WORLD OUTLOOK

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About the Journal:

World Outlook is a student-run journal of international affairs that publishes papers written by undergraduate students. In addition, the journal features interviews with major global thinkers and opinion pieces written by our own staff. Our name and missions are motivated by the words of late Dartmouth President John Sloan Dickey.

Submissions:

World Outlook welcomes all current and former undergraduate students to submit papers relating to any aspect of international affairs. Papers to be considered for publication must be available in digital format. Papers should include references and bibliography consistent with the Chicago Manual of Style guidelines. Length should be under 7000 words, although outstanding works of greater length will be considered. Submissions must be original works with accurate citations. Submit your work for review to world.outlook@dartmouth.edu, and include your name, school, and class year. All submissions become property of World Outlook.

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Editor's Note

The year is 2015: a decade and half into the new millennium. International agendas remain tumultuous, with all threatened by radical Islam personified through terrorist groups like ISIS and Boko Haram. More subtle than the Ebola outbreak and Russian intervention in Ukraine, issues like global climate change and food and water insecurity remain on the horizon. How do we move forwards from here?

As always, we draw from the past and present to predict the future. This 46th issue of World Outlook examines justice, political theory, and developmental catalysts. Katy Robinson from the University of Michigan leads with a paper with the premise of democracy as a universal human right. Through case studies in Guinea-Bissau, Egypt, and Honduras, she examines factors that generate United Nations support for coups d'état despite how coups run contrary to that universal entitlement. The difference between support and condemnation tends, then, to hinge on nuances in 'democracy,' election timelines, and military involvement.

As opposed to the outside-in judgement of the UN, our next paper reflects on the success of the War Crimes Chamber in the State of Bosnia and Herzegovina. Matteo Godi of Yale College explains how this domestic court approaches justice against challenges of authority, legitimacy, and ethnic bias.

Kailas Menon from Claremont McKenna College follows with the political theory behind France's Africa policy, focusing on France's interests in Mali and the Central African Republic. Menon champions constructivist theory over political realism in explaining reasons for military interventions Operation Serval and Operation Sangaris. He argues France acted less to serve its own power hungry interests, but instead in accordance with post-colonial French ideology.

We continue with Sophia Dhalla, of McGill University, and her examination of modernization as development in Afghanistan's Ring Road. A project to reduce social isolation, target poverty and strengthen infrastructure, the Ring Road remains riddled with unforeseen consequences like land grabbing and assisting the Taliban. Dhalla reminds us that many conditions are necessary, but not quite sufficient, for successful development and that unintended exacerbation of conflict may result despite the best intentions of international donors.

Furthermore, World Outlook sat down with former Deputy Director of the Central Intelligence Agency, Michael Morell. In our conversation, we comment on change. Technology, from ISIS on social media to network shutdowns, ubiquitously impacts our lives in new and unpredictable manners. At the turn of the millenium, Morell remembers Congress possessing a united front on foreign policy that today has gone "out the window." One objective remains constant: our reliance on intelligence.

We conclude with an op-ed concerning development in human capital in China. Jonathan Silin of Dartmouth College denounces the inadequacy of China's newest hukou household registration reform. A population control mechanism linked with discrimination and education disparity, the hukou system is, as he suggests, little more than urban-rural apartheid and predicts a future economic backlash should the Chinese government fail to step up revision efforts.

These papers investigate broad guides to government and organizations: some showing the interplay between legitimacy and justice, and others the dichotomy between theory and reality. We hope that all engage our readers on a fundamental level. Enjoy.

Sincerely,
Liz Lin

Contentious Coups:
Understanding the United Nations' Behavior Toward Coups d'état

Katy Robinson

After the fall of the Soviet Union, the international community reconsidered the importance of democracy. What was formerly "an ideal form of government" became "a universal human entitlement." In this environment, one would expect all coups d'état to be strongly denounced for their inherent undemocratic nature; however, this is not the case. The United Nations, arguably the most influential international governing body, condemns some military coups, while supporting others. Why does it do this? What factors influence its behavior? I seek to address these questions, hypothesizing that the level of democracy, the presence of reasonable timetables for democratic elections, and the role of the military in coup countries affect the actions of the United Nations in condemning or supporting a coup d'état. I analyze the 2012 coup in Guinea-Bissau, the 2011 and 2013 coups in Egypt, and the 2009 coup in Honduras to test these hypotheses, and I find support for all three. Although my results are not generalizable, they suggest that a predictable force is behind the UN's behavior toward coups d'état and that it deserves further investigation.

I. Introduction

Intervening in Guinea-Bissau in 2012 and Egypt in 2013, both nations' armed forces supported a coup d'état in hopes of ousting their democratically elected leaders. The coup attempts drew international attention and after their success, the world was expected to respond. The United Nations immediately released statements outwardly condemning the coup in Guinea Bissau, but offered little opinion on the military's intervention in Egypt.[1,2] The UN condemned one situation, but made no definitive comment about the other. What factors influence this behavior? This study focuses on defining these dynamics and applying them to past cases of military coups.

Including those in Egypt and Guinea-Bissau, the world has seen 471 coup attempts since 1950.[3] Whether successful or unsuccessful, these occurrences directly affect the political, economic, and social aspects of their respective nations. Coups d'état are often violent, resulting in hundreds of deaths during the power struggle itself or in the years after the new regime takes over (e.g. 1960 coup attempt in South Vietnam, 1996 coup in Burundi). They also aim to alter the political and social order, changing dynamics both locally and abroad. With 13 attempts around the globe in the last three years, coups are not disappearing, and neither are their consequences.[4]

This study seeks to examine international reaction to coups, specifically fo-

cusing on the United Nations' response. I will begin my analysis by reviewing existing literature on coups d'état and the way in which they are perceived by international actors. I will then assert and defend three hypotheses about the behavior of the United Nations when reacting to military coups. Finally, I test my hypotheses' viability through four case studies taken from Powell and Thyne's most recent compilation of successful and unsuccessful coup attempts.[5]

II. Reviewing Past Literature

By examining existing literature on the theme of coups d'état and the manner in which international organizations (IOs) perceive them, the argument of this paper is put into a larger context. A review of scholars' work on the definitions of coups, their causes, and the actions of IOs in dealing with them provides valuable background information and demonstrates the relevance of this study.

A. Defining A Coup

When studying any subject, exact definitions are necessary to fully grasp the implications of the research on the topic. Authors may use varying definitions that are equally valid. In their recent work, Powell and Thyne arrive at a working definition of a coup d'état after analyzing definitions proposed by 14 different studies in the past sixty years.[6] Each author offers varying interpretations of a military coup's target, perpetrator, and tactics; some are extremely specific, while others are relatively undefined. Moreno et al. (2004), for example, find only 19 coups between 1950 and 2000, while O'Kane (1987) identifies 163 coups in half that time frame.[7] This discrepancy may be attributed to Moreno et al.'s specific definition of a coup, only including instances where the perpetrator is the military leader or executive himself. In contrast, O'Kane's description encompasses coups led by any civil or military institutions. Through the comparison of fourteen definitions, including those by Moreno et al. and O'Kane, Powell and Thyne preserve the commonalities and resolve the large variations, arriving at a well-informed description of a coup d'état: any "illegal and overt [attempt] by the military or other elites within the state apparatus to unseat the sitting executive."[8]

B. The Causes of Coups

The bulk of coup literature is devoted to exploring the causes of military coups. O'Kane introduces several leading theories in this area, asserting that coups are more likely to occur in countries that have already experienced coups, have exceedingly divisive social cleavages, and have perpetually poor economic conditions.[9] Thirty years later, Hiroi and Omori attack the same question in a study that yields similar results. The authors again affirm that poverty, social backwardness, and instability contribute to coups, also pointing to the culpability of regime transitions.[10]

Although O'Kane's article is thirty years senior to Hiroi and Omori's work, these two studies assert strikingly similar claims. When it comes to the causes of coups, there is not a shortage of case studies or empirical analyses, but examination

of the aftermath of coups receives little attention. It is for this reason that I propose a study directed not at the roots, but at the consequences of military coups. While a better understanding of their causes can aid us in coup-proofing regimes and foretelling the next military uprising, it is an imperfect art. Familiarizing oneself with their effects is more pragmatic; it is much harder to prevent coups than it is to accept their inevitability and prepare for their consequences.

C. International Organizations (IOS) And Coups

There is no research on the specific actions of the United Nations when dealing with military coups. Moreover, there is relatively little work on the reactions to coups by other IOs. Omorogbe (2011) focuses on the African Union (AU) and its actions toward coups d'état in Africa.[11] "When responding to coups," he writes, "the AU has consistently favored the constitutional order, irrespective of the conduct of incumbent regimes, the claims made by those challenging them, or the likelihood that the coup might advance democracy."[12] Through five case studies, the author demonstrates the regularity of the AU in condemning military coups.

A similar characteristic of the Organization of American States (OAS) is highlighted in Boniface.[13] Exploring the perceived democratic norm in the Americas, he asserts, "there is limited consensus among member states how the OAS's democratic mandate should be applied to democratic crises that are beyond the scope of coups and self-coups."[14] The only unanimity that exists among OAS members is the policies regarding the condemnation of military coups.

Omorogbe's and Boniface's findings about the AU and OAS, however, starkly contrast with the inconsistencies of the United Nations. Unlike the AU and OAS, the UN has no specific coup doctrine. Its actions are not immediately predictable through mandates and declarations and there is no existing research that attempts to understand the organization's behavior. This study is necessary to explore the factors at play in the UN's support, or lack thereof, when confronted with military coups.

E. Moving Forward

An examination of existing literature on coups d'état and the manner in which IOs perceive them yields valuable background information. It puts the central argument of this paper into a larger context and demonstrates the relevance of this study. This analysis results in three key conclusions. First, I choose to define a coup d'état as an "illegal and overt [attempt] by the military or other elites within the state apparatus to unseat the sitting executive."[15] The authors' analysis of existing work results in a well-informed definition, and it is for this reason that I believe it to be the most accurate. Second, I demonstrate that the study of the causes of military coups has been exhausted in the past decades. More attention should be focused on researching their consequences. This area is relatively unexplored, and the findings will serve a more pragmatic and prospective function. Third, I highlight that the reactions of IOs to coups lacks sufficient literature. A few authors demonstrate the consistency

of IOs like the AU and the OAS in condemning military coups; however, the UN has no such regularity, nor literature exploring it. It is for this reason that a study of the UN's actions toward coups is necessary to understand the underlying reasons for its support or condemnation. Applying these three lessons from the existing literature, I move toward a discussion of my research design.

III. RESEARCH DESIGN

Through my research, I seek to explore the factors that motivate the United Nations to support or condemn a coup d'état. The behavior of the UN toward military coups is associated with several characteristics of the coup country, including its measure of democracy, the proposal of a reasonable timetable for elections after the coup, and the role of its military. My thesis generates three hypotheses:

> *Hypothesis 1*: Coups in more democratic countries will elicit clearer denunciations by the UN than those in less democratic countries.

> *Hypothesis 2*: Coup governments that do not propose a reasonable timetable for free and fair elections after coming to power will elicit clearer denunciations by the UN than those that make that proposal.

> *Hypothesis 3*: Coups in countries in which the military does not play a large, positive role in the public realm will elicit clearer denunciations by the UN than in countries where it does have that role.

In testing these hypotheses, I attempt to explore the validity of my thesis and answer my overarching research question: what factors motivate the United Nations to support or condemn a coup d'état?

A. VARIABLES

I seek to investigate the relationship between my dependent variable, the support or condemnation by the United Nations, and the independent variables outlined in my hypotheses.

DEPENDENT VARIABLE

I operationalize my dependent variable by examining the statements released by the UN on the subject of coups after they occur. I define a "statement" as any published opinion by an official or group of officials authorized to represent the United Nations. This includes the General Assembly, the Security Council, and the Secretary-General. Interpreting the statements made by the UN involves sorting them on a spectrum according to their contents. As illustrated by Figure 1, a statement can use language that either clearly condemn or clearly support a coup.

Figure 1: UN Statements as measures of condemnation or support for military coups

Statement clearly condemns — Non-statement — Statement clearly supports

Condemnation — Tacit support — Support
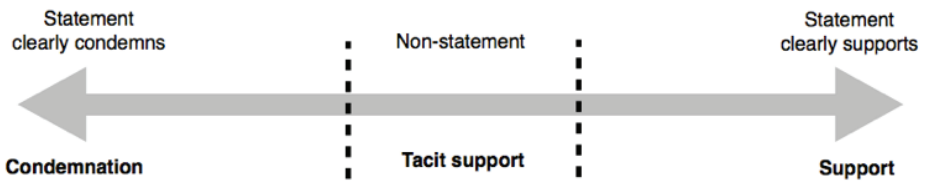
If there is no clear praising or denouncing of the coup, or the UN fails to release an opinion entirely, it will be deemed a non-statement. Non-statements are considered to represent tacit support for the coup. It is well known that the United Nations favors democracy and elections over autocracies and dictators.[16] The organization is less likely to speak out in favor of measures that are hardly democratic, and thus, it can be concluded that the UN expresses covert support by issuing non-statements.

INDEPENDENT VARIABLE

My hypotheses outline three independent variables that I believe directly influence the likelihood that the UN will condemn or support a coup d'état. These include the country's level of democracy at the time of the coup, the presence of reasonable timetables for democratic elections after the coup, and the historical role of the military within the country.

My first hypothesis states that coups in more democratic countries will elicit clearer denunciations by the UN than those in countries that are less democratic. I record the level of democracy in each country immediately before their coups as determined by Freedom House scores, a recognized measurement for the democratic quality of governments around the world. I then compare the country's score with the UN's support or condemnation of the coup.

My second hypothesis focuses on the promise of democracy, claiming that the lack of a reasonable timetable for elections after a coup will elicit clearer denunciations by the UN than those that provide this reasonable timetable. I define a "reasonable timetable" as a specific proposal that aims to remove the military government in one to two years and is seen as acceptable by the UN.[17] Using statements made by the UN, coup governments, and news outlets, I compare the status a reasonable timetable for democracy by the coup government with the support or condemnation by the UN.

My third hypothesis concerns the role of the military in the social, political, and economic aspects of coup countries. I examine the military's involvement in each nation before its coup d'état as determined by constitutional provisions and public sector participation. I define a "large, positive role" as one in which the military is

heavily involved with an aspect of the public sector and makes a favorable impact through that involvement. The presence or absence of a positive military role will then be considered with the support or condemnation by the UN.

B. CASE SELECTION

In making my case selections, I draw my data from Powell and Thyne.[18] While the authors create a dataset of both successful and unsuccessful coup attempts, I choose to focus on only those that they term successful. Successful attempts have more longstanding consequences than failed attempts, and thus, are more likely to evoke reactions from the UN. Additionally, unsuccessful coups will not have the opportunity to propose a reasonable timetable for elections, failing to provide insight into my second hypothesis. I define a successful coup as one in which "the perpetrators seize and hold power for at least seven days."[19]

To test my hypotheses, I utilize four comparative case studies: the 2009 military coup in Honduras, the 2012 military coup in Guinea-Bissau, and the 2011 and 2013 military coups in Egypt. I elect these cases for several reasons. First, since they are all within four years of each other, they share a similar UN evaluative body. Therefore, the statements that supported or condemned the coups came from a relatively consistent group of officials and were evaluated in similar manners. UN opinions on them, thus, can be compared. Second, they are recent. As I illustrate later in my argument, the international attitude toward coups and democracy dramatically changed with the end of the Cold War. I wish to examine cases within a similar global environment, rather than comparing coups that occurred both before and after the fall of the Soviet Union in completely different contexts. Finally, they come from various regions of the world: South America, Sub-Saharan Africa, and North Africa, respectively. Sub-Saharan Africa and North Africa are different in that North African Egypt shares more characteristics and tighter bonds with Arab countries of the Middle East, whereas Sub-Saharan Guinea-Bissau is more representative of the rest of its continent.

By electing case studies to test my hypotheses, I cannot generalize my results to include all coups d'état. Each coup is unique, and although I attempt to encompass multiple regions in the same international environment, time and resource constraints prevent me from examining all military coups to adequately test my hypotheses; however, I still believe my study will be of value to the academic community in laying the groundwork for further research on this relatively unexplored topic.

IV. HYPOTHESES

After the fall of the Soviet Union, states and IOs reconsidered the importance of democracy. What was formerly "an ideal form of government" became a "universal human entitlement"as the world entered the last decade of the twentieth century.[20] The dissolution of two former communist states (i.e. the Soviet Union and former Yugoslavia) created the opportunity for nations formerly under their rule to

make a run for independence and look towards a new type of governance. Outside Europe, conflicts that raged in Africa and Latin America drove citizens to seek alternatives to their authoritarian regimes.

