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THE TUFTS UNIVERSITY JOURNAL OF INTERNATIONAL AFFAIRS

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THE TUFTS UNIVERSITY UNDERGRADUATE JOURNAL OF INTERNATIONAL AFFAIRS

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Editors' Note

In the past, this prestigious journal has focused on a very macro-level of analysis of international relations. Through examining topics such as the changing nature of war, the role of institutions at the global scale, and the shift in regimes and governments, this journal has largely concentrated on the decision makers and those in power. But what about the powerless? The people who are impacted by the wars that others start or forgotten by the governments and institutions in which our world structures revolve around?

For our 38th edition of *Hemispheres*, we have decided to focus on these marginalized populations themselves. The phrase "marginalized populations" is a complicated one and an often underexplored part of our history, even though exclusionary practices, the fight for power, and the struggle for agency have defined history itself. Thus, this year's journal examines these forgotten or disenfranchised peoples, ranging from artist communities in Africa to the members of a refugee camp in Jordan. Not only do the articles in this journal focus on specific populations, but also the different means of marginalization and avenues for gaining agency, from economic development strategies to the cyber world. Moreover, as the international relations community has realized that global issues and affairs need to be examined through a variety of lenses, this year's journal draws from a selection of articles that range across different academic disciplines and areas of the world.

Additionally, the photography section, entitled "A Generation Later," takes the reader on a journey of these marginalized populations and explores the healing processes and methods used for gaining power and recognition. An interview with Mark Feierstein shows us the different goals that USAID has in helping bridge the poverty gap and marginalized populations in both Central and South America, while the editorials for this issue investigate the unfair and unequal living conditions both at home and abroad.

We would also like to thank the people who made the production of this journal possible. Despite the snowy setbacks and record-breaking number of submissions, we'd like to thank our staff for all their hard work in the solicitation, reviewing, selecting and editing process. In addition to the publication of this journal, our staff has worked tirelessly in putting together events for the Tufts community, running panels, and writing current event posts for our online blog. This has been quite the journey, and we are glad to finish our four years at Hemispheres discussing an important theme that is often overlooked and underexplored in the current international relations discourse.

Neena Kapur and Ellie Monroe

Articles

Peasant War in the 21st Century?
The Political Economy of Development Failure and Civil War in Nepal

Erik Katovich, *University of Minnesota*

Abstract

Between 1996 and 2006, Maoist insurgents in Nepal waged a violent "People's War" against the Nepali state. Insurgents drew upon the support of marginalized rural populations, which were suffering from high rates of poverty and declining agricultural productivity while wealth and conspicuous consumption were expanding rapidly in urban areas. This essay examines the political economic roots of this rural/urban divergence through the lens of "agrarian decoupling." I argue that the introduction of structural adjustment policies in the 1980s, by providing access to international capital markets, allowed Nepal to disregard rural accumulation in its national development objectives, thus setting the stage for civil conflict. Furthermore, I contend that the neoliberal development paradigm which accompanied structural adjustment has enjoyed only limited success in equilibrating urban and rural development outcomes because of its failure to understand the embeddedness of agrarian economies in social and political relations. I problematize neoclassical notions of rural development by examining Nepalese class relations and state functioning, as well as structures of unequal international exchange, and conclude by proposing a more grounded approach to agrarian development in Nepal.

Introduction

In the mid-1990s, rural Nepal erupted into violent civil war. Drawing upon broad-based rural support, Maoist guerrillas took up arms against state police forces, and then against the Nepali military. The Maoists gave a voice to their marginalized and impoverished constituency through a list of 40 demands, which included land reform, an end to the Monarchy, increased state provision of social services such as education, and a reduction of the growing inequalities between rural and urban Nepal. After ten years of conflict that left 15,000 Nepalese dead and over 100,000 internally displaced, insurgents fought government forces to a standstill, and in 2006 Maoist representatives negotiated the party's entrance into formal politics.[1] The brutality of Maoist tactics in Nepal, as well as the scale of support the group received among rural populations illustrates the continuing importance of agrarian development both

to human welfare and to political stability in the 21st Century. It also raises pressing questions regarding both the practice and the conception of agrarian development in Nepal. This essay aims to capture the complexity of these questions, critique overly simplistic solutions, and construct a more nuanced analytic framework in their place.

During the 1960s, Nepal enjoyed higher levels of agricultural productivity than any other country in South Asia. By 1990, however, its productivity levels were the lowest in the region and the once food-sufficient country was importing large quantities of grain.[2] Trade liberalization and the reduction of state supports to agriculture accompanied this precipitous decline, slowing the adoption of those Green Revolution technologies which accelerated productivity improvements across the rest of South Asia. Agricultural output, which accounted for 36.5% of Nepal's gross domestic product and 66% of its employment in 2012, has grown only slightly faster than population growth over the past half century, leading to persistently high rates of malnutrition (up to 40% in rural areas) and poverty.[3, 4]

Despite the dominance of agriculture in Nepal, the country's development-focused investment has had an overwhelmingly urban bias: the government's national development plans, dating back to the 1950s, have never dedicated more than 26% of investment to agricultural development.[5] This urban-focused development strategy, promoted and funded largely by foreign aid, has accelerated urban industrial growth while leaving the countryside behind. Thus, while urban growth rates averaged 8% per year between 1990 and 2005, growth rates in rural areas averaged only 1.5%.[6]

Historically, agrarian countries seeking to develop rapidly have drawn upon agricultural surpluses to build the national stock of industrial capital. Why then has Nepal not only bypassed its agrarian base in its march toward modernization, but also actively ignored it in its national development plans? Furthermore, why have the army of foreign NGOs that fill the lacuna left by the Nepali state in agricultural development failed to achieve real gains, despite the most expertly devised projects and sumptuous budgets? Why were these foreign organizations some of the primary targets of Maoist rebels during the civil war?

In this essay, I will argue that the Nepali economy's integration into transnational capital circuits through structural adjustment and foreign development aid has led to what Henry Bernstein called the "decoupling" of agrarian systems from national development.[7, 8] Access to foreign capital has allowed the Nepali state to bypass internal processes of accumulation and proceed with urban development while the hinterland withers. The neoliberal aid groups and policy regimes that have stepped in to fill the gap in the name of "poverty alleviation" have, in accordance with neoclassical theory, deployed micro-level development solutions in an attempt to counteract what I contest are socially embedded and structurally conditioned obstacles to agrarian development in Nepal.

I begin by examining 1) the phenomenon of agrarian decoupling within a broader historical context, and then explore 2) the ways in which neoliberal development schemes have reconceptualized Nepal's agrarian systems in neoclassical terms. I next 3) describe three areas that problematize this neoclassical analysis—class structures, the role of the state, and unequal regional and international exchange—and 4) build on these problematics to suggest a more holistic approach to rural development in Nepal.

The Decoupling of Agriculture from (Trans)national Accumulation

Impoverished agrarian nations have long looked for sources of capital to fund industrialization and modernization. Before decolonization in the 1950s and 60s, however, poorer countries could often access this capital only through outright submission to colonization. And while colonization occasionally brought new investments and technologies from the metropole, it also resulted in the subordination of national development projects to the interests of the colonizer.[9, 10] Some semi-peripheral or peripheral countries, such as Nepal, managed to resist outright colonization, but in doing so lost access to external sources of investment and trade.[11]

Another such country, Russia, emerged from its 1917 revolution poor, agrarian, and beset by invasion and civil war. Denied access to foreign capital, the Bolsheviks required an internal means of capital accumulation if the country were to industrialize quickly. In this context, Evgeny Preobrazhensky's 1926 study, *The New Economics*, highlighted the capacity of agriculture to produce surplus food and fuel beyond the reproductive needs of peasant producers. Drawing upon Karl Marx's idea of "primitive accumulation," Preobrazhensky proposed that the *state* could appropriate this surplus through a process of "primitive socialist accumulation" in order to fund industrialization. In Russia's case, grain surpluses could be extracted from peasants to feed an increasing population of industrial workers in urban centers.[12]

As Third World nations achieved independence, and consequently lost direct trade and investment ties with the metropole, many adopted parts of Preobrazhensky's framework into their national development strategies.[13] By emphasizing internal market expansion, policy-makers sought to boost demand for agricultural products, foster rural accumulation, and then draw off of the resulting surplus to fund industrialization.[14]

But the period of nationalist development did not last long. Core economies regrouped and formulated new, post-colonial strategies of domination, focused around trade liberalization, privatization, and deregulation. Beginning in the 1970s and 80s, developing nations' state-led development strategies fell before this wave of neoliberal reforms. Colonial coercion gave way to the coercion of international capital markets; the IMF and the World Bank's "structural adjustment" programs sought to reorient agrarian economies across the global South toward cash-cropping and export-led

development.[15] The reduction of trade barriers and the shrinking of inefficient state institutions in the Third World would, neoliberal theorists claimed, expedite debt repayment, promote efficient resource allocation, and boost foreign investment. Foreign capital's penetration of traditional agricultural economies would facilitate commercialization and rural accumulation, thus combating poverty.[16]

Despite theorists' claims, however, the liberalization of trade and the dismantling of state supports for agriculture have done little to promote agrarian development in the Third World. In the case of Nepal, trade liberalization has flooded the country with cheaper Indian products, thus undermining local producers, while the dismantling of input subsidies and price supports has increased intra-country food inequity and malnutrition.[17]

At the global level, output in manufacturing and services has increased to such an extent over the past three decades that agriculture now contributes only 3 percent to global GDP, a threefold decrease since 1980.[18] Thus, contrary to neoliberal efforts to integrate small farmers into global circuits of capital, Third World agricultural systems are becoming increasingly peripheral to the global economy. That is, capitalism no longer appears to depend upon the appropriation of agricultural surpluses in order to expand. In this context, Henry Bernstein argues that developing countries' agricultural economies have become decoupled from global capital accumulation.[19] Rather than constituting the "next frontier" of global economic expansion, peripheral agrarian economies may simply be left behind–discarded by global capital markets in favor of more profitable investments elsewhere.[20]

The newborn USSR needed to appropriate its peasants' agricultural surplus in order to feed the growing armies of industrial workers. With trade liberalization and agile transnational capital markets, however, capitalists in Nepal can now fund (and feed) urban and peri-urban industrial growth without relying on the countryside.[21] I will argue that this decoupling of the country's industrialization process from agricultural development led to the sidelining of rural investment, to declining agricultural productivity, to increasing rural poverty vis-à-vis the cities, and ultimately, to civil war.

Transnational capital may have little interest in penetrating peripheral agricultural systems such as Nepal's in order to facilitate global capital accumulation, but the epistemologies and power-structures propagated through the neoliberal paradigm have nevertheless succeeded in colonizing this space.[22] Whether in the form of internationally-funded development projects or state-led investment, the means of knowing and studying rural development are now comfortably integrated into the neoclassical framework. Given, then, the broad failure of rural development (declining productivity, worsening malnutrition) since the onset of neoliberal adjustment in the 1970s and 80s, where could this neoclassical framework be leading projects astray? Furthermore, how has the decoupling of urban capitalist growth from rural development shaped the political contestation over the project of national development?

The Neoliberal Reimagination of Agrarian Systems

Beginning in the early 1990s, the IMF directed a structural adjustment program in Nepal that deregulated labor and capital markets, privatized social service provision, and lowered barriers to international trade.[23] Reforms also reduced the role of the Nepal Food Corporation (NFC), a government body that had traditionally worked to redistribute grain from food-surplus to food-deficit regions, to subsidize agricultural inputs such as tractors, pumps, and improved seeds, and to stabilize crop prices.[24] The reduction in state support for rural areas was accompanied by a rise in foreign aid-funded development projects across the country. The share of foreign aid receipts in Nepal's national GDP increased from 1.86% in 1960 to 10.25% in 1990, and by 2010, foreign aid accounted for 26% of the government's total budget.[25, 26] Accompanying the dismantling of state supports to agriculture, this influx of foreign aid has worked in parallel with structural adjustment reforms to introduce market-driven neoliberal approaches to poverty alleviation across rural Nepal.

Broadly conceived, the neoliberal paradigm seeks to remake society in the image of the marketplace. Proponents of neoliberalism conceive of production and exchange in neoclassical terms, and contest that freely functioning markets allow sellers and buyers to come together as equal and willing participants, thus maximizing the efficiency of resource allocation and investment.[27] According to this theory, the privatization of state institutions such as the Nepal Food Corporation would prevent meddling by inept and corrupt bureaucrats. Any "frictions" resulting from market-oriented reforms would be alleviated through efficiently managed and foreign-funded development assistance.[28]

In Third World agrarian systems generally, and Nepal in particular, post-1980 neoliberal reforms pushed for the capitalist penetration of agriculture. According to development experts from the World Bank and foreign donor institutions, "stagnant" peasant communities could be "empowered" through the marketplace to become micro-entrepreneurs, leaving behind subsistence agriculture to engage as equals in international commodity production and exchange.[29] Donor institutions designed schemes to transition farmers into cash-crop production for export, largely for the Indian market. In line with Bernstein's identification of a decoupling of agriculture from capitalist accumulation, the intent behind this policy agenda was not to facilitate surplus-extraction from small farmers, but rather to alleviate poverty and to integrate farmers into "profitable market-oriented agricultural activities . . . targeted toward export."[30]

Nevertheless, nearly three decades after the implementation of the neoliberal development paradigm in Nepal, rural development has been disappointingly slow. Between 1976 and 1996, rates of rural poverty rose from 33 to 42 percent.[31] In 2001, life expectancy and literacy rates in rural areas were 12.4 and 16% lower than in cities, respectively, and in 2005 poverty still affected up to 77% of the population in some rural districts.[32] As noted above, agricultural

productivity actually declined over the two decades following 1990, and farmers continue to lack access to basic inputs such as irrigation pumps, fertilizer, and improved seeds.[33] While per capita food consumption has increased since 1990, inequality in access to food has increased during this period as well: as the traditional beneficiaries of the NFC's redistributive food policy, remote hill and mountain regions have suffered from increased rates of malnutrition since this institution's downsizing in the 1990s.[34] Thus, despite billions of dollars of investment in development (foreign aid totaled US$1.66 billion in 2010 alone), the quality of life for the majority of Nepal's citizens has shown little sign of improvement over the last three decades.

We can understand this broad policy failure only by grasping the fundamental oversight inherent in the neoclassical theory that underpins most mainstream analyses of rural development in Nepal. By emphasizing the "free" nature of market exchange, the neoclassical conception of agrarian societies overlooks the embeddedness of the economy in social relations.[35] Class divisions, integration into non-capitalist modes of production, and systems of unequal access to resources, information, and exchange all complicate the neoliberal project of development through commercialization.[36] Ignoring the layers of power, access, and meaning built into all economies makes the neoliberal development project's simple solutions appear attractive. But by depoliticizing the very real struggles for survival and justice that characterize life in rural Nepal, these solutions silence problems of marginalization and exploitation while providing a façade behind which rural Nepal first decayed, and then ignited into a decade of brutal civil war.

Agrarian economies in Nepal are embedded in broader social and structural relations in three key ways, the nature of which condition the impact of any development project. First, capitalist and pre-capitalist systems of class domination continue to coexist and to affect access to land, resources, and social mobility. Secondly, the role of state regulation, protection, and support (or lack thereof) fosters (or undermines) agricultural development. Finally, the existence of Nepal's agrarian systems within broader geopolitical and geoeconomic structures of unequal exchange (principally, hierarchies of domination between Nepal and pre- and post-colonial India) shapes Nepali farmers' prospects for commercialization and accumulation. I now examine each of these problematics in turn.

Semi-feudalism, Capitalism, and the Changing Nature of Class Domination

The push to commercialize Nepal's agriculture was institutionalized in the government's Agricultural Perspectives Plan (APP) in 1996. The APP, implemented soon after structural adjustment plans had cut state supports for farmers, reconceptualized Nepali farmers as micro-entrepreneurs who could do the work of the now-absent state and "lift themselves out of poverty."[37] According to the traditional Marxist analysis of agrarian transformation, commercialization under the APP would bring about differential rates of capital

accumulation and thus the gradual concentration of land and resources in the most "productive" hands. The resulting division of the peasantry into landless wage laborers and capitalist farmers would mark the beginning of true capitalism in the countryside.[38] Nevertheless, the reality of Nepal's largely pre-capitalist class structure complicates this linear trajectory. Across rural Nepal, semi-feudal conditions persist alongside incipient capitalist enterprises, resulting in a patchwork of modes of production which reinforce and articulate each other in complex ways.

Beginning with the conquest of the Kathmandu valley in 1768, the Gurkha king Prithvi Narayan Shah centralized power throughout the region that would come to be called Nepal.[39] As the Shah dynasty's power spread outwards, it wrested land from tribal groups and replaced communal cultivation systems with hierarchical landlord-tenant relations. State administrators used their influence to build powerful landholdings, and a feudal system developed in which peasants' surplus production was siphoned off by state tax collectors and rapacious landlords.[40] While some peasants were directly enserfed, others labored as sharecroppers or tenants, surrendering one half of their total production to the landowner as rent.[41] This dual appropriation of peasants' surpluses (by the feudal state and by state-empowered landowners) inhibited accumulation by small farmers. Characteristic of feudalism, landlords did not reinvest the surplus that they appropriated from the peasantry in productive activity, but rather consumed it directly or invested it in the wasteful production of luxury goods. The result was a growth-less society where a rentier state and its local landlord appendages lived off of the surpluses generated by an exploited rural majority.[42]

The Shahs regained power in 1951 after a century-long interlude under the control of the Rana dynasty, which had closed Nepal to the outside world and entrenched feudal relations.

Seeking to reconnect Nepal with the modern world, the Shah monarchy initiated a series of reforms focused on "rural development" that culminated with the Land Reform Act of 1964.[43] Nevertheless, power remained concentrated under the landholding elite, and the effects of the reform were minimal: a mere 22,000 hectares of land were actually redistributed.[44] As recently as 2011, 15% of rural Nepalese worked as sharecroppers, surrendering half their total harvest each year to an absentee landlord. Another 23% squatted on land to which they possessed no legal title, and a further 23% lacked access to any land whatsoever.[45]

Along with attempts at land reform, the Shah monarchy also initiated fumbling efforts at state-sponsored industrialization that inserted nascent capitalists into the dominant landowning classes. Share-cropping farmers began selling limited amounts of labor both to other farmers and to rural capitalist enterprises. The resulting system of "semi-feudalist" class relations continues to predominate in rural Nepal, and the growth of peri-urban industrialization since the 1990s shows little sign of sparking a broader transition to agrarian capitalism.[46]

Not only has capitalism proven incapable of fully transforming production in rural Nepal, but in practice the coexistence of capitalist and semi-feudalist modes of exploitation facilitate each other. The strains put on tenant farmers by the appropriation of their surplus through rents forces them into the labor market in order to supplement their farm incomes. But by preserving farmers' access to land, capitalist employers are able to pay laborers below-subsistence wages, relying on the subsidization of their labor through home production in a process that could be termed "semi-proletarianization."[47] [48] In short, a landowner-capitalist nexus has replaced the state-landowner nexus that dominated Nepal since the 18th Century, maintaining (if not extending) historical patterns of exploitation.

The arrival of democracy in the 1990s realigned the constellations of political power in Nepal, but has not altered the dominance of landowning elites at both local and national levels of government. Urban-based absentee landlords continue to extract rents from rural farmers, thus preventing them from accumulating the savings necessary to invest in improved production technologies or economies of scale. These were precisely the grievances that generated rural support for the Maoist insurgency in the 1990s, though the Maoists themselves have since become part and parcel of Nepal's political gridlock and corruption. Nevertheless, the importance that the Maoists placed on issues of land and distributional justice continues to shape the role of the Nepali state in enabling, and obstructing, agricultural development.

The Incomplete State

After the Shah dynasty regained power in 1951, King Tribhuvan introduced a multi-party constitutional government led by the Nepal Congress Party. Nevertheless, upon Tribhuvan's death in 1955, his brother Mahendra seized power. Within five years Mahendra had terminated the country's brief democratic experiment and imposed an authoritarian, monarchy-controlled system known as the "Panchayat."[49] The Panchayat system continued a centuries-long trend in which power in Nepal was exercised by an "extractive state" that transferred resources from the countryside to the center.[50] Since the democratic reforms of 1990, however, the state has transitioned to a "distributive model" in which national and foreign development funding is channeled down through regional and local functionaries. In this new model, district governors and local officials have become "gatekeepers," able to control access to much needed funds from the center.[51]

But while Nepal's post-1990 democratization has reversed the direction of resource flow (from periphery-to-center to center-to-periphery), the extractive state is still very much active in local officials' rent-seeking and corruption. In the eyes of the rural population, the Nepali state is characterized by often venal local officials who abuse their role as gatekeepers of state funds to extort bribes and misallocate desperately needed resources.[52]

As Nepal currently struggles to emerge from dysfunctional multiparty politics and a decade of civil war to negotiate a new constitution, the role of the state in rural development remains in question. The state's reach into the

countryside has deepened in many important ways over the last two decades, especially in terms of funding for rural development projects, investments in infrastructure, and the sharing of some administrative functions between national and local bodies. Yet reflecting the legacy of structural adjustment policies in the 1990s, key state institutions such as agricultural extension services and agricultural marketing boards (not to mention education and health services) remain disabled or underfunded.[53]

The state thus plays both a negative and positive (and unequivocally essential) role in Nepal's rural development. Legacies of extractive, urban-prejudiced feudalism persist, but a new post-monarchy era promises hope of substantive reform. Any meaningful change in state action will have to take into account Nepal's subordination within regional and global power structures.

Unequal Exchange: Nepal within the World System

During the Anglo-Nepalese War in 1814, British imperial forces based in northern India advanced into western Nepal, turning back only when rulers in Kathmandu signed an unfavorable treaty opening the country to imports of British goods and exports of raw materials.[54] For the British, Nepal served as a valuable export market, a source of timber and minerals, and a buffer between India and Tibet. The subsequent influx of British goods undercut Nepal's cottage industries and enriched the landlord class, thus deepening both feudal power structures and the impoverishment of the Nepali peasantry.[55]

British officers during the 1814 war were highly impressed by the fighting prowess of the "Ghurka" warriors of eastern Nepal, and integrated large numbers of hired Ghurka fighters into the imperial Indian army. This weapon of British imperialism operated nationally and internationally until 1947, opening markets for the products of Britain's industrial revolution and crushing resistance to capitalist expansion. Thus, while British imperial commerce functioned to undermine Nepal's industrial base and deepen feudal relations, the British army deployed Nepali troops around the world to defend and expand global capitalism.[56]

Nepal's domination by foreign imperialists has changed little since Indian independence in 1947. The country remains in a subordinate trading relationship with its enormous southern neighbor, and given its feeble industrial base (itself a product of imperialist domination), local manufacturing and agricultural industries struggle to compete against cheaper Indian products.[57] Most manufacturing industries are articulated into Indian, rather than Nepali, circuits of capital and investment, and profits are repatriated to India without exerting multiplier effects or building forward and backward linkages within Nepal.

New Approaches to the Development Project

Neoliberal theorists are not incorrect in their diagnosis of "market failure" as the cause of Nepal's agricultural decline. But in light of the complex political economic relations described above, it seems clear that their simplistic

neoclassical framework is glaringly incomplete. Any analysis of Nepal's agrarian economies must account for issues of class, state structure, and unequal exchange. If not, development programs may (and often do) inadvertently deepen local-level inequalities and grievances, unknowingly serve the local elite, and fail to reach the poorest villagers. The price of neglecting these complicating factors is staring development experts in the face: decades of declining standards of living and civil war.

Structural adjustment in the 1990s integrated Nepal into global circuits of accumulation and allowed the Nepali state and Nepali capitalists to access international capital markets. In line with Henry Bernstein's argument that peripheral agrarian economies have become decoupled from global capitalism, it appears that agrarian development in Nepal became decoupled from urban development around the time of the introduction of neoliberal reforms. But this decoupling does not suggest that problems involving the representation of rural politics and the interests of rural labor have become any less fraught or any less immediate for those rural populations affected by declining levels of state support. After all, development failure in the countryside, when accompanied by increasing levels of wealth and conspicuous consumption in the cities, eventually provoked civil war in the mid-1990s.[58]

The trajectory of Nepal's Maoist insurgency itself suggests much about the likely characteristics of agrarian development to come. After their entrance into formal politics in 2006, the Maoists led a coalition of political parties in opposition to the monarchy's unilateral seizure of power, forced the king to abdicate the throne, and declared Nepal a republic–thus achieving the first of their forty demands. Nevertheless, they have since moderated much of the remainder of their platform, including the demand for land reform.[59] The neoliberal project has again taken hold, and international donors are closely networked with the Nepali government in the implementation of "rural development." It remains unclear, however, if the agrarian grievances that fueled the Maoist insurgency have been resolved.

Conclusion

Nepal is at a critical moment in its national history. Current issues of class, ethnicity, gender, and access to political representation are both ancient—embedded in centuries of cultural and socioeconomic practice—and modern—the products of globalization, structural adjustment, and political transformation. The project of development has played a critical role in shaping the country's political geography and in, again and again, failing to overcome entrenched elite interests to promote meaningful agrarian change.

Clearly, an understanding of the complexities and contradictions of agrarian political economy are necessary to grasp the structural limitations that currently constrain development in rural Nepal. Neoliberal approaches such as microcredit schemes and cash-cropping programs may have marginal impacts, but will likely prove incapable of restructuring the systemic curbs on broad-based

growth. At the same time, a record of state corruption cautions against orthodox statist approaches to development. Ultimately, increased public supports for farmers, substantive land reform, targeted tariffs and state credits, and a balanced deployment of international development aid that capitalizes upon donors' expertise while resisting their ideological coercion may offer a route forward for Nepal as it continues to create and negotiate its future.

More generally, the example of Nepal illustrates the insufficiencies of neoclassical approaches to understanding Third World political economies. Free and equal exchange between rational producers and consumers simply cannot capture the complex economic, political, social, and cultural dynamics of developing agrarian systems. In the case of Nepal, the reliance on neoliberal policy frameworks depoliticized the stark inequalities that existed within the country and laid the foundations for a bloody civil war. It is time, it seems, to look honestly at the challenge of agrarian development and to put aside the niceties of neoliberalism for the hard questions of structural change and political struggle.

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Colonialism and the Marginalization of African Art

Madelynn Green, *University of Notre Dame*

Abstract

This paper explores how the traditional cultural artifacts of African countries have been systematically exploited and devalued as a direct result of colonialism. While colonial powers robbed the continent's natural resources, they simultaneously collected thousands of art objects from African countries out of racialized fascination with the continent. Today, these artifacts are in the permanent collections of esteemed Western museums. The subsequent exotification of traditional African art has influenced its popularity and upheld colonial notions of the so-called primitive nature of the continent. Yet as a result of colonial marginalization, contemporary African artists have resiliently utilized traditional and modern mediums to assert agency. Through examining post-colonial trends in African art production and exhibition, one can see that African artists, from Kinshasa to Lagos, are independently redefining the problematic colonial definition of African art as primitive. I further examine how post-colonial African artists paradoxically utilize artistic methodologies introduced by colonial powers to simultaneously critique the colonial era and articulate their diverse, metropolitan, and contemporary African experiences. Ultimately, African countries' encounters with colonizer's aesthetics have facilitated unprecedented creativity and unique artistic themes. On the other hand, colonial-era assumptions about African cultures still perpetuate stereotypes about African art and unequal access to the international art market impedes African art's global recognition.

Introduction: Visual Art in the Age of Globalization

Reduced costs of international communication and increased global interconnectedness between states and individuals have opened new frontiers for cultural exchange.[1] While sociocultural globalism has lead to unprecedented access to the creative work of international ethnic groups, the globalization of art is no new phenomenon. For decades, American and European museums have held collections of African, Asian and South American art.[2] Preeminent institutions such as the Art Institute of Chicago, The British Museum, and the Metropolitan Museum of Art hold permanent collections of African art. Yet often, exhibitions of African art focus on traditional African art: striking

sculpture, masks, and highly abstract figures which serve religious, aesthetic, or performance purposes in African cultures. Traditional African art was introduced to Western spaces through linkages formed by colonization and deemed "primitive art."[3] The seeming novelty of these items and its distinct "foreign-ness" added to its intrigue and "reinforced a set of criteria for taste in primitive art" that continues into the current age of increasing globalization.

The Internet has become the gallery space of the twenty-first century. In the age of increasing globalization and technological influence, a painter in Kenya can upload pictures of his or her work onto an auction website and a Japanese businessman can purchase it from the website and display it in his Tokyo apartment. Social networks allow artists to connect with audiences and buyers and bypass the traditional white-walled gallery. Globalization has given artists across the world greater opportunity to broadcast their messages to a global audience and accrue profits from international buyers. Due to globalization, visual art is no longer an explicitly Eurocentric discipline. Now, artists around the world compete for gallery space. As a universal medium of expression, visual art requires no translation and is thus available for every person on the globe with functioning senses. The universal nature of art means it has been and continues to be heavily globalized. Museums in cities worldwide make efforts to display international artists or promote shows with distinct cultural themes. The National Museum of African Art in Washington, D.C. displays modern and tribal African art. The Museum of Modern Art's 2011 exhibition "Impressions from South Africa, 1965 to Now" displayed contemporary African work on an international scale. In Europe, London's esteemed Tate Modern began a two-year intensive effort to collect and promote African art in 2012. In July 2011, Lagos-based Guaranty Trust Bank revealed that it would provide an endowment to London's Tate Modern museum to support an African art curator and an exchange program for Africa and London artists. Renowned contemporary African art collector Jean Pigozzi exhibited his large collection of work by living African artists at the 2012 Biénnale Bénin international exhibition in Benin, placing African art in its continental context.[4]

Socioeconomic Inequality in the Global Art Market

Although international participation is encouraged in art, aesthetic and artistic standards are influenced by the opinions and norms of Western curators and galleries. This unequal allotment of artistic institutions and capital monopolizes standards for global contemporary art. There is a serious Western advantage in resources for artists. Ultra-wealthy buyers sustain the U.S. art market and auction houses such as Sotheby's maintain elite and expensive lots.[5] This possibility of monetary gain provides additional incentive for artists to create and the lack of elite auction houses in Africa can reduce financial incentives for its artists. The state of New York alone has more major museums with art collections than West Africa.[6] Keohane and Nye assert, "Globalization is accompanied by increasing gaps, in many respects, between the rich and the poor. It

implies neither homogenization nor equity." To this end, the global West has benefited disproportionately from globalization. Stronger Western economies give greater opportunity to invest in the arts and create institutions that support the arts while less economically developed states have limited institutional or political stability to maintain spaces that promote creative work. For instance, Expenditures on the U.S. National Endowment for the Arts increased by 5.5% in the year 2013 from the 2012 level of $154 million.[7] In contrast, The National Arts Council of South Africa expended $55 million toward music, performing arts, visual arts and grant endeavors over a ten-year period (2001–2011).[8]

Colonial and Economic Forces in African Art over Time

Africa's complex encounter with colonialism has had resounding effects on contemporary African art. Colonial-era exportation of African tribal art to Europe shaped global perceptions of African art. Promoted as "primitive" by most colonizers, African art has been categorized and universally assumed to be inferior. The 1957 opening of the Museum of Primitive Art in New York City and 1984 Museum of Modern Art's exhibit "Primitivism in 20th Century Art" further reinforced primitive definitions of African art. Residual effects of colonialism have complicated contemporary African art. On one hand, the colonial era allowed the introduction of modernism to African artists. Yet the colonial typecasting of African art as "primitive" set rigid global norms for acceptable African art and has made it difficult for modern African artists to gain global notoriety in an unevenly globalized art market. Often, African artists must navigate the Western system to achieve international acclaim and exhibition. The double impact of colonialism and the economic inequalities instigated by globalization have prevented modern African art from having equal position with Western art and reveal how the marginalization of ethnic groups has harmful consequences on human development as well as cultural production.

