, from its failure to intervene in East Timor to the UN’s refusal to act during Israel’s attacks on Lebanon and Gaza. Inconsistencies in the international reaction to the Arab Spring have renewed such calls for action. Chomsky identifies the core weakness of the R2P proposals as the placing of the onus of decision-making on the Security Council – a body that has proven in the past to be a minefield of delays, vetoes and avoidable destruction. (Chomsky, 2009) Thus it is apparent that the R2P doctrine was grounded in a structurally flawed system. These foundational flaws are evidenced in the capricious nature of the Council’s policy during the 1990s which saw the Security Council use its Chapter VII powers to sanction a number of interventions for humanitarian purposes while many equally valid cases, such as Rwanda, were ignored. NATO’s intervention in Kosovo in 1999 occurred without Council sanction and the ensuing outcry was a causal factor in the creation of ‘responsibility to protect.’ R2P has done nothing to redress this structural barrier to effective action and has allowed national agendas to continue to permeate the debate. (*Ibid.*)

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For all the hype surrounding R2P, it constitutes no more than a slogan which has served to embolden those convinced that eloquent appeals to behave responsibly influence world politics. More recently, in the face of mass civilian deaths in Sri Lanka, Darfur and the Democratic Republic of the Congo, the Security Council has chosen not to sanction effective action. This calls the R2P doctrine's influence into question. (Bellamy, 2005) Proponents of the doctrine's value argue that R2P constitutes more than military intervention and such action is not always prudent. (O'Brien, 2011)

A more accurate explanation is that the response of the 'international community' remains dependent on the interests of the P5; in the absence of a duty to act, R2P constitutes no more than a "discretionary entitlement." (Thakur, 2011) Inconsistency and inertia are inevitable. However, textually, this does not necessarily have to be the case; without a clear idea of the parameters of the R2P, disputes immediately arose as to whether the consequences of a natural disaster fell within the scope of the R2P as agreed in 2005. While fluidity in the early stages of norm development is important to ensure consensus building, there is a danger that it can begin to mean very different things to different people, thus undermining the very consensus that it purports to rely on for its legitimacy.

It has been argued that the 'duty to prevent' could extend to action to stop nuclear proliferation. (Slaughter and Feinstein 2004, pp. 12-21) Louise Arbour has similarly commented on "how readily the core concept of the R2P leads down the slippery slope to the Bush Administration's controversial notions of the pre-emptive use of force." (Arbour, 2007) The central problem remains the paralysis of the Security Council in the face of humanitarian disasters. While reform of the Security Council is aspirational, only global public opinion can force the P5 to live up to their responsibilities, the first of which is to ensure that no regime, friend or foe, has a guaranteed veto against international action.

## **OLD CHESTNUT, NEW CONTEXT: ENHANCING THE EFFECTIVENESS OF R2P**

Article 43 theoretically obliges all members of the UN to make available to the Security Council armed forces, assistance and facilities to maintain peace and security on a bi-lateral basis and thus provides a legal basis for the establishment of a United Nations 'standing army'. (UN Charter, 1945, Articles 43-47; Simma, 2002, p. 754) These provisions continue to remain unenforced, reflecting the political realities of the UN. (*Ibid.*, p. 757) Thus,

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given the failure of UN enforcement mechanisms, the prohibition on the use of force cannot be said to apply fully as it is unlikely states would have given up their right to self-help had they known the Security Council would be unable to adopt the enforcement measures expressed in the Charter. (Glennon, 2006, p. 620)

The lack of review and the abuse of the power to veto ironically contrast the rule of law proposition contained in the R2P document, something the Charter never assumed for the Security Council either under Articles 43 or 47. (Simma, 2002 pp. 751-758; Harris, 2010, p. 805) To rectify this structural deficit, it is argued that the UN General Assembly could be made a residual power-making body where the Security Council has refused to address a developing situation of humanitarian need under the already existing Uniting for Peace Procedure. (UN General Assembly, 1950) In cases where a more rapid response is needed and in order to bypass a veto, the Secretary General could be given the power to authorise the intervention of the UN Emergency Peace Service in a region, without the deliberation of the Security Council or the General Assembly. (Australian Department of Defence, 2000, pp. 67-81) In order to allow a *carte blanche* power to be conferred onto any single organ in this scenario, the Security Council could only revoke the deployment of the UN army by passing a resolution according to normal procedures. Effectively the veto could only be used to favour the continued deployment of UN troops. This would curtail the political influence of the veto while still rendering it operable, as mandated by the UN Charter. This would further apply a legitimate fetter on the Security Council's executive power and more fully respect the right to sovereign self-determination. (Weiss, 2011)

Practical considerations and the desire for efficient interventions necessitate the pre-positioning of permanent forces, or at least their heavy equipment, at bases where they are most likely to be needed. (Hamilton, 2005, pp. 295-296) Interventions could be launched from these bases, in Africa for example, using small cargo aircraft, which are more plentiful and better able to land at rudimentary air fields than wide-body inter-continental airlifters. (*Ibid.*)

Another practical alternative would be to create a UN rapid response capability as proposed in 2000 by an international commission headed by Algerian diplomat Lakhdar Brahimi. (UN Panel 2000, paras. 49-51) The Panel called for expanding UN standby arrangements "to include several coherent, multi-national, brigade-size forces and the necessary enabling forces, created by Member States working in partnership, in order to better meet the need for the robust peacekeeping forces." (UN Panel 2000, paras. 50-51)



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While recognising that the speed of response is important, an equally important factor is the legitimacy of that response. This legitimacy must be seen in terms of the ability to save lives and to establish peace before violence becomes unmanageable.

## CONCLUSION

Contrary to those who will argue that the resort to the use of force demonstrates that R2P is only about military intervention, the gradual implementation of a number of alternative support mechanisms not based on force can be seen in locations such as the Côte d'Ivoire. (Cohn, 2011) This demonstrates that "R2P is coming closer to being solidified as a political norm." (Thakur, 2011, p. 276) However, an ability to point to some success ignores the various failures and pitfalls within the R2P doctrine. Governments of Middle Eastern nations, from Egypt to Syria, have used armed violence against unarmed citizens. (Cohn, 2011) Yet the lack of intervention in those situations surely highlights the inconsistent rationale underlying the doctrine's continued use. (Berti and Lidenstraus, 2011) If we want to address this problem of inaction properly, presuming, as this article does, that humanitarian intervention is preferable to non-intervention, we must accept that while R2P is an appealing buzzword, it is currently immature as a political and legal doctrine. (Weiss, 2011) Substantial legal, political and institutional reform is required to move humanitarian intervention beyond the temporal and political whims of the permanent members of the Security Council.

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# An analytical overview of the rise of ethno-nationalism in Darfur

REBECCA KILBANE

SENIOR SOPHISTER

PHILOSOPHY, POLITICAL SCIENCE, ECONOMICS AND SOCIOLOGY

The end of the Cold War produced hopes for a world in which democracy would become a global norm and war would become obsolete as a means of achieving strategic objectives.

(Drake, 2007, p. 617)

On the contrary, wars have not vanished from the world, but have simply taken on new forms. One new aspect of what Kaldor (1999) calls 'new wars' is that there is more intra-state conflict. From 1945-1990

there were roughly 127 civil wars that killed at least 1,000, 25 of which were ongoing in 1999. A conservative estimate of the total dead as a direct result of these conflicts is 16.2 million, five times the interstate toll.

This article examines one particular case study: the ethnic conflict in Darfur. It begins by examining the concepts of identity and ethnicity before moving on to explore the evolution of nationalism within Sudan and how political entrepreneurs fanned flames of ethnic hatred. The next section provides a brief historical overview of the region, focusing on the factors that contributed to the conflict in 2003-2004. The final part of this article examines the international community's reaction to the conflict in Darfur and presents possible avenues towards peace.

## IDENTITY & ETHNICITY

There are two main schools of thought relating to the subject of ethnicity and identity: primordialism and instrumentalism. Primordialists focus on identity as a set of fixed characteristics of a people based upon a common history leading to a static, rigid identity. David Horowitz levels an important criticism against this perspective. He argues that primordialists are naïve “in supposing that ethnic affiliations are given rather than chosen, immutable rather than malleable, and inevitably productive of conflict.” (Horowitz, 2004, p. 72) Geertz argues that ethnicity is not in itself primordial, but that humans naturally perceive it as such because it is embedded in their experience of the world. Today, the instrumentalist argument dominates academic literature. It concentrates on the value of manipulation by political elites, who by defining ethnic identities within political processes aim to achieve ends for one self-differentiating collective group. This perspective is important to our understanding of how ethnicity was utilised in Darfur by political elites to recruit for militias and rebel groups.

Darfur

is populated by some ninety tribes and countless sub-clans. Virtually all of Darfur's six million residents are Muslim, and, because of decades of intermarriage, almost everyone has dark skin and African features.

(Power, 2004)

Despite a tradition of ethnic mixing, the population has recently begun subdividing between 'Arabs' and 'Africans,' who are known, derogatorily, as *zurga*, or 'blacks.' People of Arab decent tend to be nomadic, herding camels in



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North Darfur and cattle in the south. The 'blacks' are settled farmers. Some predominant black tribes include the Fur, the Tunjur, the Meidob and the Zaghawa in the north, the Berti and the Birgird in the east, and the Masalit in the west. Later in this article, we will examine what catalysed this subdivision. First, we must examine the complex link between ethnicity and nationalism in the context of Darfur.