No longer plagued by deep divisions between two of its veto-possessing Security Council members, the United Nations took on a much more interventionist peacekeeping role, citing its purpose to "maintain international peace and security" and supporting democracy in the process.[21] From 1948 to 1988, only 13 peacekeeping forces were established; however, under its new interventionist directive, the UN increased the number of peacekeeping operations from 13 to 33 between 1988 and 1993.[22] The mandates of these missions often included the promotion of democratic governance and the protection of human rights. Countries recognized this strong commitment to democracy and, between 1989 and 1996, more than sixty states requested electoral assistance from the United Nations in hopes of transitioning to democratic governance.[23] Ten years after the fall of the Soviet Union, the UN General Assembly adopted a resolution affirming "that everyone is entitled to a democratic and equitable international order," explicitly demonstrating its partiality toward democracy.[24]

Any "illegal and overt [attempt] by the military or other elites within the state apparatus to unseat the sitting executive," a coup d'état, is inherently undemocratic.[25] Leaders are replaced by the threat or use of violence, not by elections based on popular consent. Coups violate the UN's post-Cold War commitment to supporting democratic processes and are often condemned; however, "not all coups are equally undemocratic."[26] Those that occur in an authoritarian or corrupt regime, for example, may serve as an opportunity to improve democratic governance rather than worsen it. Situations in which "the military takes power from a corrupt and inept civilian administration and promises to return the country to elections after reforming the system" are deemed "guardian" or "democratic" coups[27]. Including military uprisings in authoritarian regimes, these guardian coups are not immediately condemned for their undemocratic nature. Their counterparts, coups that occur in democracies and do not propose a timetable for elections, directly violate UN democratic principles. As Linz and Stepan (1996) explain, "the strongest democratic countervailing power to the nondemocratic dynamic of an interim government is free elections with a set date."[28] A promised election date signals that the coup government "acknowledges the limited nature of its role and signals that its term is, in fact, temporary."[29] It is this right to democracy and need for elections from which my first two hypotheses stem:

Hypothesis 1: Coups in more democratic countries will elicit clearer denunciations by the UN than those in less democratic countries.

Hypothesis 2: Coup governments that do not propose a reasonable timetable for free and fair elections after coming to power will elicit clearer denunciations by the UN than those that make that proposal.

After the Cold War, the UN began to define political legitimacy in terms of democracy, measured by the free and fair elections that precede it.[30] Coups that occur in democracies are almost certain to be condemned for their undemocratic nature in accordance with UN principles. Contrastingly, coups in less democratic countries often receive tacit support in ousting an authoritarian or corrupt government because they attempt to remove undemocratic regimes. Free and fair elections are necessary for the creation and maintenance of democracy. By introducing a timetable for democratic elections, coup governments are more likely to be tacitly supported by the UN.

The first two hypotheses attempt to incorporate the effect of the coup country's political environment on the support or condemnation of the coup d'état by the United Nations. But what if this environment is accustomed to frequent military interplay? The armed forces of nations such as Egypt, Myanmar, and Sudan have had a significant role in their respective countries' public realm both before and after their coups. 75% of Latin American countries grant their armed forces the ability to "protect the independence, territorial integrity, and sovereignty of the nation" in their constitutions, while all countries in the region "explicitly or implicitly allow their militaries to engage in internal security operations of one form or another, including the preservation of public order and security."[31] The illegitimacy of coups in countries where the military plays an active role outside the external defense of the nation is less clear than in the countries that explicitly prohibit the armed forces from intervention. A coup by a military already positively and significantly involved in the social, economic, and political realms of the country may be seen as less surprising and more acceptable. Thus, it is more likely to receive tacit support from the UN. Contrastingly, if the armed forces play a negative role before mounting a coup, the UN is more likely to immediately condemn their actions against the government. My third hypothesis stems from this idea:

> *Hypothesis 3*: Coups in countries in which the military does not play a large, positive role in the public sector will elicit clearer denunciations by the UN than in countries where it does have that role.

Supported by theory, I move forward with the aforementioned hypotheses, testing their validity through four case studies.

V. Analysis

Through four comparative case studies, I attempt to test my hypotheses. Part II.A addresses Guinea-Bissau's 2012 coup, Egypt's 2011 and 2013 coups, and Honduras' 2009 coup, exploring their basic backgrounds and determining if the UN supported or condemned each event. Part II.B applies my hypotheses to the four cases in hopes of testing their validity.

A. Case Studies

1. Guinea-Bissau: April 2, 2012

A month after a highly contested first-round of presidential elections, and in the context of strained political-military relations, branches of Guinea-Bissau's armed forces led a coup d'état on April 2, 2012. The self-named "Military Command" that instigated the intervention cited as its motive a supposed "secret agreement" between Guinea-Bissauan and Angolan governments that would have allowed Angolan troops to enter Guinea-Bissau. According to a UN Security Council special report on the coup, the Command "had 'no ambition for power', but had been 'forced to act to defend themselves against the Government's attempts to annihilate the armed forces of Guinea-Bissau.'"[32] The Command arrested several key public figures, including the nation's president, and the military assumed control of the government in hopes of stabilizing it. The coup occurred approximately two weeks before the second round of presidential elections were set to occur.

Although there were no deaths or injuries resulting directly from the upheaval, the coup immediately met international condemnation. Many IOs and countries around the world expressed discontent with the situation in Guinea-Bissau, but, adhering to my focus on the UN's reaction to military coups, I examine only the statements authored by the United Nations. On April 13, one day after the upheaval, Secretary-General Ban Ki-moon "condemn[ed] in the strongest possible terms the unconstitutional seizure of power by the Armed Forces of Guinea-Bissau."[33] The same day, the Security Council also "strongly condemn[ed] the forcible seizure of power from the legitimate Government of Guinea-Bissau [and] firmly denounce[ed] this incursion by the military into politics."[34] While neither statement explicitly calls this movement a coup, a report released only days later quoted the Secretary-General's "top envoy in Guinea-Bissau," exclaiming, "it was clearly a political-military coup and an act of military insubordination to the democratically elected civilian authorities."[35] These statements, along with others that continue to outwardly denounce the armed forces' actions, plainly illustrate that the UN saw this movement as a coup d'état and chose to clearly condemn it.[36]

2. Egypt: February 11, 2011

Inspired by the 2011 Arab Spring uprisings, Egyptians protested against long-standing authoritarian President Hosni Mubarak for nearly three weeks. Strengthened by claims of human rights abuses and violations by the state, public discontent with the regime mounted until Mubarak relinquished his political office to the Egyptian military on February 11, 2011. Upon coming to power, the armed forces immediately dissolved the parliament and suspended the constitution. The military quickly reassured the Egyptian people and international community in a series of statements that its rule was "not a substitute for the legitimacy the people aspire for."[37]

Although the event falls under our definition for a coup, the UN never used that language when addressing the military's seizure of power. Instead, the IO termed

it a "revolution," one that should be respected despite the integration of the military into politics. While the Secretary-General denounced the violent tactics used by protesters and government police in uprisings following the "revolution," neither he, nor any other representative of the UN, outwardly condemned the military's new role at the head of the government.[38] In a speech in March 2011, the Secretary-General instead "commended the [Supreme Council of the Armed Forces] for their public commitment to a democratic transition."[39] He recognized their legitimacy as actors of the state by meeting with the Council and the new Prime Minister that the Council had put into place. Avoiding the term "coup d'état" and issuing what I code as non-statements, the UN tacitly supported the military's position as head of state.

3. Egypt: July 3, 2013

In the military government's transition to democracy after Egypt's 2011 coup d'état, the country hosted elections in June 2012 and chose the first democratically elected leader in its political history. While in power, President Mohamed Morsi performed poorly. He failed to improve economic conditions, and many Egyptians complained of his government's oppression of activists and journalists, as well as his "Islamic-slanted" proposal for a new constitution.[40] The people again took to the streets, and the Egyptian military moved to support them. Giving Morsi and his regime forty-eight hours to meet the demands of the people or face removal from office, the armed forces led what was later termed "coup with two days' notice."[41] On July 3, 2013, the military detained Morsi on house arrest, rounding up his fellow members of the Muslim Brotherhood and suspending the constitution in the process. In a televised speech, General Abdel-Fatah El-Sisi explained that Morsi "did not achieve the goals of the people," and that it was the military's "historic responsibility" to protect Egypt in such a manner.[42]

The UN Secretary-General immediately released a statement that detailed his "concerned" attitude toward the events in Egypt. He expressed that "military interference in the affairs of any State is of concern," no matter how legitimate the complaints of the public about the government may be.[43] In another statement, the Secretary-General voiced concern about the military's "failure to apply due process and restrictions on freedom of expression and the press."[44] Secretary-General Ban Ki-moon expressed his unease with the military's unlawful arrests of government officials, including Morsi, calling on the military to release those detained and review their cases, but he never suggested that the military return the democratically elected leaders to power.[45] In the fourteen months since the coup, the Secretary-General's office has been the only UN body to release statements on the events in Egypt. It never termed the military's movement to power a "coup d'état" and focused on denouncing the violence of the protests in the majority of the statements. Issuing only non-statements, the UN did not clearly condemn the military's new position as head of the government or call the event a "coup." Thus, I consider the UN to have tacitly supported it.

4. Honduras: June 28, 2009

Honduran military officials removed President Manuel Zelaya from office on June 28, 2009, acting on an arrest warrant for charges of treason and abuse of authority endorsed by their Supreme Court.[46] The charges stem from complaints about Zelaya's "unconstitutional" presidential decrees, brought to the attention of the Court by the country's Chief Prosecutor. In March and May of 2008, Zelaya issued two decrees ordering a referendum to gauge opinion on the creation of a National Constituent Assembly that would draft a new constitution and extend presidential term limits. The Honduran Court of Administrative Litigation recognized this referendum as unconstitutional and ordered Zelaya to suspend the poll and all acts in its support. The President, however, did not respect the Court's ruling. Instead, he issued another decree ordering the National Institute of Statistics to take the poll and the armed forces to lend logistical support.[47] The Court requested that Zelaya respect its ruling, but he was uncooperative. On June 26, the Chief Prosecutor filed a criminal complaint before the Supreme Court, asking that Zelaya be arrested for action against the established form of government, treason against the country, abuse of authority, and usurpation of presidential functions. Two days later, the military arrested Zelaya and evacuated him from the country.[48] Honduran armed forces insisted that the removal of the President was not a coup d'état, pointing to the arrest's legal nature and the fact that the military did not take power after Zelaya left office.[49]

The United Nations, however, felt otherwise. The Secretary-General immediately released a statement "condemn[ing] the arrest [...] of the constitutional President of the Republic."[50] The next day, the President of the UN General Assembly followed by "express[ing] outrage at the coup d'état in Honduras," while the General Assembly unanimously condemned the coup, "demanding the immediate and unconditional restoration of power for the President and the established authority in that country."[51,52] To make their position even more perspicuous, the UN released a statement clarifying its position "condemn[ing] the coup d'état in the Republic of Honduras that [...] interrupted the democratic and constitutional order and the legitimate exercise of power in Honduras."[53] This plainly illustrates that the UN saw the movement in Honduras as a coup and chose to outwardly condemn it. Table 1 summarizes the UN's reaction to the 2009 coup in Honduras, as well as its reaction to the coups in my other case studies.

TABLE 1: SUMMARY OF COUPS AND UN REACTIONS	
Coups d'état	**UN Reaction**
Guinea-Bissau 2012	Clearly Condemn
Egypt 2011	Tacitly Support
Egypt 2013	Tacitly Support
Honduras 2009	Clearly Condemn

B. Hypotheses

Hypothesis 1: Coups in more democratic countries will elicit clearer denunciations by the UN than those in less democratic countries.

In measuring my first hypothesis, I employ Freedom House scores to dictate the level of democracy in a country at the time in which a coup took place. I use the organization's "freedom rating," an average of political rights and civil liberty scores that determines a nation's overall democratic status. Scores between 1.0 and 2.5 reflect a "free" state, scores from 3.0 to 5.0 represent a nation that is "partly free", and countries that receive a score between 5.5 to 7.0 are deemed "not free."[54] According to my hypothesis, coups in countries with lower Freedom House scores, those that are more democratic, are more likely to be clearly condemned, while coups in countries with higher Freedom House scores, those that are less democratic, are more likely to be tacitly supported.

Table 2: Summary of Coups, UN Reactions, and Freedom House Scores			
Coups d'état	**UN Reaction**	**Freedom House Score at time of the coup**	
Guinea-Bissau 2012	Clearly Condemn	4.0	Partly Free
Egypt 2011	Tacitly Support	5.5	Not Free
Egypt 2013	Tacitly Support	5.0	Partly Free
Honduras 2009	Clearly Condemn	4.0	Partly Free

My case studies support this hypothesis. As shown in Table 2, the countries that are freer at the time of their coups (Guinea-Bissau in 2012 and Honduras in 2009) are clearly condemned, whereas the less free countries (Egypt in 2011 and 2013) are tacitly supported. Freedom ratings for each country are typically constant from year to year, only increasing or decreasing when there is a significant change in trends of political rights and civil liberties.[55] Although appearing minute, the 1.0 to 1.5 point difference between the scores of Guinea-Bissau and Honduras over those of Egypt are noteworthy in that they represent a significant difference in these trends in each country.

Hypothesis 2: Coup governments that do not propose a reasonable timetable for free and fair elections after coming to power will elicit clearer denunciations by the UN than those that make that proposal.

To address my second hypothesis, I examine the presence of a timetable for free and fair elections by the new government after the coup is over. I analyze statements made by both the UN and coup governments for references to such a schedule,

as well as examine news outlets for further details on these statements. If my hypothesis is supported, coup governments that fail to propose a reasonable timetable for free and fair elections should receive clear condemnations by the UN, while those that do make that proposal may be tacitly supported.

After the 2012 coup in Guinea-Bissau, the Military Command responsible for the uprising took control of the government. Attempting to adhere to their initial statements that they had no ambition for power, the Command quickly worked to relinquish this control to the appointed, civilian-led National Transitional Council (NTC); however, there was no word of elections. A Radio France Internationale correspondent reported that "the coup leaders had not clarified election plans."[56] Additionally, a military spokesman confirmed that the NTC would run Guinea-Bissau for two years after which a new president and parliament would be elected.[57] The Command lacked a tangible date and timetable for elections. Months after the coup, the UN Security council still called for the new leaders of Guinea-Bissau to "establish a clear timetable for the organization of free, fair and transparent presidential and legislative elections, in line with national legislation and international standards."[58]

In contrast to the situation in Guinea-Bissau, the military government in power after the 2011 coup in Egypt furnished a reasonable timetable. Issuing five press releases to clarify the manner in which the coup occurred and their plans for the nation in its aftermath, the military worked transparently to restore democratic order. They created a Constitutional Amendment Committee, tasking them with amending the existing constitution within ten days to restructure the presidency and the electoral process in order for elections to occur.[59] Elections would be planned after the people confirmed their support for the amendments through a referendum to be held within the following two months.[60] In the meantime, the Supreme Council of the Armed Forces stated that they would oversee "the country's affairs for six months or until parliamentary and presidential elections [were] held."[61] All of the Council's plans resulted in a reasonable timetable where "generals would remain in control for just six months, within which time new elections would be held."[62]

After Egypt's most recent coup in 2013, the coup government again released a reasonable timetable for elections. Interim President Adly Mansour introduced a constitutional declaration less than a week after the coup, dedicating an entire article (i.e. Article 30) of the declaration to the "electoral timetable." Under the declaration, "the country will have five months to amend the current draft constitution, suspended following Mohamed Morsi's removal last week, ratify it in a referendum, and then hold parliamentary elections."[63] Article 30 placed a time stamp on executive elections, requiring that "no later than one week after the first session of the Council of Representatives, the call for presidential elections shall be made."[64]

Contrastingly, Honduras did not make any new efforts to hold elections after their 2009 coup. Instead, the new government stated that they would continue to support the presidential elections that were already scheduled for November 29, 2009. In his first chance to directly address members of the Organization of American States

since the coup, Interim President Roberto Micheletti explained, "there will be elections on November 29 unless we are invaded, that is the only way to stop them. Not because of a personal whim, but because they were already scheduled."[65] The UN neither supported nor condemned this decision, but expressed that it "would recognize no Government other than that of President Zelaya" and "demand[ed] the immediate and unconditional restoration of power for the President and the established authority in that country."[66] The UN would not accept any elections proposed by the interim government because it saw them as illegitimate. Honduran Foreign Minister Patricia Isabel Rodas explained this view in a UN-sponsored press conference, claiming that allowing these elections to occur under the authority of a coup government would legitimize "succession by force." She reasoned, "elections are a right, not the way to resolve coups, not the way to resolve illegitimate situations."[67] The President of the UN General Assembly supported a similar argument in a press conference weeks after the coup. Asked about the possibility of early elections to restore constitutional order, the President claimed that "such talk was only for those who knew nothing about constitutionality." He argued that "President Zelaya had been constitutionally elected to a term of office, which he must be allowed to fulfill, [and, thus the international community] should not be talking about early elections but about 'early incarceration' of those that had led the coup.'"[68] The UN did not see any election timetable as legitimate because it did not respect the authority of the coup government.

TABLE 3: SUMMARY OF COUPS, UN REACTIONS, AND REASONABLE TIMETABLES		
Coups d'état	UN Reaction	Reasonable Timetable Proposed?
Guinea-Bissau 2012	Clearly Condemn	No
Egypt 2011	Tacitly Support	Yes
Egypt 2013	Tacitly Support	Yes
Honduras 2009	Clearly Condemn	No, but the UN would not have accepted a timetable for new elections without the reinstatement of ousted President Zelaya

The status of reasonable timetables for elections in the context of each case study is summarized in Table 3. If my hypothesis is supported, coup governments that fail to propose a reasonable timetable for free and fair elections should be clearly condemned by the UN, while those that do make that proposal may be tacitly supported. Three of my case studies suggest the validity of this hypothesis. After both coups in Egypt, the interim military government released a reasonable timetable for democratic elections. They worked in conjunction with the people to reach elections, receiving no condemnation from the UN for their actions. The interim government of Guinea-Bissau in 2012 did not attempt to lay out a specific timetable or plan to hold presidential elections, and instead gave the appointed civilian leaders of the NTC

power to govern the country for two years. Lacking a reasonable timetable, the coup met condemnation.