Although globalization has not been equally beneficial economically, increased information flows and greater international mobility have uncovered a variety of contemporary African artists and exposed African artists to highly Westernized aesthetic and artistic ideals. Because of inequality, the global West still overwhelmingly dominates as an artistic and aesthetic authority. This dominance of Western fine arts culture in artistic standards has led to contemporary African artists experiencing tension between contemporary and traditional African art. The former is a product of globalism while the latter is distinctly African. This tension caused by colonialism and increasing globalism has shaped the nature of contemporary African art and encourages one to consider if contemporary African art is fairly represented in the international art market or grossly underrepresented.

Regardless of the challenges presented by globalization and colonialism, contemporary artists still work diligently in economically underdeveloped African states. There are a significant number of African artists producing astonishing visual and conceptual art. South African painter Esther Mahlangu utilizes a

vibrant geometric style in her acclaimed murals. Cameroonian painter Barthélémy Togou trained at *l'Ecole des Beaux Arts d'Abidjan,* an art school that was opened by the French in the Ivory Coast, and Germany to form his ethereal style of watercolor painting. Interestingly, the brutal colonial history of the Democratic Republic of the Congo has inspired a generation of artists. This cohort, "the Zaire School of Popular Painting" integrates the social and political realities of post-colonialism in their vibrant, realistic paintings.

Although there are promising contemporary African artists, Western auction houses primarily promote tribal African art. From 1990–2012, Sotheby's held approximately 98 auctions that explicitly featured tribal African art, yet not a single auction dedicated to contemporary African artists.[9] While discouraging, this preference for tribal art makes economic sense—the 2011 Robert Rubin Collection of African Art grossed sales of $11,742,188 from fifty tribal works alone. Tribal African art thrives in the Western art market, therefore it is difficult to uproot incorrect notions of what African art is—primitive, "ancient" and even crude.

The phrase "contemporary African art" seems nearly inadequate. In this new age of modernity and globalization of art, African art is no longer quite as "exotic" as colonizers had presumed. Avid contemporary African art collector Jean Pigozzi notably states "Yes it comes from Africa, so what? In the twenty-first century, is it not ridiculous to ask someone where they come from?" Compared to tribal art, contemporary African artists do not always produce work that is explicitly African. One can view an abstract painting by Barthélémy Togou and not immediately know the artist is Cameroonian. With globalization, the notion of "foreign-ness" is no longer as strong nor as appealing. Nearly unlimited access to global cultures through media and social networks has decreased the novelty associated with art from distant continents.

Defining African Art in Post and Pre-Colonial Contexts

As the cradle of civilization, the African continent's artistic contribution has been substantial. Immense diversity in traditional art exists and is reflective of the diverse cultural makeup on the continent. In contrast with traditional European painting, sculpture or drawing, an artistic artifact from Africa rarely has a specific artist. Frequently, an art object is said to be produced by the tribe or "people" that created it. Traditionally, there has been limited individualism in African art. Great emphasis on community in many African cultures meant that art was not an egoistic pursuit, but a pragmatic community tool that served a purpose, whether aesthetic, spiritual or fertility-related. For example, a copper figure of a hunter with an animal draped on his back was found in Benin in 1897. However, colonial conquests removed much African art from the continent; the copper figure is now on display in the British Museum, alongside other tribal works.[10] The extraction of tribal art by curious Europeans aided in globalizing art, however removing African art and placing it in Western spaces removed useful artifacts from marginalized communities.

The symbolic significance of this extraction is that African spaces are illegitimate, or too underdeveloped to house its native art.

The rise of modernism in Africa has controversial roots in colonialism. European conquests opened a gateway for cultural exchange between an African country and its colonizer. This cross-flow of artistic norms and ideas inadvertently influenced the artists of both the colonizer and the colonized. This parallelism meant African tribal art influenced European artists while African artists were influenced to create art in the foreign style of colonizers. This dynamic interaction between the art of the colonizer and the perceived "primitive" art of Africans resulted in some African artists immigrating to Europe to train at renowned art institutions. For Sudanese painter Ibrahim El-Salahi, training at the Slade school in London as well as his cultural identity as a Sudanese man gave his work the dual-perspective of Sudanese culture and European modernist style.[11] Colonization provided a platform for African artists to uniquely infuse African identities with European modernism.

Aesthetic Exchange between Colonized and Colonizer

European colonizers' African encounters introduced them to the distinct styles of African tribal art. Value was found in these "primitive" and aesthetic norm-defying pieces. African art could be found in European museums such as Paris's *Musée d'Ethnographie du Trocadéro* by the late nineteenth century. In France, Henri Matisse collected African sculptures. The sculpture's abstract representation of the human form inspired Matisse to paint less naturalistically and to incorporate African mask influence in his portraits. In 1906, Matisse travelled to North Africa and encountered more African sculpture. Following this, Matisse showed a small Congolese sculpture he had purchased in Europe to Picasso. Subsequently piquing Picasso's interest in African sculpture. By 1907 Picasso had completed his first Cubist piece, *Les Demoiselles d'Avignon*, in which, the abstract faces of the women resemble traditional African masks.[12]

Works of African art were transported through linkages between colonizers and colonies. Without having the social networks and technology that characterize modern globalization, this was the first encounter with African art, and therefore a paradigm shift in artistic standards ensued. Exposure to abstract human figures and non-European aestheticism even inspired artistic movements such as surrealism.[13] Increasing global networks brought on by colonialism influenced modernism in African art. Colonizers instituted fine arts schools in Africa as early as the 1930's with the establishment of Achimota College in Ghana and the School of Fine Arts at Makerere University in Uganda. Colonial instituted fine arts schools such as the *Academie des Beaux-Arts et de Metiers* (Zaire), The *Centre d'Art Africaine* (Brazzaville)[14], and modern workshops taught by European artists introduced canvas painting and European art mediums to the African art ethos.

Europeans' fascination with "primitive" art and people helped traditional African art gain international acclaim. More importantly, this paternalistic

fascination defined what African art is—unsophisticated, anonymous and contradictory to modernity. This notion of African art is explicitly ethnic; the value of African art lies frequently in its "African-ness." It merely reinforces the modern misperception of Africa as a poverty-stricken, primitive continent. Colonizers paternalistic fascination with African art and subsequent exaltation of it in museums provided a framework for how African art is viewed. By showing art made by distant African tribes that appeared grotesque, primitive, or aesthetically displeasing to the European traditionalists, negative preconceived notions of Africans were reinforced.

Modernism gained prominence when the colonial period ended and Africans achieved political independence from their colonizers. In this age of decolonization, a broad sense of freedom inspired African artists to reflect on their state without colonial power or interference.[15] African societies underwent shifts in political power and societal structure. This restructuring of society provided artists the opportunity to reflect on the post-colonial state, ironically using modern mediums introduced by the influence of colonial power.

Identity Formation and Colonial Critiques in the Zaire School of Popular Painting

One cohort of artists in the former Zaire was able to shape and articulate identity following independence from Belgium. This group of Congolese artists took to canvas to express the horrors of the colonial era and addressed post-colonial issues such as reconstructing identity in the aftermath of foreign invasion and reconciling the official use of French after their francophone colonizers had gone. The most well known of these artists is Kinshasa-based painter Chéri Samba. In the 1970s, Samba founded the School of Popular Painting, which was later joined by artists Bodo, Moke, Cheik Ledy, and Cheri Cherin. Being self-taught, Samba utilizes a modern painting technique that is steeped in an explicitly African context. Globalization is a frequent theme is Samba's work and French text almost always accompanies his images. In *La Seduction,* Samba juxtaposes an image of a nude European mermaid-like woman with himself as an angel carrying a bible. In this provocative work, Samba comments on the tension between traditional morality and relaxed foreign standards of morality.[16] other painters sprung from Congo's post-colonial societies as well. Cheik Ledy, inspired by his older brother Chéri Samba, paints in similar modern text-infused style. Ledy's *Non Comprendre* shows two casually dressed young men, presumably Congolese, viewing abstract modern art in a museum. The French text that accompanies the painting reads, " I do not understand anything? What is this?" *Non Comprendre* comments on the contrast between Western modern art and the highly contextualized and narrative-centered norm of African art. To these depicted youth, modern abstraction is irrelevant and lacks a cultural narrative. Another Zaire school artist, Moke, reveals cultural phenomena in his 2001 piece *Sapeurs (Dandies).* Which, as the title suggests, depicts a cartoonish man dressed in the gaudy,

ultra-refined style of Congolese Sapeurs. Artists from the Zaire School were featured in a 2008 exhibit at the Tate Modern.[17] The exhibition, "Popular Painting from Kinshasa" highlighted how artists from the Zaire school paint their realities. Fashion trends (Moke, *Sapeurs [Dandies]*), child soldiers (Samba, *Little Kadogo*), tension between traditional African art and modern African art (Samba, *Hommage aux Anciens Créateurs*) as well as scenes from daily life are themes of the Zaire school and reveal the extent to which contemporary African art is unique in the global sense. Jean Pigozzi describes Africa as a "particular continent"[18] in which artistic styles and themes mirror the economic and political challenges that it faces.

As globalization increased in the late 20th century, a critical 1989 French exhibit of geographically diverse contemporary art from Asia, Latin America and Africa placed contemporary African art on an international stage for the first time. *"Magiciens de la terre"* showcased contemporary art that was not conventionally African. Paintings, drawings, and seemingly "Western" African art were brought to light. This international event was a triumph of globalization and challenged the mistaken notion that African art is primitive art. The inclusion of Chéri Samba's work in this exhibition catalyzed his international fame. Still, however, this exhibition occurred in a space that was not African—in fact it was the space of a former colonizer. This reveals the extent to which African art is influenced and thematically impacted by "outsiders." As a dynamic and diverse continent, Africa's unique encounter with colonialism has shaped its global perception as a passive continent in which international actors frequently exert their will. As a result of other states' frequent and enduring contact with Africa, the art of the continent reflects these global encounters and shapes the identity of the African artist.

Exoticism, Identity and the Contemporary African Artist

What exactly is the "African artist? The dynamic of an African artist no longer lies solely in his or her ethnicity or exoticism as it did in the colonial period. In an increasingly globalized world, where such novelties hold less esteem, the African artists' perspectives are shaped by the complex realities of African countries. Bustling metropolises, civil war, fashion, music, poverty, political instability, corruption, international aid intervention, and even everyday life all serve to shape a creative perspective that a MFA student living in Williamsburg cannot authentically obtain.

The identity of the African artist is shaped by both external and internal forces that stem from colonialism and perpetuate into the current age of globalization and urbanization. The economic underdevelopment of many African states contributes significantly to the identity of African artists. In contrast to Western artists, non-European trained African artists have a distinct lack of fine arts training. African states frequently lack the capital and political and institutional stability needed to fund fine arts institutions or develop educational programs that promote creative work. Fine arts are not prioritized

by government in times of economic or political instability. Although there are art schools operating in African cities and universities, the rural population has limited access to these often metropolitan institutions. Therefore, many African artists are frequently self-taught. However, this lack of institutional interference yields incredible originality and freedom in contemporary arts. African artists frequently draw inspiration from traditional tribal forms. Nigeria-based Twins Seven Seven paints dynamic, colorful collages of mask-like faces that clearly draw inspiration from abstract African sculpture. Chéri Samba notably distinguished himself from elitism in art when he says " Contrary to academic painting, I'm not challenging the kind of painting that needs to be explained to be understood; it isn't my way. I draw my inspiration from everyday life and from wandering around different neighborhoods."[4]

African contemporary art is steeped in community influence; much like its predecessor, tribal art. Still, African artists struggle with attaining success in the face of economic inequality instigated by globalization. Compared to a contemporary artist based in New York, legitimate studio spaces, access to materials, electricity, and galleries are not always available to an African artist. This resource gap has prevented authentic global penetration of African art and reveals how marginalization affects unexpected economic and cultural spheres of a peripheral groups' existence.

In "Art at the Crossroads: Senegalese Artists since the 1960s" Elizabeth Harney asserts that contemporary African art is not simply "bastardization" of traditional forms of African art. Western influence has not denigrated the cultural legitimacy of contemporary African art. Contrarily, Western influence and globalization have served to provide new means for African artists to express. These means frequently involve using painting rather than sculpture or drawing instead of masks, challenging the Western perception of African art. Ironically, Africans artists are able to criticize colonialism and construct their unique identities through mediums introduced by colonial oppressors. This does not imply neocolonial dependency on Europe, rather it reveals tenacity. As a consequence of marginalization, African artists have created unprecedented work that freely negotiates the colonial past with modern independence.

Conclusion

The marginalization of so-called "primitive" African Art has given way to a hopeful era of diverse and critical contemporary artists in Africa. At the same time, art market inequality puts many of these artists at a distinct disadvantage. A robust economy is often a precursor for a viable art market. The presence of able buyers adds value and economic incentive to art. This principle can be observed in China and India, emerging markets where increasing numbers of the population are purchasing fine art.[19] In the past decade Africa has become the second-fastest growing continent on the planet with economic growth at a rate of five percent each year in some countries.[20] [21] African

economies are being injected with foreign direct investment (FDI) and have benefitted from increased communication due to the near ubiquity of cellular phones and increasing internet access. Vast interconnectedness has allowed a global audience to access Africa's current artistic output. Without colonial influence and with decreasing economic stagnancy, Africa has had the opportunity to define its own mode of contemporary art.

Regardless of increasing globalization, economic and infrastructural underdevelopment caused by extractive colonial regimes and government corruption has prevented Africa from establishing itself as a force in the contemporary art world. However, the future for modern art in Africa is promising. As Africa closes economic and political gaps between itself and the West, the continent may focus more intently on peripheral issues such as art and provide institutional and financial support for artists. If the economic strides that Africa has taken continue, the West will no longer reign as the globe's artistic authority.

Looking forward, economic development has a crucial role in Africa's art market and can give African artists equal footing with Western peers. African-established art education programs can give home-based training to aspiring artists, while gallery spaces can enrich African communities and provide livelihoods for artists and curators. It is at that point that the African's art can be considered authentically and equally globalized and the cultural marginalization imposed by colonialism can become irrelevant. These institutions will challenge incorrect Western notions of twenty-first-century African art and further undermine colonial aesthetic standards. Increased economic development will allow for greater equity between contemporary art in African nations and wealthier nations in the international art market. Continued investment in infrastructure, resources and education can provide physical and financial resources to support a compelling African avant-garde.

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Humanitarian Actor and Humanitarian Subject:
The Empire of Trauma and Legitimating Discourses in the 1994 Great Lakes Crisis

Rebecca Liu, *University of Chicago*

Abstract

Our increasingly globalized and shifting international landscape has rendered more possible—and arguably more necessary—large-scale humanitarian action that spans national borders and cultures. The very act of humanitarianism necessitates the presence of two key figures: One the humanitarian actor, commonly from the "developed West" as the agent of humanitarian aid, is hailed to assist the humanitarian subject, often an individual from a globally marginalized category. The other, a marginalized category common to our modern-day world with its ever-shifting borders, is the refugee. This paper examines the intake of refugees within the 1994 Great Lakes Crisis stemming from the Rwandan Genocide, analyzing the mutual positioning of humanitarian actor and humanitarian subject within the broader liberal humanitarian ethos at work. Our discussion will reveal how modern scientific discourses of "the clinic" and psychiatric care are central to the formation of contemporary humanitarian and its ideals. These particular discourses, this paper will argue, problematize the very egalitarian goals of humanitarianism itself, as it assigns to the humanitarian actor a legitimacy that speaks over the agency of the humanitarian subject. In its efforts to assist the systematically marginalized, modern-day humanitarianism missions risks doubly marginalizing the humanitarian subject; what is needed is a theoretical rethinking of the power structures implicit within humanitarian institutions to better heed to the individual needs and agency of these individuals.

Introduction

The Rwandan Genocide stands as a landmark event in the historical canon of liberal humanitarianism, serving as one of the seminal examples of the new humanitarian ethos within the age of liberal globalism. International responses to the 1994 crisis, some scholars say, are indicative of the new motivations and practices of humanitarian actors, particularly with respect to the modes and methods of relating to the humanitarian subject. The Great Lakes

refugee crisis, concerning the millions displaced by the Rwandan genocide, is as a noteworthy case wherein the humanitarian actor, the *agent* of humanitarianism, is met by the humanitarian subject, the *object* of humanitarian care; an examination into their relations will reveal the underlying politics underpinning the new humanitarianism. While the Great Lakes crisis is an extraordinarily multi-faceted event replete with many distinct narratives—say, for example, the widely condemned response of the UN, the growing militarization of refugee camps, or the subsequent trials of war criminals—this paper will focus its attention to the humanitarian efforts in handling refugees intersected with the growing economy of "trauma," tracing how the humanitarian reception of Great Lakes refugees became increasingly predicated on the medical discourse relating to psychiatric evaluations and care.

In *The Empire of Trauma*, Anthropologist Didier Fassin, along with psychiatrist Richard Rechtman, argues that the ostensibly apolitical language of the clinic has became embedded in, and works within, the internal politics of the new humanitarian machinery. In spite of its outward commitment to egalitarianism, liberal humanitarianism cannot help but be administered over social fields marked by asymmetrical power effects; humanitarianism becomes a form of governance that enlists moral sentiments as its instruments. Trauma, in Fassin's terms, rises as a veritable "moral economy" in a world where sentiments are infused with inherent value and deployed amongst circulating power structures.[1] This paper, in applying Fassin's theories to examine the medical humanitarian voices within Great Lakes Crisis, will argue that the rise of trauma as moral category presents a form of relations between humanitarian subject and actor endemic to the fundamental problem behind humanitarianism itself; that it remains, and cannot escape, part of the problem it seeks to solve. While humanitarianism operates on the rhetoric of universal equality, it remains bound to, and product of, a social field marked by divergent sociopolitical positions and economies of power. While the "economy of trauma" has done much to legitimize and make intelligible the suffering of the humanitarian subject, it has simultaneously flattened and undermined the subject through necessitating a mutual performativity that relegates much of the power onto the humanitarian *witness*, who rises to speak for the otherwise "compromised" victim. In this paper, humanitarianism will be understood, as outlined by Michael Barnett in *Empire of Humanity*, "not as a coherent whole but rather as a concept in motion that has several enduring tensions."[2] These tensions, however, are nonetheless unified by an overarching ethic to alleviate universal human suffering. The particular "brand" of humanitarianism discussed in this paper, moreover, constitutes Barnett's "liberal humanitarianism," which he denotes as the form of humanitarianism that emerged out of the end of the Cold War. Liberal humanitarianism operates, Barnett argues, in a "new global environment" that sees "the eruption of civil wars, complex humanitarian emergencies, and mass murder campaigns around the world."[3] It is therefore a humanitarian marked by both ever-increasing humanitarian emergency relief organizations and international involvement and co-operate between states.

The rising centrality of emergency relief organizations and state-centered institutions within the liberal humanitarian project has led to the emergence of two main figures. First, the humanitarian actors who represent and act on behalf of the humanitarian institution, for our paper, these actors comprise medical agents those working in humanitarian trauma intake and legal agents in the refugee appeals process. Second is the humanitarian subject, who is the object to be *worked on* by the humanitarian actor, and who is subsequently called into the institutional structures marking liberal humanitarianism: for our case, the refugees and asylum seekers displaced by the Great Lakes crisis. The paper examines and analyzes the dynamic between these two figures by following a three part process; first, an overview of the Rwandan genocide and the resultant refugee crisis will be given, drawing on both primary and secondary accounts of the conflict with a particular focus on first-hand refugee narratives. An understanding of the refugee crisis will then bring us to an evaluation into the rise of the clinic as moral category. Fassin's writing will be integrated with that of Michel Foucault and Talal Asad; their theories will bring us to a subsequent synthesis of the two evaluations in analyzing how primary psychiatric intakes and evaluations of Great Lake refugees reinforced—or challenged—theoretical accounts as to the limitations of "trauma" as moral category. The symbolic figure tying together these ostensibly divergent threads of analysis will be the voice of the refugee; we will attempt to parse out where and in what ways the humanitarian subject speaks—or is spoken for, thereby using the Great Lakes Crisis as a case study for the efficacy—and limitations—of the ethic of liberal humanitarianism at large. What is at stake in this inquiry into the new humanitarianism, this paper will conclude, is the place of the subject herself within the new humanitarianism. This paper is an inquiry into whether the "economy of trauma" proposes an ethos that allows space for her voice to be heard—whether future humanitarianism itself can really extend the ideal of equality on which it is founded.

Rwanda, 1994: An Overview

The Rwandan Genocide has largely been understood to be the result of simmering ethnic tensions between the majority Hutus—who comprise about 85% of the population—and minority Tutsi—14%—communities that date back into the 60s.[4] More recent was the 1990 RPF movement (Rwandan Patriotic Front), a Tutsi-driven political movement to "take back their homeland" in an increasingly Hutu-driven political landscape; yet even these longstanding rifts were settled by peacekeeping efforts with UN involvement in 1993.[5] It was the shooting down of Rwandan President Juvenal Habyarimana's plane on April 6, 1994, that sparked the boiling over of these underlying tensions. Hutu extremists in the military took the resultant death of their Hutu leader as a call to arms for violence against the Tutsis. The movement soon steamrolled down from the government to civilian life, as local Hutus were encouraged to murder their Tutsi neighbors en masse. What followed were three months of

systematic violence waged on an unthinkably large scale, involving the massacre and mass rape of Tutsis and Hutu moderates. RPF forces successfully captured Kigali on July 1994, and soon gained control of the entire nation; the rise of a new Tutsi-led government then sparked a mass exodus of Hutus.[6] Death rates range from eight hundred-thousand to a million, and over a million Rwandan citizens fled to neighboring states seeking refuge from the horrors back home.[7]

Subsequent UN efforts in handling the ensuing refugee crisis have largely been regarded as failures. UNHCR reports allude to the militarization of refugee camps, the ambivalence of Western donor countries, and the escalation of violence in the Great Lakes region as reasons for the muted response to one of the largest crisis of displaced persons in the UNHCR's history.[8] Evaluated by the UNHCR as a "story of missed opportunities," the lack of a forceful and swift response to the Rwandan Genocide and the subsequent refugee crisis has "set in train a series of events that are still in the process of unfolding."[9] Stories covering the court trials of Rwanda war criminals and the state of Great Lakes refugees still feature in our news headlines today. It is not only the genocide itself, but also the subsequent process of attempted recovery from the genocide, that stands as important points of contemporary discourse. This legitimation of trauma as a social phenomenon has led to the proliferation of "after-the-event" narratives, as greater attention has been directed toward not only the trauma-inducing "event" itself, but the following collective process of recovery.

The "Empire of Trauma" in the Great Lakes Crisis

Narratives of the Rwandan refugee experience recount the many ways in which their lives are prone to trauma. As the seminal site of trauma, the genocide itself was of particular importance in tracing primary incipience of psychological effects; a study conducted between the Harvard School of Public Health and the University of Rwanda found that 97% of genocide survivors had lost a close relative in the conflict.[10] Firsthand accounts of the genocide speak to the sheer totality of the terror and psychological violence to which all Rwandans were subject. Survivor Consolee Nishimwe attests how "every Tutsi in general began to fear for their lives at that point in time, given the near impossibility for them to escape from the country undetected."[11] Even escape from the site violence did not end the feelings of fear and exposure to violence. Particularly noteworthy to the Rwandan case was the militarization of refugee camps; many fleeing citizens post-July 1994 comprised Hutu extremists of Hutu militia Forces Armeés Rwandaises (FAR) escaping the oncoming Tutsi regime. Known as *genocidaires*, these members exploited refugee camps as a site to build up their military base, generating an atmosphere of fear in these camps to force other refugees into being complicit in their mission. These refugees were effectively rendered "political hostages" of FAR, making them "vulnerable to intimidation, harassment, and forced recruitment by armed groups."[12] The constant atmosphere of violence and fear to which Rwandan refugees were

subject under the genocidaires was cited as a particularly significant factor in mental health evaluations of refugees. Marie Beatrice Umutsi, in an account of her time in a refugee camp in Zaire, observes how the growing militarization of these camps "created a state of generalized psychosis."[13] Camps were met by occasional direct attacks by the RPF, which lead to a general atmosphere of mistrust and a rise of criminality; "killings, for vengeance or out of fear, began to give way to killings committed for the purpose of robbery."[14]

What should be noted is the very *permanence* of the psychological regimes of violence and terror to which these refugees were subject. Whereas Western understandings place the trauma-inducing event as an aberrant break from quotidian life, the refugees in Rwanda were governed by a long-term, inescapable state of violence that permeated every facet of their day-to-day lives. Slavoj Zizek notes that in developed societies, a traumatic event "happens quickly, and then you are left with how to deal with it"; in less developed societies "there is no post-traumatic situation, the situation simply goes on."[15] While we may point to concrete, specific incidences in which trauma may result—the murder of a family member, for example—it is important to contextualize these events and recognize that they occur in a larger background of the stressful quotidian life of a Rwandan refugee. Personal narratives of Rwandan refugees speak to the daily problems of living in an open camp, as Marie Béatrice Umutsi notes "it was common during the night to hear all the people in one area debating the same subject as if they were all in the same room . . . it was frustrating to live so publicly."[16] Further difficulties included issues of basic hygiene, "there were no showers in the entire neighborhood . . . those in charge of humanitarian aid had not thought of feminine hygiene"[17]; serious malnutrition, "many children had bloated stomachs, huge heads, and frail limbs"[18]; and sexual violence, "the number of women raped while gathering firewood in the plantations of Zaire is incalculable."[19] Fundamentally alienating was inhibiting the role of "refugee" itself; "a refugee suffers," Umutsei writes, "not only from having been torn from her land, her house, her work and her country, but also having to beg to survive"; "it is difficult to accept someone else deciding for her what she should eat and how much. It is even more difficult to spend the entire day sitting around with nothing to do but wait for the distribution of aid."[20] The sense of displacement experienced by the refugee is so wholly encompassing to the refugee that "trauma" cannot be made sense of, or identified, through a specific event, but rather through a long-term state of being she is forced to wholly inhabit.

By drawing a distinction between Western notions of "trauma" and trauma as experienced by Rwandan refugees in 1994, the intention is not to invoke any comparison of the validity or intensity of psychological damage experienced by members of these societies, but rather to point to the very different social and cultural positions from which both parties arise. It is the observation of fundamental difference between the two that we reach the central problem of the ethos underpinning humanitarian subject-actor relations. What is at work in the handling of Great Lakes crisis is the interaction between the

"developed" agent of humanitarianism working to improve the conditions of the "less developed" humanitarian subject. How this divide between humanitarian actor and subject is bridged through the language of trauma thus constitutes a complicated, but centrally important question in understanding the ethos of liberal humanitarianism.

The Empire of Trauma

A Short History of Suffering

"Why has the infliction of physical pain now become scandalous?" Talal Asad rather controversially asks whilst tracing the social history of torture.[21] Our modern revulsion against physical pain, Asad suggests, may not be as primordially determined as we may think. The idea that suffering is inherently at odds with the dignity of the subject stands not as transcultural, transhistorical dictum, but is rather a product of sociopolitical trends sparked by the European secular conscious. Secularism, Asad maintains, positions pain as a wholly negative concept antithetical to the appropriate constitution of the human, citing a modern theologian's observation that secular has made "it is a man's job . . . to enter into this cognitive analysis of meaning of suffering, in order to be able to affront it and conquer it"; "for him, pain is negative."[22] Seminal Enlightenment text, Cesare Beccaria's 1764 *On Crimes and Punishments*, drew widespread fame for its denouncement of capital punishment and torture, deeming these laws "senseless" and "cruel," and was further irrational with respect to the aims of the state. Prior to the proliferation of Western enlightenment ideals promulgating the inherent dignity and rights of man, the idea of inflicting needless pain was not leveled with the same moral indignation which it receives today; Asad notes the widespread use of torture in penal matters, as well as religious practices that often utilized pain as a productive force in asserting one's faith. "Suffering" as practice of power fell out of favor as practice in the 18th century Enlightenment period, in which secularist notions of the rights of man led to an abolishment and outlawing of torture as judicial practice.