## NATIONALISM IN SUDAN

"Nations are integrated communities of compact territory and history with political aspirations." (Kauffman and Conversi, 2008, p. 5) According to Benedict Anderson the nation is "an imagined political community." (Anderson, 1991) From this perspective nations exist as imagined images rather than actual communities and require face-to-face interaction to sustain the notion of a common identity. Nations are different from ethnic groups essentially because the latter do not have collective political aspirations. What is the link between ethnicity and nations? From a perennialist's perspective, nations develop from ethnic ties and ethnicity. Put simply, ethnicity forms the building blocks of nations. Modernists dispute this argument. They hold that "the nation and nationalism are recent and novel phenomena while downgrading the ethnic factor." (Smith 2006) Modernist Gellner (1983) associated the development of nations with the spread of industrialisation and of the dominant ideology of modernity. Smith (1998) disputes this premise, arguing that industrialisation is not a prerequisite for nationhood. For instance, Darfur is a region where industrialisation is nonexistent. Infrastructure is barely available and civilians are dependent on subsistence farming. Gellner's theory is too "deterministic and associated with the over ambitious neo-positivists paradigms." (Kauffman and Conversi, 2008, p. 5) Therefore, modern nations may have premodern precursors and can form around recurrent ethnic antecedents. (Smith, 2006)

Linked to the idea of a nation is nationalism. Nationalism is "an ideological movement of attaining and maintaining autonomy, unity and identity on behalf of a population deemed by some of its members to constitute an actual nation or potential nation." (Smith, 2006, p. 30) In the case of Darfur, Arabisation was advanced as a kind of nationalism in which the country's educated elites regarded themselves as 'guardians' of the general population, including African tribal groups in Darfur. (Hagan and Kaiser, 2001, p. 4) Darfur's Arab-African dichotomy is an ideological construct that has emerged very recently: "The roots of Arab supremacism in Darfur do not lie in the Arabi-

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zed elite ruling in Khartoum. They lie in the politics of the Sahara.” (Flint and DeWaal, 2008, p. 47)

## **HISTORY OF DARFUR AND THE CREATION OF ETHNIC DIVISIONS**

The contemporary state in sub-Saharan Africa is not African. It descends from arbitrary colonial administrative units designed as instruments of domination, oppression and exploitation.

(Englebert, 1997, p. 767)

Sudan, the largest nation in Africa, has been mired in civil war since 1956 when it won independence from Britain. Darfur is a region in Western Sudan. Sudan, like many of the states that were carved out of colonial empires in Africa, was an artificial construct. It lacked political legitimacy, politically sensible borders, and political institutions capable of exercising control over its nominal territory. (Brown, 2001, p. 5)

A complex combination of political and geographical factors led to the acceleration of the distinctions between Arabs and non-Arabs. The main foreign conflict entrepreneur was former Libyan leader Muammar al-Gaddafi. He was responsible for re-invigorating myths of Arab supremacism within Darfur. Gaddafi's main interest was Chad, which he wanted to annex it to Libya: “In return for oil and weapons for Khartoum's war in the South, Libya was allowed to use Darfur as a backdoor to Chad.” (Flint and DeWaal, 2008, p. 48) Chad retaliated by arming rebels in Darfur. Control of the Darfurian-Chad border broke down as fighters crisscrossed between the two countries. Gaddafi organised Arab tribes in the region, including in Darfur, into Islamic legions called the ‘Arab Gathering.’ The Arab Gathering emerged publicly in October 1987, when directives were sent to Sadiq al-Mahdi, Sudan's Prime Minister at the time, warning that Arabs could no longer be mistreated and that they must hold 50 percent of all government posts in the region.

These directives fostered myths that Arabs were being repressed by non-Arabs and their land taken from them. Many of those trained by Gaddafi in the 80s were among the militia groups behind the ethnic cleansing in 2003. Opportunistic domestic leaders fanned the flames of ethnic division to their own advantage. Omar al-Bashir seized the presidency of Sudan with a military coup in 1989. He brutally excluded non-Arabs from his government: members of three tribes which represented only 5.4 percent of Sudan's population held positions. (Flint and DeWaal, 2008, p. 17) Group polarisation

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increased as non-Arab groups were also excluded from participation in the Popular Defence Force (PDF). The administrative boundaries of Darfur were redrawn in 1994 to ensure that the Fur, which were the largest African tribe, were divided among three new states, making them a minority in each new state and perpetuating fears of ethnic dominance. These forms of exclusion are known as “bureaucratic ethnic cleansing.” (Hayden, 2002, p. 245) They provide the legal means to exclude individuals from citizenship on ethnic grounds.

Conflict is embedded in Darfur’s history. Darfurian tribes have always had to compete for scarce natural resources. Since the 1970s competition has intensified due to increased desertification. A famine broke out in 1984 which sharpened the divide between the nomadic herders and farmers. This dichotomy is now “superimposed on an Arab versus African dichotomy, with state-led agency.” (Prunier, 2005, p. 162) Inequalities between the two ethnicities increased as nomads’ migratory routes turned to sand and their struggle for survival grew harsher. Intergroup comparisons led to competition, anxiety, and fear of domination. The Arab and African communities began to arm themselves in order to protect their economic interests, creating a security dilemma. The presence of weapons increased the threat between the two groups.

Psychological research clearly shows that the presence of a threat of some kind of group members that is based on group categorisation, as intergroup conflict, tends to produce group cohesion, in-group favoritism, distrust, a willingness of individuals to accept centralized group leadership, an emphasis on winning over considering the merits of a particular issue at stake, and a lack of intergroup communication.

(Hale, 2004, p. 469)

Environmental problems, colonial institutions, and corrupt neighbours combined to create conflict in Darfur. As the State became weaker, both the Arabs and non-Arabs felt compelled to provide for their own defence.

## **THE COUNTER-INSURGENCY AND THE RISE OF ETHNO-NATIONALISM**

The counter-insurgency from 2003 to 2004 came in two waves. It saw the transformation of ethnic bashing into ethnic cleansing. Darfur descended

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into a Hobbesian state of nature. Many different parties became embroiled in the conflict. Drake writes that

[t]he binary order of the duel was replaced by three and sometimes more parties, each only vaguely coherent and often uncoordinated, contending not so much for national territorial integrity as for local ethnic homogeneity.

(Drake, 2007, p. 639)

The three main parties within the Darfurian conflict are the rebels, the Arab militias known as the Janjaweed, and the Sudanese government based in the capital, Khartoum. The rebel groups are comprised of three main African tribes called the Fur, the Masalit, and the Zaghawa. Two of the most well-known rebel movements within Darfur are Sudan's Liberation Army (SLA) and the Justice and Equality Movement (JEM). In 2003, the Rebels launched a renewed insurgency against the Sudanese government, which began in Northern Darfur. The impetus for this insurgency was the marginalisation of Darfur from the Naivasha peace talks concerning the succession of South Sudan. The north-south civil war was the longest running war in Africa. Negotiators made a similar mistake during the Dayton negotiations during the Yugoslav war. They left out Darfur just as they had left out Kosovo and felt the deteriorating situation within these regions would be solved after these agreements were made. In reality "the exclusion of Darfur was a disaster. The power-sharing and wealth-sharing features of the CPA fanned the hopes of Darfuri rebels." (Morse, 2007)

The most significant attack took place on 25th April 2003. The rebels, consisting of SLA and JEM forces, decided to attack the airbase in Al Fasher: "By the time the rebels controlled the base at 10 a.m., all seven planes had been destroyed, more than seventy troops, pilots and technicians were dead." (Flint and DeWaal, 2008, p. 121) Khartoum was humiliated.

## **POLITICAL ETHNIC MOBILISATION**

Khartoum's response was to crush the rebellion immediately, using any means necessary. They embarked on a plan to arm the Arab militias within Darfur and use them as proxy armies for their strategy of counterinsurgency. The militias gave the government the cover of 'tribal conflict' between the nomads and the farmers, enabling them to deny there was a war at all. (Flint and DeWaal, 2008, p. 56)

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As the counterinsurgency got underway, ethnic divisions became inflamed. Khartoum adopted a scorched earth policy, in which rudimentary bombs were dropped from old Antonovs, followed by an assault on the villagers by the Janjaweed, who were described by villagers as “the demons on horseback.” (Harr, 2009, p. 2) Men eligible to fight in the rebel groups were murdered in order to cut off the rebel supply of troops. All villages attacked were burned and looted, and residents who were not killed or raped were forced to leave. They recognised that if they could dislodge and displace villagers from their homes and communities, they would in addition be highly vulnerable to the scorching heat and wind in the desert, and therefore also vulnerable to starvation, dehydration, and disease. (Hagan and Kaiser, 2001, p. 10) Mary Kaldor (1999) identifies these types of ethnic conflicts as ‘new wars.’

Within each camp, indoctrination included instruction in ‘us’ and ‘them’ distinctions that escalated from demeaning and degrading to dehumanising characterisations. These included attributions of subordinate, slave, and sub-human statuses. Racial epithets constituted the hooks for the dehumanisation leading to elimination and extermination. Such epithets were recited during battles in order to motivate the soldiers. Villagers interviewed by Prunier (2005) remember hearing these racial epithets during attacks. For example, “You are not human,” “Black prostitute, you are dirty – black,” “We will kill any slaves we find,” “The government has ordered anyone black to be killed – even the black birds.” (Hagan and Kaiser, 2011, p. 9) These racial epithets demonised the Africans and were psychological justifications of violence for the militiamen.

People try to understand their real strategic situation, because they know their fates depend on it, but under uncertainty their ability to analyze these social facts is clouded by cognitive biases and by the manipulations of strategic ideologists who have their own parochial agendas.

(Snyder and Jervis, 1993, p. 26)

The Arab supremacist Musa Hilal was the head of these militias. He reinterpreted and revived ancestral myths in Darfur within the militia camps he ran. We must ask the question “how far can the intellectuals influence, mobilise and instrumentalise public opinion?” (Kauffman and Conversi, 2008) What about Khartoum’s role in fanning the flames of ethnic hatred? Hilal insisted that he received his orders directly from Khartoum. Therefore, regard-

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less of Khartoum's denials, we should not underestimate their involvement in perpetuating the conflict. DeWaal and Flint discovered documents that directly show correspondence between Khartoum and Hilal. In one correspondence in 2004 between Hilal and the Commander of the Western Area Command, the Commander wrote, "You are informed that directives have been issued ... to change the demography of Darfur and empty it of African Tribes." (Flint and DeWaal, 2008, p. 129) A further report from refugees by Human Rights Watch also identifies how the militia and government planes coordinated their attacks in the Masteri area of West Darfur in January and February 2004: "The Janjaweed are no longer simply militias supported by the Sudanese government," said Kenneth Roth, Executive Director of Human Rights Watch. The militias work in unison with government troops, with total impunity for their massive crimes which include the killing of fighting-age men and the poisoning of wells.