The Honduran case study is more difficult to decipher. The government that came to power after the 2009 coup d'état did not lay out a timetable for elections; however, the presence or lack of such a timetable was irrelevant. The UN would not see any election timetable as legitimate because it did not respect the authority of the coup government. It called for the reinstatement of ousted President Zelaya so that he could finish the term for which he was constitutionally elected.

Complicating my analysis, the condemnation of any timetable clearly illustrates the inconsistencies of the UN in its behavior toward military coups. Egypt ousted a democratically elected leader in its 2013 coup, but the UN did not call on the government to reinstate President Morsi before elections could be legitimized. This directly contrasts with the situation in Honduras in which President Zelaya's return was imperative in legitimizing the coup government and their planned elections. The presence of such inconsistencies illustrates the need for a larger data sample. Without the time or resources to investigate such a sample, the evidence from my case studies suggests that my hypothesis is supported. Coup governments that failed to propose a reasonable timetable for free and fair elections (Guinea Bissau in 2012) were clearly condemned by the UN, while those that did make that proposal (Egypt in 2011 and 2013) were tacitly supported.

Hypothesis 3: Coups in countries in which the military does not play a large, positive role in the public sector will elicit clearer denunciations by the UN than in countries where it does have that role.

In exploring the validity of my third hypothesis, I examine the military's involvement in each country before their coups d'état through constitutional provisions and participation in the public sphere. If the armed forces are significantly and positively involved with the nation's public sector (i.e. it is heavily involved with an aspect of the public sector and makes a favorable impact through that involvement), a coup in the country is more likely to be tacitly supported by UN. If the military is not heavily involved in a positive manner, the coup is more likely to be clearly condemned.

Before the 2012 coup in Guinea-Bissau, the military regularly intervened in politics. This intervention, however, was seldom in support of civilian institutions. Instead, a president has never served a full term since Guinea-Bissau's independence in 1974 due to frequent coups led by the country's armed forces. With eight coups in the last thirty-three years, the military often exercises its political power to oust regimes that attempt to undermine it. Guinea-Bissau's constitution does not support this role. Alternatively, the document adopted in 1984 clearly states, "none of [the country's armed] forces or active parts may exercise any kind of political activity."[69] Nevertheless, "the armed forces rose to prominence in Guinea-Bissau's war of independence from Portugal in 1974 and have remained its most powerful institution."[70]

Military leaders that meddle unconstitutionally with politics and manage to take the presidency are difficult to depose. Vincent Foucher, a West Africa analyst with the International Crisis Group, explains, "since the 1990s, all the army chiefs have been killed or removed in a coup; there's no history of a chief retiring."[71] This, in addition to the inability of elected officials to finish their terms and the unconstitutionality of the military's political interventions, suggests that the role of the armed forces in Guinea-Bissau is a negative one. Acting to protect their own power and sovereignty in the 2012 coup, the armed forces appeared to care little for civilian well-being. They have no significant role in the social or economic realms of the country, and are thus characterized by the negative part they play in Guinea-Bissau's politics.

  The military in Egypt, however, performs an extremely different role. "A positive and effective institution in Egypt's domestic society, the armed forces carry a heavy influence in the economy and serve as a transitionary force in politics."[72] From the 1952 overthrow of the monarchy through the mid-1970s, "the Egyptian military was the strongest institution with the Egyptian polity."[73] In the past thirty years, the armed forces have taken on a much more economically-focused role, only retaking political power to facilitate transitions to democratic rule after the 2011 and 2013 coups d'état. "Equipped with valuable and vast real estate and a conscript, low-paid workforce," a *National Geographic* story reports, "the military began to insinuate itself into civil society through business, its holdings ranging from bread factories to chemical plants to hotels."[74] President Hosni Mubarak's economic liberalization policies in the 1990s encouraged the military to become an "enterprise." Now, the military's economic activities make up 15 to 20% of Egypt's GDP, bringing jobs and income to positively impact the country's civilian sector.[75] "The majority of Egyptian people today see the army as a patriotic institution that can be trusted to act in the interests of the nation," remarks Joel Beinin, a professor of Middle East History at Stanford University.[76] Integrated into the country's political, economic, and social realms, the military plays a favorable role in Egypt and "should remain a reliable positive agent of influence, modernization, and stability in the coming years."[77]

  Heavily involved in Honduras' government since the early 1960s, the country's military sports a lengthy history of political domination and disregard for civilian authority. In the midst of the 1980s Cold War environment, "the armed forces often behaved as if civilian allies were superfluous," abusing human rights and engaging in illegal activity because they "knew they could do so with complete impunity."[78] As "fear of the military, the source of its power over civil society, gradually began to dissipate," the end of the Cold War brought a civilian reexamination of the armed forces' largely oppressive political role.[79] The majority of the private sector terminated their alliances with Honduran forces, no longer feeling that a relationship in favor of the military was compulsory for protection. Meanwhile, the government reclaimed military-led businesses like the Honduran Telecommunications Enterprise. The 1990s and early 2000s saw a gradual shift in civilian control over the armed forces, as the once politically dominant institution receded from the civil sphere. This is evident

in Honduras' constitution, adopted in 1982 after the Cold War; it emphasizes the armed forces' role as an "apolitical, obedient, and non-deliberative" institution and significantly reduces the military's power to control public affairs.[80] Until 2009, the Honduran armed forces resisted interfering directly in the public realm. While the military did not play a significant, negative role in the years immediately before the coup, civilians and governmental organizations were wary of the institution's capabilities considering the adverse part they played in the country during the Cold War.

The military's role in each case study's country is summarized in Table 4. If my hypothesis is supported, coups in countries in which the armed forces are significantly and positively involved in the public realm should be tacitly supported, while coups in countries in which the military is not heavily involved in a positive manner are likely to be clearly condemned.

Table 4: Summary of Coups, UN Reactions, and Military Roles		
Coups d'état	UN Reaction	Military Role
Guinea-Bissau 2012	Clearly Condemn	Significant, negative political role
Egypt 2011	Tacitly Support	Significant, positive economic and political role
Egypt 2013	Tacitly Support	
Honduras 2009	Clearly Condemn	Previous significant, negative political role

My findings reinforce this hypothesis. The Egyptian military is both heavily and positively involved in its country's politics and economy. Its intervention into government may have been seen as less surprising and more acceptable, thus receiving tacit support from the UN after coups in 2011 and 2013. In contrast, the armed forces in Guinea-Bissau behave in a negative manner, blatantly disregarding their nation's constitutional provisions for an apolitical military. No democratically elected president has ever served his full term because of the military's self-serving coups. The UN already understood Guinea-Bissau's military as a negative force, possibly leading them to immediately condemn their actions against the government. Similarly, the armed forces in Honduras played an extremely negative role in their country's history, one that is not soon to be forgotten. In a statement released by the UN General Assembly immediately after the coup, GA President Miguel d'Escoto Brockmann proclaimed, "'this is a throwback to another era that we hoped was now a distant nightmare,' […] stressing that Central America's record as the world's most coup-filled region had no place in the twenty-first century."[81] In this clear reference to the oppressive role of Honduras' military before the end of the Cold War, President d'Escoto condemned the 2009 coup with the military's past plainly on his mind. My analysis of the 2009 coup in Honduras, in addition to my other case studies, provides

support for my last hypothesis.

VI. CONCLUSION

My research attempts to bring order to the inconsistencies of the United Nations' coup policy. The changing international environment sees democracy as a right, and it is evident that the UN agrees with such a depiction; however, it does not have a consistent policy toward military coups, condemning some, while tacitly supporting others despite their inherently undemocratic nature. What factors drive this behavior?

Academic literature focuses on defining coups and thoroughly examines their causes, but it severely lacks an analysis of their aftermath. Few scholars have investigated the behavior of international organizations when dealing with coups, and even fewer have ventured to extend that analysis to the United Nations. With four case studies, I undertake such an effort. I offer three hypotheses in an attempt to explain the factors that affect the UN's acceptance or condemnation of military coups. In doing so, I lay the preliminary groundwork for future, more empirically based studies on this subject.

After analyzing the 2012 coup in Guinea-Bissau, the 2011 and 2013 coups in Egypt, and the 2009 coup in Honduras, I find support for my hypotheses. Evidence from these case studies suggests that coups in more democratic countries will elicit clearer denunciations by the UN than those that are in less democratic countries. Additionally, coup governments that do not propose a reasonable timetable for free and fair elections after coming to power are more likely to evoke clearer condemnations by the UN than those that make that proposal. My case studies also suggest that coups in countries in which the military does not play a large, positive role in the public realm will generate clearer denunciations by the UN than in countries where it does have that role.

Based on four case studies, these findings are not generalizable. A larger sample is necessary to fully understand the factors that drive the UN's behavior toward military coups. Several other independent variables may also affect the UN's support or condemnation of coups, including, but not limited to: strategic interests, levels of conflict in the region, and the country's preexisting social and economic conditions. Future research should seek to address these areas, in addition to testing my hypotheses with a data from a larger sample.

Although my analysis is certainly not representative of all coups, it suggests that a predictable force is behind the UN's behavior toward these events. Coups d'état are not going to disappear, and the UN will certainly need to react to future cases of military intervention. My research is the first attempt to clarify the organization's relatively opaque attitude toward coups and illuminate the place of the military coup in an international environment that favors democracies.

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The Bosnian War Crimes Chamber: A Successfully Domestic Hybrid Tribunal

Matteo Godi

The Bosnian War Crimes Chamber (BWCC), a locally owned tribunal, holds promise to facilitate reconciliation in Bosnia-Herzegovina (BiH) through the individualization of guilt. The establishment of the BWCC in January 2005 marked a significant step toward establishing rule of law principles in BiH. While Bosnian courts were trying cases immediately after the Dayton Agreement had been signed, international and national concerns arose over the trials' fairness and effectiveness. The BWCC, an offspring of the International Criminal Court for the former Yugoslavia (ICTY), was aimed at addressing these concerns, but has not been free from criticisms. This paper will challenge two of the main critiques advanced against the BWCC—namely, that of being Serb-biased and that of being counterproductive to reconciliation. While the Chamber's poor outreach efforts have thus far proven counterproductive in making this process effective, targeting individual wrongdoers rather than ethnic groups can potentially avoid the dangerous generalization of guilt that inexorably fuels ethnic division, which was the cause of the Bosnian war in the first place.

Introduction

Ten years after the signing of the Dayton Agreement, following international criminal trials by the International Criminal Court for the former Yugoslavia (ICTY) and ineffective domestic prosecutions, the Bosnian War Crimes Chamber (BWCC) was created by a joint effort of the Office of the High Representative (OHR) of Bosnia-Herzegovina (BiH) and the ICTY. The BWCC, a hybrid court, was meant to address some of the problems of the domestic judiciary in prosecuting war crimes— among them, its partiality and inability to protect itself from political influence. At the end of 2012, the Chamber reached its goal of becoming a fully domestic court, employing *de facto* only nationals.

This essay is divided into three macro-sections. The first main section, composed of Parts 1 and 2, will lay down the foundation for my further analytical discussion. In order to better understand the political players and the roots of the conflict in BiH, a summary of the 1992-1995 Bosnian War is first provided. I will then outline the peace proposals—focusing on the Dayton Agreement—and the role played by the international community in this process. The remaining two macro-sections will focus on the BWCC. In the first (Parts 3 and 3a), a descriptive account of the Chamber, its jurisdiction, and its relations with the ICTY will be presented. In the third and final main section (Parts 4, 4a-c, and 5), I challenge two of the main critiques advanced against the BWCC—namely, of being Serb-biased and counterproductive

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to reconciliation. While the Chamber's poor outreach efforts have thus far proven counterproductive in making this process effective, targeting individual wrongdoers rather than ethnic groups can potentially avoid the dangerous *generalization* of guilt that inexorably fuels ethnic division, which was the cause of the Bosnian war in the first place. I will argue that the BWCC, a locally owned tribunal, holds promise to facilitate reconciliation in BiH through the *individualization of guilt*.

1. THE WAR IN THE TWO-PART STATE KNOWN AS BOSNIA-HERZEGOVINA

In the 1990s, BiH was severely ethnically fragmented. According to the 1991 census, 92.06% of a total population of 4,364,574 was composed of three major and historically divided groups: 43.47% were Muslims by nationality (also known as Bosniaks),[1] 31.21% were Serbs, and 17.38% were Croats.[2] Religious identification in BiH closely reflected national affiliation. Usually, allowing for the necessary exceptions, Bosniaks were Sunni Muslims, Serbs were Orthodox, and Croats were Catholics. Since Bosnia was under the rule of the Ottoman Empire until 1878, when it was conquered by the Hapsburgs of Austria, the 1992 official recognition by the EC and the UN marked the first time BiH was recognized as an independent state since 1463. As Noel Malcolm points out, many reacted to this international recognition of BiH with skepticism: they claimed that "Bosnia could never be a state […] because it contained three different nationalities; history showed that it could exist only as part of a larger whole."[3] However, history merely shows that BiH has been for centuries at the mercy of ambitious neighboring powers.

After the 1990 multi-party elections, due to external pressures by Serbia and Croatia, Bosnia's secular internal fragmentation became apparent, leading to a political and geographical division of the country. Once Yugoslavia started to lose its power following the fall of communism in the rest of Eastern Europe, each Yugoslav republic held multi-party elections one after the other. Citizens of BiH, even if they were unable to identify themselves as "Bosnians," nonetheless used to share the appellative of "Yugoslavs;" the dissolution of the union, however, made it even harder to maintain this sense of national unity in BiH. The Bosnian elections had a high voter turnout,[4] and three nationalist parties emerged as winners.

Each one of them, unsurprisingly, won a proportion of seats in the assembly that closely reflected the three major ethnic groups that they represented (see figure[5] above for the 1990 Parliamentary Election results). While the Party of Democratic Actions (PDA), supported by Muslims, represented the only true supporter of a united BiH, the Serbian Democratic Party (SDP) and the Croatian Democratic Party (CDP) were both drawn—respectively—toward Serbia and Croatia. As Malcolm explains, "a long process of nationalist competition between Serbia and Croatia had […] made Bosnia's internal politics much more intractable than they would otherwise have been, by persuading the Orthodox and Catholic Bosnians that they should think of themselves as Serbs and Croats."[6]

Seats in Parliament per Party, 1990.

Party Name	(1)	(2)	(3)
Party of Democratic Action (SDA	43 (33.00)	43 (39.09)	86 (35.85)
Serb Democratic Party (SDS) + Serbian Movement for Renewal (SPO)	34 (26.15)	38 (34.64)	72+1(30.41)
Croatian Democratic Union (HDZ)	21 (16.15)	23 (20.93)	44 (18.35)
League of Communists-Social Democratic Party (SK-SDP) + Democratic Socialist Alliance (DSS)	11 (8.50)	3 (2.72)	20 (8.32)
Alliance of Reformist Forces of Yugoslavia (SRSJ)	11 (8.50)	1 (0.90)	13 (5.41)
Alliance of Socialist Youth-Democratic Alliance (SSO-DS)	---	---	2 (0.83)
Muslim Bosniak Organization (MBO)	---	2 (1.80)	2 (0.83)
Others	10 (7.50)	----	---
Total	130 (100)	110 (100)	240 (100)

Notes: (1) House of Citizens (%). (2) House of Municipalities (%).
(3) Total Number of Seats (%)

The conflict was sparked and fueled by external influences, as the secret Karadjordjevo agreement of March 25, 1991 between Presidents Milosevic of Serbia and Tudjman of Croatia clearly testifies.[7] The pressures coming from outside and the hegemonic dreams of, in particular, Milosevic's Serbia primed and fueled Bosnia's already apparent internal fragmentation.

In the spring of 1992, even though it was officially recognized as a sovereign state by the EC on April 6 and the UN on May 22, BiH was more fragmented than ever. Between October 1991 and March 1992, tensions increased exponentially. In October 1991, as President Izetbegovic (PDA) strongly supported a united BiH and rejected any idea of secession, the Bosnian Serbs declared regions of BiH "Serbian autonomous regions," even creating a separate assembly for the newly-born Bosnian Serb nation. A few months later, in March 1992, Bosnian Serbs declared a Serbian Republic of Bosnia-Herzegovina (Republika Srpska) in the southwestern part of the country. Bosnia was *de facto* waging a war.

As a war tactic, "ethnic cleansing" was exported by Serb nationals into Bosnia, and "taught" to the local Bosnian Serbs. It was clear that Serbia, driven by Milosevic's imperialistic and hegemonic dreams, had a vested interest in the outcome of the newly sparked conflict in BiH. For this reason, Serbs started to travel to BiH and "liberate" areas and cities close to the Bosnian-Serbian border. In what became an attempt to both terrify the Muslim population at large and radicalize the local Bosnian Serb youth, the Serbs first cut water and electricity supplies, harassing the Muslims in the hope that they would voluntarily leave. Those who did not flee, were tortured, raped, and eventually murdered; their bodies were left lying in the streets.[8] As Mal-

colm points out, "a good number of random killings in cold blood would suffice" in order to achieve the Serb goals.[9] In fact, the refugees and the many murdered "were not the tragic by-product of a civil war; their expulsion [and death] was the whole point of the war."[10] In spite of the UN sanctions imposed in 1992, reports of concentration camps and crimes against humanity—in particular by Serbs, against Muslims and Croats—became the subject of both national and international newspapers. Fifty years after the end of WWII, Europe was once again lacerated by a new genocide, and the international community was paralyzed to the point of almost complete inaction by the cruelty of this conflict.