Asad himself is skeptical of the degree to which the post-Enlightenment period signaled a genuine abandonment of torture on the grounds of moral secularism, pointing to its continued practice in America's interrogation of suspected terrorists.[23][24] What seems to be the difference, Asad notes, is not the sustained practice and subsequent abandonment of torture, but rather the political arena upon which it is practiced. The public domain of pre-Enlightenment in which torture took place was replaced by the private, secretive grounds on which it occurs today.[25] Here Foucault's theories of sovereign power to disciplinary power become relevant. As Foucault writes in *The Birth of the Clinic,* whilst public torture occurred as symbol for the concentrated and incontestable hegemony of the sovereign,[26] private torture rises as evidence of the growing tactics of policing and managing populations endemic to the disciplinary state.[27] The body of the subject, while classically "object and target of

power"[28] as "wholesale" unitary object readily available to be taken away by the sovereign state, has evolved to a "retail" object to be worked on individually to be imprinted on every level the continued coercive power of the disciplinary state. The "body" arose as a script on which power could be inscribed, and also the site on which the subject is rendered intelligible to such institutions; "the human body was entering a machinery of power that explores it, breaks it down and rearranges it."[29]

What arise are dual movements central to the rise of trauma as humanitarian category; the first, the moral abhorrence of suffering, and the second, the body as site of political power. These developments stand at opposite temporal ends in the story of trauma and humanitarian action. We will begin our investigation in the "Empire of Trauma" by examining how the movement against "pain" led to a rise of a coherent humanitarian ethic, charting how the historical ascendancy of the clinic has shaped and legitimized trauma discourses. What follows will be an evaluation of how actors from the humanitarian medical field communicate with and make intelligible the narratives of refugees, thus leading us to our central problem of how humanitarian actor meets humanitarian subject, and the place of the "victim" in the structures of liberal humanitarianism.

From the Enlightenment to the Modern-Day Clinic

The movement against human suffering of the Enlightenment, as identified by Talal Asad, was seminally influential in contemporary conceptions of the humanitarian project. 18th century international humanitarian efforts were often guided by the same rhetoric of eliminating human suffering—or, somewhat more insidiously—of imposing European liberal ideals on societies that were regarded as culturally "backward" through the language of "universal human dignity." This age of humanitarianism, deemed "imperial humanitarianism" by historian Michael Barnett,[30] was often characterized by a British paternalism that intended to better the lives of "the other" by reducing needless suffering, albeit on a rhetoric of distinct cultural superiority. It is important to note the existence of forms of imperial humanitarianism that challenge the secular framework through which imperial humanitarianism has often been interpreted. Secularism, historians note, contributed to humanitarianism by bringing the ideal of the autonomous individual vested with inherent rights, along with the growth of scientism and modernization that made possible community organizations and the disintegration of pre-existing social boundaries[31]. Religion is thus configured as a distinctly anti-modernist, anti-liberal concept that fails to find a place in this analytic framework; yet through this configuration we risk erasing the substantial involvement of Evangelicalists, Protestants, and other religious figures in their own humanitarian missions.[32] Religious actors were just as involved—if not more so—with the humanitarian efforts with their secular peers, and were similarly attuned to the social and epistemic paradigm shifts of the time.

The Enlightenment brought not only humanistic changes in society's growing humanitarian bent, but also heralded the rise of scientific corpus capable of reading and making sense of the physical pain. While histories of medicine and treatment date further back than the 18th century, the 18th century, E.C. Spary argues, brought a rising valorization of science as a field of knowledge that legitimized the social standing of its practitioners. "The eighteenth century was thus a period of consolidation and institutionalization of surgical and pharmaceutical authority"[33] along with "a new public representation of the modern hospital as a center of secular, enlightened, hygienic medical care."[34] The shift in the social landscape on-the-ground, Spray argues in a Foucauldian tradition, was accompanied by higher-up changes in power structures with respect to the production of knowledge. The rise of science as site of epistemic truth meant that "the new clinical medicine increasingly relied on an external diagnosis of internal conditions, in which the sick person's self-narration played no role;" "the autonomy and constitutional uniqueness of the medical client surveyed outside the hospital had to cede to the interchangeable, quantifiable body surveyed by medical practitioners."[35] Medical authority thus staked a claim to its own form of truth, one that was timeless, body-specific, and predicated on access to a certain form of knowledge; "medicine had tended, since the eighteenth century, to recount its own history as if the patient's bedside had always been a place of constant, stable experience."[36] "The clinic knows the truth," Foucault observes: "the body that is appropriate to it, which is not that of the patient, but that of its truth."[37] The rise of the medical body brought a standard code through which one could read and categorize human suffering. This epistemic movement in science was accompanied by a shift in power relations between medical client and agent; the locus of power found itself located on a body that became abstracted from the client itself, and could only be made intelligible by the knowledge of the agent.

While medical knowledge relating to the pain of the body was legitimated through the language of science and truth by the 18th century, it was arguably not until the 1970s in which psychological distress was officially recognized and incorporated into the medical corpus. Though there is much to be said of the gradual historical movement toward the legitimation of trauma-discourses, what will be evaluated here is trauma's inclusion into the political system through the language of authority and testimony, leading in to our discussion on the figure of the humanitarian "witness."

Fassin identifies the how the rise of trauma in mid 20th century as a social category with moral value became legitimated and incorporated into systematized state mechanisms, thus spurring as new humanitarian concern alleviating pain experienced in the *mind* as well as the body. Numerous large-scale war conflicts in the 20th century led to a rising public awareness of psychiatric aftereffects and a rising acceptance of the mind as a potential site of violence. Yet it was only until the 1970s that trauma became socially recognized as legitimate experience and incorporated into power discourses for political effect. Fassin cites the 1970s feminist activism against sexual abuse as one of

the seminal movements that sparked the legitimation of trauma. In the 1970s, feminists increasingly sought to speak to the psychological effects of sexual abuse against children and women; "their nightmares, their anxiety, their panic in the presence of men—were symptoms attesting to the reality of their experience."[38] To legitimize trauma would then be to legitimize the stories of those who experience it—in this case, children and women who survived sexual abuse. The social recognition of trauma, for contemporary progressive feminists, would allow for the public affirmation of the validity of sexual abuse survivor testimonies, which would be incredibly important with respect to the legal institution. Trauma and trauma discourses became an invaluable tool in gaining systematic affirmation of the lived psychological life of the subject.

Moving trauma into the realm of institutionalized power structures would necessitate deference to its systems of truth and knowledge. Here rises the voice of the medical authority as traced by Foucault; "the feminists," Fassin notes, "needed legitimate clinicians whose word would not be questioned."[39] Psychiatric trauma was embedded in a legitimating project that was doubly valenced; it was a convergence "between a clinical movement seeking scientific legitimacy and a social movement looking for political legitimization."[40] The post-70s political landscape saw a proliferation of clinical testimonies in the courtroom as a method of legitimizing the narratives of the victim. Trauma rose as a potent moral category within our imagined shared humanity, transforming private sentiment to public cause for justice. Validation of the subject itself was seen to bring along restorative properties within the "game" of legitimation; "the new alliance between victimology experts and victims" support organizations made much use of this validation process, highlighting the expectation that compensation would in itself have a healing effect on a still-gaping psychological wound."[41] Both the social and clinical movements toward legitimation centered around two figures—the humanitarian subject, and the humanitarian actor—whose relationship worked around certain discourses of legitimacy and healing, as the validity and ultimate "healing" of the subject relied on testimony of the actor vested with the authority of the clinic. Rwandan survivor Consolee Nishimwe, when recounting her own experience, demonstrates how trauma discourses operate in an economy of social legitimation,, calling for people "to become more sensitized to the deep-seated trauma that survivors of extraordinary crimes against humanity," She notes that "when offenders show no remorse, or members of society display a lack of sensitivity toward victims of severe trauma, this compounds the indignity of what those victims have already been through."[42]

Humanitarian Subject, Humanitarian Actor

Case Studies of Trauma Intake

Studies on Rwanda refugee mental health have demonstrated a clear collective sense of trauma among post-genocide communities. A 2000 study by Jong et

al. into a 854 refugees in a Tanzania camp has determined a 50% prevalence of serious mental health problems determined as "serious enough to impede their coping capacities in a way that would justify admittance to a psychosocial support programme."[43] A similar study by Rieder and Elbert into 200 Rwanda survivors and prisoners diagnosed 25% of participants with formal PTSD, with a similar rate of suicidal tendencies among survivors.[44] Yet is it not the results, but rather the methods of study with which we are more concerned. In examining how discourses on trauma intersect with humanitarian reason, we must first determine the processes through which such knowledge is produced. The study of Jong et al. used as their main health screener the General Health Questionnaire (GHQ), "self-report questionnaire directed to the detection of functional psychiatric disorders in the community and primary care"[45] that remains widely used among the psychiatric community across the world.[46] This decision was made with respect to cultural considerations of the situation at hand; "the political tension and high level of fear in the camps in Tanzania caused great caution of the population toward outsiders."[47] In response to this charged social setting, a "neutral" medical screener was required, that avoided "any reference to political issues or the violent conflict in the recent past; GHQ fulfilled these requirements by "exclud[ing] all question aiming directly at trauma and trauma-related complaints."[48] For the study, the GHQ was "translated in Kinyarwanda and Kirundi (the national languages of Rwanda and Burundi) by four French-, Kinyarwanda- and Kirundi speaking local staff members."[49] For the interview itself, "supervision was provided by two expatriate staff members, a medical doctor and a psychiatric nurse"; "as a substantial part of the refugees could neither read nor write, the GHQ questions were read to the interviewees."[50]

The format of Jong et al.'s study points to several tenets of the "Empire of Trauma" that are worth noting. On a surface level, there is a strong symbolic significance behind the conduct of research itself. The notable presence of medical actors, two of whom expatriates, juxtaposed against one interviewee, communicating through a product of medical expertise—the GHQ—serves as particularly strong imagery of how the narratives of the refugee are filtered through, and made intelligible by, the clinical corpus. It is further significant that a questionnaire stands as the main "instrument" of knowledge in the study. A questionnaire constructed on part of the medical body is wholly directed by its interests, and indirectly precludes further inclusions of the refugee voice not directly relevant to its questions. A questionnaire thus stands at the means through which the voice of the refugee is filtered. Much like how the body is abstracted from the client in clinical contexts, to be "read" by the medical actor, the questionnaire abstracts the experiences of the refugee and acts as a script through which to interpret and categorizes her narratives. Rieder and Elbert's methodology perhaps leaves more place for the refugee: as interviews were conducted with subjects, ranging from questions about the demographic and social standing of the subject, as well as past traumatic experiences. Yet it is once again notable that it is not personal narrative that emerge from their

study, but rather general statistics that analyze and categorize their subjects" experiences against the general medical dictum:

> "Depressive and anxiety symptoms in the week prior to the interview were administered by the use of the Hopkins symptom checklist . . . for further analysis, a severity score for anxiety (scores range from 10 to 40) were established and syndromal anxiety was estimated by using a critical cut-off value for clinical relevant at a mean score of 1.75."[51]

The benefits of studies into mental conditions of refugees are clearly evident and should not be understated. The presence and production of knowledge in light with our existing epistemic principles makes intelligible the otherwise unintelligible experiences: concrete statistics and numerical information on the conditions of Rwandan refugees serve as a powerful foundational bases of shared understanding upon which we can take concrete action. Both Jong and Rieder undertake their mission with the goal of illuminating ways in which a collective recovery from psychiatric trauma may be made. In light of Jong's findings, they conclude, "given the huge number of people in need of help, it is not feasible to provide individual support to all of them . . . psychosocial interventions should focus on strengthening community structures and providing support to larger groups."[52] Yet Jong's prescription is ironically indicative of the limitations and problems underlying purely clinical receptions of refugees. "Trauma," Fassin writes, "obliterates experiences . . . by reducing, whether in clinical terminology or in common language, the link between what happened and what was experienced to a set of symptoms . . . it obscures the diversity of complexity of experiences."[53] Disparate narratives of many refugees are flattened into mass categorization of their narratives into the clinic's criteria, erasing the individuality of the humanitarian subject. Within this framework, the humanitarian subject is depersonalized and lost in discourses of "group structures," rendered one object from many which "general" medical knowledge is to be aggregated.

From the Clinic to the Courtroom

More indicative of the very real stakes in the politics of the clinic are situations in which the testimony of the medical actor is of immediate consequence to the humanitarian subject. Harvard's Program in Refugee Trauma outlines the three potential inroads for the humanitarian actor's "call to action;" she may "prevent the patient from experiencing any more violence; to provide forensic testimony in court to prove that an asylum seeker has been tortured; or to help a victim of terrorism receive compensation and legal redress."[54] The latter two present example cases in which the accounts of the medical actor provide—or can prevent—concrete results with respect to the traumatized refugee. The appeals process for asylum is based on the systematic hierarchical privileging of certain voices and knowledges; one assessor at the UN High Commissioner for Refugees is quoted "if an account is not credible, if it is not consistent, it's extremely rare for a certificate to alter the balance. If the account is credible

and coherent, and if the medical certification supports it, that's a plus."[55] The language of "credibility" necessarily invokes certain systems of truth based on who is regarded as a legitimate producer of knowledge; "the judges do take into account who drew up the certificate. We have more confidence in some of the organizations that the Appeals Commission has been working with for years than in a general practitioner from the suburbs."[56]

First-hand accounts of refugee experiences in the application process for asylum speak to how economies of trauma have affected the perceived credibility of their claims. A 2009 British case *R vs. Secretary of State in the Home Department* illustrates how a Rwandan refugee's appeal for asylum was rejected on a lack of reliable medical evidence. "Benoit Hatega," referred to as R, was a soldier in the Rwandan Army unit beaten and tortured for being suspected of differing loyalties; Hatega pointed to his mixed Hutu-Tutsi heritage. Hatega's claim for refugee status was denied on the basis that the Judge was "unable to attach any credence" to the claim of being beaten, tortured and slapped, because there was "no corroborative evidence to support this statement.""[57] Hatega's appeal for asylum was fought over the battleground of clinical legitimacy. Hatega presented a medical report from his general practitioner that makes note of Hatega's "nine scars . . . they are almost due to extensive unusual trauma e.g., beaten," to which the Immigration Judge replied "the scars could just as easily been caused in a variety of different ways . . . I note that the appellant did not need any medical treatment following his temporary release and therefore attach little weight to the medical report."[58] Hatega's appeal of the Judge's decision similarly reflected a certain awareness of the legitimate weight of medical testimony:

> "The claimant applied, out of time, for permission to appeal against the Adjudicator's decision. The application was supported by a letter from a National Health psychotherapist. The letter is short and appears to be based entirely on the truth of the appellant's account: it makes no reference to any reason for disbelieving the account."[59]

Here that we reach a rather ironic impasse in determining the role of the clinician as witness. Hatega's physician's account added no additional insights to his case, rather serving as a second affirmation of the legitimacy of his narrative. Medical actors thus do not derive their authority from any ability to point to genuine new medical "evidence," but rather from their standing in relation to power politics, which renders them legitimate agents of truth as opposed to the "unreliable" asylum seeker. What occurs here is thus an implicit valorization of the voice of the clinic, accompanied by a devaluation of the refugee; "in agreeing to testify, through an expert report, that the applicant's account conforms to the evidence, the doctor or psychologist "vouches for" the asylum seeker, thus involuntarily confirming the devaluation of her word."[60] The mere practice of humanitarianism in this instance reinforces a certain hierarchical system of roles and rights that subvert the egalitarian principles on which humanitarianism is founded.

"To lawyers and asylum seekers, the certificate has become a kind of fetish, valued well beyond it true efficacy": what is evident in *R. vs. Secretary of State in the Home Department* is the fetishization of "truth" within the legitimacy games in the politics of proof, in which the performative assumption of roles are paramount in shaping subsequent ostensibly "fact-based" decisions.[61] Genocide refugee Eric Rusatsi spoke to a Seattle Post-Intelligence reporter on how his recount of watching his mother and siblings being slaughtered by local militiamen fell flat in court, as Immigration Judge Anna Ho declared his testimony "meager and general," observing a certain "lack of emotion" in his narration.[62] What was required of the refugee is not merely to provide an account of his experience but also participation in a performative process that includes, on the refugee's part, an assumption of the "role" of refugee against the humanitarian "agent" who guards the gates.

From Humanitarian Subject *to Humanitarian* Object

Unfortunately, the ostensibly "active participation" of the refugee in the performative process implied a passive project that rendered her a delegitimate, voiceless object. International relations scholar Vanessa Pupavac addresses the casting of refugees in the "sick role," arguing how the phenomenon ultimately undermines their ability to be regarded as agentive individuals. The discourses of "sickness" and "trauma" that appear to serve the refugee by speaking for her pain and supporting her claims, Pupavac contends, creates an atmosphere of "permissive empathy"[63] that "is not based on a relationship between equals . . . and raises questions over the capacity of refugees for self-determination."[64] The empathy is "permissive" in that refugees are "given permission" to be released from the responsibilities of institutions governing our day to day lives; "the release from responsibility creates a relation of dependency, which undermines individual autonomy."[65] What is at work in the politics of medical testimony is the devolution of the refugee as legitimate, self-governing political actor into an unreliable patient that must be spoken for; "thus professionals voice their interests in the sick role, rather than the individuals themselves."[66] The refugee is stripped of her identity as an agentive individual capable of dealing with matters of self-determination; the game of legitimation forces her to assume a role of passive subject that must have her testimony and experiences spoken for by "legitimate" actors.

The refugee is effectively divested of her ability to be regarded as an *actor*; it is here that she is rendered humanitarian *subject*. Yet it is further possible to deem her a humanitarian *object*, as subsequent processes seek truth from not her narrative, but rather her body. "The truth of the asylum seeker's word no longer constitutes sufficient evidence, but of which their body still bears trace, in the form of physical consequences of torture that only medical examination is competent to state."[67] As traced by Foucault in the "Birth of the Clinic," the body is rendered "the site where the truth of individuals is tested."[68] Within the politics of proof, the refugee is no longer in possession of her very own physicality. Instead, its veracity is left, read, and determined by an outside

"legitimate" actor. As demonstrated in *R. v Secretary of State*, appeals for refugee status no longer stand on the word of the refugee, but on that of the medical actor, who similarly derives her information not from the narrative of the refugees, but their bodies. Actions inflicted on one's body cannot be verified by the voice of the refugee herself, but rather through a reading of her physical constitution; her very individuality is subsumed within the larger dialogue of proof, authority, and subjectivity within the medical corpus.

Conclusion: Trauma and the Future of Liberal Humanitarianism

What is evidenced in the "economies of trauma" within the Great Lakes Crisis is direct inequality between humanitarian actor and subject that belies the ostensibly egalitarian rhetoric of liberal humanitarianism. Trauma, though initially pushed as social paradigm for the purpose of giving a voice to the victim, cannot avoid being complicit in participating with other systems of truth and power in its project. The Great Lakes Crisis and subsequent refugee handling is evidence in particular of how moral economies of trauma intertwine with truth economies of the clinic: the result is the objectification of the subject. The refugee, no longer considered legitimate actor in making sense of her own bodily and psychic wounds, must rely on medical testimony to speak for her own experiences. While potentially a useful tool for the victim to speak of her experiences in a way that is socially intelligible, "trauma" as a medical concept that conversely ascribes a certain legitimacy to the medical actor, who then "speaks for" the victim.

That egalitarian, humanistic ideals cannot avoid being deployed over fields marked by asymmetric power relations is further heightened by its relevance to the critique of humanitarianism itself. While liberal humanitarianism takes as its fundamental principle the inherent dignity and equality of humankind, our contemporary world is replete with stories in which such proclamations fall empty when practiced. The very existence of "refugees" as humanitarian concern, Giorgio Agamben notes, is endemic of the ideological rupture that occurs when state sovereign politics coincides with cross-border humanitarian concerns: "the refugee," Agamben observes, stands as a "limit concept that radically calls into question the fundamental categories of the nation-state"; "a humanitarianism separated from politics," therefore, "cannot fail to reproduce the isolation of sacred life at the basis of sovereignty."[69] Humanitarianism, it appears, remains fundamentally flawed as its transcendent egalitarian rhetoric belies the deeply political, unequal fields over which it must operate, reinforcing certain positions of power and truth opposed to its ideals: in spite of its boldest efforts, Barnett notes, humanitarianism remains "creature of the world it aspires to civilize."[70]

Yet by critiquing the shortcomings of the "Empire of Trauma" in contemporary humanitarian movements—particularly with respect to the anthropological roles of actor and subject—it is important to not lose sight of the very

benefits these "economies of sentiment" have wrought, in particular for the humanitarian subject. Trauma arose as a social language through the efforts of many disparate actors—progressive feminists, war veterans, psychiatrists—pushing for the rights of their respective communities to have their psychic wounds rendered valid. What united this polyphony of voices was a genuine concern for the "patient"—the "humanitarian subject"—herself. While our modern eyes may regard trauma as "self-evident . . . those who speak of it are simply revealing a reality,"[71] it is important to grasp that the "economies of trauma', and the social paradigmatic shifts it brought, was the historically specific result of the work of tireless different individuals. Prior to the activism of these groups in the 1970s, the notion of "psychic trauma" was regarded mostly through the lens of individual weakness. Soldiers fighting in World War I diagnosed with "shell shock"—regarded as a precursor to our modern notion of PTSD—were regarded with suspicion and moral contempt, having their claims attributed to insincere cowardice or moral depravity.[72] The legitimation of trauma in the 1980s allowed for victims to harness a common language in which to make sense of their experiences, as well as be able to put forward public calls for justice on grounds that were now considered medically and politically legitimate. That victims harness the "economies of trauma" to agentive effect is evident in first-hand accounts of Rwandan refugees themselves, who use these languages to powerfully affect readers, making intelligible accounts that would otherwise escape the Western audience. Through the common language of trauma, the egregious inhumanity documented in their accounts starkly affects us, spurring greater public empathy for their plight. "Shell Shock" sufferers in World War I were subject to a "dominant paradigm in the psychiatry of war neurosis . . . with its suspicion that trauma, hysteria, sinistrosis, and malingering were all motivated by personal advantage."[73]

It is therefore here that the potential redemption of "The Empire of Trauma" lies; the "moral economy of trauma" arose out of, and continues to speak to, a certain ideal of a humanity vested within inherent universal empathy for the "other." "Trauma," Fassin writes, "was seen as the locus of an essential truth about humanity:" trauma spoke to the very belief of humanity in itself, the affirmation of a shared humanity which atrocities and emergencies challenged, but never destroyed.[74] The "Empire of Trauma" intertwined with the liberal humanitarian project, as both staked as fundamental ethical position the notion of an empathetic and unbreakable humanity. While to modern eyes these assertions may seem like overly optimistic, oft-repeated, ahistorical, tropes on "our shared humanity," the striking potency of the humanitarian concern with "trauma" wrought, emerges when we consider the very historical processes behind its production. The notion of a shared humanity vested with the inherent capacity to empathize with one another through a common language of "trauma" is far from the ahistorical, universal truth to which these claims suggest.

The problem at hand, therefore, concerns not the doing away of humanitarian altogether, but rather how to reconfigure its on-the-ground ethos so that it remains more consistent to its above-the-ground ideals. Evaluation

into Western handling of the Great Lakes case has demonstrated the importance of leaving space for refugee voices in the conflict—a humanitarian project cannot drown out the voice of those it seeks to help. Further examination into the processes underlying actor-subject relations, furthermore, should be subject to critique with respect to how much room these processes leave for the refugee; say, for example, the anthropological implications behind subjecting Rwandan refugees to a Western medical questionnaire compared to conducting interpersonal interviews. What should—and must—emerge is a more critical humanitarianism attuned to the disparate fields of power and social difference over which is deployed. This is not to suggest that a more critical approach will resolve humanitarianism of the many contradictions, ruptures, and problems of which it is enmeshed, but it presents a viable step forward. The fundamental flaw of humanitarianism—that it is idealistic to the point of impossibility—is also its very strength. It symbolizes the ultimate affirmation and belief in itself, therein lays its worth and its beauty.

Notes

1. Didier Fassin and Richard Recthman, *The Empire of Trauma: An Inquiry into the Condition of Victimhood* (Princeton: Princeton University Press, 2009), 7.
2. Michael Barnett, *Empire of Humanity: A History of Humanitarianism* (Ithaca: Cornell University Press, 2011), 22.
3. Barnett, *Empire of Humanity,* 32.
4. "Rwanda: A Brief History of the Country," United Nations High Commissioner for Refugees, accessed 19 March 2014, https://www.un.org/en/preventgenocide/rwanda/education/rwandagenocide.shtml.
5. "Rwanda: A Brief History of the Country."
6. United Nations High Commissioner for Refugees, *The State of the World's Refugees: Fifty Years of Humanitarian Action* (Oxford: Oxford University Press, 2000), 245.
7. UNHCR, *Fifty Years*, 247.
8. Stephen Kinzer, *A Thousand Hills: Rwanda's Rebirth and the Man Who Dreamed It* (Hoboken: John Wiley & Sons, 2008), 183.
9. UNHCR, *Fifty Years*, 246.
10. Athanase Hagengimana. "After Genocide in Rwanda: Social and Psychological Consequences." *After Genocide in Rwanda: Social and Psychological Consequences*. Institute for the Study of Genocide, 2001. Accessed 19 March. 2014, http://www.instituteforthestudyofgenocide.org/oldsite/newsletters/25/athanse.html.
11. Consolee Nishimwe. *Tested to the Limit: A Genocide Survivors Story of Pain, Resilience and Hope* (Bloomington: Balboa Press, 2012), 29.
12. UNHCR, *Fifty Years*, 248.
13. Marie Béatrice Umutesi, *Surviving the Slaughter: The Ordeal of a Rwandan Refugee in Zaire,* trans. Julia Emerson (Madison: University of Wisconsin Press, 2004), 79.
14. Umutsei, *Surviving the Slaughter*, 81.
15. "Slavoj Žižek On Post-Traumatic Stress Disorder." Video Clip. Accessed Web. 6 Mar. 2014. Youtube. https://www.youtube.com/watch?v=-heI382XC8Y.
16. Umutsei, *Surviving the Slaughter*, 76.
17. Ibid., 76.

18. Ibid., 77.
19. Ibid., 79.
20. Ibid., 82.
21. Talal Asad, *Formations of the Secular: Christianity, Islam, Modernity* (Stanford: Stanford University Press, 2003), 1088.
22. Ibid., 1087.
23. Ibid., 1094.
24. While noting that "torture itself is condemned by public opinion and prohibited by international law," Asad states "it is hardly surprising, therefore, that many liberal democratic governments that have employed torture have attempted to do so in secret," citing examples of torture in Turkey, Israel and Iran (1094).
25. Asad, *Formations of the Secular*, 1087.
26. Michel Foucault, *The Birth of the Clinic: An Archaeology of Medical Perception* , trans. Alan Sheridan (London: Routledge, 2003), 7.
27. Foucault, *The Birth of the Clinic,* 9.
28. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Pantheon, 1977), 136.
29. Ibid., 138.
30. Michael Barnett, *Empire of Humanity: A History of Humanitarianism*. (Ithaca: Cornell University Press, 2011), 47.
31. Ibid., 51.
32. A particularly noteworthy instance of early humanitarian action involves in the abolitionist movement, in which religion occupied a significant presence: "nearly all of the founding abolitionists were evangelicals, and Quakers were overrepresented in the ranks, preaching that all humans were the Lord's children and thus should be treated with equal respect and decency . . . Protestant missionaries also contributed to the growing antislavery sentiment" (Barnett, 57).
33. E. C. Spary, "Health and Medicine in the Enlightenment," in *The Oxford Handbook of the History of Medicine*, (Oxford: Oxford University Press, 2011), 84.
34. Spary, "Health and Medicine," 92.
35. Ibid., 99.
36. Foucault, *Birth of a Clinic,* 54.
37. Ibid., 59.
38. Fassin and Recthman, *The Empire of Trauma,* 80.
39. Ibid., 83.
40. Ibid., 84.
41. Ibid., 124.
42. Nishimwe. "My Life as a Rwandan Refugee." *Diversity Journal*. Profiles in Diversity Journal, 3 June 2013. Accessed 21 March 2014. http://www.diversityjournal.com/10753-my-life-as-a-rwandan-refugee.
43. J.P. Jong, W. F. Scholte, M. W. J. Koeter, and A. A. M. Hart. "The Prevalence of Mental Health Problems in Rwandan and Burundese Refugee Camps." in *Acta Psychiatrica Scandinavica* 102.3 (2000), 174.
44. Heide Rieder and Thomas Elbert. "Rwanda—Lasting Imprints of a Genocide: Trauma, Mental Health and Psychosocial Conditions in Survivors, Former Prisoners and Their Children." in *Conflict and Health* 7.1 (2013): 10.
45. Jong, et al. "The Prevalence of Mental Health Problems," 172.
46. C. Jackson, "The General Health Questionnaire." *Occupational Medicine* 57.1 (2006): 79.

47. Jong, et al. "The Prevalence of Mental Health Problems," 171.
48. Ibid., 172.
49. Ibid., 173.
50. Ibid., 173.
51. Rieder and Elbert, "Rwanda," 6.
52. Jong, et al. "The Prevalence of Mental Health Problems," 176.
53. Fassin and Recthman, *The Empire of Trauma*, 281.
54. Harvard Program in Refugee Trauma. "A Call to Action | Harvard Program in Refugee Trauma." *Harvard Program in Refugee Trauma RSS*. Harvard University, 2011. Accessed 21 March 2014, http://hprt-cambridge.org/clinical/a-call-to-action.
55. Didier Fassin, *Humanitarian Reason: a Moral History of Present Times*, (Berkeley: University of California Press, 2012), 251.
56. Fassin, *Humanitarian Reason*, 251.
57. "The Queen on the Application of Benoit Hatega and the Secretary of State for the Home Department." High Court: Queen's Bench Division Administrative Court. Last modified 31 July 2009. *RefWorld*. Accessed 8 March 2014. http://www.refworld.org/pdfid/4a76af562.pdf, 2.
58. "Benoit Hatega and the Secretary of State," High Court, 3.
59. "Benoit Hatega and the Secretary of State," High Court, 4.
60. Fassin, *Humanitarian Reason*, 246.
61. Ibid., 252.
62. Chris McGann. "Spared from Rwanda's Hell by Asylum Victory." *Seattlepi.com*. Hearst Seattle Media, 5 Aug. 2003. Accessed 21 Mar. 2014, http://www.seattlepi.com/default/article/Spared-from-Rwanda-s-hell-by-asylum-victory-1121060.php.
63. Vanessa Pupavac. "Refugees in the "Sick Role:" Stereotyping Refugees and Eroding Refugee Rights." (PhD Diss. University of Nottingham, 2006), 19.
64. Ibid., 19.
65. Ibid., 19.
66. Ibid., 19.
67. Fassin, *Humanitarian Reason*, 111.
68. Ibid., 112.
69. Giorgio Agamben., *Homo Sacer*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 134.
70. Barnett, *Empire of Humanity*, 8.
71. Fassin and Recthman, *The Empire of Trauma,* 277.
72. Fassin writes on page 45 of *Empire* that "Shell Shock" sufferers in World War I were subject to a "dominant paradigm in the psychiatry of war neurosis… with its suspicion that trauma, hysteria, sinistrosis, and malingering were all motivated by personal advantage."
73. Fassin and Recthman, *The Empire of Trauma,* 45.
74. Ibid., 95.