The rebel factions also contributed to the rise of ethno-nationalism. They promulgated anti-Arab propaganda portraying themselves as victims. What started out as small rebel movements with limited financial backing from Chad has escalated into a fully-fledged war economy. The rebel groups have taken advantage of the situation to the extent that the gains from war are more than the costs thus reducing incentives for them to end the war. This reluctance to end the war is exemplified in their failure to uphold any peace ceasefires. Only one rebel group signed the Darfur Peace Agreement (DPA) in 2006, the SLA. What may have once been a rebel movement propelled by grievances has turned into one motivated by greed whilst trying to maintain the perception of victims of injustice: "Grievance is to rebel organization what image is to business." (Collier, 2007, p. 198)

Collier argues that rebellions only occur if they are financially viable. Funds are secured domestically through levies. International funds come from neighbouring countries such as Chad. To sustain funding, "you will style your rebellion as a protest movement, driven to the extremity of violence by the extremity of the conditions that your people face." (*Ibid.*) Rebel supporters, just like the militia soldiers are gulled into believing the discourse self-interested rebel leaders promote. (*Ibid.*, p. 200) Ballentine and Nitzschke (2003) criticize Collier's "greed vs. Grievance" argument for being overly "rebel centric." This critique is particularly relevant in the case of Darfur where the State and militia's role, which has already been examined, in causing and prolonging the war should not be overlooked, especially in terms of conflict resolution policy. According to Brown, the emergence of dehumanising ideologies, which deny the humanity of other ethnic groups, is particularly dan-

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gerous because it is a precursor to genocidal slaughter. (Brown, 2001, p. 14)

## THE INTERNATIONAL COMMUNITY REACTS

In 2004 the world began to take notice of the humanitarian catastrophe unfolding in Darfur and the United Nations passed Resolution 1556, which states:

The Security Council today, acting under Chapter VII of the United Nations Charter, demanded that the Government of the Sudan disarm the Janjaweed militias, apprehend and bring to justice its leaders and their associates who had incited and carried out violations of human rights and international humanitarian law, as well as other atrocities in the country's Darfur region.

(Security Council Press Release, 2004)

The Sudanese public expressed their anti-intervention sentiments by holding anti-UN demonstrations in Khartoum following Resolution 1556, because they believed their government was engaged in legitimate counter-insurgency operations in Darfur. Therefore, any intervention without Sudanese consent would have led to more social chaos and possible collapse of the Naivasha Agreement.

Political will was in low supply when it came to Darfur. In September 2004, Colin Powell wrote that "genocide has been committed in Darfur and the government of Sudan and the Jingaweit bear responsibility" (Dagn, 2011, p. 24) However, Powell went on to endorse a restrictive interpretation of the 1948 Genocide Convention and to insist that no new action would be required on the part of the US government. (Bellamy and Williams, 2005, p. 31) It was in America's interests to focus on their foreign policy in relation to China and to finalise the Naivasha Peace Agreement between North and South Sudan. China vehemently opposed any condemnation of the Sudanese government and believed any type of intervention would be an infringement on its sovereignty. China is Sudan's largest economic partner: "In 2007, China purchased 40% of Sudan's 25-million-ton annual output of oil, accounting for about 6% of all Chinese oil imports." (Herberst, 2008) China had also been exchanging arms with Sudan in return for oil. A Human Rights First report states that "China sold \$3 million in small arms to Khartoum in 2003; that number reached more than \$55 million by 2006." (Herberst, 2008) Russia also opposed any measures that would breach Sudanese sovereignty. Their

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opposition was arguably connected to concerns about Chechnya, but the country also had substantial commercial interests in the region, especially as it sold around \$150 million worth of military equipment to Sudan.

The first AU troops under the mission name AMIS arrived in 2004 to monitor the N'Djamena Humanitarian Ceasefire Agreement. AMIS became despised within Darfur:

It was a symbolic presence that amounted to little proactive or effective physical protection. AMIS did not engage elements of the Sudanese army or other parties when these attacked civilians, as most of its insufficient troops lacked the experience and training to do so successfully.

(Badescu *et al.*, 2009, p. 298)

They were unable to police displacement camps let alone the countryside, and morale quickly evaporated. Darfurian contempt for the AU mission intensified after the Darfur Peace Agreement was signed in May 2006.

In 2007, the UN and AU missions combined, becoming known as the UN-AMID. The 26,000 troops that were eventually deployed to Darfur in 2008 have had little success in stopping attacks by the Janjaweed and rebel groups. UNAMID was destined to become part of the problem rather than part of the solution. The sad reality was that the UNAMID was designed to satisfy western public demand for military intervention. (Flint and DeWaal, 2008, p. 270) The West did not want to risk another failed military intervention similar to Somalia. They wanted the UNAMID mission to create an international perception that the West were trying to solve the problem. Its predominantly African character resulted in most troops being recruited from African countries. They had far less experience and training than western troops. Secondly, under the Chapter VII mandate they were not authorised to use force, with the exception of self-defence.

## STEPS TOWARDS PEACE

The prospects for peace in Darfur look bleak. Is there any way forward? What steps can be taken to transform Darfur from a zero-sum game to a non-zero sum game? According to John Galtung's seminal work on conflict resolution, Darfur can be classified as an asymmetric conflict. This means "contradiction is defined by their parties, their relationship and the conflict of interests inherent in the relationship." (Ramsbotham *et al.*, 2005, p. 9)



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Therefore, behaviour, attitudes, and contradiction must be transformed to solve this conflict.

The first step in solving a modern asymmetrical conflict must be the dismissal of proposals for 'quick fix' military intervention, which quells violence in the short term but fails to address the root problems of the conflict, including desertification and marginalisation. The continued talk of humanitarian intervention prolonged the Darfur war by encouraging the rebels to hold out for the chance of a better deal.

Secondly, talk of military intervention eclipsed the importance of the peace process. Scholars such as DeWaal and relief workers on the ground argued that best chance for a resolution to the conflict was through a peace agreement. The Abuja peace talks in 2006 saw unsatisfactory agreements whereby the peace was essentially forced. The fear of intervention pressured the Sudanese government to sign a deal that it considered unfavourable. It retaliated by attacking aid workers. These attacks are a message sent to the international community which says in substance, "if you keep wanting to send in the troops, be aware that this will be at the cost of the life of humanitarian workers in Darfur." (Weissman, 2007) Therefore it is important

to counsel against pushing governments and international civil servants to make formal commitments that may turn out to be worthless pieces of paper. Better a small real step than a bold false one.

(DeWaal, 2009)

Sanctions such as trade embargoes and travel bans are often employed in conflict resolution. However, they suffer from enforcement problems. The government continued to carry out air attacks on both civilian objects and military targets, in direction violation of UN Security Council Resolution 1591 (2005) which bans offensive military over flights by the Sudanese government in Darfur. The UN Sanctions Committee is empowered to impose targeted sanctions on any individual responsible for such offensive military over flights, as well as for violations of international humanitarian or human rights law, but to date has only imposed sanctions on one member of the Sudanese Armed Forces. Finally, if sanctions negatively affect civilian livelihood, it will "inadvertently promote civilian support for or dependence upon sometimes predatory rebel and militia movements." (Ballentine and Nitzsche, 2003, p. 13)

Darfur has been bled dry by its criminalised war economy. Those benefit-

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ing from violence may have vested economic interest in conflict continuation. (*Ibid.* p. 30) How do we get the rebels to stop fighting? One proposition is to curtail resource flow to the rebels. Such a blockade might weaken their military capacity, but not their resolve to continue fighting. It would more than likely lead to increased predation by rebels seeking to recoup their losses, thus worsening the humanitarian situation. (*Ibid.* p. 13) Finally, the rebel group can be demilitarised and turned into a political party. This seems unlikely to happen due to the profit they are making from war. Negotiators will have to come up with financial packages that provide more of an incentive than continuing the war.

Realists believe soft power methods such as ceasefires and peace agreements give rebels more time to regroup and rearm. They point to the failed 2004 N'Djamena Humanitarian Ceasefire Agreement and the shortcomings of the DPA. This article argues that the soft power should not be overlooked. The main problem with these agreements was the nature in which they were conducted. The mediators, including the UN and the US, pushed the rebels and GoS to sign unsatisfactory agreements. It is important to "counsel against pushing governments and international civil servants to make formal commitments that may turn out to be worthless pieces of paper." (DeWaal, 2009) The final peace agreement must overcome the security dilemma in Darfur. Once a society has suffered a collapse into low trust, it takes concerted action to change expectations, and, meanwhile, many functions that other governments rely on simply don't work. (Collier, 2007, p. 215) The ability to reach a satisfactory agreement has been "inhibited by fears that [the] other side will cheat and by hopes to gain a better distribution of the values in the dispute." (Jervis and Synder, 1993, p. 23)

How can both sides be stopped from violating agreements? So far power-sharing has failed because the non-signatories were excluded from it. Therefore, rebel leader Minni Minawi, the most corrupt of those who signed, became head of Darfur's transitional authority and began waging a war against the rebels who had not signed. The premise of power-sharing as proposed by Arend Lijhart (1995) called for the sharing of executive power, group autonomy, proportionality, and mutual veto for minorities.

Power sharing reifies the contending groups and ensures that all political mobilisation takes place within the framework of the rival segments. Moreover, since power-sharing eschews the full partitioning of the polity in favor of continued political and economic integration, it perpetuates mutual interdependencies and

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vulnerabilities that heighten the security dilemma.

(Jervis and Snyder, 1993, p. 19)

Kaldor's cosmopolitan bottom-up conflict resolution should be the way forward. She writes,

In short what is needed is a new form of cosmopolitan political mobilization, which embraces the so called international community and local populations, which is capable of countering the submission to various types of particularism.