While all of the fingers were pointed at Milosevic, the international community failed to understand the Bosnian conflict as a political rather than merely a military problem. On April 27, 1992 Milosevic declared the creation of the Federal Republic of Yugoslavia, consisting of Serbia and Montenegro. By formally withdrawing Serbian and Montenegrin soldiers from Bosnia and handing the command of the Bosnian Serbs soldiers to General Ratko Mladic, Milosevic successfully framed the conflict as just another civil war. And the international community did indeed start to address the conflict as a civil war: a military problem, rather than a larger, Balkan political power game.[11] In fact, as Silber and Little write, Western politicians "looked only at the symptoms of the war, not at its causes."[12] They failed to understand the nature of Milosevic's project, and therefore did not militarily intervene but merely tried to reduce the conflict's violence.

2. TOWARD A SOLUTION TO THE CONFLICT: DAYTON AND THE BOSNIAN INTERNATIONAL PROTECTORATE

Without denying their importance and the necessity to remember these facts, more details of the Bosnian war will not be provided. The discussion so far conducted will suffice for the forthcoming analysis of BiH's attempts of reconciliation through the BWCC.[13] Before moving on to the analysis, after providing a brief description of the first three peace drafts by the EU/EC and the UN, I will outline the basic structure of the Dayton Agreement—the peace plan that shaped, and continues to shape, BiH.

Secretary of NATO, Lord Peter Carrington, and the Portuguese ambassador José Cutileiro crafted the first peace proposal, eventually rejected by the PDA. The Carrington-Cutileiro peace plan (March 1992) proposed a division of BiH, suggesting that "the territory of the constituent (units) would be defined, on the basis of the [1991] census […], in such a way that communes where one particular nation is clearly in a majority [or in a plurality] are grouped together into the appropriate constituent (unit)."[14,15] The Republika Srpska rejected this proposal and put forward a map which made it clear that the Bosnian Serbs simply wanted nearly two-thirds of BiH territory.[16,17] This plan was scorned by Cutileiro, who counter-proposed the creation of three constituent units, "based on national principles…taking into account economic, geographic, and other criteria."[18] While initially all three factions (PDA, SDP and
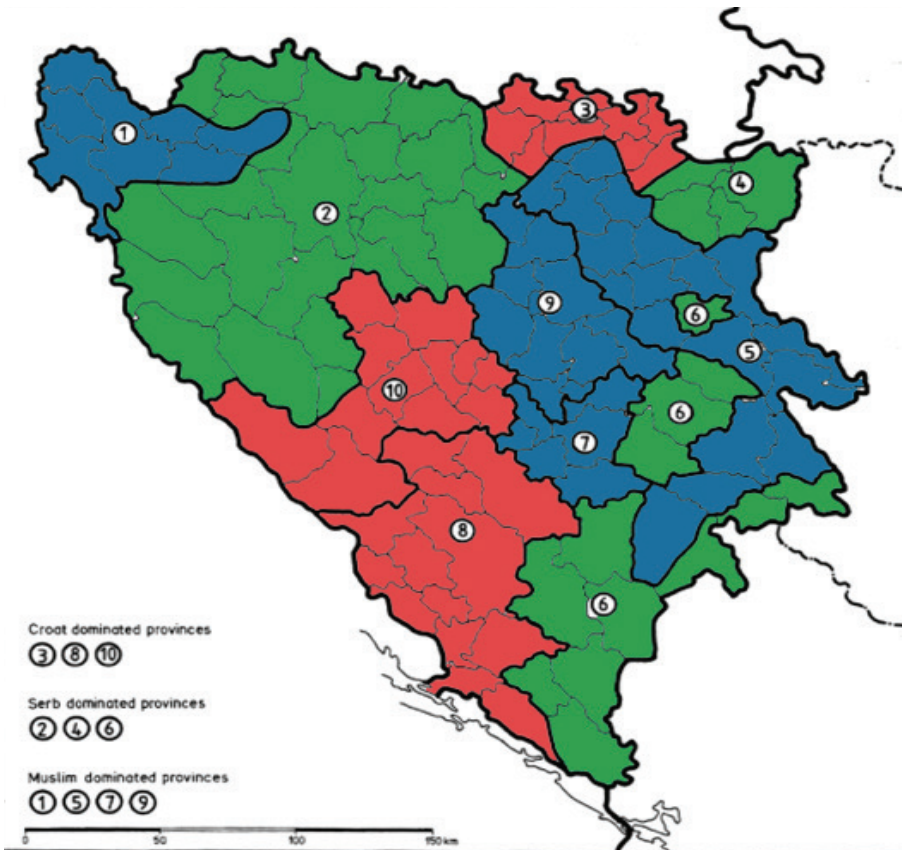
CDP) signed the draft, ten days later President Izetbegovic withdrew his signature, and declared once again his opposition to any division of BiH.

Neither the second peace agreement, drafted by Cyrus Vance (UN) and Lord David Owen (EU), nor the third, proposed by Thorvald Stoltenberg (UN) and Owen (EU), had any success. The so-called Vance-Owen peace plan proposed the division of BiH in 10 semi-autonomous provinces—three for each national ethnicity, plus the UN-supervised province of Sarajevo.[19] The plan was however rejected by the Bosnian Serb National Assembly on May 6, 1993. After Vance's resignation, Stoltenberg replaced him, and along with Owen, drafted a new accord. The new plan, based on a June 1993 Geneva proposal by Presidents Tudjman and Milosevic, outlined a reconfiguration of Bosnia into three ethnic-based units.[20] Even though Serbia and Croatia supported the peace plan, "Bosnia's Izetbegovic, still hoping to maintain a united multinational state (one which the UN [and the EC], after all, had recognized [in 1992]), boycotted the plan talks."[21] Moreover, in 1993, the military expansion of the Croat state Herzeg-Bosnia, which was created in July 1992 and initially allied with the Muslims, further impaired the peace negotiations. In 1994, peace looked like an unreachable dream, with all parties still engaging in mass atrocities and ethnic cleansing.

The creation of the Federation of BiH and the divorce between Serbia and Bosnian Serbs eased the 1995 talks. On March 18, 1994, the Croatian Republic of Herzeg-Bosnia and the Republic of BiH signed, first, a ceasefire agreement, and subsequently, the Washington Framework Agreement, which laid the foundation for a creation of a loose federation between the Bosnian Croat and the Muslim Republic, the Federation of BiH.[22] Moreover, Serbia was offered and accepted the easing of the UN sanctions in exchange for a Serbian embargo against the Republika Srpska.[23] Now alone and surrounded by the Federation of BiH, the Bosnian Serb state ramped up repression by escalating its ethnic cleansing tactics, guided by Radovan Karadzic, President of the Republika Srpska, and Ratko Madlic, Commander of the Main Staff of the Army. As the necessity of a peace agreement became even more pressing, the parties finally entered peace talks on September 8, 1995.

Carrington-Cutileiro Peace Plan

Croat dominated provinces
③ ⑧ ⑩

Serb dominated provinces
② ④ ⑥

Muslim dominated provinces
① ⑤ ⑦ ⑨

Division Proposed by Republika Srpska
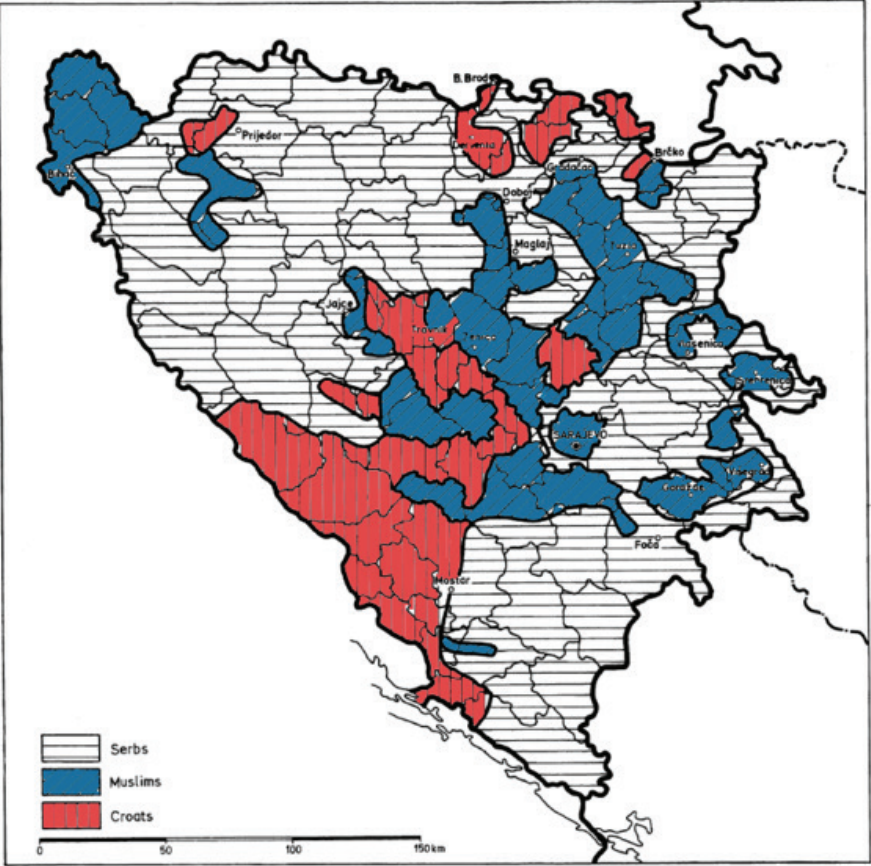
Vance-Owen Peace Plan

Stoltenberg-Owen Peace Plan

On November 21, 1995, a peace accord was finally reached in Dayton, Ohio, which laid down the basis for the transition process and the reconstruction of BiH. The two fundamental premises on which the Dayton Agreement was founded were that BiH would keep existing as a legal entity within its current borders and that it would be divided into two units, the Muslim-Croat confederation established in 1994 and the Republika Srpska created in 1992.[24] Moreover, the Office of the High Representative (OHR)—an ad hoc international institution which was granted special powers in 1997 and is responsible for overseeing the implement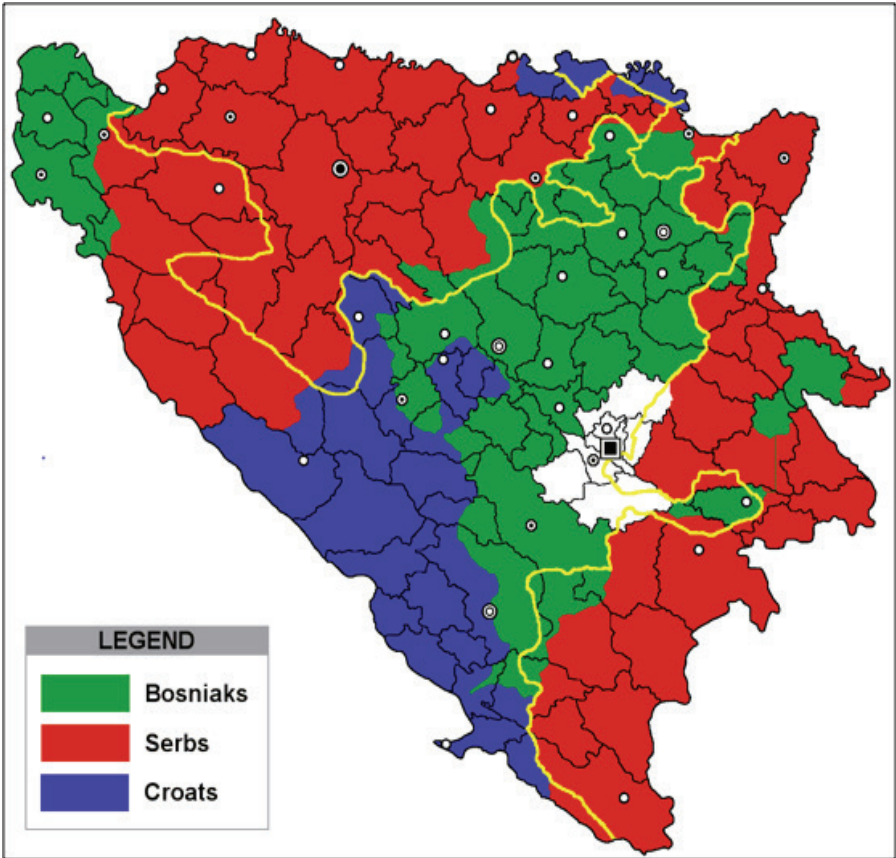ation of civilian aspects of the Agreement—was created, making BiH a de facto international protectorate.[25] Since then, the High Representative has been working with the people and institutions of BiH and the international community to ensure that the nation becomes a "peaceful and viable democracy on course for integration in Euro-Atlantic institutions."[26] However, as Rogel points out, "the Muslims were unhappy that Bosnia was divided; the Serbs were extremely upset with the loss of certain territories, in particular Sarajevo."[27] Nevertheless, Izetbegovic, Milosevic and Tudjman were all contented with this imperfect peace.

After 18 years, due to the political situation and the lack of necessary reforms, the OHR continues to use its executive powers to facilitate reform and governance, which will not be diminished until BiH has accomplished some economic and political objectives.[28,29] The international community has reiterated its full support for an independent, efficient, and impartial judicial system throughout BiH[30] and "welcomed the EU-BiH Structured Dialogue on the Judiciary as an essential tool to strengthen the rule of law," while nonetheless urging parties to fully cooperate with the process to improve the functioning of the judiciary.[31]

3. THE BOSNIAN WAR CRIMES CHAMBER: A CHILD OF OHR AND ICTY

The establishment of the Bosnian War Crimes Chamber (BWCC) marked a significant step toward establishing rule of law principles in BiH. While Bosnian courts were trying cases immediately after the Dayton Agreement had been signed, international and national concerns arose over the trials' fairness and effectiveness. Post-conflict prosecutions at the local level were not only impaired by "loss of skilled members of the legal profession and the judiciary, as well as the physical destruction and lack of proper equipment or facilities," but were also subject to a number of "well-founded allegations of arbitrary arrests and unfair trials" due to the politically and ethnically driven appointment of prosecutors and judges.[32] "The situation was compounded by complexities in the legal framework and inappropriate procedural laws," as Singh wrote,[33] and was further affected by "bias of judges and prosecutors, poor case preparation by prosecutors, and ineffective witness protection mechanisms."[34] Since this judicial approach appeared to be ultimately deficient, it was unable to have any impact on the national and international public, who had no faith in the BiH's capacity to prosecute war crimes. In addressing this issue, the ICTY's Rules of

the Road, established under the Rome Agreement of February 18, 1996, introduced international oversight over prosecutions in BiH.[35] But the ICTY mandate was soon to expire. And for this reason, in January 2005, the Bosnian War Crimes Chamber (BWCC), a hybrid tribunal, was embraced as a possible solution.[36]

The Chamber was the response to both an international and a domestic necessity. Part of the agreement was that the BWCC would first work as a hybrid institution but over the course of five years would become a fully domestic court.[37] In fact, the creation of the BWCC was first and foremost a way to reconstruct BiH's judicial system, giving it the power to try war crimes in accordance with international standards. As a consequence, however, a problem of legal pluralism arose in the Balkans. War crimes committed in BiH between 1992 and 1995 may be tried in three different venues, before 20 courts.[38] Moreover, the BWCC was also a product of an international necessity—namely, the ICTY's need to comply with deadlines endorsed by the UNSC for the completion of its mandate, extended at the time of the creation of the BWCC until March 16, 2009.[39]

a. The BWCC's Jurisdiction: Referrals by the ICTY, BiH Laws and BWCC Structure

The BWCC's jurisdiction is based on both ICTY's referrals and BiH's laws. Amending its Rules of Procedure and Evidence Rule, the ICTY gave its judges the power to refer cases to another jurisdiction, after having "consider[ed] the gravity of the crimes charged and the level of responsibility of the accused."[40] As Ivanisevic reports, the ICTY applies seriousness and seniority criteria, and transfers only "lower- and intermediate-rank accused" to other jurisdictions.[41] In the case of referrals, the indictment must be confirmed by the ICTY. Upon referral, in order to proceed, "the BiH Prosecutor shall adapt the ICTY indictment in order to make it compliant with the BiH Criminal Procedure Code (CPC), following which the indictment shall be forwarded to the Court of BiH" for a final approval.[42] Furthermore, if the BiH Prosecutor adds charges to the indictment, the Court of BiH has to approve the additional charges based on the CPC.[43] Since, under Rule 11*bis*, the ICTY maintains the power to revoke the referral before a verdict has been rendered—due to concerns regarding the conduct of the trial—the BWCC has the incentive to run fair and just trials.[44]

The BWCC operates in accordance with the Law on the Court of BiH, imposed by the OHR on November 12, 2000. The Court "has jurisdiction over criminal offences defined in the Criminal Code of BiH and other laws of BiH," among which genocide, crimes against humanity, war crimes, and *individual* criminal responsibility related to those crimes.[45] War crimes cases can be classified in two groups. The first group includes lawsuits filed after the CPC entered into force on November 21, 2003, which fall directly under the BWCC's jurisdiction. The second group encompasses cases that were presented in front of cantonal and district courts prior to the entry into force of the CPC and in which the indictment has not been legally confirmed. These cases "shall be finalized by these courts unless the [BWCC], *ex officio* or upon the reasoned proposal of the parties or defense attorney, decides to take" such cases

under its jurisdiction.[46] The BWCC is therefore deeply intertwined with the domestic legal system, and yet has been subject to a clear international influence: it has a very unique institutional locus.