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The Absence of Least Developed Countries in the WTO Dispute Settlement Mechanism: *An Analysis*

John Mastrangelo, *Glendon College, York University*

Abstract

Instituted in 1995, the new Dispute Settlement Unit (DSU) of the World Trade Organization (WTO) has widely been heralded as a major improvement over the existing GATT system, since it better enforced the rule of law within trade-related disputes. In spite of this, the least developed countries (LDCs—as identified by UNCTAD) continue to make scant use of this international legal body. The goal of this paper is thus to examine the cause and effect of this phenomenon, and understand why it is particularly harmful to both the LDCs and the WTO as an institution. The underlying argument of this paper is that a firmer application of the rule of law within international trade law may not be enough to ensure an increased role for the LDCs. It will begin with a background on trade-related dispute settlement, and subsequently analyze the role of LDCs in the functioning of the DSU system. Three central explanatory variables will be put forward to explain this; the absence of strong legal capacity, the inability to enforce a winning decision, and the lack of sizeable gains. Finally, the issues created by this "LDC deficit" will be examined and general conclusions will be drawn.

Introduction

Since its conception in 1995, the WTO has been seen as a major improvement over the somewhat dysfunctional General Agreement on Tariffs and Trade (GATT). Among the many improvements made to the system was the introduction of the new Dispute Settlement Unit (DSU)—a legal institution that would oversee trade-related disputes. However, this institutionalized adjudication system for trade-related disputes was not a new idea, being equally an integral aspect of the GATT. The new WTO system was widely heralded as a turning point in international trade law; a new mechanism that would empower WTO members, especially developing states, to take a more active role in the global trading system by better enforcing the rule of law to strengthen the application of trade agreements. Over its 19

years of existence, many commentators have argued that it was in many ways a success. However, the near-absence of the least-developed countries (LDCs) from the functioning of the dispute settlement mechanism cannot be ignored, and merits more discussion.

As such, this paper will thus have the goal of analyzing how and why the least developed states make scant use of the Dispute Settlement Unit, and will argue that their absence from the process is the result of various legal, political and economic forces, and has negative effects not only on these states, but on the functioning of the system as a whole. In particular, three central reasons that explain this phenomenon will be examined; the lack of relative legal capacity, the inability to enforce a winning decision, and the lack of sizeable gains. The essay will conclude with the idea that, in this particular case, an increased emphasis on the rule of law *by itself* may not be enough to ensure the involvement of the poorest countries.

The WTO and the Dispute Resolution Mechanism

The WTO understands dispute settlement as "the central pillar of the multilateral trading system," since it allows for the enforcement on trade rules—the very rules that lay "at the heart" of the institution as a whole.[1] For this reason, the Dispute Settlement Unit was established, to oversee the enforcement of the rules and procedures that structure the institution, as well as to manage disputes.[2] The DSU was not, however, a new creation; it had emerged out of the GATT's functional but flawed dispute resolution mechanism, which involved a lengthy and cumbersome application process, invoked inexperienced (and sometimes even biased) panelists, and ruled in an unclear manner.[3] The biggest flaw, however, proved to be the "positive consensus" model, which allowed any member of the WTO to block the process of the panel at any time. Essentially, this meant that the respondent state could block the proceedings if it felt it would not end up with a favourable outcome. Although this didn't happen often in practice, it had a chilling effect on the system; many states neglected to even submit disputes, anticipating beforehand that the respondent would reject it.[4] Also, with the knowledge that the losing party could reject the final report, it was feared that the panel's decisions would be "weak" or "diplomatic," in order to better ensure the chances of it being accepted by the losing party.

The realization of these shortcomings, which became increasingly evident in the 1980s, was the impetus for change, leading to talks of a re-vamped dispute settlement mechanism were held during the Uruguay Round, a multilateral trade negotiation under the framework of the GATT, taking place between 1986 and 1994. Building on many of the flaws of the GATT's system, the new DSU would involve more detailed procedural structure (i.e., tighter deadlines), the creation of an appellate review body, and a formal surveillance mechanism. The DSU had also done away with the "positive consensus" model, and had instead instituted a system in which any state could bring a

claim before the panel, without the risk of it being blocked by the respondent. In short, the Dispute Settlement Unit was intended to bring stability, predictability and rule of law to the functioning of the organization. For this reason, it was described as "one of the most important innovations of the Uruguay Round and the establishment of the WTO."[5]

The new dispute resolution mechanism operates on several stages. The first one is that of consultation, with the goal being the pre-hearing, a mutually agreed settlement. If these preliminary negotiations fail to materialize within 60 days, the complaining party may request the WTO's Dispute Settlement Body (DSB) to form a panel that will review the case.[6] The panel is composed of three (or five) international trade experts that hear the case, and if a violation is found, makes a legally binding report of the measures that must be taken by the responding state within six months.[7] If the measures are not implemented within a reasonable amount of time, the complaining state may be authorized to request compensation, and may even be granted retaliatory measures.[8] However, the decision of the panel is not final, and may be appealed by either party.

Developing States in the WTO

The above-discussed improvements made to the dispute settlement unit in the WTO system were welcomed changes. Improvement on the appeal process, tighter deadlines, a more fixed panel of judges and a more rigid enforcement mechanism all help to strengthen the rule of law within the trade system. There was thus the belief, according to professors Marc Busch and Eric Reinhardt, that "these reforms [had] done much to temper the power politics that permeated the GATT and, together with the WTO's greater clarity of law . . . [they] should prompt developing countries to take more meritorious cases to Geneva."[9] This is in fact true; developing countries are increasingly more involved than they were in the GATT system, with almost 40% of all cases initiated by developing states. (See Appendix A) However, as global economists Chad Bown and Bernard Hoekman highlight, "the least developed countries (LDCs) are mostly absent, whether as complainants, respondents or third parties" from the functioning of the DSU.[10]

When we look at the statistics, this becomes all the more evident.[11] Of the 474 disputes brought before the WTO panels to date, only one of them has been initiated by an LDC—when Bangladesh invoked a panel against India for anti-dumping measure on batteries, a case they subsequently won. To date, no state has ever invoked a claim against an LDC. Overall, six LDCs have involved themselves in existing cases as interested third parties a total of fifteen times. At the Appellate level, five LDCs have been involved in only six of the 119 appeals to date. This absence becomes even more pronounced when we take into account that 34 of the 159 members of the WTO are LDCs—almost 22%.

Explaining the Absence of LDCs—A Lack of Access?

Having established that LCDs are, for the most part, absent from the dispute settlement process at the WTO, this section will seek to explain the possible reasons for which this happens in practice.

The first possible explanation is simply that these LCDs do not have many trade related disputes to begin with. Professor Amin Alavi points out that the "share of world trade, numbers of traded products and numbers of trading partners [are] determinants of their participation" in the WTO's dispute settlement mechanism, and given that LCDs are not as integrated in the global trading system as are developed states, the argument posits that the former group will consequently not have as many trade-related disputes.[12] This assumption was empirically tested by Horn et al., who put forth a theoretical benchmark model which shows that "the probability of encountering disputable trade measures is proportional to the diversity of a country's exports over products and partners, which means that larger and more diversified exporters would be *expected* to bring more complaints than smaller and less diversified exporters."[13] When this benchmark model is compared to the actual spread of claims within the DSU, however, the authors note that it "suggests a systematic pattern whereby larger and richer countries bring more complaints—and smaller and poorer countries less complaints—than expected."[14] In other words, the model only *partially* explains the reason for the poor representation of underdeveloped states within the dispute settlement mechanism; although they may have fewer trade-related issues than richer states, the issues do in fact exist. It would be absurd to think, in spite of the correlation between integration in the trade system and predicted number of trade-related disputes, that Bangladesh is the only LDC with a trade related dispute.

Another possible explanation for the absence of these least developed economies in the functioning of the DSU is that the issues get resolved through mediation before they are even brought before a panel—a result which "tends to yield the most favourable concessions." According to Busch and Reinhardt, however, this is not the case. They point out that developing countries had a particularly difficult time settling disputes before reaching the panel stage in the GATT; under the WTO, they argue that "developing countries . . . find it even more difficult to negotiate in the shadow of the law, given the incentive to litigate fully . . . the greater likelihood that multiple complainants and third parties will join their case, and the limited legal resources at their disposal to capitalize on early settlement."[15]

Having established that LDCs do have trade-related disputes (although proportionally less than more developed countries), and that these disputes are not in fact settled before reaching the panel stage, more explanatory variables must be studied in order to understand the "absence" of LCDs within the DSU. Out of the vast literature on the topic, a consensus has emerged; scholars have come to agree that it is both "a waste of time and money for developing countries to invoke the WTO's dispute settlement procedure"—especially

against industrialized countries—and as such, these disputes don't find themselves before a WTO panel.[16] Three factors help to explain this trend; the lack of legal capacity among LDCs, the inability to enforce a winning decision, and lack of sizeable gains from bringing a case against an LDC.

Complication of Trade Law and Legal Capacity

A corollary to the significant improvement that the WTO has brought to the dispute settlement mechanism—especially for developed countries and certain highly industrial developing countries—is a sharp increase in complexity to the system.[17] This shift toward a rule-based system is much less ambiguous or burdensome for highly developed countries, which are able to staff lawyers and economists who specialize in WTO trade law. However, as Busch and Reinhardt point out, the move simply "substitutes (or compounds) the traditional source of weakness—namely, the lack of markets size and thus retaliatory power—with a new one: legal capacity."[18]

To better understand these challenges, it is important to consider the setup of the Dispute Settlement Unit. The system functions on the adversarial form of justice, where both parties lay their claim before the panel of judges. It is thus crucial for the parties involved to hire lawyers with extensive knowledge and experience with these new trade laws if they are to lay a strong claim before the tribunal. Moreover, the strict deadlines associated with many of the claims mean that the legal council needs to be mobilized almost immediately.

Having conducted a thorough analysis of the costs of representation before the DSU, Bown and Hoekman suggest that a "litigation only" bill for legal services would typically be $500,000 (USD)—excluding the "resources necessary to investigate potential claims in the pre-litigation phase, [and] the resources necessary to engage public relations . . . in the post-litigation phase to generate compliance."[19] For developing countries—often with the lack of support from the private sector—these costs may prove too high, especially for claims against the well staffed legal departments of highly industrialized states, who are often well-supported by a private sector that stands to gain from legal victory at the WTO.[20] Furthermore, even if the developing states had the means of paying for a team of lawyers to bring a case before the panel, the lack of experienced lawyers available for hire and the chance that the respondent party may have a more robust team of legal experts remain obstacles.[21]

The WTO was, however, aware of this danger. For this reason, codified in the "Understanding on Rules and Procedures Governing the Settlement of Disputes," is Article 27(2), which calls on the Secretariat of the WTO to:

> ". . . make available a qualified legal expert from the WTO technical cooperation services to any developing country Member which so requests. This expert shall assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat."[22]

For this reason, the Advisory Centre on WTO Law (ACWL) was instituted to "assis[t] developing countries, customs territories, and LCDs both in dispute

proceedings and by providing legal advice on their rights and obligations under the WTO agreements."[23] Although this "access to justice" initiative has greatly helped developing states seek the legal counsel they need,[24] it is nonetheless necessary to note that the system does have its shortfalls. In addition to it being understaffed, International trade lawyer Hansel Pham notes that in many cases, the caseworkers "did not provide the wide-ranging, in-depth assistance that the countries felt they needed," and "rather than fulfilling the more encompassing role of 'public defender' for developing countries, the experts are only intended and allowed to serve as short-term, narrow-range technical advisors."[25] It is also worth noting that the assistance of the ACWL didn't eliminate all costs. As highlighted by Niall Meagher, executive director of the ACWL, "developing countries still face a considerable bill for both direct and incidental costs of litigation, even with the legal assistance available through the ACWL."[26] In other words, although the ACWL has been quite active, it has not been fully able to compensate for the barriers LDCs face in bringing cases before the panel.

As has been demonstrated in this subsection—and has been argued in much of the literature on the topic—legal capacity matters. In short, as has been demonstrated empirically, "members of the WTO who possess a greater legal capacity enjoy a distinct advantage over the majority of countries for whom the requisite institutional resources are scarce."[27] A key implication of this is that LDCs, whose legal resources are the scarcest, are likely to refrain altogether from invoking a claim before the panel.

In addition to raising the cost of dispute settlement, a second corollary to the increased complexity of the dispute settlement system is the inability to identify when WTO law has been violated. As discussed above, the agreements have changed over the years, and become increasingly complicated and multi-faceted. Without a team of lawyers and economists who specialize in new trade law, the least developed states are likely to find it more difficult to collect the information necessary to spot a potential trade-related issue and present it before a panel.

The Inability to Enforce a Winning Decision

Although the DSU, like most institutions of international law, does not have a robust enforcement mechanism, the WTO does allow complaining states to take action against responding states who don't comply with the panel's verdict, with the ultimate threat being retaliation. Retaliation consists of the imposition of trade sanctions, and is especially threatening if it is initiated by a large economy, like the United States, or if it is from a close trading partner. However, as Hoekman and Mavroidis point out, "small countries cannot credibly threaten this because raising import barriers will have little impact on the target market while being costly in welfare terms."[28] As such, the sanctions that LDCs impose on other economies—especially large economies—are likely not to cause particularly damaging effects. On a cost-benefit analysis, the knowledge that their weak retaliatory ability may not be enough

to induce compliance would thus constitute another factor for which an LDC may decide not to even bother filing a dispute with the DSU.

In addition to not having a substantial retaliatory power to be able to bring compliance from a respondent state, it is important to note that invoking retaliatory measures may actually be harmful to the LDC.[29] It would also be extremely unlikely for an LDC to invoke retaliatory measures against an economy that provides them with development aid out of fear that the assistance may cease, or against a close trading partner that may simply opt against trading with that particular economy. An example of this would be Ecuador's finding that it would be impossible to apply retaliatory measures against the USA without causing severe damages to its own domestic economy. In short, "threat of extra-WTO retaliation may decrease their willingness to invoke the DSU."[30] Under such circumstances, applying the right of retaliation would be counter-intuitive, and most probably hurt the LDC more than non-compliance from the part of the respondent would.

Lack of Sizeable Gains

The above discussions has provided reasons for which an LDC would be unable or unwilling to take a case before the DSU, but only partially explains the reason for which no claim has been brought against an LCD. For one, there is the structural adjustment that most LDCs have incurred, which has required them to liberalize their markets and open their borders. Lending agencies, like the International Monetary Fund (IMF) and the World Bank (WB) ensure the implementation of these programs, and make it such that derogation from trade law is less likely. A second explanation is that the cost of invoking a panel against an LDC would be rather futile. These least-developed economies have a comparatively very small market share. Even if they were to violate trade law and give reason for another economy to request a panel hearing, the miniscule gains that would be made would be counterbalanced by the costs associated with the dispute.[31] In short, the lack of sizeable gains from bringing a claim against an LDC is one of the key factors for which no dispute has ever been filed against them.

Dangers of LCD Absence

Before concluding, it is important to situate this analysis within the larger framework of the WTO, and understand why the absence of the least developed countries in the DSU is particularly worrying, with consequences for both the countries themselves and on the WTO as an institution. As an institution, the DSU acts as a legal safeguard against breaches of trade-related agreements that would harm a particular country's economy, but lacking access to trade-related justice, LDCs lose this safeguard. In other words, the lack of access to legal recourse in essence means that the least developed states are unable to fight back against the discriminative, protective or selectionist trade policies from other countries which would harm the exporting capacity of the LDC. If

we were to assume that free trade is the road to development, as many authors have argued, then these obstacles to justice in trade law would make it such that the poorest states are barred from the one mechanism designed to help with development.

This has wider implications that extend well beyond the interests of the LDCs. Busch et al. argue that a system in which all developing states– including those least developed—are active and willing participants would be advantageous for all members involved. The rule of law is a self-strengthening tool, and derives its legitimacy from the support of all parties involved. As such, if a number of parties are unable or unwilling to take part due to a lack of confidence in their ability to enforce a decision, the system itself suffers. If LDCs cannot enforce their rights through the dispute settlement mechanism, these countries would be less willing to comply with the organization as a whole. The barriers to justice faced by the LDCs further reduce the WTO's ability to fulfill its mandate of "reducing obstacles to international trade and ensuring a level playing field for all, thus contributing to economic growth and development," and highlight a damaging weakness in the system. The obvious conclusion is that the absence of LDCs in the dispute settlement mechanism poses a particular challenge not only to the states involved, but to the functioning of the system as a whole.

Conclusions

This essay has sought to briefly analyze the role, or lack thereof, of the least developed countries in the functioning of the DSU. After establishing that LDCs do in fact make scant use of the system, three explanations have been put forth to explain this phenomenon: a lack of legal capacity, the inability to induce compliance through retaliation, and a lack of sizeable gains to be made. The dangers that this "LDC absence" poses to the states themselves and to the functioning of the WTO should not be overlooked.

What conclusions can be drawn from this analysis? As we have seen, the institution of the WTO and its dispute resolution mechanism can be understood as the strengthening of the rule of law within global trade by removing ambiguity, and in principle allowing anyone to bring a case before a panel, a considerable improvement over the existing GATT system. However, as this essay has sought to demonstrate, the absence of LDCs from the functioning of this new system highlights the way in which the essence of the rule of law cannot *alone* allow the WTO to achieve its goal of contributing to economic growth and development. Larger legal barriers exist that inhibit many states, in particular, those that the UN has identified as being the poorest and most vulnerable, from fully benefitting from this new legal institution. If the WTO is to function as a developmentally-friendly institution, the systemic entry-issues that many states face must be examined and accounted for.

Notes

1. World Trade Organization, "The WTO can . . . settle disputes and reduce trade tensions," *World Trade Organization; What is the WTO?,* accessed March 14, 2014. URL: <http://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi02_e.htm>
2. Itan Murnira Ramli, *Development and the Rule of Law in the WTO* (London: Cameron May, 2008), 5.
3. William J. Davey, "Dispute Settlement in GATT," *Fordham International Law Journal*, Vol. 11, No. 1 (1987), 88-89.
4. World Trade Organization, "Historic development of the WTO dispute settlement system," *World Trade Organization; Dispute Settlement Training Module,* accessed March 14, 2014. URL: <http://www.wto.org/english/tratop_e/dispu_e/disp_settlement_ cbt_e/c2s1p1_e.htm>.
5. Ibid.
6. Ramli, Development and the Rule of Law in the WTO [supra], 40-41, 43.
7. Ibid, 41.
8. Ibid, 45.
9. Marc Busch & Eric Reinhardt, "Developing Countries and GATT/WTO Dispute Settlement" *Journal of World Trade* Vol. 37 No.4 (2003): 719–720.
10. For the purposes of this essay, the classification of "least developed country" will be in line with the UNCTAD's system; see: <http://unctad.org/en/pages/aldc/Least%20Developed%20Countries/UN-list-of-Least-Developed-Countries.aspx> for more information. Citation taken from: Chad Bown & Bernard Hoekman, "WTO Dispute Settlement and the Missing Developing Country Cases: Engaging the Private Sector" Journal of International Economic Law, Vol. 8 No. 4 (December 2005), 862.
11. All such statistics are to date, and can be found in Appendix A.
12. Amin Alavi, "African Countries and the WTO's Dispute Settlement Mechanism," *Development Policy Review*, Vol. 25 No. 1 (2007), 27-28.
13. Henrik Horn, Petros Mavroidis, and Hakan Nordstrom, "Is the Use of the WTO Dispute Settlement System Biased?" London: Centre for Economic Policy Research (1999), 2
14. Horn, Mavroidis and Nordstrom, "Is the Use of the WTO Dispute Settlement Biased?" [supra], 13–14.
15. Busch & Reinhardt, Developing Countries and GATT/WTO Dispute Settlement" [supra], 722.
16. Examples of increasingly complexity include the links with health law, safety standards, IP rights, services, infrastructure, etc. For a more in-depth discussion of this, see: Marc Bush, Eric Reinhardt, and Gregory Shaffer, "Does Legal Capacity Matter? Explaining Dispute Initiation and Antidumpting actions in the WTO," *International Centre for Trade and Sustainable Development*, Issue Paper No.4 (December 2008), 13.
17. Hakan Nordstrom and Gregory Schaffer, "Access to Justice in the WTO; A Case for a Small-Claims Procedure," *World Trade Review* Vol.7, No.4 (October 2008), 599.
18. Busch & Reinhardt, Developing Countries and GATT/WTO Dispute Settlement" [supra], 722.
19. Bown & Hoekman, "WTO Dispute Settlement and the Missing Developing Country Cases: Engaging the Private Sector" [supra], 873.

20. Ibid.
21. Niall Meagher, "Representing Developing Countries in WTO Disupte Settlement Proceedings" in WTO Law & Developing Countries, ed. George Berman and Petros Mavroidis (New York: Cambridge University Press, 2007) 218.
22. World Trade Organization "Understanding on Rules and Procedures Governing the Settlement of Disputes" (1994) 1869 UNTS 401; 33 ILM 1226
23. Niall Meagher, "Representing Developing Countries in WTO Disupte Settlement Proceedings" [supra], 217.
24. The ACWL claims, as per their 2013 Report on Operations, that they have provided 1064 legal opinions over the past four years. See: "Report of Operations, 2013," *Advisory Centre on WTO Law*, available online at: http://www.acwl.ch/e/documents/ reports/Oper_2013.pdf.
25. This was especially true given the impartiality requirement placed on the ACWL. See: Hansel Pham, "Developing Countries and the WTO: The Need for More Mediation in the DSU" *Harvard Negotiation Law Review* No.331 (Spring 2004).
26. Niall Meagher, "Representing Developing Countries in WTO Disupte Settlement Proceedings" [supra], 216.
27. Busch, Reinhardt, and Schaffer, "Does Legal Capacity Matter?" [supra], 14.
28. Bernard Hoekman and Petros Mavroidis, "WTO Dispute Settlement, Transparency and Surveillance," *The World Economy*, Vol.23, No.4 (April 200), 534.
29. Bown & Hoekman, "WTO Dispute Settlement and the Missing Developing Country Cases" [supra], 864.
30. Ibid.
31. Alavi, "African Countries and the WTO's Dispute Settlement Mechanism" [supra], 28.

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Appendix A

Since up-to-date data was unavailable, this appendix was created to break down the statistics of WTO cases involving LDCs. All data has been taken from WTO records.

LDCs - As per the UNCTAD list	As complainant	As respondent	As third party	Total	Cases
Benin			1	**1**	DS267
Burundi				**0**	
Central African Republic				**0**	
DR of the Congo				**0**	
Guinea Bissau				**0**	
Madagascar			4	**4**	DS27, DS265, DS266, DS283
Mali				0	
Myanmar				**0**	
Niger				**0**	
Sierra Leone				**0**	
The Gambia				0	
Uganda				**0**	
Laos				**0**	
Mauritania				**0**	
Senegal			2	**2**	DS27, DS58
Vanuatu				**0**	

The King of Cyberspace:
How the Internet Corporation for Assigned Names and Numbers Governed the Web and Defined the State at the Turn of the 21st Century

Audrey Carson, *Harvard University*

In May 2013, Google made a small, unannounced change to its Palestinian homepage: slightly below and to the right of Google's iconic blue, red, yellow, and green trademark, a grey caption that read "Palestinian Territories" was altered to read "Palestine." The change did not go unnoticed. The next day, newspapers around the world ran headlines announcing, "Google grants Palestinian statehood," "Palestine now recognized by greater power than US or Israel—Google," and "Who needs the UN? Google turns 'Palestine' into state by changing its name on homepage."[1] Google spokesperson, Nathan Tyler, defended the decision as a means of facilitating greater technical and semantic coordination among international organizations: "We consult a number of sources and authorities when naming countries," he explained. "In this case, we are following the lead of the UN [United Nations], ICANN [Internet Corporation of Assigned Names and Numbers], ISO [International Organization for Standardization], and other international organizations."[2]

Political leaders in Israel and Palestine, however, were quick to notice the geopolitical implications of the decision. Palestine's president, Mahmoud Abbas, called Google's decision a "victory for Palestine and a step toward liberation."[3] "Google put Palestine on the Internet map, making it a geographical reality," intoned one of Abbas' advisors, Sabri Saidam.[4] Meanwhile, Deputy Israeli Foreign Minister, Zeev Elkin, commented, "When a company like Google comes along and supports this line, it actually pushes peace farther away, pushes away negotiations, and creates among the Palestinian leadership the illusion that in this manner they can achieve the [desired] result."[5] To both Israeli and Palestinian politicians, Google's decision to rename the "Palestinian Territories" was not merely a semantic alteration required for technical coordination among international organizations; it was the symbolic conferral of a new and more powerful political identity.

The immediacy and acuteness of the reaction prompted by Google's decision is striking considering that the change in question, the replacement of "Palestinian Territories" with "Palestine," took place on a web page whose very address—www.Google.ps—seemed to already imply a much broader acquiescence of Palestinian statehood. ".ps" is the two letter, country code top-level domain name (ccTLD) that the Internet Corporation for Assigned Names and Numbers (ICANN), the not-for-profit corporation founded in 1998 tasked

with managing the Internet's Domain Name System (DNS) and governing other aspects of the Internet's infrastructure, created for Palestine in 2000.[6] It would seem ICANN's decision to grant Palestine a ccTLD decision should have generated greater uproar than did Google's decision to alter the interface design on one of its many homepages. After all, Google was a private company that was ultimately responsible to its shareholders. While the Internet giant's decisions were widely broadcast and highly scrutinized, its corporate policies were intended neither to speak for international public opinion nor to resolve disputes in international politics. ICANN's decision to create a Palestinian ccTLD, on the other hand, was made on the basis of the organization's authority as a "global representative of the Internet stakeholder community" that acted in conformity with "relevant principles of international law."[7] While it is worthwhile to ponder, as Israel's Foreign Ministry spokesman Yigal Palmor did, why "a private internet company" chose to get involved "in international politics, and on the controversial side," it is even more pressing to consider how the international organization primarily responsible for the world's Internet governance came to what appears to be a much more controversial decision: to legitimize Palestine by bequeathing the nation its own digital territory in cyberspace.[8] This is especially true given that, at the time of ICAAN's decision to grant Palestine a ccTLD, Palestine had "non-member observer entity" status in the United Nations, a status that neither conferred international recognition of statehood nor was even explicitly defined in the United Nations' charter.[9] Even more curiously, at the time of ICANN's decision the organization was operating under the auspices of the U.S. Government through a partnership with the U.S. Department of Commerce, which—at least on paper—had ultimate authority over decisions regarding management of the Internet DNS.[10] Given that the U.S. Government at this time staunchly opposed any assertion of Palestinian statehood that did not entail negotiated settlement with Israel, ICANN's decision to grant Palestine sovereign authority over its own domain in cyberspace is particularly puzzling.[11]

This paper explores why ICANN decided in 2000 to designate the ".ps" ccTLD, as well as why this important designation drew far less public scrutiny than did Google's 2013 renaming of the "Palestinian Territories." It draws upon a wide array of primary sources—including newspaper articles following ICANN's delegation of the ".ps" ccTLD and internal documents from the U.S. Department of Commerce, ICANN, and ICANN's informal predecessor, the Internet Assigned Numbers Authority (IANA)—as well as additional theoretical and legal materials on Internet governance, international organizations, and state sovereignty. This paper provides a timeline of ICANN's delegation of the ".ps" ccTLD, and then turns to answer the following questions: why did Palestine's ccTLD convey recognition of state sovereignty and how did ICANN become the arbiter of whether Palestine qualified for a ccTLD? To help answer these questions, I draw on three broader themes in the history of internationalism and international organizations: the complicated relationship between the global and the international, the transfer of responsibilities and capacities

from state governments to international organizations, and the blurry distinction between technical and political activity. Ultimately, I argue that ICANN was able to create the ".ps" domain name with relatively little pushback because the organization: 1) presided over an inherited Internet infrastructure that rebuilt and reified national identities in cyberspace, 2) successfully legitimized its authority while distancing itself from external oversight, and 3) effectively framed its activities as an extension of objective and apolitical technical expertise.