(Kaldor, 1999, p. 114)

Therefore, in any further peace agreements, local chiefs need to be included. This type of cosmopolitan approach can be seen among the non-signatories at present: "Part of the non-signatories mission was building local peace. Peace with the Arabs is not only possible it is a must," remarked Abunduluk, member of the non-signatories faction. (Flint and DeWaal, 2008, p.25)

Intervention in Darfur began with a massive humanitarian aid program. DeWaal argues that "prolonged displacement crystalized both an idealized past life and a set of rock hard political demands." (*Ibid.*, p. 238) Therefore, as part of any future negotiations, camps must be dissembled and the inhabitants rehabilitated with feasible financial packages. Financial packages were one of the most contentious issues in the 2006 negotiations. Where are the refugees to be moved to? Kauffman (1996) argues for complete separation of ethnicities, possibly involving organised mass migration of groups into defensible regions. This premise is simply not feasible in Darfur. First, it does nothing to deconstruct ethnic hatreds. Therefore, rather than keeping the groups divided, the reconstruction of a civic identity within Darfur would mark a positive step towards recovery. This civic identity will take years and maybe generations to formulate, and therefore is it important that peacekeepers realise the long-term commitment needed to establish peace before they can withdraw. Secondly, refugees long to return home. Population transfers would create mass suffering and entrench the longing for a homeland and the sentiment of dispossession, which would lead to conflict in the future.

## CONCLUSION

In 2010, peace talks began in Doha between the Sudanese government and the JEM rebel faction. What emerged from the first round of talks was the

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Doha Document for Peace in Darfur (DDPD). This document is largely symbolic, with no actionable measures or repercussions for breaking any of the clauses. As of January 2012, talks are still ongoing. Many remain sceptical of the talks, accusing the Sudanese government of only participating in an attempt to save Al-Bashir from facing the ICC.

Ethnicity and nationalism are essentially interlinked. Political entrepreneurs construct and manipulate identities to increase their power and rule. This manipulation comes at a high cost to those who suffered and still suffer in Darfur today. Their suffering is exemplified through horrific accounts of ethnic cleansing. It is exacerbated by the international community's lack of political will to intervene and bring those responsible to justice. Any further attempts at peace reconciliation in Darfur must recognise the right of return for refugees. The reconstruction of a civic identity will be crucial to quenching ethnic hatred. There must be a more bottom-up approach that includes those at the local level, such as tribal leaders. Finally, further negotiations must not be forced. Ethnic conflicts continue to erupt throughout the world, ensuring that "[t]he four men of the apocalypse – war, pestilence, famine and death – are having a good ride as the century comes to an end." (Adams and Bradbury, 1993, p. 433) We must establish new and more efficient ways of dealing with these 'new wars.'

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# EU democracy promotion and authoritarian resilience in North Africa

SINÉAD DWYER

JUNIOR SOPHISTER

ECONOMIC AND SOCIAL STUDIES

Since the 1990s the European Union (EU) has pursued a “messianic quest” of democracy promotion in its neighbouring countries. (Pace, 2009, p. 39) Driven both by ideals and security concerns, the EU has sought to spread its model of liberalised democracy to its neighbouring countries in the South and the East, through economic and political partnerships and through linking the provision of aid to the fulfilment of democratic conditions. In contrast to their success in Eastern Europe, these democratic initiatives have consistently failed to produce any real change in North Africa. Despite its resources and power, the EU has been incapable in promoting democracy in the region. This article will attempt to analyse the factors that have contributed to this failure.

First, it will focus on the limits of the EU as a democracy promoting actor due to its reliance on normative power, which has limited influence in the region. Secondly, in terms of what its initiatives aim to achieve, it will outline the conflicting relationship between the EU’s own objectives of regional security and stability, and the promotion of democracy and human rights in

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the Maghreb. Thirdly, it will address the failure of policies employed in the region, to fully take into account the specific nature of the regimes. Using Brumberg's analysis of 'liberalised autocracies' (Brumberg, 2002, p. 56-68), it will discuss how the regimes have been able to tactically liberalise and adjust to EU policies despite remaining fundamentally authoritarian in nature. In conclusion, it will be argued that the EU as a promoter of democracy has been unsuccessful in implementing policies which pose any real threat to the authoritarian regimes in North Africa, such as Algeria, and that in order to promote any real change, the EU needs to drastically change the way it approaches democracy promotion in the region.

## LIMITS TO THE NORMATIVE POWER OF THE EU

The nature of the EU as a peace-keeping initiative and its weak military capacity dictate that it behaves as a 'civilian superpower' in relation to its neighbouring countries. (Amirah-Fernandez and Menendez, 2009, p. 326) The democracy promotion initiatives that the EU has used in the region, primarily the European Mediterranean Partnership (EMP) and the European Neighbourhood Policy have sought to shape the norms, policies and values of the region through normative power. (*Ibid.*)

Since the establishment of the EMP in 2005, the possibility of suspending aid as a result of a "sudden and persistent interruption of the democratisation process" has technically existed (Santiso, 2002, p. 4), however, this rarely happens, as the use of negative conditionality, such as the imposition of sanctions or the withdrawal of aid, would undermine the normative nature of the EU's power in the region. In Algeria, despite President Bouteflika firing independent judges, an EU judicial reform programme continued. (Youngs, 2006, p. 4) This illustrates that the EU is reluctant to withdraw its projects or aid even when conditions are not being fulfilled. This weak imposition of conditionality creates little incentive for change. The focus on positive conditionality also tends to reference positive occurrences in the regime and encourages 'tokenism' whereby the regimes make cosmetic changes in response to pressure, without bringing about fundamental change. For example, many Arab governments have increased women's representation in parliaments in response to outside pressure but in terms of actual equality or improving women's rights, little has changed. (*Ibid.*, p. 3)

The normative focus of EU policies in the region inherently restricts its ability to achieve real change. Legitimacy and attractiveness are crucial elements of normative power and these are limited in North Africa as a result

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of history and domestic attitudes towards the EU. According to Emerson and Youngs, the credibility of the EU as a democracy promoter in relation to Algerian Islamists is reduced because they did not accept the democratic victory of Hamas in the Palestinian Occupied Territory. (Emerson and Youngs, 2007, p. 40) The EU operates in the region with the consent of the regimes, to lessen concerns over the legitimacy of its actions. However, this association with the regimes reduces the potential impact of EU policies in the region, as grass-root reformers doubt EU credibility and therefore refuse to cooperate. (Youngs, 2006, p. 5)

In the absence of negative conditionality, significant rewards or incentives need to be supplied to induce compliance. Fulfilling the conditions set by the EU entails a trade-off on the part of the regimes between the cost of relinquishing power and the benefit to be gained from fulfilling the set mandate. (Celenk, 2009, pp. 179-180) The utilisation of a normative rewards-based strategy was effective in promoting democracy in Eastern Europe after the fall of Communism due in no small measure to the incentive that forthcoming EU membership offered those countries. (Amirah-Fernandez and Menendez, 2009, p. 330) In the case of North Africa, however, the incentives provided by EU initiatives are not significant enough to compel the regimes to change and therefore the policy of conditionality is ineffective in inducing democratic transition. (Celenk, 2009, pp. 179-180)

## **INHERENT CONTRADICTION BETWEEN DEMOCRACY PROMOTION AND EU INTERESTS**

Promoting democracy and human rights in the Maghreb region became a key EU security objective in the late 1980s as a result of the perceived threat of their new neighbours following the EU Southern enlargement. (Celenk, 2009, p. 178-179) The primary motivation for increased EU democratisation efforts in the region was to secure its own security and stability, however, the aspiration, inspired by the 'democratic peace thesis', was that inducing democratic change would be a means of promoting peace and containing risks such as drug trafficking, associated with its new Mediterranean borders. (Amirah-Fernandez and Menendez, 2009, p. 327) This dual objective has led to contradictions between the EU objective of security and stability and the goal of democratisation. Ultimately the first has been prioritised. EU Member States tend to be risk-averse and overly cautious of radical political change especially in relation to non-state actors, as they fear the security threats it could cause and the risk of instability in the region. (Pace, 2009, p. 183) This

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leads to limited demands of conditionality and limited goals of democracy initiatives. (*Ibid.*) This is evident in Algeria where the EU continues to deal with and support the authoritarian regime despite its continued failure to fulfil the democratic conditions of the EMP in an effort to stabilise the country and prevent the emergence of a radical Islamist regime. (Celenk, 2009, p. 183) EU projects also frequently focus on dealing superficially with issues such as women's rights in an attempt to avoid possibly more controversial issues such as political Islam, which they fear would have the potential to disrupt the region. (Youngs, 2006, p.4) This focus implies that the EU is aware of its limitations in tackling more contentious areas. The reluctance to intervene on a deep level or address controversial areas limits the extent to which EU policies have any deep-rooted impact.

The EU claims that it does not believe in "imposing reforms" but that it will "do all [it] can to support the regions own reforms." (Pace, 2009, p. 42) This is contradicted by the fact that the democratisation policies employed by the EU in the region deal with the elites and co-opted NGOs and not with grass-roots reform movements. (*Ibid.*, p. 49) The EU finds it difficult to reconcile the promotion of democracy and the rise of political Islam (Yacoubian, 1997) and is thus reluctant to support Islamic reformers regardless of any democratic credentials.