In the BWCC, the international presence has been necessary to establish a feeling of independence and impartiality of the judiciary, but over time such a presence has completely faded out. International presence within the Chamber was, from the beginning, intended to be only secondary, for the BWCC was, and is, seen as a Bosnian institution.[47] Such presence was, however, necessary. Since the Bosnian war was fueled by exacerbated ethnic hatred, the international component was pivotal to both establishing rule of law principles and building the public confidence in the judiciary's ability to implement impartial justice, free from political pressures. It was crucial to train domestic judges, who had little or no experience with international legal standards. A total of 26 international judges worked at the Court between 2005 and the end of 2012.[48] In the Chamber, trial panels used to be formed by one national and two international judges, but this ratio was reversed in 2007. Even though the mandate of international prosecutors and judges expired at the end of 2009, the OHR extended it until the end of 2012. In January 2012, as reported by Sandra Orlovic, 9 local judges and 4 international ones worked in the BWCC.[49] Starting from the beginning of 2013, the Chamber became fully Bosnian, replacing its entire international staff with national experts.[50,51] As reported by Ivanisevic, the three main Bosnian ethnic groups are all represented on the Court.[52]

4. AN ANALYSIS OF THE BWCC

The previous sections laid out first, a brief history of the Bosnian conflict—highlighting both BiH internal division, but most importantly the main political players involved in this fragmentation—and second, the road to peace taken by BiH with the help of the international community. While BiH has been a *de facto* international protectorate since the signing of the Dayton Agreement in 1995, the international community has been trying to sponsor the reconstruction of Bosnian national institutions as an attempt to help BiH meet the standards required for admission into the EU. In 2003, as part of this larger project, the UN and the OHR created the BWCC within the body of the Court of BiH. The BWCC, while originally a hybrid court in which both domestic and international judges worked hand-in-hand, witnessed throughout the years a decrease in the international presence, becoming fully domestic in 2013.

The next section, departing from the previous background discussion, will analyze the transitional justice efforts seen in Bosnia, particularly focusing on the BWCC. I will present a critique of the Chamber as a counterproductive transitional justice mechanism. I will question this view by claiming that the Chamber's *individualization of guilt* and its evolution from a hybrid tribunal to a domestic court hold promise to facilitate reconciliation. The objection of a Serb-bias will also be challenged, pointing at the Chamber's outreach program as a possible way to cure this

misconception.

A. COUNTERPRODUCTIVE CRIMINAL PROSECUTIONS AND INDIVIDUALIZED GUILT

Many critics oppose criminal prosecutions, arguing that they have actually been counterproductive for both reconciliation and peace talks. As D'Amato argued in an article written right before the Dayton Agreement—eloquently titled "Peace v. Accountability in Bosnia"—"securing peace in Bosnia may seem to the UN officials to be preferable to achieving individual accountability for war crimes," implying not only that peace might be more important than justice, but also that the two are ultimately incompatible.[53] Prosecuting war criminals in BiH might have the result of exacerbating the already problematic internal fragmentation of the country. Moreover, while it has been argued in favor of an international duty to punish—which would justify the international community's desire to establish the BWCC—such an obligation does not appear plausible and has been discarded by others. Diane Orentlicher claims that international laws and treaties "impose a general duty to investigate allegations of torture, extra-legal killings, and forced disappearances, and […] to prosecute those that are responsible."[54] However, such a state of affairs appears undesirable, at the least. In fact, as Carlos Nino argues in response to Orentlicher, while punishment might be desirable for most gross human rights violations, there might be cases in which we may want to pursue *peace* instead of *justice*. "The inclusion in international law of the duty to prosecute past crimes could itself cause some further negative consequences that must be taken into account" on a case-by-case basis.[55] For these reasons, it is objected that BWCC criminal prosecutions may ultimately be politically unjustified, by endangering the reconciliation, and therefore stability, of modern BiH: peace should be prioritized over accountability.

This critique of criminal trials, and therefore of BWCC, as an ineffective transitional justice mechanism relies on the flawed assumption of an irreconcilable dichotomy between peace and accountability. While recognizing their inevitable incompatibility at least to some extent, in specific circumstances, peace and accountability can also be considered intertwined, for it would be paradoxical to argue that peace is *completely* impossible in the presence of justice. Rather, as Yaacov Bar-Siman-Tov argues, "considerations of justice cannot be excluded from a successful peace process."[56] And in the case of BiH, justice can actually assist the peacemaking process. As the first section of this essay outlines, BiH's historical ethnic fragmentation was not the direct cause of war. Rather, causality can be traced back to the whims and desires of authoritarian leaders, who primed ethnic hatred with empty demagoguery. As Akhavan claims, "there is a grudging but emerging widespread acceptance…that regional peace and stability, democratization, and multiethnic coexistence in Bosnia-Herzegovina are at best precarious without the arrest and prosecution of indicted persons."[57] Reconciliation can be supported by deactivating the perception of a group's collective wrongdoings, which triggered the conflict in the 1990s. Rec-

onciliation may be facilitated by a symbolic and rhetorical *denial*, the denial that ethnic divisions intrinsic to BiH were the direct causes of the war. It is the denial of *general* guilt. By holding individual perpetrators accountable, through particular prosecutions, the BWCC holds promise to prevent and deny the possibility of any generalized collective guilt that could be broadly attributed to any ethnic group at large, therefore facilitating ethnic and social reconciliation.[58] The BWCC should be, and is, striving for an *individualization of guilt*.

Many, at this stage, may object: why not amnesty instead of prosecution? Blanket amnesties would not represent a viable alternative to war crimes prosecutions as part of the reconciliation process in BiH, because they would *unjustly* fail to attribute individual guilt. It can be argued that blanket amnesties completely remove the question of guilt from the political landscape, according to the "forgive and forget" principle. But unless a blanket amnesty was given to the whole nation at large, meaning Croats, Serbs, and Bosniaks, guilt would not be removed. No punishment at all, however, would ultimately be unjust according to any standard of justice, and would endanger both social trust and the Court's legitimacy, which I will argue are pivotal for reconciliation.[59] As a response to this critique, one may want to restrict the spectrum of the amnesty and give it to any specific group to which a large number of perpetrators belong, let this group be an ethnic group or a national army. This, however, would implicitly depict that group's members as *guilty*. This collective criminal guilt would simply be unjust, and would impair reconciliation. In fact, as claimed by the International Military Tribunal in Nuremberg, one of the most fundamental principles of criminal prosecutions is "that criminal guilt is personal."[60] Therefore, criminal prosecutions are preferable over amnesties, as they avoid focalizing the nation's hatred against one "guilty" ethnic group.[61]

Moreover, it is methodologically mistaken to assume that amnesties could somehow eliminate questions of responsibility from public discourse, and therefore be a viable alternative to war crimes prosecution. Such questions of responsibility have a social life of their own: a top-down decision to forgive and forget, namely an amnesty, cannot make people *actually* forgive and forget. Emotions like forgiveness cannot be over-imposed, but must arise from within. For this reason, in post-conflict societies, retributive emotions must be taken as granted, and transitional justice mechanisms can only attempt to channel and manage them. The BWCC's individualization of guilt, with due process guarantees, may actually be an effective way of transforming ethnic-based, collective, and wild retributive emotions into more tractable and reasonable judgments of guilt.

While ethnic bias can be seen as a promoter of generalized guilt, the opposite prosecutorial strategy—one based on selecting representative perpetrators from all groups—may have the same effect. Reconciliation through criminal trials is indissolubly connected to the legitimacy and fairness of the basis of the prosecutorial selectivity, which play a pivotal role, along with outreach and local ownership, in establishing the

legitimacy and fairness of the Court itself. In the absence of legitimacy, in the case the Chamber was either perceived as biased or simply selected wrongdoers on the basis of ethnicity and not of blameworthiness, reconciliation would be impossible. Even if aimed at establishing a sense of fairness, the multiethnic composition of the defendants, if artificial, may impair reconciliation. It would counterproductively support critiques of an allegedly manipulative goal lying behind the selection of the cases to prosecute and the legal narratives presented. Trials cannot be *show* trials. As Osiel claims, those prosecuted may be convicted through an exaggeration of their actual blameworthiness, causing an inescapable aura of arbitrariness.[62] Prosecutions can only "individualize public attributions of responsibility in a convincing and defensible fashion if [their] ascriptions of responsibility are consistent with the actual culpability of those it pursues."[63] Reconciliation is possible not only if guilt is individualized, but also if such culpability is grounded on actual responsibility. The illegitimacy resulting from a selection based on factors other than culpability compromises the political objective of reconciliation: it implies that the real blame lies somewhere other than where courts have placed it.[64] The Chamber's and the prosecution's legitimacy are therefore crucial for reconciliation.

b. Serbian and Bosnian Serb Bias

It has been argued that criminal prosecution may actually facilitate ethnic reconciliation by individualizing guilt. However, since its establishment, the BWCC has been attacked both by politicians—who criticize the Court in an attempt to increase public support—and by various Serb associations.[65] Among these detractors, who argue that prosecutions almost exclusively focus on Bosnian Serb perpetrators, the Prime Minister of the Republika Srpska claimed that the BWCC is selective in filing its charges.[66] For this reason, Bosnian Serbs maintain, the Chamber is actually focalizing the nation's resentment on the Serb population. If this were true, the BWCC might actually be impairing peace in BiH.

These claims should be reconsidered in light of the context of the Bosnian war and of its aftermath. That the Chamber initially tried a majority of Serb perpetrators is undeniable, and yet a reasonably predictable and explainable fact. It is a historically sound claim that the Bosniaks represent the majority of the victims, due to widespread tactics of ethnic cleansing by Serbs against Muslims at the dawn of the conflict. And for this reason, as Ivanisevic explains, Bosniak organizations were also particularly active during and after the war in accumulating war crimes evidence.[67] The BWCC, which, it must not be forgotten is in part composed by Bosnian Serbs, does not have any influence on these facts: it merely began its prosecutions by appealing to the available evidence. Since 2006, moreover, in response to new evidence and investigations, the BWCC has started to diversify more the group of perpetrators who are tried. As the Bosnian media have paid less attention than expected to the BWCC, this might explain the ability of political leaders to use bias discourse to their own advantage. Public outreach has been part of the BWCC mission since its creation, and

it can play a crucial role in debunking these diffused misconceptions.

     The statistical data made public by the Public Outreach and Information Section of the Chamber alone does not help clarify the dilemma surrounding ethnic bias, and yet advances the overall goal of the BWCC—namely, to deactivate ethnic hatred and avoid group guilt. Up to April 18, 2013, the BWCC has confirmed to the author the emission of a final and binding verdict in 93 cases, against 126 defendants.[68] According to other data, the average prison sentence among all the defendants for which a verdict was rendered is 9 years and 8 months.[69] However, as the Chamber stated in an e-mail message to the author, "it is not the policy of the Court to catalogue Defendants based on their ethnic or some other background; rather, the Court treats all Defendants equally."[70] While this policy seems to leave open the doors for criticisms of biased judgments toward the Serbs, it however advances the Chamber's overarching goal—namely, to contribute to the process of reconciliation by not merely avoiding, but rather by addressing, counteracting, and actively dissolving both generalized guilt and ethnic narratives. Such narratives would have the potential of dangerously inflaming ethnic hatred. Public outreach has been part of the BWCC mission since its creation, and could be crucial in debunking the diffused accusation of bias.

c. BWCC's Poor Outreach Efforts

     BWCC's outreach program, which could represent a way of fighting the ethnic bias accusations made by Bosnian Serbs, had from its inception very ambitious goals. In fact, "transparency [obtained through outreach efforts] would guard against misperceptions and misinformation that could undermine the Tribunal's work."[71] Outreach was included in the initial BWCC's proposal by the OHR, under the name of Public Information and Outreach Section (PIOS). As stated in the proposal itself,

> Due to fears […] concerning the effectiveness and possibility for such an institution to operate smoothly in BiH post-conflict society, there is a *clear and urgent need* for an effective public outreach program and a press information office. [This Outreach program needs] to prepare the local media to take a lead role in bringing the work of the newly established War Crimes Chamber to wider public attention, and to ensure that key stakeholders in its success, including schools, religious institutions and local government agencies, are as fully engaged as possible (emphasis added).[72]

However, since the outreach program was only implemented in 2006, in March 2005—when the Court was created—there was a fairly limited media coverage, public knowledge, and support for the BWCC.

     Unfortunately, the BWCC does not have a good and comprehensive outreach strategy and its outreach efforts could use substantial improvement. While the Court does issue press releases multiple times a week (and in some instances,

even multiples times a day) in English, as well as in the main BiH languages (Bosnian, Croatian, and Serbian), it does not hold press conferences. Moreover, only relying on these succinct press releases and on the few visitors of the Court is not enough to guarantee that the public will follow the progression of any case. The reason behind this outreach failure should be, at least in part, traced back to the relationship between the judges and the media. Newspaper reporters and Court officials often disagree on whether making some information public or not.[73] The PIOS has made efforts to share information in certain areas, but a systematic strategy is lacking due to the disinterest of the BWCC's judges themselves.[74] Moreover, the mainstream media do not engage with the prosecution process unless there is an opportunity to report a scandal, also in response to a general fatigue of society in relation to war-related themes.[75] Finally, as Ivanisevic claims, "although the Court has adequate cooperation with civil society, it has not done sufficient outreach to help the public understand its work or to encourage potential witnesses to come forward."[76] The weaknesses of the outreach program left the Chamber vulnerable to the misconceptions promoted by politicians.

5. The Importance of Outreach and of Local Ownership of the Court

Outreach is a vital part of any transitional justice mechanism. If the transitional justice mechanism is somehow relevant to a population, then the people are more likely to effectively support reconciliation.[77] The problem of many transitional justice mechanisms is that they often seem remote from the communities in which the crimes they address were perpetrated.[78] Outreach in BiH should have the goal of increasing the participation of the public in the transition and creating a relationship between the Chamber and the population as a way of "selling" the Chamber's legitimacy. Trials have the possibility of affecting reconciliation only if the Court engages in effective outreach. A failure to do so makes it too easy to dismiss the process as exogenously imposed.[79] Only relatively recently in 1999 did international criminal courts realize the importance of outreach.[80] At first, these courts' outreach efforts were concentrated in attempting to increase the tribunal's transparency as a way to inform the public about the transition process and guard against misconceptions. Victor Peskin defines this first goal of outreach, namely transparency, as a model "focused on demystifying the Tribunal's work and making it more comprehensible" to the population.[81] It was only later, especially with the creation of hybrid tribunals like the BWCC, that transitional justice realized the importance of the engagement factor in war crimes trials, of facilitating extensive and frequent interaction with the tribunal.[82] Therefore, outreach by the BWCC should aim at educating and informing society about the transitional justice process, by engaging the people in the transition itself through court hearings and victims' participation.[83] While Lambourne and Peskin understand these two goals outreach models—transparency and engagement—as separate steps, I believe that in hybrid tribunals they are inherently intertwined. It is impossible to have transparency without engagement, and this is why the BWCC's credibility and legitimacy is impaired

by its weak outreach efforts.

While many have criticized transitional justice mechanisms—and therefore including outreach efforts—as an inherently manipulative top-down tactic, this objection cannot be persuasively applied to the case of the BWCC.[84] As Orentlicher argues, "given the extraordinary range of national experiences and cultures, how could anyone imagine there to be a universally relevant formula for transitional justice?"[85] In the particular case of criminal prosecutions, critics address the creation of these mechanisms at the international level as imposing foreign standards and processes. Looking at outreach, its educative and informative goals can be criticized as ultimately top-down manipulations, by attempting to influence and shape people's beliefs. However, BWCC's outreach effort cannot be stigmatized as manipulative, unless we are ready to characterize as such *any* contact between a court and the public media. The Chamber is in fact part of the Court of BiH, and has successfully evolved from a hybrid tribunal to a domestic court. For this reason first, the alleged danger of an international up-down manipulation vanished. And second, the Chamber's press releases and updates on judicial decisions, its efforts in incentivizing visitors to attend the hearings, and its attempts to establish an active participation between the Chamber and laypeople of different ethnic groups cannot be considered manipulative. If we were to do so, we would be forced to agree with the claim that *any* attempt by domestic courts to make their decision-making process as transparent as possible is manipulative. However, my argument against any allegedly manipulative nature of the BWCC should not be misinterpreted as supporting the argument that all *domestic* transitional justice mechanisms are necessarily bottom-up.[86]

Both outreach and local ownership are crucial for a well-developed transitional justice strategy. It is only by showing the impartiality of the proceedings and by facilitating the engagement of different ethnic groups that the Chamber can hope to both make the transition meaningful and contribute to reconciliation. The local ownership of the BWCC can greatly benefit the engagement aspect of outreach, while the PIOS has the role of establishing the Chamber's transparency. As former UN Secretary Kofi Annan claimed that since "both national and international experts have a vital role to play, [we should look to] nationally led strategies of assessment and consultation carried out with the active and meaningful participation of national stakeholders."[87] By making the process close to the BiH people, and by engaging them, the Chamber holds promise to be perceived as legitimate. As Cohen argues, "the promotion of this latter sense of ownership [namely, of connecting the trials and the citizens] is vital if the tribunal is to have an impact on the often stated goals of promoting reconciliation [and] developing a culture of accountability."[88] However, it must be recognized that legitimacy—or better, society's perception of it—might not only come from prosecutions based on accountability (as it has been previously argued) and outreach. Maybe a third component is necessary to this complex process of balancing: visible, high profile, and widely known perpetrators. By first prosecuting *visible* and *guilty* perpetrators, the court may be better able to promote its

legitimacy through outreach efforts, and therefore free itself from external political pressures. As a consequence of considering this third factor, however, the question of manipulation arises once again. I will leave this question open for discussion. Simply put, by individualizing guilt, the BWCC holds promise of being a successful tool for reconciliation. However, the overall inefficient efforts of the Court in developing its outreach program, as described above, dangerously endanger the very possibility of reconciliation.