Before conducting analysis of the historical context that explains ICANN's decision and imbues it with additional meaning, it is important to review the exact chronology of events leading up to the designation of the Palestinian ccTLD. In February 1997, the Internet Assigned Numbers Authority received its first notice from a Palestinian representative requesting the delegation of a Palestinian ccTLD. The request was summarily denied. ICANN's stated policy regarding the delegation of ccTLDs—the foundation of which remains to this day—was outlined by the organization's founder, Jon Postel.[12] In a memo published in March 1994 on "Domain Name System Structure and Delegation," commonly referred to by technophiles as "RFC 1591," Postel ruled that only those geopolitical entities that the International Organization for Standardization's 3166–1 list already recognized with a two-letter country code would be eligible to apply for and receive a country code top-level domain name from the IANA.[13] This list, in turn, was composed of the codes listed in the United Nation's bulletin, "Standard Country or Area Codes for Statistical Use." While Palestine was not represented on this list, it had in November 2005 been included on a list of interim area names—where it was represented by the two-letter code "ps"—created by the United Nations Statistics Division. Moreover, in April 1996 the United Nations Maintenance Agency formally moved the "ps" suffix to its list of codes designated as "exceptional reservations." Thus, while Palestine did have a two-letter code reserved, because this code was not included in the ISO 3166-1 list at the time of the 1997 inquiries, IANA declined to delegate a ccTLD to Palestine.[14]

Interestingly, the IANA chose to grant Palestine a "second-level domain"—palestine.int—when, in 1998, the United Nations confirmed Palestine as a permanent "non-member observer entity." The IANA noted that this registration was to be "in lieu of a current top level domain for Palestine, and would eventually be transferred to the top level domain when the top level domain is accepted by the ISO 3166 Maintenance Agency."[15] This technical classification appeared to indicate Palestine's geopolitical standing; the delegation of a "second-level domain," rather than ccTLD, suggested that the international community did not yet recognize Palestine as a full-fledged state. Moreover, the ".int" domain implied by definition that Palestine was an intergovernmental entity governed by international law or established by international treaties among national governments. To decide that Palestine was deserving of an ".int" was thus to implicitly illuminate the international community's understanding of Palestine's official geopolitical status. When both

the United Nations Statistics Division and the International Standardization Organization announced in September 1999 that they had officially added the "Occupied Palestinian Territory" to its list country code lists—the ISO 3166-1 index and the "Standard Country and Area Codes for Statistical Use" index—the Government Computer Center for the Palestinian Authority renewed its request for a ccTLD with the Internet Corporation for Assigned Names and Numbers. And on March 22, 2000, ICANN published a report on its website announcing it had approved Palestine's request for a ccTLD.

Public reaction to the designation of the Palestinian ccTLD was both mild and muted, disproportionately so given the significance of the decision. It is easy to overlook the significance of the delegation because ICANN's decision to grant a country code top-level domain name to Palestine attracted minimal attention in the United States. Arguably, any attention the decision drew at the time was the result of a *New York Times* article published in December 1999. The author of the story, Jeri Clausing, noted in a clipped tone that the Internet Corporation of Assigned Names and Numbers had "received and expected to grant an application to give the Palestinian National Authority its own two-letter suffix, or domain, on the Internet."[16] But in effect, the suffix ".ps" founded an official domain in cyberspace under Palestinian authority. The ".ps" ccTLD permitted "academic, commercial, governmental, and other . . . Internet users in Palestine"[17] to stake out the boundaries of a sovereign Internet community by allowing them to clearly identify themselves as Palestinian while online. Perhaps most meaningfully to Palestinian Internet users, the creation of ".ps" encouraged Internet Service Providers (ISPs) in the country to use the ".ps" domain extension instead of generic domain extensions like ".com" or even ".il," for Israel. "Because of the political situation, a lot of Palestinians didn't want '.il' in their e-mail addresses," explained Yaser Doleh, a technical administrator for the ".ps" domain. Ghassan Qadah, a second technical administrator for the namespace, believed that ".ps" provided the people of Palestine with much needed digital freedom and virtual independence at a time when many were not free to move about their own neighborhoods due to curfews imposed on them by the Israeli Government. "It's an important symbol for the Palestinian state," he concluded.[18]

The History of ccTLDs: Affirming State Sovereignty in a Deterritorialized Digital Realm

In the 1990s, political scientists and cybertheorists predicted that the expansion of the Internet would undermine the sovereignty of nation states by accelerating the already frenzied pace of globalization. In 1993, for instance, Herbert Schiller argued that the Internet would soon inundate sovereign polities with transnational data flows and severely impinge the ability of national governments to influence the political character of their states.[19] The end result, he and similar theorists argued, would be the effective elimination of the nation state as a meaningful entity and the creation of a global public

sphere in which individuals would exist independent of the geographic locales that they inhabited. As individuals transcended the communities in which they were raised and came to spend more and more of their energy defining their identities in a virtual cyberspace, it was theorized, the powers and responsibilities of nation states would fall away, leaving behind remnants of government not worthy of the designation "sovereign state."[20] The perceived structure of the Internet's essential architecture was crucial to this belief; the online world was understood as the ultimate expression of anarchy, in which hierarchies of access and status were flattened to allow for the free and total exchange of information.[21] This dense network of exchange, technocrats like Peter Ludlow and John Perry Barlow declared, defied traditional mechanisms of consolidating power and authority into a central organ of control. Indeed, Esther Dyson, ICANN's founding chairman, proclaimed, "The great virtue of the Internet is that it erodes power."[22] At the turn of the 21st century, thus, cyberspace was conceived of as a digitalized wild west, an electronic frontier in which an Internet connection provided access to a realm that could not be contained by traditional social, political, and economic authorities. To the extent there exists an intellectual history or common mythology of cyberspace, the turn of the 21th century is properly characterized as a moment when the durability of the sovereign state was thrown into existential doubt.

It was one of the great ironies of the early digital age, therefore, that this hyperbolized and decentralized and digital world—heralded by some as utopia and by others as dystopia—did not come to pass. Rather, underlying technical structures built into the bedrock architecture of the Internet actually served to consolidate authority in a central organ of management with the capacity to muscularly direct the development of cyberspace and delegate power to subordinate loci of control.[23] In 1999, the Internet Architecture Board—or IAB, the first committee vested with authority over the overall operation of the Internet's technical infrastructure by the U.S. Department of Defense—published what must have been a startling wake-up call to all cybertheorists who assumed the Internet would inherently destabilize systems of power by decentralizing telecommunication as the world knew it. Their incisive publication on the technical infrastructure is worth quoting at some length:

> The Internet, to remain a global network, technically requires the existence of a globally unique public name space. The DNS name space is a hierarchical name space derived from a single, globally unique root. This is inherent in the design of the DNS system. Therefore it is not technically meaningful for there to be more than one root in the public DNS system. That one root must be supported by a small number of coordinated root servers, and administered by a unique naming authority.[24]

In order for the Internet to function effectively, the IAB explained, every computer in the global network required a unique name and number pair, and each unique name and number pair had to be registered in a single central directory, or address book, called "the root." Managers of the root had

the immense responsibility of assuring that no duplicate or overlapping name and number pairs entered the "globally unique public name space." The result of multiples within the Domain Name System root, the IAB warned, would be chaos; every name and number pair had to be unique, otherwise Internet users would very likely be routed to destinations they did not intend to visit and the Internet would become destabilized.[25] Centralized Internet addressing was thus required by the technical architecture of the Internet; a "unique naming authority" was required to oversee this "one root," or database, of all the domain names and IP addresses on the Internet. Thus, although the Internet was also a network of networks, its central and indispensable functions were highly centralized. Only one entity could preside over the root server, a technologically imposed reality that bestowed whichever entity assumed this responsibility with near monopolistic power over the Domain Name System.[26]

Enter Dr. Jon Postel, a long-haired, sandal-wearing graduate student studying Computer Science at the University of Southern California. In the 1970s, "working under a research contract from the United States Government," Postel exercised policy authority over the root zone of the Internet DNS.[27] For many years, Postel exercised this function by himself—a function that gradually came to be known as the Internet Assigned Names and Numbers Authority—as the expansion of the Internet gradually picked up pace. The power entailed by this position was immense, and Postel became a crucial architect in the further development of the World Wide Web. It is striking to realize that the Internet—a vast network of anarchy, or perhaps democracy, depending on the critic—for many years relied for its very functioning on a single man operating out of an small academic office in Marina Del Rey, California. As the operator of the Internet's central root file, Postel had the authority to delegate or deny domain names, and thus to delegate or deny Internet access and online identity to all who requested them. Hans Klein gestures at the gravity of this power when he concludes, "In a manner of speaking, the name space *is* the Internet. In order to exist on the Internet, a computer must be listed in the name space . . . Removal of a computer's listing from the name space thus constitutes a kind of banishment. Whatever entity controls the name space database effectively controls the Internet."[28] Moreover, the importance of the IANA increased exponentially as new entities, especially commercial entities, began to clamor for lucrative name space on the Internet, and Postel began to consider ways to expand the top level of domain names. Thus, contrary to the assumptions of "cyber-optimists" who applauded the Internet for breaking down bases of control, in many ways the Internet ironically consolidated authority in the hands of a single man and eventually an even more powerful organization.

Just as expectations regarding the decentralizing tendencies of the Internet were ultimately proven to be unfounded, so too were concerns regarding the deterioration of national sovereignty in the harsh anarchy of the digital world. In 1984, Jon Postel announced an important change to the Internet DNS: while there would continue to be one root server, the IANA would create many different zone files, each with a different top level domain

name and each responsible for delegating names and numbers to Internet users within their own zone file. Effectively, the announcement laid out a "blueprint for the structure of the namespace and its future growth."[29] Postel specified that there would be two types of top-level domains, or TLDs: generic TLDs, such as ".com" and ".edu," and country code TLDs, based on the International Organization for Standardization's 3166–1 list of two-character country codes. By attaching a geopolitical significance to ccTLDs, Postel personally determined—whether purposefully or accidentally—that these codes would have a particular political meaning. After all, the creation of ccTLDs was not preordained by the technical architecture of the Internet; had Postel selected other alphanumeric identifiers—colors, perhaps—TLDs would not have acquired intense geopolitical significance. But instead, Postel settled upon ccTLDs, a truly "historic decision with profound policy consequences."[30]

Postel's decision inherently privileged and prioritized national identity and sovereignty on the Internet, though he insisted he was "not in the business of deciding what is and what is not a country."[31] Postel granted countries control over their namespace and gave them the authority to delegate names within this namespace as they saw fit. This power was vitally important, noted Tamar Frankel, because "a domain name is the spark that breathes life and the very existence on the Internet. The loss of a name on the Internet is death without a trace. Our Internet names are unique to us; they are our only means of recognition. Therefore, name allocation and withdrawal can be a source of power and wealth."[32] In addition to being commercially valuable, Erica Wass added, ccTLDs have "gained the power to effect social change and incorporate national identities and priorities. They have, in the process, evolved into more than a technological convention. Rather, they have become a means of communicating cultural values."[33] Palestine's success in acquiring a ccTLD thus was truly significant; a ccTLD accorded Palestine power and prestige in the digital world. More thematically, ccTLDs generally amplified the control of nation states in an era when they feared their power was eroding. In rebuilding and reifying the boundaries of sovereign states in the virtual realm, the IANA's ccTLD policy importantly appeared to privilege internationalism over globalization. Thus, although the IANA was in a sense a "non-territorial actor," it did not destroy the distinctiveness of nation states. Rather than "replacing governmental authorities in providing law and order," the IANA reaffirmed the power of governmental authorities by giving them authority over a namespace—a digital country—all their own.[34]

A Part or Apart: Denationalizing the Internet and Its Mechanisms of Governance

How did ICANN come to have the political authority—rather than technical authority, which was outlined above—to judge whether Palestine qualified for a ccTLD? In other words, why was ICANN's decision to grant Palestine a

ccTLD respected both by the United States Government and by other state and non-state actors? The answer to this question demands a closer investigation into the origins of ICANN's founding and the organization's complicated relationship with the Government of the United States. The report filed by the IANA on March 22, 2000 announcing the organization's decision to grant a ccTLD to Palestine yields a brief but interesting insight on ICANN's responsiveness to American governmental interests. Before evaluating their own policy, the authors of the report revealed that they have constructed and distributed the document in question in deference to ICANN's contractual obligations. "This report is being provided," the authors noted, "under contract for the performance of the IANA function between the United States Government and the Internet Corporation for Assigned Names and Numbers."[35] The authors of the report did not present ICANN as an autonomous organization that drew its authority from the consent of the larger Internet community. Rather, the authors' description of ICANN's duties cultivated an impression of the organization as a steward for a function ultimately wielded by the U.S. Government: "Under contract," explicated the reports' authors, "the IANA is responsible for receiving delegation requests, investigating the circumstances pertinent to those requests, and reporting on the requests."[36] Yet, if ICANN were truly an organization subordinated to the U.S. Government by the clauses of its operating contract, the organization likely would not have been allowed to grant a country code top-level domain name to a political entity—Palestine—that its parent organization denied had proper standing to be recognized as a country at all. It thus seems improbable that ICANN was truly answerable to the Government of the United States at the time of its decision to grant Palestine a ccTLD. By carefully tracing the development of the Internet and its primary rulemaking body, it should be possible to identify when in history ICANN declared its independence from the impositions of American political interests.

At the dawn of the Information Age, U.S. governmental authority over the technical infrastructure and management mechanisms of the Internet was absolute. The Internet itself emerged and expanded through significant investment by the U.S. Department of Defense, in particular the Defense Advanced Research Projects Agency (DARPA).[37] The very first iteration of the Internet, ARPANET, was launched in 1969 by the Department of Defense, but in the 1980s primary responsibility for the civilian component of the Internet was ceded to the National Science Foundation. In the words of Robert P. Murphy, a lawyer at the United States General Accounting Office who explained the following to various committees in the United States Senate and House of Representatives, "The U.S. Government has been instrumental in supporting and funding the development of the Internet."[38] As explained previously, officials at the Department of Commerce contracted out the task of maintaining and delegating a main database of assigned names and numbers to Jon Postel. Although not explicitly stated, during this time the United States Government retained final say over the IANA's decision; "while their agreements did

not unambiguously obligate Postel to follow the government's orders regarding the root zone," Jonathan Weinberb writes, the contractual nature of their arrangement suggested that at this time, Postel had "significant incentive to stay on the U.S. Government's good side."[39]

As the burdens of the IANA function began to grow, however, it became clear that Postel's "informal arrangement" only worked well when "Cyberia was a small, academic country;" now that it had been "colonized by commerce, a more businesslike approach was felt to be necessary."[40] Still others raised additional concerns about leaving the IANA in the hands of the United States Government. The current configuration of IANA was too slow to respond to new requests for namespace delegations, critics alleged; moreover, as the Internet began to cultivate a strong presence in other nations, the U.S. Government's overwhelming influence over the IANA function seemed inappropriate. At the time, Frankel writes, the Clinton Administration "was hard pressed by a number of countries to de-Americanize the Internet."[41] A better approach, these critics claimed, would be to create an organization that allowed the Internet's many stakeholders—both state and non-state actors—to participate in the management of the Internet's architecture and engage in Internet policymaking.[42] As such, the United States began to explore how it might "de-Americanize the management and regulation of the Internet's infrastructure without severing its American umbilical cord."[43]

Postel's unexpected death quickly catapulted a new organization responsible for assuming the IANA functions Postel had once managed singlehandedly, the Internet Corporation for Assigned Names and Numbers, into reality. On July 1, 1997, President Clinton directed the Secretary of Commerce "to privatize the management of the domain name system in a manner that increase competition and facilitates international participation in its management."[44] Because the administration wished to avoid officially establishing or acquiring a corporation—such an edict would have required an act of Congress under the Government Corporation Control Act of 1945—it arranged for the birth of ICANN in a way that had the effect of reducing its long-term authority over the new organization. In the end, the policy statement published by the Clinton Administration "merely advised the public of the manner in which the Department planned to transfer the domain name system" to ICANN, a private, not-for-profit corporation that had already been partly organized under the auspices of Jon Postel.[45] The result was an organization that, at the turn of the 21st century, was largely unhindered by governmental oversight over the domain name system. While the Department of Commerce continued to assert its "broad general authority to foster, promote, and develop foreign and domestic commerce," it also acknowledged that it would no longer participate in the selection process of new TLDs.[46] In this manner, ICANN escaped the authority of the United States Government and earned the freedom to engage in Internet policymaking—including the delegation of ccTLDs—without government oversight. Perhaps this was why, in the *New York Times* article published shortly

before ICANN's announcement that it had granted Palestine's request for a ccTLD, the author noted briefly: "Clinton Administration officials were hesitant to discuss [Palestine's] pending application. But Mr. Roberts [ICANN's president] said there would be no basis for turning it down."[47] The distance created between the U.S. Government and ICANN granted the organization significant authority to make decisions and set agendas that seemed to directly undermine American foreign policy interests. Like many other international organizations, ICANN quickly outgrew the trappings of governmental oversight and became a fully autonomous institution capable of disagreeing with the stated policies of its past parent.

Conclusion

This paper tells two interrelated histories—the history of ccTLD policymaking and the history of ICANN's relationship to the U.S. Government—in order to answer two important questions: why do ccTLDs have important implications for perceptions of state sovereignty and how did ICANN come to be in the position to judge whether Palestine qualified for a ccTLD? I answer these questions by drawing directly from primary sources surrounding the delegation of the ccTLD to Palestine and connecting these insights to broader trends in the history of internationalism, namely the complicated relationship between the global and the international, the transfer of responsibilities and capacities from state governments to international organizations, and the blurry distinction between technical and political activity. I conclude that by elevating the position and authority of the nation state in the online namespace, ccTLDs counteract the Internet's tendency to utterly deterritorialize the public sphere. ICANN presided over an inherited Internet infrastructure that rebuilt and reified national identities in cyberspace. Moreover, ICANN was able to delegate a ccTLD to Palestine because the organization successfully consolidated and legitimatized its authority in a manner that reduced government oversight and emphasized the technical, and thus seemingly apolitical, character of its decisions-making.

The case of Palestine suggests that, for politically marginalized states and populations, ICANN may very well serve as a viable recourse for recognition when more overtly political international organizations, like the United Nations, have rendered the issue of sovereignty utterly intractable. By relying on technical standards to identify and bestow powers and responsibilities upon state actors it deems legitimate, ICANN can effectively sidestep politicized points of conflict and exercise its "objective" authority to recognize valid players in the international system. Moreover, the delegation of a ccTLD not only affirms the statehood of a political entity, but also grants those same political entities with administrative and commercial capacities that may provide new states with the funds necessary to initiate significant nation-building. South Sudanese officials, for instance, have cited the profits of domain name sales to brand owners as a significant factor motivating their decision to

apply for a ccTLD.[48] Thus, it appears that ICANN, despite its objections, has very much been in the business not only of deciding what is a country, but also of deciding what to *make into* a country. To states and populations on the margins of the international order, ICANN's willingness to bestow countries with jurisdiction over their own digital domains represents a powerful means of virtually territorializing political authority. Indeed, only time will tell if in a world in which more and more and more of our lived experiences take place online—where freedoms, fortunes, and friendships are realized and lost—sovereignty in cyberspace will reign supreme.

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Reaching Out to Refugees:
Informality, Insecurity, and Ineffective Solutions in Jordan's Za'atari Refugee Camp

Elizabeth Robinson

Executive Summary

The Za'atari refugee camp is located in Jordan's northern Mafraq province, about eight miles south of the Syrian border. The camp opened in July 2012 to accommodate the tens of thousands of refugees fleeing Syria's terror, and has since surpassed all expectations of size, complexity, and duration. Today, around 100,000 people live in Za'atari, though camp-based refugees only comprise about a fifth of all Syrian refugees in Jordan, most of whom live in cities. Za'atari is run by UNHCR in partnership with the Jordanian government, with various other NGOs contributing sector-specific efforts as implementing partners (IPs).

Shortly after Za'atari opened, an informal economy emerged along its avenues, spurred entirely by the refugees' own gumption and entrepreneurial spirit. The commerce includes the sale of food, electronics, clothing, toys and games, and services such as haircuts. Hundreds of stores now operate in the camp, mostly concentrated along the famous Champs-Élysées, but also stretching down side streets and spilling out of family tents. While United Nations High Commissioner for Refugees (UNHCR) is aware of and accepts this basic exchange of goods in the camp, it has pushed back against other aspects of the economy that transcend informality and cross into illegality. This includes extracting rents through a real estate market for storefront space, siphoning electricity from the camp's power lines, and stealing community goods and humanitarian items, many of which are smuggled out of the camp.

The informal economy in Za'atari—in addition to most of camp life—is largely dictated by tribal dynamics. Tribes are a fundamental part of society in the Middle East, and form the basis for power hierarchies, decision-making processes, and the distribution of public goods and social privileges. In Za'atari, refugees have either reestablished their local Syrian tribal structures or have created new ones, a process that has provided an endogenous foundation for their communities. The tribes are led by traditional leaders, or *mukhtars*, who, among their many responsibilities, oversee the illegal activities that take place in Za'atari. Moreover, the *mukhtars* personally benefit from such illicit ventures—financially, and in terms of power—and thus have an incentive to maintain their control.

Due to these vested interests, Za'atari's informal economy has engendered insecurity and tension within the camp, which makes it more difficult for UNHCR and its IPs to operate, and sometimes leads to violence. This was especially true in the early days of the camp, when the poor management policies of the Jordanian Hashemite Charity Organization (JHCO) created an atmosphere of distrust and lawlessness. While camp security has improved since early 2013, when UNHCR replaced JHCO as the main operating body in the camp, the problem persists. UNHCR, and specifically the Camp Manager Kilian Kleinschmidt, have tried to improve security through large-scale governance plans. However, this official strategy involves imposing a standardized procedure of top-down camp management that essentially aims to replace the pre-established tribal structures; more importantly, UNHCR's effort to cut down on illegal activity in the camp directly challenges the personal power of the *mukhtars*, who have naturally resisted UNHCR's policies, adding to the camp's tension.

The failure of UNHCR's governance plan to fully address Za'atari's insecurity reflects more endemic shortcomings within the organization: mainly, the broad application of single model for dealing with any refugee crisis, regardless of the cultural context, and the exclusion of refugees from the decision-making processes that most directly affect their own lives. In order to address the security issues in Za'atari, and to begin to remedy the deeper problems within UNHCR, the main recommendation of this report is that UNHCR should work through the refugees' existing social structures to improve camp security, instead of creating alternative governance systems that challenge the *mukhtars*' authority. Respecting the power and influence of the tribal leaders would reduce insecurity by eliminating the current threat to their authority and interests, and by increasing the refugees' control over and personal stake in the success of camp policies and projects.

The rest of this report will proceed as follows: Section I provides a background briefing on Za'atari, and Section II discusses the camp's informal economy. Section III describes how the *mukhtars* benefit from this economy and use it extend their power, and how this in turn engenders insecurity. Section IV analyzes the efficacy of UNHCR's management policies and governance plans in reducing insecurity in the camp, and explains why these measures won't fully succeed. Finally, Section V concludes by laying out recommendations for how to better address Za'atari's insecurity.

Introduction

Soon after opening on July 28, 2012, Jordan's Za'atari refugee camp—the third largest in the world after Kenya's Dadaab and Kakuma camps—became a glaring symbol of the human effects of the war in Syria.[1] According to the UNHCR—which administers the camp jointly with the Jordanian government—as of May 4, 2014, 101,402 people lived in Za'atari, with an average of 300–350 refugees coming to the camp every day; depending on fighting in

Syria, this daily rate can climb into the thousands.[2, 3, 4] Za'atari is now Jordan's fifth largest city,[5] though camp-based refugees represent only a fifth of the over 590,000 Syrian refugees in the Hashemite Kingdom, and less than 4% of all the "persons of concern" whom UNHCR has identified in connection to the Syrian war.[6]

The two-mile long camp is located in Jordan's northern Mafraq Governorate, just eight miles from the Syrian border.[7] Since its opening, the camp has expanded exponentially—both in terms of population and, consequentially, humanitarian aid. This rapid growth has raised a number of existential questions, most notably that of the long-term future of the camp and its residents. Given current circumstances in Syria, it is unlikely that the refugees—either in Za'atari or elsewhere in the Middle East—will be able to return home in the near future. While refugee camps are intended to be temporary settlements for a temporarily displaced population,[8] it is now widely recognized that Za'atari has become much more permanent than originally intended; indeed, the frequent characterization of Za'atari as a city is due to a number of factors, including its large population, the broad scope of humanitarian activities in the camp, and, notably, the complexity of its informal economy.

Za'atari's Informal Economy

Defining an Informal Economy

Before describing the informal economy in Za'atari, it is necessary to understand what exactly an informal economy is. As Manuel Castells and Alejandro Portes explain, an informal economy must be understood "as a process, rather than as an object."[9] The authors first describe what an informal economy is *not*: mainly, it "is not a set of survival activities performed by destitute people on the margins of society [and] is not a euphemism for poverty."[10] This clarification is particularly relevant for the present report, as refugee camps and their residents are often stigmatized and stereotyped due to the unfortunate circumstances of war. Castells and Portes then describe an informal economy as "a process of income-generation characterized by one central feature: it is unregulated by the institutions of society, in a legal and social environment in which similar activities are regulated."[11] Furthermore, as the authors explain, "the basic distinction between formal and informal activities proper does not hinge on the character of the final product, but on the manner in which it is produced and exchanged."[12] Indeed, the final product in both formal and informal economies is licit, though the production and distribution of those products is *licit* in the formal economy and *illicit* in the informal economy. In addition to formal and informal economies, a third type of commerce exists: a criminal economy. Here, the final products are always *illicit*, though the production and distribution of these goods can be either licit *or* illicit.[13] This distinction is important to keep in mind when discussing Za'atari's economy, as most of its activity is informal, and not criminal.

A second explanation of an informal economy—now in the specific context of a refugee camp—is provided by Rahul Oka and is based on his work in Kenya's Kakuma refugee camp. He argues that as per the very definition of a refugee camp, any economic activity that occurs within it must be informal. According to Oka, a refugee camp is a community,

> (a) that by definition and *raison d'etre* is deemed to not need nor possess any form of commercial economy, (b) where any form of commercial activity within the camps is necessarily outside the realm of regulatory institutions and hence informal, and (c) where informal economies are officially seen as attritional but are encouraged by local and regional relief workers.[14]

The first point alludes to the fact that because refugee camps are intended to be temporary, nothing about the camp—from its infrastructure and physical arrangement to the services provided—is meant to establish or encourage any sense of permanence, including livelihood opportunities such as an economy. This leads to Oka's second point: any commerce that does arise must be unsanctioned and unregulated. However, he notes in his third point that such informal systems actually benefit the aid agencies in the camp as well as the refugees.

Together, these two definitions make an important point about informal economies in refugee camps: they operate parallel to—not in place of—formal systems, creating a fundamental conflict between the two structures, as well as the people running them; indeed, this generates much tension in Za'atari.

Camp Commerce

The token example of Za'atari's informal economy is the Champs-Élysées—the main commerce street in the camp, named after the famous Parisian thoroughfare. Here, one will find over 2,500 shops run entirely by refugees that sell a true profusion of goods, though cigarettes and fresh vegetables are understandably the most popular commodities. Luxury goods are also available, however, including TVs, satellite dishes, and perfumes,[15] in addition to cell phone SIM cards, gas refill containers, home appliances, cleaning supplies, clothing, and bird cages.[16, 17, 18, 19, 20] A wedding dress store facilitates the two weddings a day in Za'atari,[21] and there are several barber shops throughout the camp. A variety of food and dining options are also available, including cotton candy, falafel stands, and cafés selling tea, coffee, and hookah.[22]

This is the type of basic, low-level commerce that takes place openly on the streets of Za'atari every day, and it is estimated that between $8 to $12 million is exchanged every month in the camp.[23, 24] Based on recent evaluations, UNHCR estimates that around 65% of refugees earn an income, most of which is from the camp's economy.[25] UNHCR openly accepts such informal commerce and even encourages it, due to its many benefits and few dangers.

This commerce arose in Za'atari for three reasons: first, UNHCR and the IPs were unable fulfill refugees' complete spectrum of needs and wants;

second, the Jordanian government prohibits Syrian refugees from pursuing livelihoods in urban Jordan; and third, refugees knew they could make money from the economy.[26] First, addressing the shortcoming of aid: the Jordanian government, UNHCR, and IPs are charged with the extremely difficult task of ensuring the general well-being of 100,000 people who were forced by death and chaos to flee from their homes, and often for their lives. Like most massive humanitarian efforts, this one is underfunded and undersupplied, and is hampered by overlapping or unnecessary bureaucracies, hierarchies, and regulations. Given these constraints, UNHCR and IPs are forced to decide which goods and services are absolutely essential to provide, and which the refugees can survive without. As a result, aid activities generally focus on satisfying basic needs such as food, shelter, and health care. However, the quality and nature of these services is often lacking, again due to the aforementioned restraints under which aid agencies operate.[27] Thus, refugees' basic needs are only nominally fulfilled, and they are left without many of the things that bring them comfort; that is, things they *want* but do not *need*. The informal economy fills this gap left by the aid agencies by supplying goods in higher quantities, of better quality, of more variety, and including items that are more culturally appropriate than those handed out by UNHCR and IPs. Unsurprisingly, the high demand for these goods further encourages the economy.

Second, unlike in many other refugee crises, the local government forbids Syrian refugees from engaging in livelihoods outside of the camps. Refugees in Za'atari must also receive explicit permission to leave the camp, making it more difficult for them to work illegally in urban Jordan, as do many non-camp refugees. This restriction on work has essentially concentrated most refugee commerce within Za'atari—not that livelihood activities are openly permitted within camps, but the Jordanian government is less concerned that the commerce there will directly affect the nation's economy, and any attempts to eliminate the informal economy in Za'atari would be met with extreme resistance from the refugees.

This ties directly into the third explanation for the emergence of Za'atari's informal economy: Syrian refugees want to earn an income. While refugees in the camps do receive humanitarian assistance, as mentioned above these provisions are often deemed insufficient or undesirable and refugees prefer or need to buy additional items. Furthermore, in a somewhat self-perpetuating cycle, the availability of goods for sale in Za'atari provides an incentive for refugees to earn an income in order to participate in the economy; thus, they set up their own shops and in turn more goods become available to buy, creating further incentives for others to do the same. Finally, some refugees also doubtlessly try to save money for when they move outside of Za'atari, or return to Syria, as many have lost whatever wealth they originally had before the war (or never had much wealth to begin with).