The contradiction between EU self-interest and democracy promotion in the region is also evident in the funding it gives and the particular conditions it enforces. In Algeria in 1997, the EU failed to react to the worsening democratic conditions in the region, yet was willing to respond to a lack of implementation of economic reforms, illustrating that economic concerns take priority over democratic or human rights issues. (Amirah-Fernandez and Menendez, 2009, p. 328) Large quantities of funding including the Official Development Assistance are linked to the fulfilment of economic reforms rather than political ones. (*Ibid.*) Funding for democratisation projects is largely insufficient, especially relative to the funding for other projects such as those relating to drug trafficking and family planning. (*Ibid.*, p. 329) These other areas have more of a direct and immediate 'spillover effect' to the EU than democracy promotion and this again illustrates the EU's prioritisation of its own self-interest over democracy in the region. Promoting trade liberalisation within the region is also another reflection of EU self-interest, as it increases its prospective market and influence. (*Ibid.*)

Since the terrorist attacks of 9/11 and the launch of the US Global War on Terror, the EU's concerns over security have undermined democratisation objectives to an even greater extent than before, due to the increased fear of

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radical Islam and terrorism. (*Ibid.*) As a result, recent initiatives in the region have focused predominantly on anti-terrorism legislation, greater police and judicial cooperation, common arrest warrants and a new border police and external borders agency. (*Ibid.*, p. 333) There has been little or no increase in the assistance of democracy initiatives, and funding of the European Initiative for Democracy and Human Rights (EIDHR) remains comparatively low, illustrating that security remains the EU's primary goal. (*Ibid.*)

## **RESILIENT NATURE OF THE REGIMES**

One fundamental flaw of EU democratisation policy in the Maghreb region is that it fails to take into account the nature of the regimes it is dealing with. Brumberg argues that the regimes that have evolved in the Arab world contradict "any linear model of democratisation" due to their "trademark mixture of guided pluralism, controlled elections, and selective repression." (Brumberg, 2002, p. 56) He uses the term 'liberalised autocracies,' highlighting the key fact that although liberalisation has taken place, the regimes remain fundamentally autocratic. In spite of EU democracy promotion initiatives, according to Brumberg's analysis the only liberalisation that has occurred in the last two decades has been in the form of "tactical political openings whose goal was to sustain rather than transform autocracies." (*Ibid.*)

In response to internal and external pressure for change, the regimes have allowed liberalisation to occur but despite appearances these do not represent real transfers of power and are merely an effort to secure control. By permitting minor liberalisation and deliberately limited reforms, they are able to pacify unrest and divert pressure for real change. For example, in Algeria in 1989, the regime reformed the Constitution in an attempt to pacify the social unrest and growing discontent towards the military-led single party system. These constitutional reforms were regarded as a real step towards democracy however, their scope was inherently limited. In January 1992, when it became apparent that the radical Islamic Party the Islamic Salvation Front (FIS) were likely to win the second round of the legislative election, the military intervened and prevented the election from happening. This illustrates that the regime had no real intention of relinquishing power and that their reforms had merely been a badly judged tactical opening. (*Ibid.*, p. 59)

The EU tends to focus on top-down democratisation in the region. This is ineffective as it often fails to take the superficial and ulterior nature of these reforms into account, allowing the regimes the opportunity to orchestrate openings so that they occur without risking a loss of power. According to

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Youngs, the regimes have “skillfully co-opted the language of reform to consolidate their hold on power.” (Youngs, 2006, p. 1) The assumption that economic development will lead to political liberalisation and democratisation in the region reflects a misunderstanding of the nature of the regimes. (Pace, 2009, p. 43) It implies that the continued existence of the regimes is purely a consequence of the socio-economic situation and not related to societal factors such as the existence of radical Islam. (Amirah-Fernandez and Menendez, 2009, p. 327) The extent of the elites’ control in the authoritarian regimes allows them to manipulate well-meaning democracy policies to their own benefit by controlling the channels through which the EU aims to assert influence, as EU funding is often channelled through government bodies. (Celenk, 2009, p. 176) The regimes rule through well-established patron-client networks and strong methods of repression, which allows them to maintain power despite economic liberalisation (Yacoubian, 1997) and thus democratisation initiatives which focus on economic liberalisation on the assumption that economic openings will lead to political openings have limited capacity in the region.

## CONCLUSION

In conclusion, due both to a lack of any real conviction and to the remarkable resistance of the regimes to reform, the EU as a democracy promoter has been unsuccessful in implementing policies which pose any real threat to the authoritarian regimes in North Africa. The reliance on normative power and positive conditionality has been insufficient in inducing real change due to limited incentives and the perceived lack of EU legitimacy in the region. The democracy promoting ambitions of the EU have been contradicted by their pursuit of stability and security in the region and this has limited the scope and aims of the democracy initiatives that they have pursued. As a result, the policies they have pursued have been inadequate in exerting pressure for real change or really challenging the power of the elites. The liberalised autocratic nature of the regimes has proved very stable and the elites have been able to adapt rather than reform in reaction to EU initiatives.

In order to promote any real democratic change in North Africa, the EU needs to reform drastically the initiatives it uses for promoting democracy. This requires a realisation that the democracy promotion policies that were effective in Eastern Europe do not have the same potential to promote democracy in North Africa. The EU must play a crucial role in enhancing democratic openings regardless of where they originate from. (Pace, 2009, p. 51)

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They must pay greater attention the specifics of the regimes and the internal dynamics of their societies and strive to frame democracy in a more Mediterranean context. (Pace, 2009, pp. 50-51) To overcome the resistance of the regimes to change, the EU needs to focus on developing conditionality that incentivises real democratic change, as opposed to mere cosmetic adjustments in the regimes. (Amirah-Fernandez and Menendez, 2009, p. 334)

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# Springtime for Marxism?

## The possible applications of Marxist theory to the events of the Arab Spring

RASHA MOHAMED

SENIOR SOPHISTER

EUROPEAN STUDIES

**T**his article will advance the argument that Marxism, namely that of the neo-Gramscian stream, is still relevant to international relations and politics in view of the civil unrest now taking place in the Middle East and North Africa, otherwise known as the 'Arab Spring.' To begin, the first part will outline the fundamental principles of classical Marxism that are essential for our discussion. The second part will look at classical Marxism in practice. The third part will attempt to apply Marx's concept of commodity fetishism to the Gulf States in order to discern the underlying causes of societal tensions within a capitalist system. The fourth part will sketch the contours of Gramscian and neo-Gramscian streams of thought as variants of Marxism, with a particular reference to the work of Robert Cox, both of which will be discussed and applied to the recent developments in Egypt, whilst briefly comparing it to the neighbouring country of Tunisia. This article will conclude by proposing that Marxism and Marxist theorising are still relevant as a method of explanation in interna-

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tional relations. It is hoped that an attempt to apply it to the Egyptian case can be used as a replicable model to understand the developments in other states as the Arab Spring continues to develop.

## **I. MARXIST NOSTALGIA: THE UNDERLYING PRINCIPLES OF CLASSICAL MARXISM**

The 20th century witnessed the meteoric rise of Marxism in theory and in practice. It became the main intellectual, social, economic and political alternative to orthodox social science. With the demise of the Soviet Union, many thinkers contended that Marxism had been finally annihilated by the prevalent 'end of history ideology' (Fukuyama, 1989, pp. 1-26) and banished back to the depths of the 19th century, where it rightly belonged. However, there remain still a number of Western intellectual thinkers, such as Robert Cox, who continue to build on Marxist principles.

Classical Marxism uses class and social stratification as its main unit of analysis (Marx, 2008, pp. 1-2). In the Communist Manifesto, history is depicted as a class struggle between the bourgeoisie and the proletariat. Marx concentrates on class because it constitutes the "social expressions of the relations created by the prevailing methods of economic production." (Carr, 1934, p. 51-52) Therefore, for Marx, a given societal class (namely the bourgeoisie capitalists who own the means of production) within a nation shapes and moulds the contours of the State's interests. Hence, the State is synonymous with the composition of the ruling class. And the process of economic production functions as the main explanatory variable for the particular form taken by any state-society complex. (Cox, 1981, pp. 136-138)

Marx's dialectical materialist approach remains indispensable as a powerful tool for analysing the structures of society. Its ability to consider a structure (A) in its entirety as a reflection of its components (B), rather than as completely divorced from its origins, leaving A and B independent of each other, provides us with a more comprehensive mechanism of explanation. States and societies are not two separate entities, but rather intrinsically linked. (*Ibid.*, p. 127) However, Marx's definition nevertheless remains ambivalent and obscure in regards to what function this 'bourgeoisie' class will play in the progression of history. Some critics, in particular realists, such as E.H. Carr, have argued that Marx awards the concept of class too much credit in forming states' interests, rendering his theory reductionist. (Carr, 1934, p. 76) Furthermore, by focusing on economics, he neglects to analyse other factors that can equally affect national and international politics, such as culture,

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religion or ideology.

While bearing this in mind, when attempting to apply Marxism to international relations, it ought to be noted that Marx's theory was first and foremost intended as a critical theory, designed to find faults in the social structuring of the nascent stages of society, identifying capitalism as the inherent root cause of instability and inequality. A method, which would therefore provide a more complete explanation, would be to take classical Marxism and combine it with other theoretical models inspired by it, namely neo-Gramscianism, which can compensate for the lacunae in the original theory. The patchwork of fragmented ideas, theories and works that make up Marxist theorising only become powerful as an explanatory method once their forces are combined.

## II. CLASSICAL MARXISM IN PRACTICE

A premature post-mortem of Marxism would lead us to conclude that it is inapplicable to our modern political realm. However, the emergence of significant social upheavals across the Middle East, as well as major protests movements in Western countries, have revived discussions of Marx's theory of revolution. The Arab Spring and the Occupy Wall Street (OWS) movements are all taking place in the midst of a worldwide situation characterised by Wallerstein as a deteriorated standard of living for at least two-thirds of the world's population and a huge rise in the current income of relatively small wealthy echelons in society. (Wallerstein, October 2011) Soaring unemployment rates in the last 5 years and rising food prices have coincided with profits for bankers and large scale-investors increasing faster relative to the wages of workers. (Cassidy, 1997) The World Top Incomes Database shows that the top 1 percent of the population control approximately a fifth of income in America, while 15 percent of Americans live below the poverty line and the unemployment rate is stagnant at 9.1 percent. (Friedman, 2011) These figures combined with a lack of action by national governments to address these imbalances seem to support Marx's claim that capitalism is synonymous with a monopoly. The enrichment of a dominant minority, and stagnation and deterioration of conditions for the majority, suggest that the Marxist 'theory of immiseration' is becoming more and more relevant. The consequent emergence of the Occupy movements and Arab 'revolutions' could validate Marx's claim that revolution is an ineluctable consequence of capitalism and will continue to plague populations until "working men of all countries, unite!" (Marx, 2008, p. 39)

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These expectations of emancipation are bound up with the 'the disabling effect of fetishism and reification' discussed by M. Rupert, which lead to the formation of "families of capitalist historical structures [that] are fraught with tensions and possibilities for change," (Rupert, 2003, p. 183), specifically in the case of Arab states as the next section attempts to demonstrate.