Conclusion

While I have depicted an overall positive picture of the BWCC, a hybrid tribunal that successfully metamorphose into a domestic court, the Chamber should strengthen its outreach program in the attempt to establish its legitimacy and transparency. By virtue of being located in Bosnia, and being run by Bosnian officials, the Chamber has a "greater chance of making effective contributions to reconciliation, stability, development of the rule of law, and capacity building."[89] Individualized criminal prosecutions, unlike blanket amnesties, have the potential to diminish ethnic hatred and facilitate social reconciliation. While it is certainly recognized that accountability for the BiH conflict cannot be fully reflected in the few hundreds of people who have actually been prosecuted, criminal prosecutions are nonetheless able to attach guilt to specific individuals, thereby diminishing—or at least avoiding the inflammation of—ethnic hatred and dispelling the notion of collective guilt. However, the Court's poor outreach tactics are counterproductive to this promising effect of criminal prosecution. In fact, "different communities inside BiH continue to understand the causes and events of the war in different ways, and those differences are often exaggerated for political advantage."[90] The BWCC and the ICTY, through their prosecutions and reports, have at least in part provided an empirical basis on which to judge these different narratives. However, the BWCC must effectively and directly engage BiH's society to show these misconceptions as unfounded. Otherwise, the public will not accept this empirical basis, and the Chamber will remain unfit to protect itself from accusations of being biased against the Serb community.

Without a direct engagement of the population in the transitional justice process, political leaders will still be able to fuel ethnic hatred as a way to advance their own interests. "The most successful transitional justice experiences owe a large part of their success to the quantity and quality of public and victim consultation carried out"—namely, outreach.[91] It is for this reason that we must try to mitigate the ethnic hatred that has been left behind by the Bosnian war. We must emphasize the *justice* that guides the unbiased criminal trials run by the Bosnian War Crimes Chamber by directly engaging the public, and thus at least partially facilitate reconciliation.

Notes

1. In the Socialist Federal Republic of Yugoslavia, "Muslims by nationality" was used as an official designation of nationality for Slavic Muslims, also known as Bosniaks. The term did not have any religious connotation, nor did it assume actual religious practice.
2. Data from: Council of Europe, "Report Submitted by Bosnia and Herzegovina Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities (ACFC/SR (2004) 001)." Accessed April 5, 2013. http://www.coe.int/t/dghl/monitoring/minorities/3_fcnmdocs/PDF_1st_SR_BiH_en.pdf
3. Noel Malcom, *Bosnia—A Short Story* (Macmillan: London, 1994), 234.
4. At the 1990 General Elections, voter turnouts were high: 74.4% for the presidential election, 81.6% for the House of Peoples election, and 77.5% for the House of Representatives. Reported in: Dieter Nohlen and Philip Stöver, eds. *Elections in Europe: A Data Handbook* (Baden-Baden: Nomos, 2010), 330.
5. Source: Mirsad Karic, "Social Cleavages, Conflict and Accommodation in Bosnian Political History from the Late 19th Century until the 1990s" *Bilgi* 22 (2011): 91.
6. Noel Malcom, *Bosnia—A Short Story*, 235.
7. The Karadjordjevo meeting is known to history as the agreement between the Croatian president Franjo Tudjman and the Serbian president Slobodan Milosevic. It concerned the redistribution of territories in the Yugoslav republic of Bosnia and Herzegovina between Croatia and Serbia, so that territories with either Croatian or Serbian majority would be annexed to the respective "motherland."
8. Tim Judah and Dessa Trevisan, "Serb Assaults Push Bosnia to Edge of War," *The Times*, April 4, 1992.
9. Noel Malcom, *Bosnia—A Short Story*, 236.
10. Laura Silber and Alan Little, *Yugoslavia: Death of a Nation* (New York: Penguin Books, 1995), 244.
11. *Ibid.*, 239.
12. *Ibid.*, 242.
13. More comprehensive analyses of the conflict can be found in: Noel Malcom, *Bosnia—A Short Story*; Carole Rogel, *The Breakup of Yugoslavia and the War in Bosnia* (Westport: Greenwood Press, 1998); Laura Silber and Alan Little, *Yugoslavia: Death of a Nation.*
14. Snežana Trifunovska, *Yugoslavia through Documents: from its creation to its dissolution* (Boston: Martinus Nijhoff Publishers, 1994), 519.
15. See Figure on page 38, representing the ethnic composition of BiH by municipality according to the 1991 census on which the division proposed by the Carrington-Cutileiro peace plan was based. Source: Josip Glaurdic, *The hour of Europe: Western powers and the breakup of Yugoslavia* (Yale University Press, 2011), 291.
16. Josip Glaurdic, *The hour of Europe: Western powers and the breakup of Yugoslavia* (New Haven: Yale University Press, 2011), 294.
17. See Figure on page 39, reporting an edited version of the map of the division proposed by Republika Srpska found in: Mladen Klemencic, *Territorial Proposals for the Settlement of the War in Bosnia-Hercegovina* (Durham: International Boundaries Research Unit, University of Durham, 1994), 38.
18. Bertrand Ramcharan, ed., *The International Conference on the Former Yugoslavia: Official Papers* (The Hague: Kluwer Law International, 1997), 24-27.
19. See Figure on page 40, reporting a map of the division proposed by the Vance-Owen plan. Source (modified): Mladen Klemencic, *Territorial Proposals for the Settlement of the War in Bosnia-Hercegovina* (Durham: International Boundaries Research Unit, University of Durham, 1994), 49.
20. See Figure on page 41, reporting a map of the division proposed by the Stoltenberg-Owen plan. Source: The Full Wiki, "Peace plans offered before and during the Bosnian War." Accessed April 4, 2013. http://www.thefullwiki.org/Peace_plans_offered_before_and_during_the_Bosnian_War

21. Rogel, *The Breakup of Yugoslavia and the War in Bosnia*, 34.

22. Lester Brune, *Chronological History of U.S. Foreign Relations Volume III 1989-2000*: *Vol. III* (New York: Routledge, 2003), 1248.

23. Rogel, *The Breakup of Yugoslavia and the War in Bosnia*, 36.

24. See the full text of the Agreement: "The General Framework Agreement for Peace in Bosnia and Herzegovina," (December 14, 1995), accessed April 13, 2013, http://www.ohr.int/dpa/default.asp?content_id=379. The Muslim-Croat federation controlled 51% of the BiH territory, while the Bosnian Serb Republic 49%. Each unit was granted separate executive and legislative bodies, and a separate constitution. The BiH state-government was left weak, with the agreement to rotate the collective presidency between a Muslim, a Bosnian Croat, and a Bosnian Serb.

25. In 1997, in order to avoid delays in the implementation of the Dayton Agreement due to continued political obstruction by nationalist parties, the OHR was granted special powers (the "Bonn powers"), including the power to adopt binding decisions when local parties seem unable or unwilling to act, as well as the ability to remove from office public officials who violate the Dayton agreement, or legal norms in general.

26. See The Office of the High Representative's website, accessed April 3, 2013, http://www.ohr.int.

27. *Ibid.*, 41.

28. Bogdan Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina: From hybrid to domestic court* (New York: International Center for Transitional Justice, 2008), 4.

29. See the list of objectives: "Communiqué of the Steering Board of the Peace Implementation Council," (June 25, 2008), accessed April 3, 2013, www.ohr.int/pic/default.asp?content_id=41874.

30. "Communiqué of the Steering Board of the Peace Implementation Council," (November 30, 2012), accessed April 3, 2013, http://www.ohr.int/pic/default.asp?content_id=47643.

31. "Communiqué of the Steering Board of the Peace Implementation Council," (May 23, 2012), accessed April 3, 2013, http://www.ohr.int/pic/default.asp?content_id=47195.

32. OSCE Mission to Bosnia and Herzegovina, Human Rights Department, *War Crimes Trials Before the Domestic Courts of Bosnia and Herzegovina: Progress and Obstacles* (March 2005), accessed April 3, 2013, http://www.oscebih.org/documents/osce_bih_doc_2010122311024992eng.pdf.

33. Param-Preet Singh, *Looking for Justice-The War Crimes Chamber in Bosnia and Herzegovina* (Human Rights Watch, 2009), 4.

34. Bogdan Ivanisevic and Jennifer Trahan, *Justice at Risk: War Crimes Trials in Croatia, Bosnia and Herzegovina, and Serbia and Montenegro* (Human Rights Watch, 2004), accessed April 10, 2013, http://www.hrw.org/reports/2004/10/13/justice-risk.

35. See "ICTY - Working with the Region," accessed April 4, 2013, http://www.icty.org/sid/96.

36. See "Joint Preliminary Conclusions of OHR and ICTY Experts Conference on Scope of BIH War Crimes Prosecutions," (January 15, 2003), accessed April 14, 2013, http://www.icty.org/sid/8312.

37. Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina,* 7.

38. As Sandra Orlovic explains, "there are two supreme courts in the two Entities (The Supreme Court of the Federation of BiH and the Supreme Court of the Republic of Srpska), the State court of BIH, which does not have the jurisdiction of a supreme court, the Appellate Court of the Brčko Distict of BIH, ten cantonal courts, and six district courts in two different state administrative units" in addition to the ICTY. In *Transitional Justice in Post-Yugoslav Countries: report for 2010-2011* (Belgrade: Humanitarian Law Center, 2013), 16.

39. Currently, after a series of one-year extensions, the UN Security Council's extended the judges' mandate until 31 December 2013, or until completion of cases. The SC current position asks the ICTY to complete its entire remaining works no later than December 31, 2014. See "Security Council
Reporting and Mandate Cycles," (April 1, 2013), accessed April 12, 2013, http://www.un.org/en/sc/inc/pages/pdf/sccycles.pdf.

40. See Rule 11 *bis* in "ICTY Rules of Procedure and Evidence," (July 24, 2009), accessed April 3, 2013, http://www.icty.org/x/file/Legal%20Library/Rules_procedure_evidence/IT032_Rev43_en.pdf.

41. Letter dated May 21, 2004, from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council, UN Doc. S/2004/420, para. 7. Cited in: Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina,* 6.

42. See "Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the use of evidence collected by ICTY in proceedings before the courts in BiH," accessed April 3, 2013, http://www.sudbih.gov.ba/files/docs/zakoni/en/zakon_o_ustupanju_ predmeta_-_61_04_-_eng.pdf.

43. *Idem.*

44. See Rule 11 *bis* in "ICTY Rules of Procedure and Evidence," (July 24, 2009), accessed April 3, 2013, http://www.icty.org/x/file/Legal%20Library/Rules_procedure_evidence/IT032_ Rev43_en.pdf.

45. See "Law on the Court of Bosnia and Herzegovina," (November 12, 2000), accessed April 3, 2013, http://www.legislationline.org/documents/id/16973.

46. See "Criminal Procedure Code of Bosnia and Herzegovina, Article 449," accessed April 4, 2013, https://www.unodc.org/tldb/pdf/Bosnia_and_Herzegovina_Criminal_Procedure_ Code_Full_text.pdf.

47. Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina*, 11.

48. Public Outreach and Information Section of the BWCC, e-mail message to author, April 18, 2013

49. Sandra Orlovic, *Transitional Justice in Post-Yugoslav Countries: report for 2010-2011* (Belgrade: Humanitarian Law Center, 2013), 16.

50. Public Outreach and Information Section of the BWCC, e-mail message to author, April 18, 2013.

51. See current composition of the court here: http://www.sudbih.gov.ba/?opcija=bio&jezik=e.

52. Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina*, 7.

53. Anthony D'Amato, "Peace v. Accountability in Bosnia," *The American Journal of International Law* 88.3 (1994): 500.

54. Diane Orentlicher, "Settling Accounts: The Duty To Prosecute Human Rights Violations of a Prior Regime," *The Yale Law Journal* 100 (1990-1991): 2540.

55. Carlos Nino, "The duty to punish past abuses of human rights put into context: The case of Argentina," *The Yale Law Journal* 100 (1990-1991): 2622.

56. Karin Aggestam and Annika Björkdahl, eds. *Rethinking Peacebuilding: The quest for just peace in the Middle East and the Western Balkans.* (London: Routledge, 2012), 28.

57. Payam Akhavan, "Justice in the Hague, peace in the former Yugoslavia? A commentary on the United Nations War Crimes Tribunal" *Human Rights Quarterly* 20.4 (1998): 741.

58. See supra note and Olga Martin-Ortega, "Transitional justice in the quest for just and durable peace in Bosnia-Herzegovina," in Karin Aggestam and Annika Björkdahl, eds. *Rethinking Peacebuilding: The quest for just peace in the Middle East and the Western Balkans,* (New York: Routledge, 2012), 192.

59. See de Greiff's argument in: "DDR and Reparations: Establishing links between peace and justice instruments," in Kai Ambos et al., eds. *Building a Future on Peace and Justice* (New York: Springer, 2009), 346. According to de Greiff, law "can help generate trust between citizens by stabilizing expectations and thus diminishing the risks of trusting others. Similarly, law helps generate trust in institutions (including the institutions of law themselves) among other ways, by accumulating a record of reliably solving conflicts."

60. See Judgment of the International Military Tribunal For The of German Major War Criminals, http://www.nizkor.org/ftp.cgi?imt/tgmwc/judgment/j-accused-organisations.01.

61. The argument in favor of individualization of guilt raises the problem of group accountability as described by Osiel. In fact "the law seeks a defensible way to link up the requisite elements of the offense to contributions by multiple participants, so that all may be held responsible for the resulting wrong." Moreover, "state atrocities are instead often the product of collective, systematic, bureaucratic activity, made possible only by the collaboration of massive and complex organizations in the execution of criminal policies initiated at the highest levels of government." I will however not focus on this claim here. For further reading on the topic, see

Mark Osiel, *Making Sense of Mass Atrocity* (New York: Cambridge University Press, 2009).

62. Osiel, *Making Sense of Mass Atrocity*, 20.

63. Mark Osiel, "The Banality of Good: Aligning Incentives Against Mass Atrocity," *Columbia Law Review* 105.6 (2005): 1810.

64. *Idem.*

65. Martin-Ortega, "Transitional justice in the quest for just and durable peace in Bosnia-Herzegovina," 192.

66. Bertelsmann Stiftung, *BiH Country Report* (BIT: 2010), accessed April 7, 2013, http://www.bti-project.org/fileadmin/Inhalte/reports/2010/pdf/BTI%202010%20Bosnia%20and%20Herzegovina.pdf.

67. Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina*, 34.

68. Public Outreach and Information Section of the BWCC, e-mail message to author, April 18, 2013. The breakdown of these trials is as follows. First-instance verdicts: 111 verdicts against a total of 172 defendants, including 25 final verdicts based on a plea-agreement (against 26 persons), for which no appeal was filed. Second-instance verdicts: 68 verdicts, against 100 defendants. Third-instance verdicts: 2 verdicts, against 2 defendants.

69. "Million euros to be invested in war crimes prosecution in Bosnia." *dalje.com*, (March 26, 2013), accessed April 13, 2013, http://dalje.com/en-world/million-euros-to-be-invested-in-war-crimes-prosecution-in-bosnia/461039.

70. Public Outreach and Information Section of the BWCC, e-mail message to author, April 18, 2013

71. Wendy Lambourne, "Outreach, inreach and civil society participation in transitional justice" in Nicola Palmer, Phil Clark and Danielle Granville, eds. *Critical Perspectives in Transitional Justice*, (Cambridge: Intersentia, 2012), 242.

72. Office of the High Representative, "War Crimes Chamber Project Implementation Plan," (October 20, 2004, accessed April 7, 2013, http://www.ohr.int/ohr-dept/rule-of-law-pillar/pdf/wcc-project-plan-201004-eng.pdf.

73. See for example: Ivanisevic, *The war crimes chamber in Bosnia and Herzegovina*, 35.

74. Human Rights Watch, "Justice For Atrocity Crimes," (March 2012), accessed April 7, 2013, www.hrw.org/sites/default/files/reports/bosnia0312_0.pdf.

75. Karin Aggestam and Annika Björkdahl, eds. *Rethinking Peacebuilding: The quest for just peace in the Middle East and the Western Balkans*. (London: Routledge, 2012), 193.