Together, these three points show that an informal economy arose in Za'atari because the refugees benefit from it. However, the economy also benefits UNHCR and IPs, the Jordanian government, and local Jordanians; if it

didn't, those actors would not abet it to the degree they do, and might even shut it down completely. Humanitarian actors benefit because the informal economy actually lowers the burden on them to supply goods and services to the refugees. The Jordanian government benefits because many security officers in Za'atari solicit bribes from the refugees in exchange for their acquiescence in the smuggling of goods into and out of the camp. Local Jordanians (some, not all) benefit as well: many of the items bought and sold in the informal economy are stolen humanitarian goods, but many others are from local Jordanian stores, whose owners profit from these sales in Za'atari. Moreover, it has become quite common to see humanitarian goods sold in stores outside the camp as well, which also benefits those local Jordanian shop owners.[28]

However, none of those actors would benefit from the informal economy if one cadre didn't benefit above all: the tribal *mukhtars* in Za'atari. Indeed, the informal economy, like many aspects of life in Za'atari, is mainly controlled by these traditional tribal leaders; with this control comes a great deal of power and personal profit—and in turn the incentive to keep the economy functioning the way it always has.

The Power of Tribes

When Za'atari first opened in July 2012, it was initially run by the Jordanian Hashemite Charity Organization (JHCO), a Jordanian non-profit affiliated with the government. JHCO was responsible for the initial structure and policies in the camp, though its lack of experience in such matters, the immense scope of the task at hand, and its internal systemic corruption allowed for the rise of criminality and violence within the camp. JHCO made no effort to establish positive relationships with or trust among the refugees, who only interacted with the officers in the context of bribery. Refugees quickly capitalized on this disorganization for their own benefit, establishing gangs and smuggling networks. Many of these initial "mafia bosses" formed their cabals along tribal lines, deriving authority from their control of the economy and sway with officials. According to a UNHCR report, "Being in a position of [self] appointed authority and acting in many cases as the interlocutors between implementing organizations and residents of their streets afforded some [refugees], though by no means all, a degree of privilege that was financially advantageous … street leaders became aligned along village/town or clanic lines."[29] (For the purpose of this report, clans and tribes are equivalent.) In addition, refugees who already occupied position of power within their tribal communities were also able to expand their influence into the informal economy. Thus, tribal dynamics provided a foundation for the informal economy in Za'atari, and are still a powerful force in the camp today.

The Mukhtars

Tribal borders and allegiances in the Middle East predate those of modern countries by centuries, and still form the basis of social relations and hierarchies in

the region today. About 90% of the refugees in Za'atari are from a single town in Syria called Dera'a, which is very close to the border with Jordan (Figure 1).[30] As many thousands of Syrians fled to the camp, some of the tribal structures from Dera'a were directly transposed to Za'atari, and others were reformed based on refugees' geographical origin in Syria. Regardless, the refugees are used to living in a tribal society, and have thus naturally accepted—and have even welcomed—such dynamics in Za'atari.[31] In all spheres of camp life, including the informal economy, the *mukhtars* are in charge of decision-making, the allocation of public goods and privileges (such as which family is first in line to receive a caravan), dispute resolution, and the protection of friends and family—in other words, the *mukhtars* are responsible for governing their tribes. Indeed, as a UNHCR report states, "The self-identification with geographical origin is also broken down further by family unit among refugees and is an integral part of the informal governance structures in the camp."[32]

One of these powerful *mukhtars* is Mohammed al-Hariri from the al-Hariri tribe, which is the one of the largest in Za'atari.[33] He is 48 years old, and before commanding a large sector of Za'atari's informal economy, he was an air-conditioner repair instructor in Dera'a. As reported by NPR, "Hariri makes no apologies for running what aid officials consider a criminal racket. He insists he serves his people. He gets them what they want. He rages against the aid worker he considers stingy and heartless. 'They are thieves and robbers and they are corrupt,' he says."[34] Hariri claims "he can have people killed . . . 'but I would never let it get to that point.'" The *mukhtar* receives incredible deference from refugees and officials alike, and this respect is warranted. He openly confesses to stealing electricity from a hospital outside the camp, both for his own use and for that of others. The NPR report also implies that Hariri has the power and connections to facilitate both the entrance of refugees into Jordan, and their return to Syria from the camp; given these open admissions, it would not be unreasonable to assume that Hariri is capable of commanding informal activities on a much larger and more serious scale. Kilian Kleinschmidt, the UNHCR Camp Manager in Za'atari, recognizes that "'[Hariri has] acquired wealth and he is powerful,'" and the *mukhtar* "claims he can solve problems in the camp," such as riots, violence, theft, and trafficking.[35]

In general, the tribal leaders oversee, and benefit from, the theft of humanitarian goods, such as caravans, tents, or food rations, which are then smuggled and sold outside the camp in local Jordanian stores. Indeed, new tents have been found in Mafraq's markets for $40–$70, and used ones for $20–$35.[36] Markets in Jordan are stocked with smuggled food items, which are sold for 50–75% less than similar non-smuggled goods; a kilo of lentils usually costs $14, but the smuggled item is half that.[37, 38] Moreover, as previously mentioned, many of the goods that are sold through the informal economy are also from urban Jordan, and are brought in on the water trucks that enter and exit the camp throughout the day. All of this smuggling requires the implicit consent of camp security guards, who are very willing to look the other way in exchange for a bribe.

Within the camp, refugees also tend to stockpile extra goods for their personal purposes, such as using extra tents to expand their living quarters, and appropriating community goods, such as toilet facilities, for their own homes. For instance, a reporter from IRIN News spoke with one refugee who "furnished his three purchased caravans with rugs, a satellite television, a fridge, a washing machine and a cooker. He placed the caravans in a U-shape to create a 'garden space' like the one at his house in Syria, and made a bathroom out of bricks, complete with a toilet seat."[39, 40] Another refugee reportedly set up a makeshift swimming pool, which others are permitted to use—for a fee, of course.[41] As these spare items are obviously in high demand but of limited supply, the *mukhtars* control the distribution of such items, often prioritizing friends and family or senior tribal members, which again endows them with significant power in the camp. Furthermore, *mukhtars* organize the theft of these goods in the first place. There is now a specific job market in Za'atari through which the tribal leaders can hire refugees to steal and re-sell items, usually with impunity. Once, 1000 caravans disappeared in a single night, and the camp's police "'[did] not dare do anything.'"[42] Security officials did foil two other separate attempts to steal 6000 tents and seven tons of WFP food, though similar operations have likely been successful.[43]

As evidenced by the NPR interview with Hariri, Za'atari's *mukhtars* also leverage their power through specific sectors in Za'atari. One sector that the *mukhtars* control and profit greatly from is the real estate market; that is, the market for commercial space along the camp's main economic avenues, including the Champs-Élysées. The *mukhtars* largely control who can sell and buy space and where, and what the price is—though it is almost always exorbitant.[44] Given the fundamental importance of the economy to the camp as a whole, and the potential of an income for those who own a shop, store space is in high demand, and thus the *mukhtars* wield a great deal of influence throughout Za'atari by controlling this real estate.

A second crucial sector run by the *mukhtars* is the electricity market. Every month Za'atari uses $500,000 worth of power, and two-thirds of caravans, tents, and stores are on the grid, albeit mostly illegally.[45] As Hariri admitted, it is actually relatively easy to divert power from the main lines to any given caravan—so long as one has the go-ahead from Hariri himself. Once this permission is received, the actual process of receiving electricity is comically rudimentary—often, a boy is sent to climb up the poles to change the direction or flow of power. As all the electronic appliances needed to run a store, or to furnish a caravan (40% of which have televisions) require electricity, control of this sector also gives the *mukhtars* enormous leverage.[46, 47]

An Environment of Insecurity

While the basic commerce of simple goods in Za'atari is accepted and even encouraged by UNHCR, the more serious issues of the smuggling and theft of goods, and the appropriation of community property, are often illegal and are a central source of insecurity in the camp. These issues first and foremost

create tension among refugees, as the refugees and *mukhtars* often compete with each other over the right to operate illegal schemes, over the control of certain areas of the camp that may be particularly profitable, and over the proceeds of these activities. According to a UNHCR report, these incidents of "violence in the camp between groups or individuals is most likely significantly underreported [though] the majority of disputes…are related to economic disputes often over the trade of smuggled goods or influence over economic activity within the camp."[48] The report also quotes an IP official as saying that "economic factors are the main drivers of insecurity."[49] Much of this tension is concentrated around the Champs-Élysées, which "has often hosted localized conflicts primarily of an economic nature between groups based on either graphical location . . . or clanic affiliation."[50] Indeed, according to the same report, "with a financial incentive, competition between groups (clan or village) becomes solidified . . . Where the economic factors can influence the safety and security context is when the economic interests of a group or individual leaders is curtailed or threatened."[51]

Conflict in Za'atari also arises between aid workers and refugees, and can be due to several grievances. Often, refugees' dissatisfaction with the provision of services or goods, or general camp life, leads to violent demonstrations and stone-throwing. Tension can also arise when officials try to crack down on illegal activities, which prompts the *mukhtars* to defend their stake in the informal economy. As previously mentioned, the *mukhtars* directly benefit from the informal economy—and in turn they also benefit from this environment of insecurity that creates a permissible atmosphere for the informal sector to flourish. Thus, the tribal leaders have a strong incentive to obstruct any efforts to impose regulations or substantial oversight in the camp. Indeed, refugees have openly acknowledged that "a small minority of the camp's residents create chaos in the camp—by rioting and attacking security officials, aid workers or other refugees—because they benefit from the insecurity by stealing and reselling aid items, like caravans, tents, and equipment from public toilets."[52] Such violent clashes between refugees and aid workers can usually be contained and eventually subdued, though an incident in early April 2014 brought new attention to the issue.

In the most serious episode in Za'atari to date, a confrontation between police and refugees led to the death of a refugee from a gunshot wound, injuries to 28 Jordanian police officers, and the burning of five caravans and nine tents. The incident began when a truck exiting Za'atari was discovered to be smuggling refugees out of the camp (this does happen on a semi-regular basis, but bribes usually make things go smoothly). When the refugees being smuggled were detained by the authorities, word spread through the camp, and family and friends of the refugees began a demonstration that quickly became violent, and included "possibly thousands" of refugees.[53] It is likely that the protesters were also members of the same tribe as the detained family, and that the *mukhtars* played a role in mobilizing the community; at the very least, they certainly could have stopped the demonstration.

This incident exemplifies the violence and insecurity generated by the informal economy in Za'atari that UNHCR is most concerned about, and is trying desperately to mitigate. To that end, in early 2013 UNHCR created an extensive governance plan for the camp, which officials had hoped would establish order in Za'atari by reducing the clout of the *mukhtars*. (The fact that the violent incident mentioned above occurred a year after the start of UNHCR's governance efforts is an important observation, and one to which we will return later.)

A Governance Plan for Za'atari

Exogenous Governance

Given JHCO's patent failure to establish order in the camp during Za'atari's first six months, on March 1, 2013 UNHCR was brought in to replace JHCO as the leading authority in the camp (though JHCO still operates in Za'atari today). That same month, Kilian Kleinschmidt was given the job of Za'atari Camp Manager, directing all UNHCR operations there, as well as overseeing those of IPs. One of Kleinschmidt's main goals was to address insecurity in the camp, and he acknowledges that when he arrived in the camp, "We had unbelievable violence. It was every man for himself."[54] Moreover, much of that violence was taken out on officials.[55] Maintaining law and order is one of UNHCR's central responsibilities, and Kleinschmidt admits that he is concerned "about how many people operate inside the camp with all these reports about mafias."[56]

Soon after arriving in Za'atari, Kleinschmidt realized that an entirely new governance strategy was needed, and set about changing the way UNHCR managed the camp. The new plan included a number of measures to improve living conditions—such as moving all refugees out of tents and into caravans, and installing water pipes for each household—as well as implementing a formal governance structure. This has involved dividing the camp into 12 districts, and identifying local representatives who can serve on district councils and as liaisons between aid officials and the refugees.[57, 58] A large part of this effort to improve the security and governance of the camp depends on addressing the informal economy, and beginning to regulate and formalize some parts of it. For instance, in January 2014, UNHCR began to dismantle the webs of unsanctioned wires that refugees had connected to the main electricity grid in order to siphon off free power for their caravans. Kleinschmidt hopes to have shop owners pay for their own electricity, which would recoup some of UNHCR's costs and hopefully establish more order in the camp.[59] In fact, the camp's power grid is now legally managed by a cadre of 350 refugees, led by those who had previously been involved in illegally stealing electricity.[60] UNHCR hopes that involving the refugees in governance will lead to a stronger relationship between humanitarian workers and the refugees, return some authority to UNHCR, and reduce insecurity in Za'atari.

Overall, Kleinschmidt hopes to show refugees that authority can be a positive force in the camp, not a negative one, though this will be a hard perception to overcome. According to the Camp Manager, the refugees have spurned UNHCR's authority just as they ignored that of JHCO; indeed, he says "[the] level of rejection is extreme [and] comes from decades of not having a good relationship with the state." Kleinschmidt even reports that the refugees compare both him and the Jordanian government to Bashar al-Assad.[61] The hope is that by establishing a good rapport with the *mukhtars* and explaining to them the rationale and necessity of UNHCR policies, the authority of and respect for aid organizations in the camp will increase, and the *mukhtars* will support UNHCR's policies and initiatives. Moreover, if the *mukhtars* cooperate with UNHCR, so will the refugees who respect their authority and tribal customs. To this end, Kleinschmidt reportedly walks the camp at night, speaking with the *mukhtars* about any issues they would like UNHCR address, and any concerns UNHCR has about the refugees' activity. According to Kleinschmidt, "They have a chance if they cooperate . . . Otherwise the Jordanian authorities will deal with them accordingly."[62]

UNHCR has somewhat successfully formed positive relationships with the *mukhtars* and, as a result, the overall security situation in Za'atari has indeed improved since 2012.[63, 64] However, as Figure 2 shows, the number of reported security incidents (there are many more that likely go unreported) in Za'atari did not noticeably decrease after May 2013, and November saw the highest number of reports of any month that year.[65] Interestingly, UNHCR began actively reaching out to tribal leaders in June of 2013,though the lack of a substantial decrease in incidents after that time suggests this strategy was not as successful as was hoped.[66] Figure 3 shows a more detailed breakdown of the type of incident reported, and while violent civil disturbances have decreased since UNHCR assumed control in March, the number of non-violent civil disturbances, incidents of general violence, intimidations, and hazards, show no downward trend.[67] Similarly, Figure 4 also shows no obvious reduction in incidents of aggression or damage directed at UNHCR or IPs during 2013.[68] As a caveat to these data, the very UNHCR report in which they were originally published acknowledges that "It is highly probable that the majority of intra-refugee intimidation and violence is not reported and settled informally and therefore the true scale of the economic conflicts within the camp are almost impossible to ascertain."[69] However, proof of the shortcomings of UNHCR's efforts to reduce violence is manifest in the deadly April 2014 incident, and a great deal of distrust and suspicion is still directed at the aid workers. Despite the modest improvements in Za'atari's security, UNHCR's governance plan cannot fully succeed, as explained next.

Two Parallel Structures

The fundamental problem with UNHCR's efforts is that the design, planning, and implementation of its strategies is creating a governance system in the camp that is parallel to—and thus a fundamental challenge to—the existing

power and social structures that were established by the refugees and that are controlled by the *mukhtars*. As these tribal leaders derive many benefits—including power, influence, and financial profit—from the authority they exercise over the informal economy, they have a very personal incentive to resist UNHCR's attempts to undermine the camp's tribal dynamics. Given that the *mukhtars* are the original power-brokers in Za'atari, that they have the loyalty of their tribe, and that these tribal systems predate not only Za'atari as a camp but Jordan as a nation, UNHCR certainly faces a large challenge.

Figure 5 provides one illustration of how UNHCR's governance plan directly conflicts with refugees' existing system. This map of Za'atari shows which "street leaders" control which areas of the camp; on the right side is a list of each refugee leader, along with their phone numbers. When asked about the map, UNHCR Press Officer Andreas Needham explained that "The street leaders were 'self-appointed' in the early days of the camp. Therefore UNHCR has 'inherited' the structure. They claim to represent refugees but the Governance plan will put in place structures to represent refugees democratically."[70] As Needham implied, UNHCR intends to replace these original street leaders with new ones that have been "democratically" chosen—and who will likely have to go through background checks and be approved by the Jordanian security forces and UNHCR. The goal here is to reduce the influence of the original *mukhtars* by replacing them with new leaders who are more amenable to UNHCR policies and have fewer personal interests in maintaining the informal economy. If UNHCR has more influence over the refugee leaders, the logic goes, it will be better able to manage tensions within the camp and reduce insecurity.

However, these new leaders would be selected through a system established exogenously by UNHCR—a system completely outside of and separate from the tribal networks that prevail and that are highly respected in Za'atari. Furthermore, the involvement of aid organizations in this process may further erode the legitimacy of the new leaders, as refugees still regard UNHCR with a notable degree of skepticism and distrust. The new leaders may also find themselves in a direct power struggle with the original *mukhtars*, who would not easily surrender their influence—and the associated benefits. For these reasons, the new leaders may very well lack the legitimacy of the *mukhtars*, whose authority is embedded in the much-respected tribal system, and who have personal relationships with their tribe's members and others *mukhtars*.

Another example of how UNHCR is seeking to replace the original tribal structures with new, officially-approved frameworks comes from a recent report by the organization about the camp's security situation. Discussing the governance plan, it says,

> The camp management is intending to decentralise formal governance to the district level, which will result in up to eight sub-committees with refugee participation and also including UNHCR Field teams, IPs, SRCD and Jordanian civil servants if final approval is

> provided. If the complete district governance model is implemented then the role of the street leaders will be gradually rolled back, though they may be incorporated into sub-committees. The decentralisation of the formal governance structure is likely to improve the all-important communication to refugees, create a grievance/help desk and associated referral system at the district level, while also addressing civil issues at their origin.[71]

"Rolling back" the influence of the tribal leaders and diluting refugees' influence in decision making by including representatives of many outside entities in the process will only spark additional unrest and tension in the camp as the power of the *mukhtars* is further undermined, and as they feel an ever more pressing need to defend their authority.

This governance plan is indicative of a larger, more fundamental problem with how UNHCR conducts its operations—both in Za'atari and elsewhere. Doubtlessly, UNHCR and all of its partner UN organizations play an invaluable role in international governance and humanitarian aid throughout the world; surely, these groups have saved millions of lives and improved many others. That being said, UNHCR is a behemoth of an organization, with over 10 million refugees to care for worldwide yet with limited resources and money to do so. Consequently, in order to fulfill its mission, UNHCR has created a standard model for refugee crisis response—what services should be provided and how, what items should be handed out and to whom, and even how a camp should be physically organized. While such a model enables UNHCR to serve some of the most vulnerable people in the world—often including those who have been forsaken by all other international and domestic actors—this template also stymies refugees' autonomy, control, and agency, and treats them as a single monotonous entity, as opposed to individual human beings. Moreover, UNHCR's standard model largely ignores the major influence of local cultural contexts on refugee crises, as well as the background of the refugees' themselves. For instance, providing refugees with calorically adequate but culturally inappropriate food can lead to malnutrition, as some refugees won't eat food that's unfamiliar, or in their opinion, inedible. Such an environment—in which refugees are treated in bulk, instead of as individuals—can lead to a host of issues related to their well-being. Depression and other psychological problems are prevalent throughout refugee camps, as their residents are deprived of control, normality, a sense of purpose, plans for the future, and the ability to direct their own lives. In turn, these conditions can lead to frustrated refugees who are more likely to engage in violent behavior, who have a hard time adjusting to their new circumstances, and who can't get by without the safety net of humanitarian aid.

To their credit, UNHCR and IPs in Za'atari currently do solicit refugees' opinions through focus groups and committees, conduct surveys about what could be done better, and administer program evaluations. However, these

activities are already too far along in the planning process for the ultimate outcomes to truly reflect refugees' desires and needs: asking refugees for input about projects can only be so effective if the refugees did not initiate the projects to begin with.

This status quo is not, of course, entirely the fault of the UN. Donors, too, must share the blame, as they demand a high degree of influence vis-à-vis the distribution of aid, thus weakening UNHCR's ability to make decisions solely based on refugees' needs. Moreover, the scope of change being suggested here is obviously immense, and—if it ever were to occur—would likely take place in small increments and over the course of decades.

Recommendations: Reaching Out to Refugees

Neither the security issues in Za'atari, nor the larger governance concerns they exemplify, will be solved through UNHCR's current strategy of replacing refugees' endogenous social systems with imposed and artificial ones. This policy may very well engender more tension, as UNHCR is seen as threatening the interests and power of the *mukhtars*. A better approach is not immediately obvious, and would surely be difficult to implement. However, the overarching goal should be to give refugees a stake in the policies and projects that are implemented in the camps, thus increasing their incentive to cooperate, reducing the chance of violence and tension, and ultimately creating a more peaceful camp environment. What's more, this would allow the refugees to exercise more autonomy and control over their own lives, improving their well-being and their prospects for a productive future. Several recommendations for how to achieve that goal are outlined below; these proposals are meant to be realistic and practical, taking into account the obvious difficulty of such reforms, the constraints faced by UNHCR, and the fact that, for various reasons, UNHCR is obliged to maintain a certain degree of control over Za'atari.

First, UNHCR and IPs in Za'atari should begin to consult refugees at an earlier stage of all decision-making processes—when the needs of the camp are evaluated and ideas for how to address those need are brainstormed—and refugees' input should be prioritized throughout. This would give refugees real ownership over the projects that are implemented in the camp, and would engender cooperation and good will by establishing a natural buy-in mechanism on the part of the refugees.

Second, UNHCR should primarily work with (instead of around) the current *mukhtars* to address insecurity in the camp, recognizing that the tribal leaders will want assurance that their interests in the informal economy are protected. Along the same lines, any governance strategies or structures should be developed in consultation with the *mukhtars*, and should be implemented only after a consensus is reached.

Third, UNHCR should refrain from formalizing the economy in Za'atari, or restricting its growth. Allowing refugees to exercise autonomy over their own businesses and income is not only morally just, but also economically

sound. Obviously there may be some exceptions to this principle, such as in the case of the siphoning of electricity, which is very costly for UNHCR.

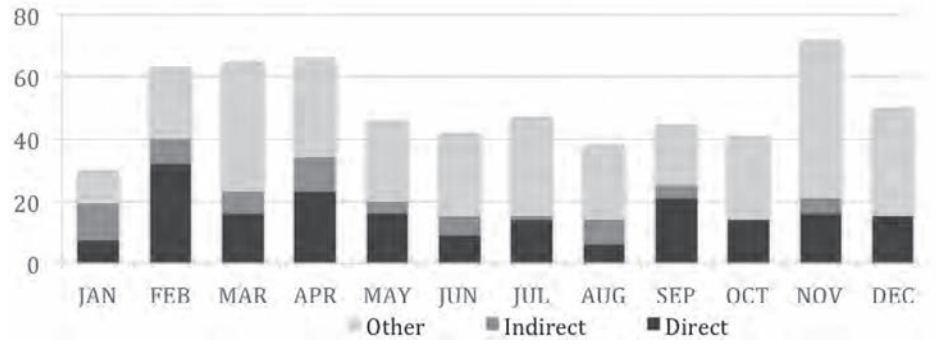
Fourth, efforts should be made to build trust not only between the refugees and UNHCR personnel, but also between refugees and the Jordanian police who patrol the camp. As the official ultimate guarantors of security, it is crucial that the latter actors have a positive relationship with the people they are charged with protecting.

It may seem counterintuitive that these recommendations suggest giving more power to the very refugee leaders who are ostensibly responsible for the insecurity in Za'atari to begin with; indeed, this is the perspective of UNHCR. However, as this report has made clear, the *mukhtars* are only linked with unrest in the camp because they are defending their interests, which UNCHR is clearly threatening. Removing that threat, and giving the *mukhtars* a chance to control the camp peacefully, is surely worth a try. Finally it is worth remembering that the refugees in Za'atari—or anyplace else in the world—are no less worthy of respect than the officials who all too often deprive them of it.

This report has described the challenges UNHCR faces in managing the security situation Za'atari, the shortcoming of its current strategy, and potential remedies. Implicit in these pages is the fact that a peaceful camp is a laudable goal, which is certainly is. However, all actors involved must remember that a calm refugee camp is still a refugee camp, that the refugees still won't want to be in Za'atari no matter how well it's run, and that they will still always want to return home. Understanding this point will go a long way toward creating positive relationships within Za'atari, and not only successfully reaching out to refugees, but also encouraging them to reach back.

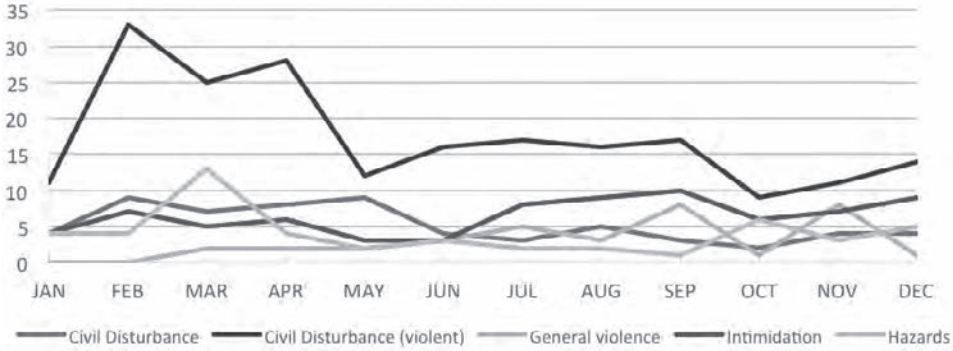
Appendix

Figure 1. Map of Jordan and Syria



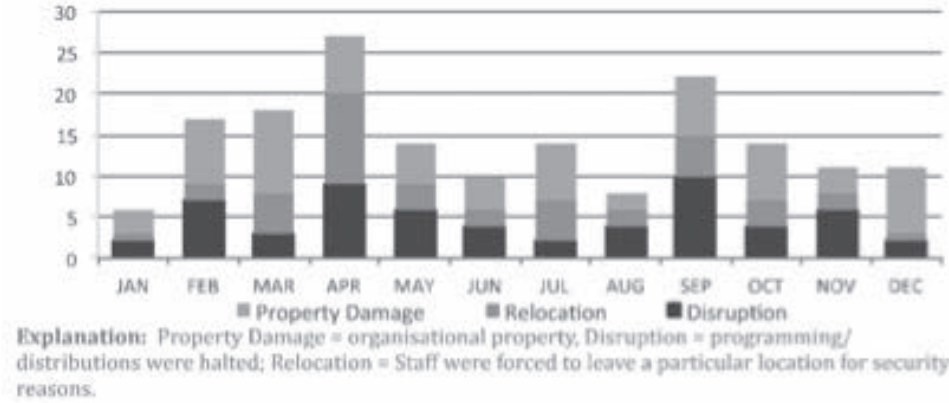
Explanation: ***Direct*** = Security incidents that have directly targeted implementing organisations. ***Indirect*** = Incidents that did not directly target IP, but resulted in some form of impact. ***Other*** = All other reported incidents to UNHR's FSU by IPs, UNHCR staff and SRCD.

Figure 2. Reported Security Incidents in Za'atari by Month, 2013



Explanation: The groupings of incidents are broken down by quarter. Theft/ Smuggling = Reports received from UNHCR, IPs and SRCD of acts of property theft or attempts to smuggle items in or out of the camp.

Figure 3. Reported Security Incidents in Za'atari by Type and Month, 2013



Explanation: Property Damage = organisational property, Disruption = programming/ distributions were halted; Relocation = Staff were forced to leave a particular location for security reasons.

Figure 4. Reported Incidents of Property Damage, Disruptions to Programming and Relocations by UNHCR and IPs

Figure 5. Map of Streets and Street Leaders

Notes

1. Rym Ghazal, "Life inside the Zaatari refugee camp," *The National*.
2. "Syria Regional Refugee Response," UNHCR.
3. "Zaatari refugee camp: The 'mayor,'" BBC News.
4. Ghazal, "Life inside the Zaatari refugee camp."
5. Ibid.
6. "Syria Regional Refugee Response," UNHCR.
7. Mark Tran, "Jordan's Zaatari refugee camp mushrooms as Syrians set up shop," *The Guardian*.
8. Most refugee crises—and in turn the camps built to manage them—are not temporary. Crises involving at least 25,000 refugees and that last at least five years are called "protracted refugee situations." Currently, over 10 million refugees—two-thirds of the world's total—live in a protracted refugee situation, the average length of which has risen from nine years to 17 years between 1993 and 2003.
9. Manuel Castells and Alejandro Portes, "World Underneath," in *The Informal Economy: Studies in Advanced and Less Developed Countries*, ed. Alejandro Portes et al. (Baltimore: The Johns Hopkins University Press, 1989), 11.
10. Castells and Portes, "World Underneath," 12.
11. Ibid.
12. Castells and Portes, "World Underneath," 15.
13. Castells and Portes, "World Underneath," 14.
14. Rahul Oka, "Unlikely Cities in the Desert," *Urban Anthropology* 40 no. 3-4 (2011): 224.
15. Fernande vanTets, "The economy of a refugee camp," Executive Magazine.
16. Horward Johnson, "Syrian businesses operate out of Jordan's largest refugee camp," BBC News.
17. Neil Collier and Andrew Chappelle, "Inside Jordan's Zaatari refugee camp," Al-Jazeera.
18. Maeve Shearlaw, "Syria crisis: Zaatari refugee camp manager answers readers' questions," *The Guardian*.
19. Tran, "Jordan's Zaatari refugee camp mushrooms as Syrians set up shop."
20. Sakhr Al-Makhadhi, "Syria refugees settle in Zaatari with the help of a de-facto German mayor," *The National*.
21. All prices cited here are in US dollars, though in Za'atari the Jordanian dinar and the Syrian pound are the main currencies used. Google was used to convert the currencies, normally reported in dinars, according to the exchange rate in mid-December 2013.
22. Collier and Chappelle, "Inside Jordan's Zaatari refugee camp."
23. Shearlaw, "Syria crisis: Zaatari refugee camp manager answers readers' questions."
24. Al-Makhadhi, "Syria refugees settle in Zaatari with the help of a de-facto German mayor."
25. Ibid.
26. Oka, "Unlikely Cities in the Desert."
27. Oka, "Unlikely Cities in the Desert," 233.
28. NIMEP Interview, Za'atari Camp Manager Kilian Kleinschmidt. Mafraq, January 9 2014.
29. UNHCR. "Za'atari Refugee Camp 2013 Safety and Security Report," 13.
30. Ibid, 14.
31. Ibid.