### **III. THE ARAB SPRING AND OIL AS A COMMODITY: A REVIVAL OF MARXISM?**

The 'disabling effect of fetishism' can be demonstrated by examining oil in the Gulf countries and by looking at how Marx's concept of commodity fetishism can come about in those countries, whose economies and societies centre around one resource. In *Selected Writings*, fetishism refers to the religious custom of ascribing human attributes to material objects, for example commodities such as gold or silver. (Marx, 1977, p. 435) These commodities acquire a certain value or a "specific social character" via their exchange for other objects in a market setting. (*Ibid.*, p. 436) By extension, the people's labour that results from these market exchanges becomes a commodity in itself and the "social character" of this labour thus comes to be perceived as "material relations between persons and social relations between objects." (*Ibid.*, p. 436-7) As a result of human labour being considered as a commodity, people's role as workers is rendered invisible and forgotten in the exchange process, which is all part and parcel of the structure of a capitalist system. (*Ibid.*, p. 439)

Marx's example of the exploitation of peasant labour in the medieval economy, during which the former group's labour was dominated by a production-for-use socio-economic relationship (Marx, 2000, p. 440) provides a clear parallel with migrant labour in the Gulf States. In the Gulf States' economic systems, capitalist social relations form the foundations for the possibility of "asymmetrical social powers" distributed according to the royal hierarchy. (Rupert, 2003, p. 183) Means of production are exclusively controlled by the 'Khaleeji' or Gulf capitalist class (Daher, 2011), while the rest of the population, constituted of non-royals and migrant labour are "compelled to sell that which they do own – labour power ... in order to gain access to those means of production" and survive on a meagre wage. (Rupert, 2003, p. 183) This privileged and elitist social structure in the Gulf highlights the reasons for the popular demand for democratising projects in Bahrain and Kuwait. In a region that possesses 50 percent of the world's remaining oil reserves (CIA World Factbook), we cannot help but recall that Marx warned

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how commodity fetishism can affect societal structuring and development. Therefore, oil as a commodity has to be understood and to be considered as the departure point of any attempt to explain emerging social stratification within the GCC (Gulf Cooperation Council) states.

A prime example that could demonstrate how commodity fetishism has affected the social structure and formation in the GCC states is the link, made by Hamieh in his book *Capitalism and Class in the Gulf Arab States*, between the rise and the prosperity of the Khaleeji capitalist class and the exploitation of migrant workers. (Kilibarda, 2012) The exploitation of migrant workers, who possess no citizenship rights and are treated like “slaves” (Kapiszewski, 2006, p. 12), underpins the wealth of the GCC states. (Kilibarda, 2012) Their mistreatment can be easily demonstrated through the example of their forced deportation during the 2008 economic crisis in order to protect Khaleeji interests. (*Ibid.*) This event moreover highlights the monopoly on the means of production that exists within these states and how an alternative is imperative in order to ensure that all members of society, whether royal or a migrant worker, have the same equal access to the means of production, as well as citizenship rights.

Marx provided a detailed analysis and dissection of the capitalist economic system, predicting that a social transformation would take place as a result of the inevitable effects of capitalism (for example, low wages and exploitation of workers) and the division of a population’s class structure due to the fact that the proletariat must become victims of the inequality of capitalism. Their “relative immiseration” (Rupert, 2003, p. 185) and oppression would eventually lead them to unite in their plight and overthrow the capitalist system. While he claimed that this transformation could only be “achieved by the forcible overthrow of the whole existing order” (Carr, 1934, p. 54) in the form of a revolution, he did not provide a mechanism that could potentially facilitate this “overthrow” or change. Therefore, we will rely on Cox and by extension on Gramsci to provide us with an explanation as to how this transformative process will take place and in what form. While Gramsci concurred with Marx’s study of the structure of capitalism, he would not accept his “mechanical and economic interpretations” vis-à-vis the “international socialist movement” and preferred to explain the predicted socialist transformation by employing the concept of hegemony. (Rupert, 2003, p. 185) The complimentary aspects of these theories can be pragmatically demonstrated in relation to the Arab Spring in Egypt.

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#### IV. MARX'S 'REVOLUTION' AND GRAMSCI'S HEGEMONY MECHANISM: HOW COX PAVED THE WAY TO UNDERSTANDING THE EGYPTIAN REVOLUTION

Robert Cox fills a considerable gap in Marxist theory by providing a transformational framework. (Moolakkattu, 2009, p. 439) Although claiming to be Gramscian, his work concentrates on selectively combining contradictory elements such as the Weberian concept of the elite with the Marxist concept of class, placing emphasis on the elite's role as the political, ideological and moral leadership of a class as a whole. (*Ibid.*, p. 441) He revolutionised and internationalised Gramsci's concept of hegemony, which will serve to frame our analysis of the Arab Spring, namely the Egyptian case. Cox demonstrates how the concept of hegemony can be used to assess power structures and regenerates the concept by adapting it to the social, political and economic reality of current international relations. Hegemony can be defined as the legitimised or consented dominance of one class over another by means of institutions or political and economic structures. (Cox, 1981, pp. 61-62) This definition differs to the realist definition of hegemony, which stipulates the dominance of one state over other states in world politics. (Keohane, 1984, p. 31) In contrast, Gramsci's theory of hegemony deals with class. In this theory, a 'hegemon class' changes into a 'historic bloc,' which in turn can wage two forms of war: a 'war of position' (ideological war via propaganda or media) or a 'war of movement' (powerful and big enough to overthrow the ruling social order violently and/or democratically). (Cox, 1981, pp. 52-53) Within this concept, the role of "historically situated social agents whose actions are enabled and constrained by their social self-understandings" (Rupert, 2003, p. 185) is of crucial importance.

With regard to the Egyptian case, both types of war can define the nature of the revolts that have sought to construct an alternative "social order out of the historical conditions of capitalism." (*Ibid.*, p. 182) Gramsci's aim as part of his transformative political project was the construction of an intellectual-moral bloc, which could make politically possible the intellectual progress of the masses as a whole. (*Ibid.*, p. 185) This new historic bloc would not simply be another hegemony that rearranges society according to its preferences, but would rather be a transformative counter-hegemonic bloc that facilitates and unifies the changeover.

Therefore, Cox and by extension, Gramsci, in conjunction with Marx, have provided us with some crucial concepts for analysing and understanding the unfolding events and changes that are taking place in Arab societies.

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They allow us to look at the developments that are transpiring from a different perspective. Gramsci's concept of hegemony, as developed by Cox, in particular provides us with a mechanism for understanding the open-ended political transformations now taking place.

In Egypt, the intellectual elite across the country possesses the potential to fulfil the role of Gramsci's counter-hegemonic bloc. However, they have failed to rise to this challenge and have not been strong enough to form such a bloc. If the elite had formed the hegemonic bloc, they would have facilitated the intellectual and political progress of the masses in Tahrir Square. Due to their inexperience and lack of institutional involvement, the liberal (more secular) elite in comparison to a different counter-hegemonic bloc, namely the Muslim Brotherhood (MB), have appeared as weak, lacking a united front and as chasing rather than leading events. The MB bloc, whose formation dates back to 1928, has incorporated Islam and democracy into a single ideology as part of their, in neo-Gramscian terms, 'war of position,' aimed at winning over the masses. Prior to the revolution, the MB was already influential at the local level as they had established and run a network of hospitals, schools and charitable activities. (Atzori, 2011) Through these structures and institutions, they have been able to consolidate their political Islamist ideology as the mainstream belief. This has led to some extent to the formation of a new 'historic bloc' called the 'new Islamist Bourgeoisie.' (*Ibid.*) What is interesting is that the MB historic bloc has been oscillating between hegemonic and counter-hegemonic stances, fulfilling the role of 'leader/led' (Rupert, 2003, p. 185) during the initial 18 days of the Egyptian Revolution and reverting to hegemonic i.e. fulfilling the role of leader, during the last 8 months. Therefore, it could be argued that the MB has been feeding off the consensus of the masses throughout the initial days of the revolution and its evolution.

On the other hand, a new hegemonic bloc seems to have emerged in the form of the SCAF (Egypt's ruling Supreme Council of Armed Forces), forcing the MB to side with the recent counter-revolution. A prime example of this was Friday the 18th of November 2011, otherwise known as 'Friday of One Demand,' when major demonstrations took place in Tahrir Square in Cairo, as well as in other major cities like Alexandria, Aswan, Suez, Beheira, and Menoufiya. These demonstrations, led by the MB, saw the biggest turn out since Hosni Mubarak was toppled last February, presenting a unified front in expressing their disagreement with a draft constitution, as the protests also included leftists and liberals. (Layne, 2011) After months of waiting, the SCAF delayed the holding of general elections, which not only deprived the

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Egyptians of their rights as citizens to elect a new and democratic government, but also robbed the MB, the longest standing and best-organised opposition force (Atzori, 2011), of their right to participate under their newly formed Freedom and Justice Party (FJP). The subsequent upsurge in opposition to SCAF has significantly consolidated the MB as a counter-hegemonic bloc from the old order.

Despite this, questions arise as to whether the popular uprisings in Egypt represent a true revolution if no change has occurred for the suffering classes after months of protests and lives lost under the interim-SCAF government. According to Marx, “every revolution dissolves the old order of society ... to what extent it is social ... every revolution brings down the old ruling power ... to what extent it is political.” (Marx, 1977, p. 126) Therefore, he envisaged the complete demise of the State, but the defeat of Mubarak and the likes of Ben Ali in Tunisia might be considered more coup d'états than as fully-fledged demolitions of the State apparatus. The so-called ‘Egyptian Revolution’ does not seem to have fulfilled its full course as most of the old regime remains in place. What we are perhaps witnessing is a melange of reform and revolution, resulting in ‘Refolution.’ (Bayat, 2011) Unfortunately, the interim-SCAF government recalls the days of the Mubarak despotic government with its persistent attempts to curb the renewed uprisings and the real participation of the masses in the governing of their new country.