76. *Idem.*

77. Lambourne, "Outreach, inreach and civil society participation in transitional justice," 237.

78. Lorna McGregor, "International Law as a 'Tiered Process': Transitional Justice at the Local, National and International Level" in Nicola Palmer, Phil Clark and Danielle Granville, eds. *Transitional Justice from Below: Grassroots Activism and the Struggle for Change*, (Oxford: Hart Publishing, 2008), 48.

79. David Cohen, "Hybrid Justice in East Timor, Sierra Leone, and Cambodia: Lessons Learned and Prospects for the Future," *Stanford Journal of International Law* 43.1 (2007): 6.

80. The ICTY Outreach Programme was created in 1998-1999 under the leadership of the then President of the Tribunal, Judge Gabrielle Kirk McDonald. It had become obvious that the Tribunal's proceedings were poorly publicized in the former Yugoslavia, and the governments in the region were not doing much to help their citizens gain accurate information about the trials in The Hague. The regional media often deliberately advanced hostile misinformation about the Tribunal. Read more at http://www.icty.org/sid/8936.

81. Victor Peskin, "Courting Rwanda The Promises and Pitfalls of the ICTR Outreach Programme," *Journal of International Criminal Justice* 3.4 (2005): 954.

82. *Idem.*

83. *Ibid.*, 238.

84. See, among the others: Lundy, Patricia. "Exploring home-grown transitional justice and its dilemmas: a case study of the Historical Enquiries Team, Northern Ireland." *International Journal of Transitional Justice* 3.3 (2009): 321-340; Lambourne, "Outreach, inreach and civil society participation in transitional justice," 235-261.

85. Diane Orentlicher, "'Settling accounts' revisited: Reconciling global norms with local agency," *International Journal of Transitional Justice* 1.1 (2007): 18.

86. Patricia Lundy warns us from doing so in: "Exploring home-grown transitional justice and its dilemmas: a case study of the Historical Enquiries Team, Northern Ireland," *International Journal of Transitional Justice* 3.3 (2009): 321-340.
87. Kofi Annan, *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies,* UN Doc. S/2004/616 (August 24, 2004), para 15.
88. David Cohen, "Hybrid Justice in East Timor, Sierra Leone, and Cambodia: Lessons Learned and Prospects for the Future," *Stanford Journal of International Law* 43.1 (2007): 6.
89. *Ibid.*, 36.
90. Aggestam and Björkdahl, eds. *Rethinking Peacebuilding*, 193.
91. Kofi Annan, *Report of the Secretary-General on the Rule of Law and Transitional Justice in Conflict and Post-conflict Societies*, para 16.

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A Case For Constructivism:
Towards An Understanding Of French Policy In Africa, 2013-2014

Kailas Menon

Between 2013 and 2014, French President Francois Hollande ordered military interventions in two of France's former African colonies: Mali (Operation Serval, in January 2013) and the Central African Republic (Operation Sangaris, in December 2013). This study examines these two interventions in the light of two competing theories of international relations–Hans Morgenthau's 'political realist' paradigm and the constructivist school of thought–and their predictions regarding the causes of military interventions. Morgenthau's paradigm argues that all military interventions are driven by a desire to maintain or increase state power. By contrast, constructivist theorists emphasize the role of state actors' ideology and the self-identification of states in military interventions. I find that constructivism offers a more satisfying explanation for each French intervention than does political realism. While France likely has few tangible interests in Mali or the Central African Republic, several of President Hollande's public statements and actions imply that his interventions are largely driven by historical French ideas about France's role towards its former colonies. In making this argument, I hope to prepare the way for other scholars to develop a more definitive understanding of the motivations behind Hollande's African policy, which in turn will enable us to predict or understand future French policy in Africa.

Introduction

Between 2013 and 2014, French President Francois Hollande ordered military interventions in two of France's former African colonies, Mali (Operation Serval, in January 2013) and the Central African Republic (Operation Sangaris, in December 2013). This study examines these two interventions in the light of two competing theories of international relations—Hans Morgenthau's 'political realist' paradigm and the newer constructivist school of thought—and their predictions regarding the causes of military interventions. Morgenthau's paradigm argues that all military interventions are driven by a desire to maintain or increase state power. By contrast, constructivist theorists emphasize the role of state actors' ideology and the self-identification of states in military interventions. For each 2013 French intervention, although a less established school of thought than realism, a broad model of constructivism offers a more satisfying explanation over political realism. While France has few tangible interests in Mali or the Central African Republic (CAR), several of President Hollande's public statements and actions imply that these interventions are largely driven by historical French ideas about France's role

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in the well-being of its former colonies. In making this argument, I hope to pave the way for other scholars to develop a more definitive understanding of the motivations behind Hollande's African policy, which in turn will enable us to predict and understand future French policy in Africa.

In January 2013, in a military operation code-named "Operation Serval," French troops surged into Mali, fighting a loose alliance of Islamist militias, which had overrun much of Northern Mali. Later that year, France launched a peacekeeping division into the internally-divided Central African Republic. Through an examination of these two interventions, this paper prepares the way for a definitive understanding of the motives behind Hollande's military operations in Africa. Because of the sheer variety of international-relations paradigms (realism, neorealism, liberalism) and sub-theories therein, an examination of all the possible motives behind Serval and Sangaris would be beyond the scope of this paper. Instead, I lay the foundation for such an argument by weighing the predictions of two theories of international relations—Hans Morgenthau's 'political realist' paradigm and the 'constructivist' school of thought—regarding the causes of military interventions.

Morgenthau suggests three possible causes for military interventions: desire to maintain state power, desire to increase state power, or a desire to prepare for the first two policies by increasing national prestige. However, France's security and economic interests in Mali and the CAR are not a sufficient justification for their military interventions in the area, and neither intervention seems calculated to increase national prestige. By contrast, constructivist theorists emphasize the role of ideology in driving military interventions: ideology leads state actors to conceive of themselves as having a particular role on the world stage, and this "self-identification" inspires state actions such as military interventions. This latter model of military intervention is more likely to explain Serval and Sangaris. Hollande's actions prior to Serval strongly suggest that he is greatly invested in some form of the "cooperation" doctrine, a postcolonial French ideology in which France considered itself responsible for the integrity of African republics like Mali, and his public statements during Serval and Sangaris suggest that this ideology was driving his interventions in Africa. In short, this paper finds that constructivism is more likely to explain Hollande's French policy in Africa than is political realism.

I. A Literature Summary

Morgenthau's political-realist paradigm holds that self-interested and power-hungry states, in an anarchic world, carry out military interventions in order to maintain their power (status-quo policies) or to extend it (imperial-ism). Morgenthau first assumes that that man is by nature a power-seeking an-imal, with power defined as the ability to affect the minds and actions of oth-

ers.[1] Such power-hungry state actors operate in an international system that is uncontrolled by any higher authority. For example, many political realists have argued that forms of "global governance" such as the U.N. are only reflections of the interests of powerful states.[2,3] In this anarchic arena, state actions such as military interventions are motivated primarily by the desire to increase national power. Consequently, for Morgenthau, military interventions are always explainable as rational, self-interested plays for power in one of several forms: the preservation of a nation's relative power in the form of a current distribution of power ("status-quo politics") or an attempt to increase a nation's power relative to other states ("imperialistic politics"). Note that there are two subgroups of status-quo action: preventative action, to ensure that a particular power does not rise in future (e.g. Austria's opposition to Russia in World War I); or attempts to prevent an encroaching power threaten state security (e.g. England and its allies facing Japan and its allies in the Second World War.) Alternatively, a military intervention can be part of an imperialistic action: that is, it might make the state the preponderant power in a given region.[4] Note also that within both status-quo and imperialistic politics, a policy of increasing national prestige can be used as a "soft power" method to accomplish status-quo or imperialist goals. Specifically, by taking actions that increase the reputed power of the nation, such as either partial or full military mobilization, a nation can either make a potential rival reluctant to alter the status quo or prevent other nations from offering resistance to imperialism. For instance, Morgenthau gives the status-quo example of the United States demonstrating its power in Latin America to consolidate its power in the Western Hemisphere and the imperialist example of 1930s Germany broadcasting films of the *blitzkrieg* to intimidate audiences of Polish and French military elites. Note, however, that policies of prestige in Morgenthau's paradigm involve full mobilization at most, not actual use of force.[5] In short, Morgenthau predicts that all military actions are an attempt at preserving an advantageous status quo or increasing one's relative power.

By contrast, rather than viewing state interests as fixed products of human nature, constructivist theorists emphasize the influence of ideas and ideology on military interventions and other state actions. Specifically, although constructivist theorists do not present a single paradigm, they share the core view that that ideas and discourse reflect and shape the "self-identity" of state actors, or how these actors see themselves and their roles vis-à-vis other states. These self-identifications cause state actors to perceive their interests in a particular light. That is, unlike in political realism, the state does not necessarily seek only or primarily to maintain its power. In turn, the perceived interests of state actors influences said actors to take particular actions, including military interventions. For example (although this is not an example of a military intervention), some constructivists explain the end of the Cold War and the

revision of Soviet policy as being driven by Gorbachev's embrace of ideas such as "common security."[6] That is, Gorbachev's embrace of "common security" caused him to conceive Russia as having particular interests (other than the preservation of the Soviet Union); and these perceived interests were what drove his policy changes. Thus, for a constructivist, any military action would be motivated by a state's perception of its ideology regarding its role pertaining to other states.

II. Operation Serval and The Failure of Political Realism

In this theoretical context, political realism does not adequately explain Operation Serval. It is firstly unlikely that Operation Serval was motivated by considerations of current French security interests: that is, the first subset of status-quo explanations does not account for Serval. Admittedly, French officials have consistently claimed that Operation Serval is aimed at combating a current threat to France and French citizens. For example, at a press briefing in January 2013, French officials stated that the "blatant aggression" of Malian Islamists was an "*immediate* threat to peace and regional *and international* security."[7] In a similar vein, President Hollande has also argued that the invasion is necessary to protect the French civilians currently residing in Mali.[8] However, a closer examination of France's actions in Mali and of the capabilities of the three dominant Malian Islamist militias—Al-Qaeda in the Islamic Maghreb (AQIM), the Movement for Oneness and Jihad in West Africa (MUJAO), and Ansar al Dine—suggests that these public statements are inaccurate as statements of France's motives. First, the actions of the most powerful of these militias, AQIM, suggest that France's intervention was not motivated primarily by any current Islamist threat. Historically, AQIM's organization in the Sahara, where AQIM is primarily based, has avoided launching domestic attacks within European nations, although they have attacked European targets within Africa.[9,10] While AQIM-linked cells have been discovered within France and Spain as early as 2007,[11] these cells appear to have been focused entirely on providing logistical and material support to fighters in Africa, suggesting, again, that AQIM and its sister groups are fearful of attacking Western nations. In turn, when we consider AQIM's deep roots in a specifically anti-French form of Islamism, it is likely that this history of avoiding domestic European targets indicates a lack of ability rather than a lack of interest in such targets. Prior to a 2006 declaration of allegiance to the global al-Qaeda network, AQIM was originally an offshoot of a larger militia known as the Armed Islamic Group of Algeria (GIA), a strongly anti-French Islamist group which engineered a string of bombings in France. The current leader of AQIM, Abdelmalek Droukdel, served as a fighter in the GIA and is reportedly fixated upon AQIM's adversarial relationship with France.[12] It is likely, then, that AQIM's history of avoiding attacks on French targets indicates AQIM's military weakness vis-à-vis France.

In turn, if AQIM, the most powerful of the known Islamist militias in Mali, is currently unable to threaten French interests, it is likely that MUJAO and Ansar al Dine are unable to as well. This is especially likely given that these three groups are known to share fighters and to coordinate their movements;[13] if AQIM's military capabilities are insufficient to breach European targets even with aid from MUJAO and Ansar al Dine, it is unlikely that any of the groups currently poses a serious threat to France as a nation. Second, while AQIM has a history of attacking French civilians staying in Mali[14] and therefore *does* pose a threat to unprotected French expatriates, it is unlikely that this motivated France's intervention. President Hollande's original timetable called for a quick pullout of troops, regardless of the continued Islamist presence in Mali.[15] Thus, the first subset of status-quo explanations does not adequately explain the French presence in Mali.

A comparison between French intervention and Spanish nonintervention in Mali also suggests that the second subset of status-quo realist explanations—in which Operation Serval is an attempt to preempt any *future* threat presented by Malian Islamists—is also flawed. This version of status-quo claim has also met with support from the French government. In November 2013, for example, French Defense Minister Jean-Yves Le Drian stated: "In Mali, it is our own security that is at stake […] because if we don't move a terrorist entity will take shape which could hit [France or Europe]."[16] While any growing AQIM presence in Mali would pose a considerable threat to Spain and France, the Spanish government has avoided intervention in Mali, suggesting that the likelihood of AQIM's becoming a threat to Europe was not significant enough to motivate a military intervention. The ideology and rhetoric of AQIM treats Spain, as another former colonial power with roots in the area, as an enemy of an importance similar or equal to France.[17] As in the case of France, AQIM has also shown itself willing to act on these threats by striking against "soft," (non-governmental) Spanish targets: the group, for example, took several Spanish aid workers hostage in 2009.[18] Furthermore, unlike many other countries who have an interest in AQIM's fall and yet have not intervened (say, the United States, which has been threatened by AQIM but appears to defer to France on the grounds that Africa is largely a French "sphere of influence"),[19] Spain has a recent history of deploying its military to defend its own interests in Africa. For example, Spain currently maintains two autonomous cities, Ceuta and Melilla, inside Morocco, as well as a number of islands off the coast of Morocco. Spanish and Moroccan troops clashed (bloodlessly) over one of these islands in 2002, and Spain continues to maintain garrisons in several other islands.[20] Nevertheless, in spite of this history of intervention and in spite of several "impressive" military capabilities,[21] Spain's military contributions to the intervention in Mali have been limited: along with twenty-one other E.U. member states, Spain contributed to a 500-man, non-

combat EU force intended primarily to train the Malian military.[22] Accordingly, assuming (as in Morgenthau's realism) that Spain's foreign policy is proceeding rationally enough to attempt to intervene against a potential terrorist threat, Spain's nonintervention in Mali suggests that, at the time Operation Serval was launched, there was limited risk of AQIM becoming a threat to any European nations. In response, realist scholar Christopher Griffin[23] has suggested that the Spanish government's avoidance of the conflict in Mali is due to a fear of Islamist reprisals such as al-Qaeda's 2004 bombing of Madrid, which the Spanish public saw as a response to Spanish military involvement in Iraq. However, the Spanish government has continued to pursue other military conflicts with Islamists even after the Madrid bombing—specifically, maintaining significant troop levels in Afghanistan as of 2011—and even in spite of the al-Qaeda presence in Afghanistan.[24,25] Accordingly, it is unlikely that, at least within the framework presented by political realism, France's intervention was motivated by purely security needs.

In a final variation of the second subset of status-quo realism, Brookings Institute Fellow Mwangi Kimenyi argues that Operation Serval is an attempt to prevent Malian Islamists from threatening the *economic* status quo. Specifically, Kimenyi points out that French economic interests in the area, such as French oil interests in neighboring Niger, would likely be threatened by a growing Islamist presence.[26] The timing and length of Operation Serval, however, suggests that this was not the motive for the French intervention. AQIM has been threatening France's economic interests in the area for a long time prior to Serval (and prior to Hollande's election in May 2012). In September 2010, AQIM attacked a French oil interest in Niger,[27] and reportedly has given significant material support to Boko Haram, an Islamist group based in neighboring Nigeria, since at least February 2011.[28] Even in Mali itself, AQIM was active in Northern Mali for almost a year prior to Serval.[29] Accordingly, had Hollande been interested primarily in securing France's economic interests, he would presumably have intervened prior to January 2013. Hollande only moved to attack AQIM when they attacked the Malian capital and thus threatened the existence of the Malian state. Furthermore, French troop dispersal during Serval implies that Hollande does not prioritize protecting France's economic interests in the course of Serval. For example, when local ethnic separatists (not explicitly Islamist or anti-French) clashed with the Malian army in late May 2014, France redirected 3,000 Mali-based troops, which it had been planning to redeploy to deal with Islamists operating near Niger, even though Niger is an area of considerable economic importance for France.[30] (20% of the uranium in France's power plants is imported from Niger,[31] and much of France's energy comes from these nuclear reactors).[32] It is therefore unlikely that France is intervening chiefly to protect its existing economic interests.