32. Ibid, 15.
33. Ibid.
34. Deborah Amos and Peter Breslow, "The Don Who's Taken Charge of Jordan's Biggest Refugee Camp," NPR.
35. Ibid.
36. Hanan Khandaji and Mohammad Makwai, "54,000 Syrians bribe their way to escape Zaatari Camp," Arab Reporters for Investigative Journalism.
37. Ibid.
38. Ibid.
39. "Haves and have-nots in Jordan's Za'atari camp," IRIN News.
40. Johnson, "Syrian businesses operate out of Jordan's largest refugee camp."
41. Andreas Hackl, "Analysis: Politics and power in Jordan's Za'atari refugee camp," IRIN News.
42. "Haves and have-nots in Jordan's Za'atari camp," IRIN News.
43. Khandaji and Makwai, "54,000 Syrians bribe their way to escape Zaatari Camp."
44. Al-Makhadhi, "Syria refugees settle in Zaatari with the help of a de-facto German mayor."
45. Ibid.
46. Johnson, "Syrian businesses operate out of Jordan's largest refugee camp."
47. Tran, "Jordan's Zaatari refugee camp mushrooms as Syrians set up shop."
48. UNHCR. "Za'atari Refugee Camp 2013 Safety and Security Report," 5.
49. Ibid, 12.
50. Ibid, 6.
51. Ibid, 12.
52. "Haves and have-nots in Jordan's Za'atari camp," IRIN News.
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63. Shearlaw, "Syria crisis: Zaatari refugee camp manager answers readers' questions."
64. Ibid.
65. UNHCR. "Za'atari Refugee Camp 2013 Safety and Security Report," 9.
66. Ibid, 10.
67. UNHCR. "Za'atari Refugee Camp 2013 Safety and Security Report," 10.
68. Ibid, 16.
69. Ibid, 12.
70. Email received from Andreas Needham. February 5, 2014.
71. UNHCR. "Za'atari Refugee Camp 2013 Safety and Security Report," 13.

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Sex, War and Naming the Victim:
Female Agency in Sexual and Gender Based Violence: A New Approach to Transitional Justice Systems

Kate Beck and Kathryn Hutchins,
University of British Columbia

Abstract

In our paper we focus on the ways in which transitional justice mechanisms support victims of sexual and gender based violence (SGBV). With the current definitions of SGBV in the field of transitional justice rooted in the legal tradition, which is to establish the intent of the perpetrator and therefore a lack of consent on behalf of the victim in order to successfully prosecute perpetrators of sexual violence, we argue that this definition does not recognize the experiences of the victim or instances of victim agency. The use of this definition out of the criminal context in truth commissions and reparation programs is problematic because it perpetuates gendered binaries between victim and perpetrator, situates innocence as a precondition to victim status, and creates a singular narrative of the experience of SGBV against women in conflict situations. Integrating the concept of female agency into the current definition of SGBV transcends the gendered victim-perpetrator binary and acknowledges women as agents even within the context of extreme victimization and duress. We have outlined four categories of sexual violence in which female victims may assert their agency: survival sex, sex to protect, wartime sex work and sex as overt resistance. By expanding understandings of victims' use of agency we aim to recognize normally marginalized women as important social and political actors who make choices to survive, protect loved ones, avert danger and overtly resist oppressive regimes.

Introduction

The field of transitional justice works to advance justice in societies that are transitioning from conflict and/or state repression by implementing programs that aim to establish accountability and redress victims. In doing this, transitional justice mechanisms aim to better recognize the rights of victims, promote civic trust, and strengthen democratic rule. The International Centre for Transitional Justice outlines four elements to Transitional Justice Policy; criminal prosecutions, reparations, institutional reform, and truth commissions.

In this paper, we have chosen to focus on the ways in which transitional justice mechanisms support victims of sexual and gender based violence (SGBV). Current definitions of SGBV in the field of transitional justice are rooted in the legal tradition. The purpose of the legal definition is to establish the *intent* of the perpetrator and therefore a *lack of consent* on behalf of the victim in order to successfully prosecute perpetrators of sexual violence. Therefore the purpose of this definition is not to recognize the experiences of the victim or instances of victim agency. Although this definition is useful for the purposes of criminal trials, the use of this definition out of the criminal context in truth commissions and reparation programs is problematic.

In this paper we will argue the use of this definition is problematic because it perpetuates gendered binaries between victim and perpetrator, situates innocence as a precondition to victim status, and creates a singular narrative of the experience of SGBV against women in conflict situations. We aim to integrate the concept of female agency into the current definition of SGBV by outlining four categories of sexual violence in which female victims may assert their agency. These include, *survival sex*, *sex to protect*, *wartime sex work* and *sex as overt resistance*.

In discussing categories of victim agency, Meyers places victim agency along a spectrum from full agency to burdened agency. Agency can be more or less "burdened" depending on the force, coercion and circumstances of the situation, as well as that person's inherent capacity to control a situation. We reference Meyer's spectrum of agency in order to not undermine individuals who in certain circumstances did not overtly employ forms of agency during conflict. However, in this paper we aim to show that, with particular reference to programs of transitional justice, multiple forms of victims' agency can and should be recognized.

The paper is organized as follows: First, we discuss the reasons why reliance on the legal definition of sexual violence is problematic. Second, we redefine the current understanding of SGBV in a way that includes different forms of female agency. To conclude, we address how victims continue to exercise their agency in the aftermath of sexual violence and into post-conflict settings. We will also discuss the importance of this continuance for programs of transitional justice.

Note: For the purposes of this paper, we only address male perpetrated SGBV experienced by female victims, however we recognize that further research must be done on the experiences of males as victims and females as perpetrators of sexual violence.

Problematizing the Use of the Legal Definition for SGBV in Transitional Justice

The current definition and understanding of SGBV in transitional justice stems from the legal tradition that was established through the Rome Statute for the International Criminal Court. The Rome Statute defines sexual violence

as rape, sexual slavery, enforced prostitution, forced pregnancy and enforced sterilization. Because the definition's purpose is to facilitate the prosecution of crimes against humanity, the legal approach to sexual violence must establish intent on behalf of the perpetrator in order to prosecute the violation as a crime against humanity, act of genocide or war crime. By emphasizing the necessity of intent by the perpetrator, this definition implies a lack of consent on behalf of the victim, as any form of victim consent undermines the *intent* clause and would prevent successful prosecution.

While this understanding of SGBV is useful in regard to criminal prosecutions, its use in retributive and restorative spheres of transitional justice perpetuates gendered binaries between victim and perpetrator, situates innocence as a precondition to victim status and creates a singular narrative of females' experience of SGBV in conflict.

Gendered Binaries between Victim and Perpetrator

Reinforcing gendered binaries between victims and perpetrators is problematic as it reproduces patriarchal assumptions about the roles of men and women in sexual relations, establishing the categories of men as guilty instigators and women as innocent and helpless sexual objects. The perpetuation of these stereotypes removes women's agency and preserves their subordinate position as victims. These gendered understandings then carry over, permeating into women's roles in post-conflict settings. In criminal trials, prosecutors portray women as vulnerable, sexually accessible and of little importance apart from their relations to men, thereby effectively reinforcing gender essentialism and the "helpless-female" stereotype. The focus on "women as a particularly vulnerable group" does not adequately recognize and address the coping strategies women use in order to survive during conflict situations. In addition to being portrayed as helpless and in need of protection, the "rape as a weapon of war" thesis relegates women to the position of objects that are utilized by armed groups or individuals during conflict. While this thesis does provide insight into the nature of SGBV, the constant referral to it serves to remove agency from victims, portraying them as "vehicles" used by the opposing group in order to commit violence against the men of the female's community, demonstrating that the males of this community are unable to protect "their" women.

When this theory is applied in transitional justice programs it limits the potential for restorative mechanisms to recognize that these victims are important social and political actors in conflict and post-conflict settings. Furthermore, reifying women as sexual victims of conflict obscures the broader cultural or structural elements of patriarchy in a given society. As a result, this view persists beyond the end of the conflict.

Innocence as a Precondition to Victim Status

Another consequence of the use of legally-rooted definitions of SGBV in transitional justice is that in the field, only those depicted as "pure" or "innocent"

may claim victim status. Through the legalistic transitional justice lens, the ideal victim is blameless, a "faultless innocent who has had crime visited upon him or her by a wicked perpetrator." Drawing on this assertion that victims must be completely "innocent," women who engage in any form of consent or exercise agency during sexual violence are considered blameworthy and undeserving of victim status and justice. This is problematic as it further stigmatizes these women in conflict and post-conflict society, as blame does not only refer to the victim's actions, but to their moral worth as a person. In some cases, women who exercise agency when experiencing sexual violence are considered the real enemy, the "enemy within," whose betrayal runs deeper than an attack from the perpetrators. This phenomenon is most present in societies where modesty is a women's highest virtue. In Korea, for example, "comfort women" who labored as sex workers for the Japanese military were forced to leave their villages as a result of their "indecency." Bengali women raped by Pakistani soldiers are ostracized by the villages in which they grew up in, and today, across the Indian Ocean in the Democratic Republic of Congo and Darfur, victims of sexual violence are rejected by their communities and forced to live in isolation.

Singular Narrative of Women's Experience in Conflict

Another unfortunate outcome that emerges from the adoption of the legally-derived definition of SGBV by transitional justice programs is that it stresses a single narrative of women's experiences during wartime and other periods of conflict, with an overwhelming focus on rape. Women who do not fit within this single narrative are forced to change their story in order to gain recognition for their role in conflict, or their experiences are dismissed. In the DRC, women who have engaged in forms of survival sex are not deemed worthy of reparations; therefore, they change their stories and claim they have been raped in order to receive benefits and services. This is partly due to the fact that stories of the use of female agency do not fit within transitional justice mechanisms' aims to prosecute individuals for sexual violence. In the DRC, for example, women who have engaged in forms of survival sex are not deemed worthy of reparations; therefore, they change their stories and claim they have been raped in order to receive benefits and services. As a result, victims' voices are sifted through, picked out and appropriated by lawyers, then represented to suit the aims of the prosecution. Witness testimonies must fit a certain narrative, for example women testifying about sexual violence are limited to discussing the act of sexual violence rather than their experiences throughout the conflict and post-sexual violence although these experiences are integral parts of their memories as well as their roles as victims and actors in the conflict.

The dominant rape narrative used to depict women's experience in conflict not only obscures forms of female agency, but it also forces these women to alter their stories in order to receive recognition. In Rwanda, Tutsi women who were coerced into sex or forced into marriages with RPF soldiers were left with little to no access to social services for sexual violence survivors. They

only gained access to these social services if they adjusted their story to the dominant narrative and called their perpetrators Interahamwe. The Peruvian Truth and Reconciliation Commission failed to recognize women who experienced benign or even participatory forms of rape. Instead, the commission only awarded reparations to victims of the conventional, legally derived definition of rape. The use of a dominant narrative to understand conflict has grave consequences for victims who do not fit in this narrative as it further silences their experiences, denies them reparations, and impedes our understanding of the nature of SGBV in conflict.

Integrating Female Agency into Current Understandings of Sexual and Gender Based Violence

In order to change current understandings of the roles women play in sexual violence and how transitional justice mechanisms address victim agency, we have developed four categories of sexual violence in which female victims assert their agency in order to aid their own economic or physical survival, the survival of others, earn a livelihood during conflict, or overtly resist the dominant actor, institution or regime. These categories are; *survival sex*, *sex to protect*, *wartime sex work*, and *sex as overt resistance*.

We recognize that women's choices to employ their sexual agency during conflict are due to a multitude of reasons; therefore, our categories overlap to a degree. However, we have chosen to break down female agency during sexual violence into these four categories in order to broaden the understanding of victim agency in SGBV in programs of transitional justice. When categorizing SGBV, scholars generally label sexual violence in terms of the sexual acts or motives of the perpetrator, however we have chosen to classify sexual violence in terms of the victims' motives for asserting their agency. By creating these categories, we aim to present these women as survivors, rescuers, resourceful actors and resistors rather than passive victims.

Survival Sex

Survival Sex is defined as a coercive transaction of sex in return for protection, support, food or basic necessities that aid in a woman's survival. A woman may either be offered the "choice" to be raped or perform other sexual acts as an alternative to being killed, or she may receive protection, support, or basic necessities that allow her to survive in a conflict. Survival sex can occur in varying degrees of coercive circumstances, and may be accompanied by varying degrees of force or violence. In these situations, women exercise their sexual agency in different ways and to different extents, however, it is crucial to recognize that these women have some ability to choose to be sexually violated in order to save their own lives.

In conflict situations, women are often provided with "choiceless decisions," where they are given the choice between many different forms of violence that may include forms of sexual violence, other forms of torture or

murder. In her article *Death and the Maidens*, Nomi Levenkron exposes stories of sexual violence that occurred between Jewish and non-Jewish women and police officers, SS officers, guards, and other prisoners during the Holocaust. There are reports of women being offered the choice between sexual violence in exchange for their lives at many stages of the imprisonment of Jewish and non-Jewish women during the Holocaust. Some women were offered their lives in exchange for being kept as a sex slaves in officers' homes, while others were released by police officers after providing sex in exchange for not being sent to death camps.

In other situations, women may be asked to consent to sex, however they know that if they refuse they will experience other, more severe forms of violence. In Marie Louise Nitobuhungiro's testimony of her experience in the Rwandan genocide, she states that she was raped by a number of different Interahamwe, some of whom asked her if she would like to sleep with them. In these cases she agreed because she knew the consequences of not sleeping with them would lead to death.

Survival sex also includes sexual acts in exchange for basic necessities to a woman's survival, including shelter, food, or in some cases information. The coercive exchange of sex for food occurred in concentration camps and ghettos during the Holocaust. Women formed relationships with guards, police, and other prisoners or men in the ghetto, either by choice or coercion, and would earn basic survival commodities by continuing these relationships. Boesten notes that in Peru, women civilians or combatants would use their sexuality as a "transaction asset" in exchange for information that would aid in the protection of themselves and their communities. Many argue that the exchange of goods or information for sex implies that women consented to participate in survival sex, and therefore are less deserving victims of sexual violence. We argue that the presence of elements of consent and female agency in survival sex should not determine the extent to which a woman is considered a victim.

Transitional justice programs that limit definitions of sexual violence to those that define female victims as those who are subject to sexual violence with no ability to give or withhold consent, ignore or denigrate the stories of women who used sex as a means for survival. Levenkron explains that sexual violence was often left out of holocaust survivor narratives, specifically if victims survived through the use of sexuality or if victims exchanged sex for basic necessities like food. She argues that these narratives are silenced because of the stigmatization of the use of sexual agency in times of conflict and the guilt and shame victims feel from surviving through these means. Moreover, she argues that survival sex is often viewed one-dimensionally as prostitution rather than an effort to survive.

Sex to Protect

Ron Dudai conceptualizes the actions of "rescuers" as individuals acting against the mainstream of their communities in order to assist members of a targeted group. Individuals take on varying degrees of risk in order to actively

save and protect others who would otherwise be harmed, persecuted, or killed. Dudai focuses exclusively on rescuers from the perpetrator group, yet acts of rescue and self-sacrifice are evident and widespread among victim groups as well. We focus on acts of rescue by women who use their sexual agency to protect others.

In her research of the genocide in Peru, Kimberly Theidon discovered a pattern of sexual violence that can be defined as *sex to protect*. In these instances, women used their sexuality to protect loved ones from being killed, adapting to the changing dynamics brought on by the conflict. Interviewee E.C. Sanchez described how the majority of women in Tiquihua, Peru would barter sex to save the lives of their loved ones when commanders and soldiers came to their houses. "My cousin, they carried off her brother. You, having such grief for your brother—you'd save him, no? You'd do anything, no? Surrendering her body, well—she saved her brother. But she had a son, a son with no father. A son from the soldier . . . Now my cousin has a son, so does Olga Morales. They say her son is the son of a soldier." As evidenced by Sanchez, this self-sacrifice bore heavy costs, often in the form of children born of rape, as well as the ensuing social stigma that these women still carry for having "been" with a soldier.

In other cases, women engage in sex to protect because they have children that need to be cared for. The documentation of Rwandan survivors of sexual violence reveals that some women chose to be raped over killing themselves because of their children. "During this period, I felt like I was no longer a human being, and I wanted to kill myself. But I couldn't do it, since I still had my son to care for." Despite being repeatedly exposed to sexual violence, these women *chose* to continue to endure pain in order to protect their loved ones who relied on them for survival.

Despite their bravery, women who engage in sex to protect are not recognized as rescuers. Instead, their response to the circumstances in which they were subjected to sexual violence serves to confirm their complicity with the perpetrators. In Peru, several wives who spoke to Theidon recalled how their husbands beat and scorned them for being "soldier's leftovers." The very individuals they chose to protect did not acknowledge their role as rescuers; instead their choice to be complicit in their own sexual violence condoned a continuation of violence against them in the home. This domestication of violence is a common phenomenon and has been noted in many post conflict settings.

For this reason, many women who fall into this category have chosen to remain silent. "Oh how many children did those soldiers leave behind? A lot. That's why I'm telling you—the married woman have *never said anything*." Silence about these acts of rescue translates into them not being recognized in the field of transitional justice. In addition, the adoption of the legal definition of SGBV as a prism through which to analyze events and actors in conflicts is inadequate in recognizing the role of rescuers because they do not fit into the victim-perpetrator dichotomy.

Although sex to protect was a common feature of women's everyday struggles in Peru, these truths about sexual violence were given minor attention in the Peruvian Truth and Reconciliation Commission, because of the legal definition of sexual violence that was adopted and the insistence of "innocent" victims. In consequence, the reparations program initiated by the Commission did not deem women who engaged in sex to protect as worthy of compensation. Our aim is not to put these acts of rescue on a pedestal, as this could alienate or shame women who chose not to use their sexuality to save loved ones, or chose to kill themselves in the face of repeated rape even though they had children or other dependents that relied on them. Instead, we seek to create a space in transitional justice discourse to allow for these types of stories to be recognized as part of the larger pattern of sexual violence.

Wartime Sex Work

It has been widely documented that during conflict, there is often an increase in organized and informal sex-for-payment and sex work arrangements. High incidences of wartime sex work occur in areas surrounding and within military bases and refugee camps. This is partly because the presence of military personnel as well as international humanitarian aid workers and peacekeepers triggers an increase in sex work to meet a perceived or actual demand for sexual services. We choose to use the term *wartime sex work* rather than prostitution because it more accurately describes the war-induced need for women to enter into sex work. Furthermore, women who choose to enter into sex work temporarily may not consider themselves prostitutes, instead they emphasize that they are participating in sex work temporarily and their occupation does not become an aspect of their identity.

Sex work is perhaps the most stigmatized work in which women engage, creating a powerful social stigma of prostitutes as "whores" and "bad girls" that transcend both national and cultural boundaries. During and after times of conflict, cultural stigmatization carries through and is often strengthened within society, shaping the ways in which women participating in wartime sex work are viewed. Women participating in wartime sex work are considered undeserving victims, or not victims at all. When victims are seen as flawed, or in some sense deviant, their identities as victims become questioned. They are not seen as objects of public empathy and their attempts to seek justice or formal compensation from the state or other service providers are seen as undeserving.

However, a women's role in providing sex must be understood through the structural factors of the conflict that constrain her economic options and cause her to enter into prostitution during the given conflict. Militarized environments, a lack of other opportunities due to disrupted economies, and the new status of women as heads of households contribute to the reduced choices women face. In addition, food, fuel and water shortages, lack of electricity, and shortages in medicine, all of which become commonplace during conflict, contribute to increased pressure on women to meet the basic needs of

themselves and their families through alternative means. It is essential to realize that during conflict, women are put in positions that reduce their means of earning a living and surviving. Their choice to participate in wartime sex work is therefore influenced by both violence and poverty initiated by the war. In the absence of such conflict, they may not have been put in a position in which participating in prostitution was their chosen way to earn a living and survive.

The most notable example of wartime sex work is the situation of Japanese comfort women. An estimated 100,000 to 200,000 women from Korea and other Asian countries labored in military brothels set up by the Japanese Imperial Army, first in China in the 1930s and subsequently in Southeast Asia, the Pacific Islands and New Guinea. Brothels were instituted by the military in the hope of preventing uncontrollable sexual violence by the soldiers, and as a way to control the spread of sexually transmitted diseases in the military. The situation of the comfort women is highly contentious, as there is a debate over the "innocence" of the victims and whether or not they were forced into sex work, or whether they chose to do it voluntarily. Conservative politicians, academics and public figures suggest that the women in military brothels worked there voluntarily rather than being coerced and enslaved to do so, and that they had been engaged in a commercial transaction rather than having suffered sexual violence. Yet given the context of war and lack of other means of earning a living, should a female's choice to be a part of a military brothel system matter? Even those women who did choose to be a part of it were likely not aware of the levels of violence and coercion they would experience. The debate over innocence obscures the context in which the choice to enter wartime sex work was made and has real consequences for the comfort women who have bravely come forward with their stories of sexual violence, coercion and mistreatment. In the 1990s, a group of elderly Korean women came out in public as survivors of the military prostitution system, and was gradually joined by survivors from other countries. Together they brought a suit against the Japanese government for compensation, yet their claim has still gone unrecognized because the perception that they chose to participate puts their identities as victims into question.

A lesser-known and discussed example of wartime sex work is the establishment of brothels in Nazi concentration camps, specifically for the use of privileged prisoners. Brothels were created in work camps under the assumption that allowing selected prisoners the right to visit sex workers would increase their production efficiency.

Women's decisions to participate in wartime sex work in Nazi concentration camp brothels represents an extreme case of "choiceless" decisions, where the context of the choice to become a sex worker is highly important and supersedes all considerations as to whether or not the victim is less "innocent" because she consented to her own sexual violence. SS officers asked women who were working in very difficult *Kommandos* (work squads) to voluntarily enroll in brothel *Kommandos*, under the false promise that they would be released from the camp after six months of work, have their own rooms, clean

clothes, sufficient food and daily baths. In these cases, wartime sex work was seen as an attractive alternative to an almost certain death. A Polish survivor remembers having heard the story of a young woman from Auschwitz who volunteered for a brothel *Kommando*. Having worked in outdoor work squads she knew she could not survive another winter doing this type of work. Her justification to become a prostitute was simple: "Winter is coming and I work in the fields!" It was apparent that women in brothels had a much higher chance of survival than women in outdoor work, thus the decision to become a sex worker in this scenario can also be viewed as overlapping with survival sex, as it often became a decision between life and death.

Engaging in wartime sex work as a survival strategy however comes at a high price. Not only does it require one's own sexual exploitation, but it also means a lifetime of stigma. In Germany, the subject of sexual exploitation in concentration camps was effectively excluded from the collective memory. Many of these sex workers were labeled as "asocial" and as such they did not receive recognition or restitution after the war. Following the war, in East Germany they were excluded from the group of "political and racial" victims of the Nazi regime and according to the 1953 federal compensation law in West Germany, asocials were not accepted as victims of Nazi injustices either. Not until the 1990s were former "asocial" prisoners accorded recognition as victims of the Nazi regime. While the subject of concentration camp brothels is now discussed in Germany, very few of these women have received public recognition or rehabilitation and they are unlikely to be granted this in the future as almost all of them have now passed away. The disregard for women who made the choice to engage in wartime sex work is widespread across conflicts because their victim status is perceived as compromised and tainted.

Primo Levi, in discussing the grey zone that existed in concentration camps, complicated the victim perpetrator dichotomy by revealing the complexity of victims who were in some way collaborators to the system. The implication was that those who survived the Holocaust were somehow complicit, the "guilty" victims. However, Levi warns us not to judge victims whose "innocence" is in question, as we cannot know for how long and under what trials our soul can resist before yielding or breaking. In the same way that we cannot judge victims who were in some way complicit to the Nazi perpetrator regime, we cannot place judgment on individuals who choose to engage in prostitution during a conflict. It must be recognized that the circumstances in which women's choices are made nullify the insistence that "innocence" must be a precondition to worth, recognition and empathy.

Sex as Overt Resistance

Instances of resistance can be defined as behaviors by which individuals or social groups seek to oppose or modify the power of a dominant actor, system or institution. These patterns commonly appear in victim and witness testimonies as signifiers that civilians or specific victimized groups were not helpless and obedient to the dominant perpetrators of violence and crimes against

humanity. Similar to the concept of victim agency during sexual violence, the concept of resistance does not easily fit into the legally derived binaries of victim and perpetrator in transitional justice programs. Leebaw argues that transitional justice does not address stories of resistance because they may be "divisive, messy, destabilizing" or too overtly political to be included in the depoliticized process of determining who is a victim and who is a perpetrator.

Women use sex as a form of resistance in times of conflict to overtly, covertly or unwittingly undermine the power of a dominant actor, institution or system. The very idea that women have degrees of agency in sexual violence is a form of resistance against patriarchal systems and victim/perpetrator dichotomies, and disturbs a key assumption that one must in no way be complicit in their own suffering to count as a victim. Therefore, all forms of sexual violence in which female victims hold degrees of agency, including survival sex, sex to protect and prostitution, can be seen as victims' attempts to resist suffering, and resist the perpetrators or institutions by which they or their loved ones are meant to suffer. These forms of resistance are categorized as covert resistance, "acts that are intentional yet go unnoticed by their targets," or unwitting resistance, acts that are "not intended as resistance by the actor yet are recognized by the target or other observers."

In this section, however, we focus on forms of overt resistance, "behaviors that are visible and readily recognized by both targets and observers as resistance and are intended to be recognized as such" in the context of sexual violence. Through exhibiting sexual acts of overt resistance during conflict, women reverse the victim-perpetrator dichotomy and outwardly defy the political meta-narrative of oppressor and oppressed. Dominant actors regard these acts of overt resistance as a threat to their own hold on power, and deploy repressive tactics aimed at silencing them and defeating their cause. Because dominant actors or observers recognize these sexual acts as forms of resistance, the consequences for the resistors are often very high.

The story of "Schillinger and the Dancer" appears in many victim testimonies from Auschwitz during the Holocaust, and has become a "signifier of resistance" for survivors of the concentration camp. The factual account tells of a female prisoner who used elements of her sexuality to kill and injure two S.S. officers as her last form of resistance on her way to the gas chamber. The story of Schillinger and the Dancer passed through Auschwitz prisoners and officers during the war and developed into victim's testimonies after the war, therefore, recounts of the story vary, however all include elements of sexuality, sexual victim and sexual perpetrator. The woman is described as a dancer or actress, and is noted for her beauty and allure. Officer Schillinger is described as being a sexual predator of prisoners in the camp, and all accounts state that he attempted to remove the woman's clothes before she was sent into the gas chamber. Upon his attempts to undress her, the women removed her clothes, grabbed the officer's gun and shot him and the officer beside him, killing him and wounding the other. Some say that she removed her bra and hit the gun out of the officer's hand, while other testimonies state that she did

a strip tease to get the officers' attention before grabbing his gun and shooting. The woman was soon killed along with the others in the gas chamber. The fact that stories of Schillinger and the Dancer differ from victim to victim and are included in the testimonies of so many signifies the importance of this story as a tale of resistance, victim agency and a reversal of the common sexual violence narrative.

Withholding sex from a perpetrator can also be seen as a form of overt sexual resistance women may take to undermine the power of a dominant figure or political institution. Celia K., a young Jewish women who lived in a Polish ghetto and was forced to work in the Nazi controlled police headquarters of the ghetto during the beginning of the Nazi occupation of Poland, recounts the ways in which she withheld sex from officers and the commander in attempts to assert her own power and agency during the holocaust. Firstly, she describes an incident when the commandant of the ghetto requested that she be his mistress, and although she knew the commandant would sexually assault or kill her if she did not give her permission, she refused. Upon her refusal, he said, "I'll kill you," to which she replied, "I know you will, but I won't [be your mistress]." She was then kept in the police headquarters overnight, where she was brutally beaten and eventually lost consciousness. The next morning the commandant asked her to be his mistress again, and she again refused. He then took her to the cemetery and told his officers "when she'll get scared and says she'll be my mistress, shoot her. If she says no while holding a gun to her head, let her go." Celia recounts that she once again refused to be the commandant's mistress, and she was released having only experiencing physical violence from the police officers. Celia notes that she does not understand why they did not kill her or sexually violate her. This may be an extremely rare case in which the resistor overtly undermined the dominant power and was subsequently released without experiencing further sexual violence or being killed. Given the nature of sexual violence and the relationship between victims and perpetrators, it can be assumed that most women who withhold sex as an act of overt resistance experience much harsher consequences than that of Celia's. These consequences, which may include more severe forms of torture or murder, further silence these stories of resistance.

The Continued Experience of Sexual Violence and Female Agency

In addition to recognizing the different forms of female agency in cases of sexual violence, we also need to recognize that they are not isolated incidents nor are the circumstances in which women assert their agency that uncommon. Rather, acts of sexual violence and female agency take place during periods of extended conflict and extend into post-conflict periods. During these long periods women may display varying degrees of agency at different points in time. Also, victims' experiences of sexual violence are not limited to the single event during which the act of sexual violence took place. Instead, victims

usually continue to experience the after effects of this singular event throughout their lives. Moreover, they may continue to employ varying degrees of agency in the aftermath of sexual violence.

In many cases after an act of sexual violence has occurred, perpetrators and victims are obliged to continue living in close proximity to one another, as neighbours, as community members or sometimes, as husband and wife. In Peru, until 1997 federal law stipulated that a "rapist would be exempt from prosecution if he married his victim and the victim and her family would thus keep their 'honor' intact." Therefore, after being sexually violated during the conflict in Peru, women were often obligated to continue sexual relations with their rapist in order to save the honor of their family and themselves. Boesten also states that many women chose to continue in a long-term relationship with their perpetrator in order to avoid further sexual abuse from other soldiers and their community. Burnet also argues that a number of women forced into marriages with FAR soldiers and the Interahamwe, the Hutu paramilitary organization, employed their agency in choosing to remain in these marriages because they believed it was the most beneficial situation for themselves or their children. When carrying on relationships with their perpetrators, women continue to exercise their agency to different degrees throughout the relationship.