In Gramscian terms, the masses have to organise themselves ideologically in order to succeed in forming a new cohesive counter-hegemonic bloc. However, to offer a better alternative to the current military government, a charismatic leader (individual or group) is needed that can unite the people intellectually, ideologically, politically and socially across all echelons in one national movement – the MB being one possibility. However, the articulation of a new project and a new counter-hegemonic bloc remains intrinsically difficult as well as complex. In the words of Gramsci, “the crisis consists precisely in the fact that the old man dies and the new cannot be born: in this interregnum, morbid phenomena occur.” (Atzori, 2011) The new protests that have broken out in Tahrir Square embody Gramsci’s foreboding quote. (Leyne, 2011) The masses’ struggle remains in progress as, in Gramscian terms; they still have to define their own political ‘destiny’ through the formation of new counter-hegemonic blocs (Atzori, 2011) that can assist them in their initial goal of freedom.

The Tunisian revolution provides a possible model of development for the Egyptian. One of the main reasons that the Tunisian revolution has facilitated a much swifter changeover of power and the election of a new govern-



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ment is because it succeeded in forming some kind of popular representation in the form of institutions and parties (Rees, 2011), allowing the aims of the Tunisian Revolution to be consolidated. This is precisely what Egypt needs to overcome its current stage of struggle – a platform to get their ideas, visions and plans heard, consolidated and executed. Such a structure would allow all echelons of society to be heard and not just a privileged section such as SCAF. (Rees, 2011)

## CONCLUSION

The current wind of change that is blowing through the Middle East and North Africa might have shaken the foundation of despotic regimes and overthrown some autocratic leaders and their corrupt governments, but it certainly does not guarantee what or who will follow. The Arab Spring may have had a measurable amount of success in toppling despotic leaders from power, but it has yet to change the nature of the oppressive systems in which they thrive. This prevents the revolution from obtaining durable success, as we can see in the Egyptian case. When it comes to the case of the Arab Spring, although Marx's utopian vision might not have been fully realised, Marxist methods nonetheless remain useful in explaining the developments of the major social upheavals now taking place.

This article has attempted to demonstrate that classical Marxism and Marxist theorising, in particular neo-Gramscianism, is still relevant to current international relations and politics, primarily in the case of the Arab Spring. Part one of the article briefly sketched the underlying principles of classical Marxism, specifically the importance of class as a unit of analysis. Part two of the article considered how the disadvantageous effects of capitalism have manifested themselves in line with Marx's prediction of further 'immiseration' and oppression of workers, who are currently uniting in global protests, such as the Occupy movements and the Arabic Spring. Section three applied Marx's concept of commodity fetishism to the Gulf States, demonstrating that this concept can help to identify the latent causes of societal inequality and oppression, and by extension, a motive for uprisings in certain Arab states. Lastly, the final part of the article considered the relevance of Marxism and neo-Gramscianism streams of thought in light of the Arab Spring, specifically in analysing the uprisings in Egypt, and the class dynamics and the leadership roles behind the continued revolution. In the end, Marxism and neo-Gramscianism's continued applicability in relation to the major events of the Arab Spring gives truth to the claim that Marx's theory

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remains a “living creed” to be reckoned with. (Carr, 1934, p. 79)

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# Given the role that social media played in popular revolts across the Arab world, could a similar movement come about in Russia?

ELEANOR FRIEL SCH

SENIOR SOPHISTER

PHILOSOPHY, POLITICAL SCIENCE, ECONOMICS AND SOCIOLOGY

Whether termed the ‘Arab Spring’ or the ‘Twitter Revolution,’ 2011 undeniably witnessed a rolling tide of popular uprisings, toppling regimes in Tunisia, Egypt and Libya and bringing significant unrest to Bahrain and Syria, amongst others. Hunger for reform in the Middle East has resulted in arguably the largest sequence of political change since the fall of the Berlin Wall. Remarks by the ruling elite in Russia of late have led to speculation on whether Russia might be the next in line. This question is worthy of a thorough investigation, alongside an examination of the power

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of social media to bring about revolutions, given the undeniable role that new media played in organising protest movements in the Arab world. This article intends to give an overview of the current Russian media environment, with particular emphasis on social networking sites. This article will then present an argument based on two major premises: first, that social networking sites cannot, in themselves, cause revolutions. Such revolutions must come from the people. Secondly, the current political atmosphere in Russia is not conducive to unrest and revolution on a large scale. Therefore, social media will not bring about a revolution in Russia.

## **RUSSIAN SOCIAL NETWORKING**

Social networking sites in Russia have achieved remarkable popularity. A recent comScore (2009) press release found Russia to have the world's most engaged social networking audience, "with visitors spending 6.6 hours and viewing 1,307 pages per visitor per month." Of the 31.9 million internet users in Russia, 59 percent regularly access social networking sites, "[t]he most popular of these sites [being] Russian-based Vkontakte.ru ... followed by Odnoklassniki.ru." (comScore, 2009) Interestingly, Facebook, the most prominent player in social networking sites worldwide, does not feature strongly in Russia. It trails significantly behind Vkontakte, a Russian-language virtual clone of the popular American site. Furthermore, the country hosts a large and vocal blogosphere, particularly on LiveJournal, the most popular blog-hosting service in Russia. The American site was adopted in the early 2000s by Russians, and quickly grew in popularity: "What for Americans is an electronic diary accessible to a few chosen acquaintances became for Russians a platform for forging thousands of interconnected virtual friends with potential as a tool for activism." (Arutunyan, 2007) One example of this utilisation was seen when LiveJournal was employed as an instrument to rally some 3,000 demonstrators to march in Moscow in November 2006. (*Ibid.*) However, this instance of social media operating as a tool for political activism would seem to be the exception in a country where both online and offline activism face a multitude of challenges.

## **RISKY BUSINESS AND CRIMINAL ACTIVITY**

While the internet has proven its popularity as an environment for Russians to express alternative viewpoints, there is at the same time an element of risk involved if one uses it to engage in anti-government rhetoric. Attacks against



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critics in traditional media outlets are not out of the ordinary, and it seems that this is becoming common in social media, too. Calvin Garner notes the attack of former Kremlin supporter turned outspoken anti-establishment blogger Oleg Kashin by unknown assailants. (Garner, 2011) As has happened with most crimes of this nature, the case went unsolved. While events of this nature are not everyday occurrences, there are a multitude of more covert challenges to alternative voices in Russia.

These challenges are generally manifested in a more subtle manner than anonymous criminal acts of aggression, dubbed 'half freedom of speech' by Gel'man. (Lonkila, 2011a) While independent voices are permitted to speak, a number of measures have been adopted by the government to silence and isolate criticism emerging from social networking sites and blogs. Russia features on Reporters Without Borders' most recent 'Countries under Surveillance' list which describes instances of content-blocking on YouTube, arrests of bloggers, and website disabling. Though internet use is considerably less restricted than in states such as China, the agency reports Russian officials "using more subtle control methods aimed not at preventing the transmission of content but modifying it, often for propaganda purposes, and by pressuring Internet Service Providers." (Reporters Without Borders, 2011) Authorities were granted further legal tools last summer by the Russian Supreme Court, which ruled that sites could be forced to remove comments deemed inappropriate by the State. Non-compliance here has resulted in particular sites being forced temporarily offline. (Garner, 2011) In the case of the hugely prominent blogging site LiveJournal, it is common knowledge that the most popular posts are monitored closely by the Kremlin. Alexey Kovalev (2011) refers to the blog as "an instrument of measuring public opinion on matters such as ethnic tension." Perhaps of greater concern is the fact that the site was bought by Russian-based company SUP in 2007, controlled by Alexander Mamut, a close ally of Kremlin authorities. (Lonkila, 2008, p. 1147) In a country where traditional media is very tightly framed, it should come as no surprise that this is common practice on social media sites too. Even here, the motivation behind much content is worth questioning: "Bloggers close to the government admitted that in order to insure (*sic.*) that certain news is spun a certain way, or that certain items get leaked, money does change hands." (Arutunyan, 2007) Thus information, and indeed influence, does not have the freedom to spread online in Russia as it might have in other nations.

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## INEQUALITY OF DEBATE

In spite of the heavily engaged nature of those who access the internet in Russia, a striking feature of *Runet*, as the Russian-language internet is commonly known, is the deep digital divide in the country. Web access is highly demographically unequal. Typically, users are young, urban, educated and middle-class. This would seem to go against Jürgen Habermas' theory of Public Sphere (1989), whereby democratic viewpoints are debated openly in spite of the status of the speaker. Rather, it could be argued that this is almost a twenty-first century of "Bourgeois Public Sphere" (*Ibid.*, p. 30) in that a notable proportion of the population is excluded from the debate due to computer illiteracy. Thus if we are to view social networking sites from the perspective that they can be a forum for public debate (Lonkila, 2011b), we must also consider the likelihood that this forum will operate as an 'echo chamber' since there is a high probability that, given the demographic similarities of internet users in Russia, similar views will be shared. In this way, discussions on social networking sites (not only in Russia, but perhaps the phenomenon can be said to be more pronounced there) will not mirror the ideal of the Habermasian public sphere. On the contrary, it is likely that a stronger collective identity will be constructed, as 'friends' and 'followers' on Facebook or Twitter are likely to express common ideas. This is the basic tenet of homophily, which can be defined as "the principle that a contact between similar people occurs at a higher rate than among dissimilar people." (McPherson *et al.*, 2001, p. 415) Thus in the case of Russia, the potential for social networking sites to solidify and sustain collective identities is great, but the same cannot be said for sharing new ideas and holding balanced debates.

## LINGUISTIC ISOLATION

Another feature peculiar to Russian internet usage is linguistic isolation. The most recent available census data describes 6,955,315 Russians as English speakers. (Russia Census Figures, 2002) This figure represents less than five percent of the population of the country who, as such, are cut off from the majority of the rest of the Web, which is English-speaking. In addition, the vast population generates sufficient web activity to render Russian language sites viable in themselves. This level of activity creates a particular domain of segregation, cutting off Russian users from exposure to internet-based globalisation taking place in many other regions of the world. In addition to this, arguably as a consequence of the language barrier, Russians typically tend to

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have less interest in international affairs than many of their other globally-minded counterparts elsewhere in the world. (Lonkila, 2011b) As a result, the information-transmitting capability of social networking sites, which is so important in other countries, is limited in Russia, where linguistic barriers constrain the scope of influence, in effect blocking the spread of ideas at national borders.

## STATE MEDIA

That is not to say that there is a dearth of broadcasting within those borders. Russia under Putin is notable for the fact that official state media has an impressively extensive reach: “The three major national channels are used as tools of state propaganda in a way that is increasingly reminiscent of the Soviet days.” (Lipman, 2009, p. 8) These state channels effectively mould public discourse, whether by boosting the profile of a figure or an event, or, just as importantly, by ignoring it. For instance, when Medvedev was declared Putin’s desired presidential successor, he was instantly provided with blanket state media coverage. This was reflected in the 70 percent share of votes garnered in the eventual election. Smaller independent outlets, including television, internet, radio, and print media, operate widely, but on a general understanding that state loyalty is a prerequisite to operation. Very few are openly defiant of the State. (*Ibid.*) While the penetration of social networking sites in Russia is remarkable, they cannot compete with the coverage, speed or professionalism offered by traditional news outlets, to which a population will invariably turn for the most reliable information. (Lonkila, 2011a) While those who are computer literate are likely to seek out several sources of information with an event of interest to them to build up a more substantial picture of events, the fact of the matter is that the Russian state holds unrivalled authority to frame events and discourse through the official media as it sees fit. As such, the potential for social networking sites to compete with these channels, even if this were to take place without surveillance in an entirely uncensored environment, would be very low.

## TOOLS OF PROPAGANDA

Political communication, as with all communication, is a two-way street, and the internet is no exception. The opening of the internet is not a panacea. Free media may improve the prospects for collective action, but that is not to say that their influence will always be positive, peaceful and democratis-

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ing: “New media may be more likely to promote polarization and to provide targeted communication channels for already polarized groups than do traditional forms of broadcasting and mass media.” (Aday *et al.* 2010, p. 27) Additionally, commentators often underestimate the determination of regimes to retain power, and consequently the ability of authorities to support challenges to their control through non-traditional avenues can be surprising: “In future situations of unrest, despotic governments will likely do a better job of disseminating disinformation and using it to discredit non-traditional channels of communication.” (*Ibid.*) So, in addition to negative control exerted by ruling elites in Russia, Kremlin insiders are also growing increasingly technologically savvy. Indeed, recent years have seen a proactive approach adopted toward social networking sites with the explicit intention to boost the image and profile of the current regime. Medvedev, for instance, has sought to engage with the Russian public by disseminating his own messages using various new media platforms:

The 2010 award for Best Russian Language Website, awarded by Russia’s Federal Agency on Press and Mass Communications, went to the President’s LiveJournal and Twitter accounts.

(Garner, 2011)

The propaganda potential of these tools is massive. However, even without a countervailing social media platform, it is worth questioning the assertion that social networking sites can operate as tools for large-scale activism.

## PLUS ÇA CHANGE...

A social networking revolution rests on the assumption that Twitter and Facebook (or in the case of Russia, Vkontakte) can cause revolutions. In the case of the recent Arab uprisings, some of the most memorable images are those of young people holding aloft smart-phones, capturing footage of riots, and sharing them in real time with internet users across the globe. We are led to believe that our world is in the midst of a techno-social revolution and that social activism has been reinvented by the tools of social networks. Supposedly, thanks to Facebook and Twitter, the traditional relationships between presenter and audience, and between authority and subordination, are being redrawn. Thus, the argument goes, the powerless can now coordinate, collaborate, and voice their concerns. However, while it cannot be said that such a dramatic shift in political communication is irrelevant, we ought to be

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sceptical with regard to sweeping conclusions on the democratising power of social networking media. Social networking sites can easily work in the other direction, inciting radicalisation and exclusion. There are several prerequisites to any form of uprising, regardless of the presence of social media. It must also be noted that the social and political climate in Russia is markedly different to those in the Arab world.

## **STRONG STATE**

Commentators in Russia and overseas have remarked on the resemblance between Putin's regime and that of Mubarak's in Egypt, whereby both states are democracies in name but in reality are dominated by single-party politics in cooperation with authoritarian security systems. Both countries possess an agitated, young, educated and technologically literate population. However, one cannot go so far as to claim that Russia experiences youth unemployment and poverty nearly to the extent of that which is fuelling the current Arab discontent. Neither can it be said that the political climate in Russia is equivalent to that of Egypt, Tunisia or Bahrain. Support for Putin is, in general, quite strong across the country:

Putin has presided over a relatively happy period in Russia's history. The country has enjoyed high rates of growth each year since Putin's accession, as well as increases in productivity and real wages.

(Harvey, 2008, p. 6)

In addition, across Arab regions there has lately been a tide of almost idealistic, pro-democracy sentiments, whereas in Russia this feeling is perhaps muted due to the events in Russia's recent history.

Unlike most Arabs, Russians do have a recent experience of democracy, under Yeltsin, which was so disorderly and demoralising that for the present they rather like the stability and relative prosperity of the Putin/Medvedev regime.

(Brenton, 2011)

The Kremlin's power base, it would seem, will not face any significant challenges for the time being. "The current political atmosphere, the strong role of the army in Russian society, and the new law on Russian NGOs do not

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favour activities or organisations critical of the Russian state.” (Lonkila, 2008, p. 1146) Thus, national sentiment has remained reconciled to the policies of Putin and Medvedev.

## **SILENT APATHY**

There is a sharp contrast between current civic structures in Russia and those that existed in the Middle East prior to the uprisings. The ex-Soviet region is marked by a political apathy that affects large sections of the population. (Mattoni *et al.*, 2011, p. 10) Historically, major social changes in Russia have been initiated from above. Maria Lipman refers to the case of *perestroika*, which she says was implemented by Gorbachev out of sheer necessity:

The Russian people, except for tiny dissident groups that had been fully defeated by the time of *perestroika*, did not fight for freedoms or even ask for them. For the most part they eagerly accepted the gift of freedom when it came, but it was not their own achievement.

(Lipman, 2009, p. 4)

This inactivity and apathy is not something that social networking sites have the power to overcome. It is fair to say that social media has the power to connect actors where they already have an active online presence and motivation. However, it does not necessarily follow that there is strong recruitment potential for social networking sites in Russia. The mode in which people speak is irrelevant if their voice has no audience. Devin Coldeway states that, “[t]he triumph in Egypt was not one of technology, but of a new, younger point of view that naturally incorporated technology in its methods.” (Coldeway, 2011) Russian youth, it seems, have yet to find their voice.

## **VARIETIES OF INTERNET USAGE**

There is evidence of engagement with social networking sites but evidence of the willpower to exploit this potential as a weapon against the ruling elite is scant:

The widespread use of the Internet and new media in Russia has neither led to the development nor facilitated the expansion of a power [centre] that could challenge the Medvedev-Putin United

Despite the increasing use of the internet in Russia, it cannot be assumed that this would be automatically accompanied with increasing opposition views. Use of the internet for leisure, e-commerce and correspondence is likely to take precedence:

It simply may be false to assume that intelligent, educated, and young people in a country such as Russia will flock to the internet to find the truth about their government and then use the Internet to spread the truth and mobilise opposition.

(Alexander 2004, p. 613)

The anti-establishment movement present in the Arab world simply does not exist to nearly the same extent in Russia, online or offline.

## CLOSED GATEWAYS

There are those who argue that social networking has the potential to spark revolution in Russia based on the gateway hypothesis: that users get engaged online with light activism, such as signing a simple petition, and this low threshold for participation draws new people into activism; but this simplistic view overlooks the fact that social media also facilitates activism of a especially superficial variety. There is a particular concern among activists that “particular kinds of technology (such as digital petitions and online protests) can be a passive, living-room based substitute for real-world demonstrations and direct action.” (Mattoni *et al.*, p. 10) Malcolm Gladwell describes the platforms of social media as being constructed around weak ties, allowing for the power of connections with acquaintances, which he describes as our greatest source of new ideas, to be exploited with great efficiency. (Gladwell, 2010) However, he makes the point that these weak ties “seldom lead to high-risk activism.” (*Ibid.*) Social media sites are built around wide networks, and wide-reaching networks do not topple political establishments. Organised, informed, strongly-bound hierarchies do. While networks perhaps make it easier for activists to express themselves to an audience, they in turn make it more difficult to create any impact, as the message becomes diffused among a myriad of other messages: “The instruments of social media are well suited to making the existing social order more efficient. They are not a natural enemy of the status quo.” (*Ibid.*)

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## CONCLUSION

This article has outlined some of the particularities of social media in Russia; as demonstrated, the internet is not one globally homogenous space. Social activists in Russia intending to employ social media in order to mobilise ordinary citizens against state authorities face strong opposition and formal as well as informal personal risk. The Kremlin shows no signs of relenting in its mission to silence dissent, online and elsewhere. However, in spite of the challenges it faces, *Runet* remains a crucial arena for civic activism, even if its potential as a tool for social movements has yet to be fully realised.

Its significance is underlined both by the lack of critical public debate on national television and the sheer vastness of the country. Online news sites, e-mail and blogging systems are indispensable for disseminating information and communicating among the activists, exerting pressure on the authorities, and organising online and offline demonstrations, appeals and protests.

(Lonkila, 2008, p. 1131)

However, we must be cautious here to avoid overly optimistic views of the democratising potential of social networking sites in Russia. Critics of the current government only make up a minority of the Russian population, and those who are active online equal a smaller percentage still. The power of social media is in connecting people. The value is in the people, not the tools they use. As Coldewey puts it:

The democratization of information is a very good thing, and the internet is a powerful tool ... The internet is neither necessary nor sufficient for a revolution. An outraged and unified population is both.

(Coldewey, 2011)

In Russia, it seems, the revolution will not be tweeted.



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