Women also continue to assert their agency when dealing with the social, psychological and physical repercussions of their sexual violence experience(s). In many conflict and post-conflict situations, a woman labeled as a victim of sexual violence will be isolated by her community, her family, and will be at higher risk of experiencing sexual violence again in the future. Women may not only experience social marginalization, but are also at high risk of suffering post-traumatic stress disorder and other psychological effects as a result of their experiences. Under the right set of circumstances which provide safety and acceptance, women may exercise their agency by choosing to tell family and community members about their experiences of being raped and may decide to enroll in therapy or counseling to address the trauma they experienced.

Victims of sexual violence often continue to be affected by physical infections and disorders, including HIV, other sexually-transmitted diseases, and chronic reproductive organ problems (fecal/urinary incontinence, etc). Women assert their agency in choosing how to address and how they get treatment for these physical ailments, although their agency in this respect is once again burdened by their economic stature, social values, family/community support, and access to medical services.

Finally, victims may assert their agency when choosing to participate in retributive or restorative transitional justice frameworks. Mertus argues that victims participating in court trials of sexual violence act "as politically mobilized survivors who, through their actions, seek to influence international opinion and help shape the content of international norms." These victims knowingly participate in transitional justice systems and use these

mechanisms as personal or political tools to either aid in their own recovery, gain recognition in their communities, or promote the interests of broader cultural or international groups of women who experience SGBV during conflict.

In order to secure and recognize women's agency in recovering from and managing the long-term consequences of SGBV, a wide array of support systems and restorative justice systems must be offered to these women. Because SGBV is so prevalent in global conflicts, we recommend that international bodies, such as the United Nations, set up support systems available to women who have experienced SGBV, regardless of the ways in which they have experienced it, the levels of agency they employed, or the identity of their perpetrators. We also recommend that these services be available to all women but not be mandatory, and that women's choices to participate are respected throughout the entire process.

Conclusion

By emphasizing the *intent* of the perpetrator and the *lack of consent* of the victim, the legal definition of sexual violence perpetuates gendered binaries of victims and perpetrators, establishes innocence as a precondition to victim status, and promotes a singular narrative of women's experiences in conflict. By recognizing elements of female agency in times of sexual violence, we argue that the legal definition of SGBV is too restrictive in systems of transitional justice. The definition must expand beyond the legal limitations of intent and consent.

The recognition of victim agency during and after sexual violence transcends the gendered victim-perpetrator binary and acknowledges women as agents even within the context of extreme victimization and duress. Moreover, by expanding understandings of victims' use of agency we recognize women as important social and political actors who make choices to survive, protect loved ones, avert danger and overtly resist oppressive regimes.

Finally, we believe that increased recognition of sexual agency in transitional justice systems will have real outcomes for victims, post-conflict communities, and the international community as a whole. As of now, stories of victim agency during sexual violence are silenced or adapted to fit the restricted victim-perpetrator narrative. Females who have asserted their agency while experiencing sexual violence are forced to change their stories in order to gain access to reparations and services, and when their acts of agency do become known, their families and communities may ostracize them. We argue that recognition of female agency will aid in the recovery of female sexual violence victims, reduce stigmatization in post-conflict societies, and increase international understandings of the uses and nature of sexual violence in conflict.

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Photographic Exploration

A Generation Later

Jean-Charles Zurawicki, *Photo Editor*

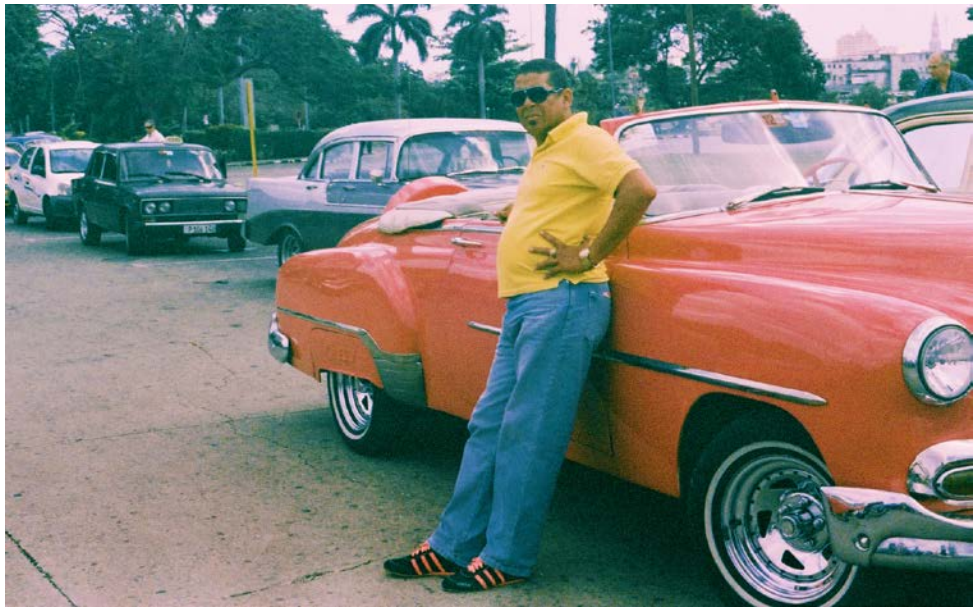
"Time heals," as the saying goes. Indeed for many disputes and differences, years of peace, communication, and understanding has created new stability and cooperation in many parts of the world. Yet, time is also a double-edged sword, as disparities between peoples and states can also grow wider and more violent the longer they exist. Years of poverty, discrimination, and neglect can not only harm present victims, but also future generations and stain the histories of nations.

Marginalization of a people is not always so clear, as what is viewed as unstable and temporary becomes a part of daily life in a community. War creates divisions in society and produces prejudices and stereotypes of the "other" that maintain relevance years after violence. Religious minorities have had to deal with established prejudices and discrimination transcending centuries of history, and oftentimes they have been forced to flee their homes due to persecution. While there have been great strides to remedy gender, sexuality, and ethnic inequality, these injustices still persist in many countries, taking the form of restricted economic opportunities, banned social and civic practices, and reinforcement of traditional roles. Marginalization can occur between groups within a society, though it can also be felt at the international level, as communities from abroad compete against one another for resources, power, and identity.

Despite this history, there has been progress in fixing these lasting issues in societies. Non-governmental organizations and international institutions have helped these people, but many communities have also decided to help themselves. Individuals and grassroots movements, empowered by the advances of the Digital Age, have too made a difference in pulling their communities out of poverty and violence. Though even healing can turn sour, as aid and development is not always fairly distributed and motivates the excluded to seek alternative means for justice.

The following series, put together through the contributions of skilled undergraduate photographers, presents the subjects mentioned above in the context of societies from across the globe. Some of these photos show the worst of what can come from marginalization and a refusal to address it, while others show us hope and the beginnings of healing. As we look at the effects of marginalization through the years, I invite you to think of the role of time for these people and places.

Izel Maras, Tufts University



A taxi driver waits for tourists at the Plaza de La Revolución in La Habana, Cuba. Taxi drivers appeal to the exotism associated with the island nation by exhibiting their brightly painted 1950s vintage automobiles around the square. La Habana, Cuba

A Cuban man with his car in the El Vedado district of the capital. Because of the 1962 embargo by the United States, there is a lack of spare parts available to fix American cars on the island, though there is no shortage of mechanical knowledge due to the frequent breakdowns Cubans experience with their cars. La Habana, Cuba

Julie Sandusky, Tufts University

Fisherman prepare to sell their catch at a market on Marina Beach in Chennai, India. After Independence, statues commemorating laborers, Gandhi, and figures from Tamil literature were added to the promenade following the beach. Chennai, India

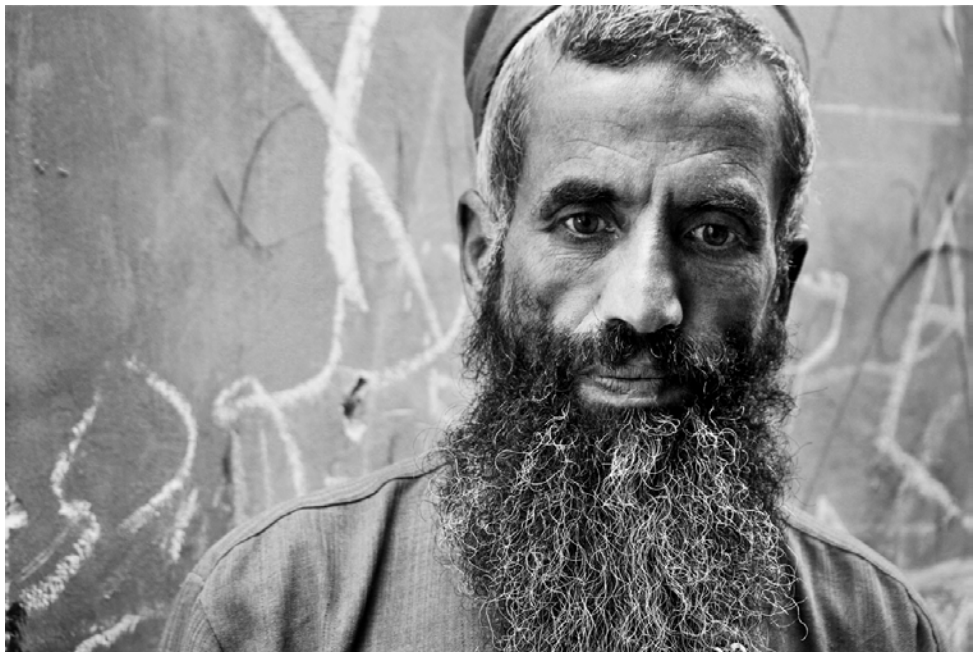
View of the Marina Beach from the Chennai Lighthouse. Today's Chennai is a center for finance and banking, South Indian culture, and the Indian automobile industry, though the city is also one of the most popular tourist destinations in India. Chennai, India

Julie Sandusky, Tufts University

Women pick cotton near a village in the Tamil Nadu State. Despite incentives to find work and education in the city, a majority of Indians decide to live in rural areas in villages like these because of the mismanagement cities are associated with in India. Thottiyapatti, India

The student group BUILD: India oversees a class of children in the village of Thottiyapatti in Tamil Nadu. While the Tamil Nadu state provides good social services compared to other Indian states, in this village BUILD: India provides a learning center and sanitation complex. Thottiyapatti, India

Laura Schrier, Tufts University



A Palestinian sheikh stares into the distance a day after a raid by the Israeli Defense Forces at the Al-Azza Refugee Camp near Bethlehem. After three Israeli students went missing over the summer of 2014, this refugee camp, among others, was frequently targeted by the Israeli military. Al-Azza Refugee Camp, West Bank

Girls sit on a barred window at the Al-Azza Refugee Camp. Since 1948, many Palestinians were forced to leave their communities and adapt to life as refugees, and still today children in camps like this one, of which 60% of the refugees are children, are growing up outside of what their parents call home. Al-Azza Refugee Camp, West Bank

Laura Schrier, Tufts University

Graffiti on a tower of the Israeli West Bank Separation Barrier reads "Free Palestine," among other thoughts. The struggle Israeli-Palestinian coexistence in the region is one that has lasted decades, and despite attempts to build viable peace in the region, physical and ideological walls remain. Al-Azza Refugee Camp, West Bank

Selin Ipek, Tufts University

A jewelry store in the Deira Gold Souk in Dubai displays golden necklaces to sell. The Dubai oil boom in the 1960s and 1970s greatly expanded the nation's wealth and fueled the growth of the tourism industry in the city, including an expansion of the gold market. Dubai, United Arab Emirates

People wait in line to fill their containers with water in Dire Dawa, Ethiopia. While this city has grown dramatically in recent years, becoming Ethiopia's fourth most populous, and has profited from a construction boom, some infrastructure is still lacking, including access to clean water. Dire Dawa, Ethiopia

Selin Ipek, Tufts University

A billboard advertises contraceptives near a soccer game of mostly male spectators in Dire Dawa, Ethiopia. In 1993, Ethiopia began an intensive policy program to create sustainable population growth for the state and lessen the negative effects of fast population growth. Dire Dawa, Ethiopia

A rural stand selling basic staples such as fruits, vegetables, milk, and other dry foods outside the city of Harrar advertises Coca-Cola. The continued globalization of the world extends the soft power of nations and clientele of corporate goods across oceans to Ethiopian street vendors and Hong Konger fishermen (see next picture). Harrar, Ethiopia

Shanice Kok, Tufts University

A fisherman drives his motorboat through the Tai O village on Lantau Island, outside of the Hong Kong metropolis. The fishing industry here is dying out as fishermen can no longer survive on the income from their work, though the village is now benefitting from tourist dollars as it's stilt houses are being branded "the Venice of Hong Kong." Tai O, Hong Kong

Incense burns at a Buddhist temple in Sha Tin area of Hong Kong's New Territories. While the Cultural Revolution in China created led to a large reduction of adherents to Chinese religions and created a secular Chinese society, in Hong Kong Buddhism, and other religions, have a larger presence in the lives of Hong Kongers. Sha Tin, Hong Kong

Shanice Kok, Tufts University

A Bolivian girl poses with a llama on Isla del Sol on Lake Titicaca (for 2 bolivianos, or 29 cents). In Bolivia's Altiplano, locals with llamas rely on photos like this one and other tourist activities as a source of income. Isla del Sol, Bolivia

A jeep makes a stop at the Salar de Uyuni in Southern Bolivia. Bolivia's economy significantly relies on ecotourism, and jeep excursions are a popular choice for tourists and backpackers from around the world who wish to see the natural beauty of the country. Salar de Uyuni, Bolivia

Shanice Kok, Tufts University

Sunrise at Salar de Uyuni, the largest salt flat in the world. In addition to its rich lithium sources, the salt flat is a natural wonder, and transforms into a liquid mirror in the rainy season. Salar de Uyuni, Bolivia

Interview

From Tufts to USAID's Role in Central and South America:
A Discussion with Mark Feierstein

Interview by Selin Ipek

Biography

Mark Feierstein serves as the associate administrator of the U.S. Agency for International Development and as the assistant administrator for Latin America and the Caribbean. As of next month, he will join the National Security Council as the senior director for Western Hemisphere Affairs. Feierstein previously served as principal and vice president at the international polling firm Greenberg Quinlan Rosner, where he oversaw public opinion research in more than 30 countries. Before joining Greenberg Quinlan Rosner, Feierstein served as director of USAID's Global Elections Office; the State Department's special assistant to the U.S. ambassador to the Organization of American States; and director for Latin America and the Caribbean at the National Democratic Institute for International Affairs. In addition to his extensive policy experience, Feierstein has worked as a journalist in the United States and Mexico. He received his B.A. magna cum laude from Tufts University and his M.A. from the Fletcher School of Law and Diplomacy.

1. *Was it your time at Fletcher that fostered your interest in public opinion research given Fletcher's encouragement for research and resources? And if so, how did it?*

Not necessarily. But there is a lesson here for students. I've always loved numbers, and math was my best subject as a kid. I was gearing toward being a computer scientist when I was in high school. I was planning on dropping Spanish—why do computer scientists need to know Spanish?—and my Spanish teacher encouraged me to continue with it and of course now I've had some 30-odd years building on my knowledge of Spanish. I actually got into polling by accident. When I was about to leave the Clinton Administration in 1997, I decided there were two things I didn't want to do: I didn't want to work in Latin America and I didn't want to work in elections. A friend of mine called, and said Greenberg Quinlan Rosner, a polling firm, was looking for someone to work on elections in Latin America. Now if you had asked me to list a hundred things that I planned on doing, pollster would not have been on that list. So the lesson here: in spite of what the career office may advise, you have no idea where your career is going to take you. I'm willing to bet

that if you write on a card five things you think you might do five, ten, fifteen years from now, you will inevitably end up doing something else. Everyone gets a great education at Tufts, and it'll put you in contact with so many different people in so many different sectors. There really are no paths, necessarily. You can argue that almost anything fits together, life is interdisciplinary and things come together in odd ways.

2. *USAID focuses on ending extreme poverty. How does it determine who are the most marginalized populations and how do efforts target these people and what is the end goal?*

President Obama in 2013 called on the world to mobilize around the effort to end extreme poverty by the year 2030. When I was in school, that was a goal that would have been considered implausible—now so much progress has been made around the world, in places like China, India, throughout Latin America, and Africa. We are now trying to reorient some of our programs toward this goal of ending extreme poverty, and it's hard because the extreme poor are the hardest to reach. A lot of our programs work with people who are very poor but not necessarily the extreme poor—for example the work we've done with farmers or in health care, among other areas. So now we're trying to think through how we can most effectively reach the extreme poor. Part of it is a regional strategy; it is a recognition that there needs to be a much greater focus on Africa. Truth is, reaching this goal is going to depend on national governments much more than aid agencies. Seeing governments throughout the world implement the right policies, for example conditional cash transfers in Latin America, raising the minimum wage, and just economic growth in of itself is helping to reduce extreme poverty so we're fairly confident that the world will be able to achieve this goal.

3. *Under the Obama administration USAID appears to be fundamentally challenging its development and funding approach. Can you speak more to USAID's use of public/private partnerships and how that changes USAID's mission, scope of work and impact?*

Linking back to the previous question, we have a new mission statement, which focuses on ending extreme poverty and encouraging resilient democratic societies. Over the last few years, we have altered our approach to development to what we now call a "new model of development." There are three components of that. First is what we call local solutions. Most of the funds of USAID are provided through contracts and grants to U.S.-based organizations that work overseas, often through subcontractors or sub-grantees overseas. What we want to do is to more directly deliver that assistance to entities overseas. This could be national governments, local governments, private sector and NGOs. A few years ago, only about 8% of our funding was going directly to entities overseas. We have nearly doubled that over the last few years, we are now at 15% and we have a goal to get a lot higher. The idea is that to truly be able to promote sustainable development we need to create local capacity and lend

support in strengthening local capacity. The most effective way to do that is to provide funding throughout these organizations and provide them with the opportunity to actually manage money and carry out programs. The second piece in the new model is an emphasis on science and technology. We've just opened a new office within the agency called the Global Development Lab and the idea is to create connections between USAID and entrepreneurs and innovators from around the world. Additionally, we want to establish relationships with universities in the US and elsewhere and to really identify path-breaking solutions and bring them scale. Third is the emphasis on public-private partnerships. We recognize over the long-term, development is going to depend on a thriving private sector. USAID is an unusual agency—our mission is really to put ourselves out of business. Success for us is to reach a point where we no longer operate. In Latin America, for example, we used to work in Chile, Argentina, Costa Rica, Panama, and Uruguay, currently all very successful countries and economies. We want to help other countries reach that point where they can manage their own development and have the private sector take over in terms of job creation and development. What we've been doing in a number of countries throughout the world is establishing public-private partnerships and taking advantage of companies' resources and their expertise. For example, in Latin America, we're working with Microsoft, Intel and Wal-Mart in a whole range of issues from helping farmers increase their yields and access markets, to training kids in computer science and information technology. It's really allowed us to leverage our limited funds. When USAID was created, the majority of capital flows to developing countries was in the form of development assistance and now that's a very small percentage. Today it's more in the form of remittances or foreign direct investment or trade. In order to effectively leverage the resources that we have, we've been pursuing this new model of development that includes public-private partnerships.

4. *So this is a shift toward a more mutual working environment?*

The companies are doing it in their interest as well. Some do it because it's charity or corporate social responsibility, but companies are recognizing themselves that sustainable development is in their best interest. For example, when we're working with Wal-Mart in Central America, it's in their interest for farmers to be more productive, to be able to manage their land better, because Wal-Mart itself wants to have a guaranteed supply over time. The same thing can be seen elsewhere in Central America where we've identified crime and violence as leading obstacles to economic growth and development. Companies are recognizing that they can't be successful in an environment where there are high murder rates and that they need to play a role in reducing crime and violence.

5. *The White House fiscal year 2016 budget request for Central America and Mexico has almost doubled the amount of funding that was spent on the region in fiscal year 2014. Why do you think the region got a potential*

significant increase in funding? Why has the administration "pivoted" to Central America? Additionally, what will USAID do specifically with the potential increase in funding?

We've been in Central American for 50 years, since the agency was created. Last summer we saw a spike in immigration, particularly with unaccompanied minors. President Obama determined that the most effective way to deal with this issue is to address the root causes of migration in the countries, which include violence and poverty, and not to wait for the kids and families to come here. That is actually a much more economical way of doing it. The President has made this request to Congress that we hope Congress will fully fund. This comes at a time when we have a pretty good sense of what is working and what is less effective in our programming in Central America. For example, we've seen in the case of our security work, dramatic decreases in crime rates in neighborhoods where we've been sponsoring programs. We've seen significant increases in agricultural yields and drops in malnutrition among farmers and their families that we support. This is a real opportunity to scale up that effort. We also recognize that we are ultimately a junior partner in this effort; the most important actors are the Central American governments themselves, the private sector in these countries, and civil societies. The Presidents of the Northern Triangle countries [El Salvador, Guatemala, and Honduras] presented a joint development plan at the Inter-American Development Bank last November. The US Central American strategy very much dovetails with the plan the Central American Presidents have provided. They themselves recognize that they needed to take a number of economic and political reforms in order for our efforts to be successful and we're seeing evidence of that. We're hopeful that Congress will fully fund the President's request and that we can use the money effectively to advance development and to encourage people to prosper in their own countries.

6. *Security is one of the building blocks to economic development, a roadblock you've encountered through your work in Latin America and the Caribbean. What have you seen to be the most effective way of addressing issues of citizen security while promoting economic development in both the short and long term? What steps is USAID taking to address crime and violence in the region?*

Thirty-two years ago when I was in your seat studying at Tufts and Fletcher and taking classes on international relations and development, we never studied crime and violence. It's not an issue that development professionals had to deal with. Now the IDB has concluded that in places like the Northern Triangle the leading constraint to economic growth is in fact crime and violence. We cannot be successful as a development agency unless we contribute to reducing crime and violence. We work on the prevention side, which means investing in communities and at-risk youth. We have created about 200 youth centers throughout Central America. These centers are basically safe places where youth can go to learn and play. We've invested in small infrastructure in

high-crime communities in Central America and helped communities come together to develop their own anti-crime policies. As I noted before, we're seeing some positive results; in the areas that we have invested, we are seeing greater drops in crime than the areas where we have not invested. Now the countries themselves, Honduras in particular, are investing in our programs. We want to be able to, with the additional resources from Congress that the President requested, expand the number of communities we're operating in, deepen the programming that we're doing in the communities we already are operating in, and get at the root causes of what's driving the immigration that we saw spike last year. We know from surveys and from interviews with migrants that the leading driver of migration is crime and violence, which we eventually need to get to the root causes of. Agencies like the State Department and others, also play a critical role. For example, the police forces, as we know, have been historically weak in these countries, and there have been efforts by other agencies to work with the police. USAID has done some work as well in terms of helping the community policing effort and establishing better relations between communities and police forces, but it's going to take a whole range of agencies both from the Central American side and the US side to make long-lasting progress.

Editorials

Migrant Worker Abuses in the Qatari World Cup

Adrienne Larson, *Tufts University Class of 2016*

There are seven years to go before the first kickoff at the 2022 FIFA World Cup in Qatar, yet the country is deeply embroiled in controversy over the large migrant labor force used in construction for the games. In November of 2014, it was revealed that Qatar was using slave labor in the 2022 World Cup. The "slave state" claim came as Sharan Burrow, Secretary General of the International Trade Union Confederation, warned that if current trends continue, an estimated 4,000 migrant workers might die in Qatar as they toil on construction projects in the run-up to the World Cup. The International Trade Union Confederation reports that that 1,200 migrant workers from Nepal and India died in Qatar between December 2010 and March 2014.[1]

Qatar has a population of about two million, of whom only 10 percent are Qatari citizens, according to official 2013 statistics. The number of foreign workers is expected to rise further with increasing construction demands. It has the highest ratio of migrant workers to domestic population in the world: more than 90% of the workforce are immigrants and the country is expected to recruit up to 1.5 million more laborers to build the stadiums, roads, ports and hotels needed for the tournament. Nearly 40% of these migrant laborers are Nepalese. Some Nepalese working at Lusail City tell desperate stories, as they are saddled with huge debts they are paying back at interest rates of up to 36% yet say that they are forced to work without pay.[2]

Migrant workers are subject to a labor system that facilitates trafficking and forced labor. In contravention of Qatari law, workers often pay exorbitant recruitment fees and employers confiscate their passports. The *kafala* (sponsorship) system ties a migrant worker's legal status to a sponsoring employer, requiring workers to get an exit visa from that sponsor to leave the country. Workers are also unable to change jobs without their sponsor company's approval. Qatar prohibits migrant workers from unionizing or striking, and they face severe obstacles to seeking redress. The murky system of recruitment brokers in Asia and labor contractors in Qatar leaves them vulnerable to exploitation. Although the Qatari government insisted that decent labor standards will be set for all World Cup contracts, underneath these standards a complex web of project managers, construction firms, labor suppliers, employment contractors and recruitment agents operate. Without official documentation, migrant workers are in effect reduced to the status of illegal aliens, often unable to leave their place of work without fear of arrest and not entitled to any legal protection.[3]

Human Rights Watch said in January 2013 that without major reforms, the tens of thousands of migrant workers building infrastructure for the 2022 FIFA World Cup would face exploitation and misery. Further revelations were made in 2013 of appalling living and working conditions and high death rates for migrant workers. Migrant workers often live in cramped, unsanitary conditions, and many workers complain of excessive working hours and unpaid wages. Other workers said they were forced to work long hours in temperatures of up to 50°C (122°F) without access to drinking water. Despite mounting international criticism, Qatari authorities have given no indication they intend to carry out needed reforms. Although both FIFA and Qatar have promised working conditions will improve, so far "practically nothing" has been done in key areas.[4]

Similar concerns were raised in the construction for the 2014 Brazil World Cup, in which many Haitian migrant workers were faced with inhospitable working conditions, Human Rights Watch reported. In a 2014 report investigators revealed that Haitian workers were filing weekly complaints denouncing low wages, lack of safety and the precariousness of accommodations.[5] However, these demands fell on deaf ears, as is happening in Qatar. Although Qatar and FIFA developed a new human rights protocol to deal with the allegations, it is clear they are not going far enough. More must be done by the international human rights community to ensure just working standards in World Cup construction and to stop the unacceptable trend of labor abuses that are becoming all too common in the lead-up to international sporting events.

Notes

1. Manfred, Tony. "The Qatar World Cup is a Disaster: 1,200 Workers Dead, New Bribery Investigation" Business Insider. March 18, 2014. Accessed March 4, 2015. http://www.businessinsider.com/qatar-world-cup-workers-dead-2014-3
2. Pattisson, Pete. "Revealed: Qatar's World Cup 'slaves'" The Guardian. September 25, 2013. Accessed March 4, 2015. http://www.theguardian.com/world/2013/sep/25/revealed-qatars-world-cup-slaves.
3. Human Rights Watch "World Report 2013: Qatar" January 2013. Accessed March 5, 2015. http://www.hrw.org/news/2014/01/21/qatar-serious-migrant-worker-abuses
4. Human Rights Watch "World Report 2014: Qatar" March 2014. Accessed March 5, 2015. http://www.hrw.org/world-report/2014/country-chapters/qatar?page=3
5. Human Rights Watch "World Report Brazil" March 2014. Accessed March 5, 2015. http://www.hrw.org/world-report/2014/country-chapters/brazil

Working from Behind:
How Asian American Immigrants in New York City Face Substantial Barriers toward Improvement

Arman Smigielski, *Tufts University*

Over the past few years, various stories and government reports have drawn attention to a marginalized population within New York City, one of America's largest and wealthiest cities. Asian Americans, more so than other immigrant communities, according to a report by Center for Economic Opportunity, a branch of the Mayors office, have been living in worse poverty conditions than any other ethnicity in New York City. With 29% of Non-Hispanic Asians living under the poverty line, it is clear that this demographic, many of them immigrants from Korea and South Asia, face significant hurdles and barriers from achieving economic success.[1]

Asian immigrants are statistically less likely than all other immigrants to live above the poverty line. What makes this case difficult to comprehend is how does this happen? According to a report entitled "Working but Poor," Asian Americans work more hours than the average worker in New York City, yet they appear to be behind the average New York City worker in their economic status.[2]

A significant reason behind why Asian Americans are so marginalized in New York City is due to the language barrier. Most poor New Yorkers do not face such a barrier. Many city agencies in New York are not fully equipped to deal with the multitude of languages that these immigrants speak in. This leaves many residents either unable to get help from city agencies, or when they find a city office that has a translator who can speak their language, incredibly long lines to access their required help. This prevents members of this community from accessing grants, the social safety net, and other government benefits. Furthermore, the language barrier prevents immigrants from accessing jobs that require English-speaking skills.

These issues also trickle down and affect the children of these immigrants. Parents are often unable to help the children with their homework, which is in English, putting children of these immigrants at a slight disadvantage in the classroom. In addition, due to New York City's lopsided education system, students in poor neighborhoods often do not get the best education. These children are often not taught English well enough as their peers in other areas of New York City to allow them to compete for jobs as well. In 2006 for example, 32 percent of poor Asian American children were not fully proficient in

English, as compared to 15% for the city overall.[3] This shuts them out of the job market and further accentuates the cycle of poverty.

There are a few possible policy prescriptions that could be used to help solve this issue. One is that the school system could re-emphasize and spend more money on teaching children who are non-native English speakers how to speak English, and thus open up more opportunities for them in the American economy. Another possible solution is simply for the city government to train more translators and enact better outreach toward the Asian American community so that they can better access city services. Marginalized populations exist all across the globe, and it is the duty of the governments of those areas to compliment and work on accepting those groups.

Notes

1. Asian American Federation. (October 2008). Working but Poor: Asian American Poverty in New York City Page 3 Working But Poor. New York, New York. Page 3.
2. Ibid., xi.
3. Ibid.

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Mayer Campus Center
Tufts University
Medford, MA 02155
hemispheres@tufts.edu
www.tuftshemispheres.org

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