Additionally, the French intervention in Mali to the delayed and (initially) limited French intervention in the CAR suggests that Operation Serval does not fall under the imperialist category of realist explanations for military intervention. Theoretically, the imperialist explanation possesses some credence: in the long run, it would benefit France to gain control of Mali's reserves of gold and uranium, given that much of France's energy comes from nuclear reactors.[33] However, France's delayed intervention in the Central African Republic implies that this was not a motivating factor. The Central African Republic possesses reserves of many of the same natural resources as does Mali, including uranium and oil.[34] Yet in December 2012, when CAR President (now ex-President) Francois Bozize requested French help against Seleka, a local collective of antigovernment rebels, Hollande refused to intervene. By comparison, French troops responded to the Malian government's request for help on January 23, 2013—less than a month after Bozize's request had been rejected.[35] This pattern of behavior seems inconsistent with Morgenthau's vision of imperialism. Had the Hollande administration been interested primarily in taking control of Mali's natural resources, it would presumably have intervened in the similarly wealthy CAR around the same time it intervened in Mali. It's unlikely that Hollande refrained from so interfering out of a desire not to overburden the French military. After all, France is now maintaining troops in both regions. Furthermore, when Hollande *did* intervene in the CAR in December 2013, French actions did not suggest any interest in the natural resources of the Central African Republic. Operation Sangaris appears to have been initially planned to be as limited as possible, suggesting that an extractive (i.e. imperialist) interest in the Central African Republic was not motivating the French intervention. For example, in December 2013, Hollande openly committed himself to a brief intervention, stating: "This intervention will be fast, it is not meant to last."[36] Note, too, that Hollande repeatedly called upon other European nations to send troops to the CAR.[37] Thus, it is unlikely that France's interest in Mali is primarily imperialist.

Furthermore, France's lack of tangible interests in Mali, its late intervention in the CAR, and the recent downsizing of the French military suggest that the French intervention in Mali was not primarily intended as a soft-power policy of prestige. While Morgenthau does not treat military *conflict* as a form of display, it is arguable that, given the significant disproportion in strength between France and the Malian Islamists, a realist could explain Operation Serval as a display of France's military power rather than as any sort of serious military conflict. However, France's lack of interests in Mali suggests that the prestige-politics model does not compellingly explain Serval. According to the prestige model, Operation Serval would be aimed at increasing other nations' estimate of French power and thus altering their foreign policy towards France. However, Mali (Islamist or otherwise) is not a rising power vis-

à-vis France, nor has France evinced significant extractive interest in the area as discussed earlier. Consequently, France has no need to impress its power upon the Malians, nor does it need to prevent other European nations from taking an interest in Mali. Furthermore, President Hollande has historically been uninterested in increasing France's external prestige with interventions in Africa. If Hollande had wanted to demonstrate French power by defeating a relatively weak opponent, it is not clear why he didn't also intervene in the CAR earlier in 2013: the CAR's Seleka rebels numbered about 3,000 by a generous estimate—about as much as the total forces of the Malian Islamists.[38,39] Finally, Hollande has recently called for decreased military spending and for cuts in troop levels, which hardly seems consistent with any attempt to *display* French military power, either for international or domestic prestige.[40] Simply stated, a prestige-policy realist model does not explain the French intervention in Mali, considering the downgrade in military spending, delayed action in the CAR, and a lack of motivation in intervening in Mali.

III. Operation Serval and Constructivism

In the absence of a convincing realist explanation, Francois Hollande's policymaking in Mali has followed a distinctly constructivist pattern. Specifically, Hollande's justifications for intervention are strongly reminiscent of France's post-colonial policy after 1960, in which French leaders considered themselves responsible for the democratization of their ex-colonies. Prior to 1945, colonial French ideologists and politicians such as Prime Minister Jules Ferry frequently conceived of France as having a "civilizing mission" (*mission civilisatrice*) to remake its African colonies along French cultural and political lines, and to use military force to preserve the security of the states in which this civilizing mission was taking place.[41] For example, the French policy of undermining the "aristocracy" of hereditary chiefs was partly driven by a desire to impose French republican ideals upon their African colonies.[42] Similarly, as early as 1794, French leaders sought to "assimilate" France's colonies into a republican "Greater France," declaring: "all men, without distinction as to color, who are residents of the colonies, are French citizens."[43] Such declarations of the "civilizing mission" had broad support up to the Second World War, although actual conditions on the ground were frequently much less egalitarian.[44] In the wake of the Second World War, as decolonization increasingly forced the French government to loosen its explicit political ties with its colonies, successive French administrations adapted the core of the *mission civilisatrice* into a policy of "cooperation" with African ex-colonies. Under the cooperation doctrine, France and the African ex-colonies were conceived of as a Franco-African "family," in which France, while accepting the separateness and sovereignty of its ex-colonies and engaging in a certain degree of partnership with them, would leverage foreign aid and military interventions

to help build states on the French republican model.[45] Note that I am not arguing that cooperation was a continuous policy choice on the part of recent French presidents, merely that President Hollande has adopted such a policy.

This view of France as the head of a Franco-African "family," and the corresponding perspective that France is, to some extent, responsible for the republicanism of its ex-colonies, appears to be motivating Hollande's intervention in Mali. First, Hollande's actions and statements prior to Serval suggest that he is personally invested in the core ideology of the "cooperation" doctrine: i.e. that France has a special relationship with Africa and is accordingly responsible for supporting the integrity of African republics, while still respecting their sovereignty. In spite of the fact that Hollande was elected on a platform wholly related to domestic issues,[46] which implies that his constituency was not particularly interested in African affairs, Hollande appears to have approached the presidency with a particularly strong interest in France's relationship with Africa, especially in the realm of development, commissioning policy briefings on Africa and development.[47] Although it might be argued that Africa is an area of policy concern for many French heads of state (given that Africa has historically been a French sphere of influence),[48] Hollande appears to conceive of this "special relationship" as a partnership in which he must preserve African republicanism while still respecting these nations' sovereignty and independence.[49,50] For example, in a 2012 speech to the National Assembly of Senegal, Hollande both argued that France and Senegal shared a democratic political culture and emphasized his respect for Senegal's sovereignty and independence:

> The history we share is proud, turbulent and cruel. It's a history that has left us a common language, but also a common political culture: democracy…I haven't come here to Dakar to set an example, impose a model or teach a lesson … Change will come first and foremost from the people. Africans have taken control of their destiny, and this movement won't stop.[51]

Similarly, at a summit in 2012, Hollande publicly snubbed Congolese leader Joseph Kabila due to Kabila's questionable record on democracy and human rights, but did not take further action. And democratic African nations such as Senegal have received more aid from Hollande than other nations.[52] It is unlikely that this history of pro-democratic action is merely intended to make Hollande look good politically; Hollande's French audience has generally not evinced much interest in African policies that do not impinge directly on French interests, perhaps as a result of France's deepening economic crisis.[53] Note, for example, that French voters initially responded positively to the intervention in Mali,[54] which was billed heavily as a response to security issues, but voter response was far more negative for Operation Sangaris, which was declared a purely humanitarian intervention.[55] Thus, Hollande appears to genuinely believe in the ideology of "cooperation." In turn, this ideology is reflected

in Hollande's public statements regarding the cause of Operation Serval. For example, in a television appearance in late March 2013 in which he attempted to defend his record to voters, Hollande justified the intervention partially on the grounds that "today, that France that was regarded as a colonizer is regarded as a liberator."[56] Finally, several of France's actions in the course of Serval also imply that Hollande is interested primarily in rebuilding the Malian state as a democracy (as opposed to pursuing Islamists or protecting its economic interests). For example, as described earlier, Hollande recently redirected French troops from a planned operation in Niger (which is economically important to France) to fight Malian ethnic separatists, who pose no threat to French security but who threaten the integrity of the Malian state.[57] Thus, the French policy towards Mali as composed by President Hollande appears to be influenced by the self-identity of post-colonial French relations with Africa.

IV. Operation Sangaris and Realism

To a political realist, Hollande's initial reluctance to intervene in the Central African Republic seems to undercut a constructivist interpretation of Operation Serval. Historically, however, France and the CAR have had a relationship similar to that of France and Mali. The CAR is a former French colony, and both Mali and the Central African Republic were historically subjected to the "civilizing mission" in its various forms. For example, in the 1950s, as part of a short-lived Franco-African governing body known as the French Community, Mali and the CAR were frequently forced to defer to France on most matters of governance even after supposedly becoming autonomous regions.[58] Furthermore, the initial crises in Mali and the CAR are also remarkably similar in the threat they posed to an African pseudo-democracy. Both Interim Malian President Diouncounda Traore and ex-President of the CAR Francois Bozize, it might be argued, had questionable but similarly pseudo-democratic credentials when they were threatened: Traore was handpicked as part of a power-sharing agreement with a military junta that came to power through a 2012 coup and has a low support base among Malians,[59] while Bozize has been accused of fraudulence in the elections which brought him to power.[60] And, like the Islamic rebels in Mali, the anti-Bozize Seleka movement was both antidemocratic and violent, seemingly the opposite of the government recommended by the "cooperation" doctrine. Seleka committed human rights violations and officially suspended elections for eighteen months, ostensibly to preserve the nation's stability.[61,62] In short, a reasonable observer might ask in response to the claims of a constructivist: if Hollande were really motivated by a desire to maintain France's republican institutions in France's African ex-colonies, why would France move to support the arguably pseudo-democratic government of Dioncounda Traore but not that of Francois Bozize?

To respond to such a realist challenge, it is important to recognize that

the political-realist explanations for military interventions are even less likely to apply in the Central African Republic than in Mali. Unlike the conflict in Mali, which involved several cooperating groups with a shared history of espousing and undertaking attacks on French interests, most of the sides in the Central African Republic's conflict do not appear to be motivated by any ideological opposition to France—that is, groups which pose no direct threat to French security.[63] While French officials claim that Operation Sangaris was being continued in order to limit the growth of the Islamist group Boko Haram in the CAR,[64] President Hollande's public statements indicate otherwise. For instance, in a public statement just prior to the launch of Operation Sangaris, Hollande stated: "[Sangaris] is its [France's] duty…of assistance and solidarity towards a small country…France has no other objective than to save lives."[65] It is unlikely that this particular statement was intended for political gain, given the aforementioned distaste of Hollande's constituency for purely humanitarian interventions in Africa. Accordingly, the fact that Hollande *did* justify this intervention on humanitarian grounds suggests that this statement was an accurate statement of his intentions, not mere rhetoric.

Second, an imperialist explanation does not satisfy. This is because, as previously discussed, Sangaris seems to have been planned to be as limited as possible. For example, French defense officials reportedly initially planned to minimize the number of troops committed to the intervention and the length of time the intervention would take up.[66] It is unlikely that France planned to take control of the CAR's resources in the course of such a transitory (and limited) operation. Finally, Sangaris was likely not intended to increase the prestige of the Hollande administration domestically or abroad. As mentioned in the previous section of this study, France has sought to increase the presence of troops from other African nations, which implies that the intervention is not meant as a display of French military power. For example, in May 2014, Minister of Defense Jean-Yves Le Drian met with Senegal's Macky Sall in the hope of convincing other African nations to contribute troops to the intervention in the CAR.[67] Furthermore, as previously mentioned, Hollande announced significant cuts to France's military budget in a 2013 white paper,[68] which certainly suggests that he is not trying (unlike in the typical case of prestige politics) to display French military might. Thus, political realism offers no better of an explanation for the intervention in the CAR than it does for the intervention in Mali.

V. Constructivism in the CAR

A closer examination of the crisis in the Central African Republic and Hollande's eventual response suggests that Hollande's ideology – using the constructivist explanation – may also explain the timing of Operation Sangaris. Specifically, Hollande's decision to delay the intervention until December 2013

is consistent with the "cooperation" doctrine's emphasis on republicanism: while the Malian government which France supported was in fact much more democratic than Bozize's government, Hollande chose to intervene in the CAR only when Bozize was replaced by the more democratic government of Catherine Samba-Panza. First, contrary to the realist counterargument laid out in the previous section, the government of Mali which France supported was in fact considerably more democratic than the Bozize government that France abandoned. Although a democratically elected Malian government was overthrown by a military junta headed by Captain Amadou Sanogo in March 2012, the acting president of Mali in 2013, Diouncounda Traore, appears to have been a genuinely democratic choice rather than Sanogo's puppet. Traore has historically supported the democratically elected ex-President of Mali Amadou Toure, a rival of Sanogo's, and has been attacked by supporters of Sanogo's coup.[69] More importantly, Traore's prime minister, Diango Sissoko, promised elections in July 2013 in accordance with French demands;[70] when the elections did occur, E.U. observers reportedly noticed few irregularities.[71] By contrast, ex-President Bozize first came to power after leading a military coup, was mysteriously re-elected for ten consecutive years, and has reportedly engaged in human rights violations.[72] Furthermore, when France finally intervened in the CAR, it intervened not to protect Bozize's Francophile dictatorship, but to maintain the stability of the government of Catherine Samba-Panza, whose election has been supported by members of both sides in CAR's current civil war.[73] The constructivist interpretation of France's intervention is further supported by Hollande's public statements on the event. When President Bozize requested French help, Hollande justified his lack of interference in the CAR on the grounds that "if we are present, it is not to protect a regime."[74] His use of the phrase "a regime" to describe the Bozize government suggests that he (correctly) viewed the choice between Bozize and Djotodia as merely supporting one dictatorship or another. By contrast, after Bozize and Seleka were replaced by Samba-Panza, Hollande declared the intervention to be driven by a "duty" of "assistance and solidarity" towards the Central African Republic.

While some might question why – if this is so – Hollande did not attempt to depose Djotodia's decidedly nondemocratic Seleka government, the cooperation doctrine's emphasis on "partnership" provides some clarification. Recall that since 1945, France's perception of the African colonies had incorporated an element of response to colonies' desire for self-determination and sovereignty. This adaptation to the *mission civilisatrice* eventually found its way into cooperation's assumption of a familial "partnership" between France and its African colonies,[75] and was expressed by Francois Hollande in his 2012 speech at Senegal. This recognition of the sovereignty of the ex-colonies may have led France to distance itself from the conflict in the CAR. Unlike the

Islamist groups of Mali, some of which are based in other African nations, the CAR's Seleka rebel coalition was, at least theoretically, supposed to be a coalition of local inhabitants of the CAR.[76] That is, France could fulfill its perceived role as a "familial" supporter of democracy by supporting Traore's government without directly infringing on Mali's independence as a nation.

By contrast, there were no "handholds" for democracy in Bozize's CAR: France could not have created an actual democracy without picking leaders and a structure of its own, which would conflict with its traditional policy approach. Intervention in Mali might be supporting democracy, but intervention in Bozize's CAR would not respect the partnership aspect of cooperation. And when France did intervene in the CAR's civil conflict, it was with the explicit invitation of Samba-Panza's government: Hollande made a point of noting publicly that the government of the CAR was "calling for help."[77] Ultimately, the constructivist account of President Hollande's reasons for intervening in Mali does not appear to be inconsistent with Hollande's initial nonintervention in the CAR.

VI. CONCLUSION

At the close of this paper, a disclaimer is in order. Although we have seen that constructivism serves as a highly convincing explanation for France's recent interventions in Africa, it is important to recall that this study only examines the interventions in Mali and the CAR in the light of two international relations paradigms: constructivism and political realism. Accordingly, this paper does *not* make the claim that constructivism is necessarily the only school of theory which can explain French actions in Africa. However, while this case for constructivism cannot definitively show that constructivism *necessarily* explains Hollande's African policy, the extreme consistency of constructivism with Hollande's statements and actions (and the fact that Morgenthau's realism does not sufficiently explain these interventions) underlines constructivism's considerable potential to explain Hollande's policy. Accordingly, while this paper does not present the only possible explanation for Serval and Sangaris, it offers this guidepost to future researchers: it would be extremely worthwhile to examine whether constructivism and its focus on ideology might serve as the definitive explanation of the African policy of Francois Hollande. Future research may well find that an alternative paradigm, such as neorealist or liberal theory, offers an even better explanation for Hollande's African policy.[78]

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Investigating the Post-Conflict Reconstruction of the Ring Road in Afghanistan

Sophia Dhalla

There is a widespread consensus among development practitioners and academicians that, given the right conditions, road reconstruction projects have the potential to bring about development and target poverty. At the core of this claim is the belief that roads reduce social isolation by connecting citizens to vital services such as market, health and education services, as well as social and political networks. This paper will analyze the construction of the Ring Road in Afghanistan, a main highway reconstruction project carried out by the international donor community, beginning in 2003 and continuing today. The following question will be addressed: Despite the intentions of the international community to bolster national peace and provide social services through the Ring Road, to what extent has this reconstruction project actually reinforced conflict and diminished peace? This paper will critically examine the unforeseen negative consequences of the road, including the involvement of the Taliban and land grabbing by government officials. In addition, this paper will attempt to answer why this lack of foresight on the part of international donors occurred in the first place, despite their well-intentioned efforts.

Introduction

This paper will examine how the post-conflict reconstruction of the Ring Road in Afghanistan has impacted local livelihoods. The Ring Road is part of a 3,360 kilometer main highway reconstruction project funded largely by the international donor community.[1] Once completed in 2015, it is believed that 60% of Afghans will live within 50 kilometers of this road.[2] Donor agencies originally believed that the road reconstruction project would facilitate a rise in enterprise capabilities and disposable incomes, affording farmers lower transport costs to expand their market beyond local communities. Furthermore, the Ring Road was intended to connect rural Afghans to government services, including schools and hospitals, while spreading peace and stability throughout the country. However, since the reconstruction of the Ring Road began over a decade ago, reported levels of land grabbing have reached an all-time high along the road.[3] In addition, the Taliban has seized control of many segments of the Ring Road, setting up illegal checkpoints, attacking construction workers, and planting landmines.[4]

This paper will address the following question: Despite the intentions of the international community to bolster national peace and provide social services through the Ring Road, to what extent has this reconstruction project actually reinforced conflict and diminished peace? This paper will critically examine the unforeseen negative consequences of the road, including increases in land grabbing

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and strengthening of the Taliban. In addition, this paper will attempt to answer why this lack of foresight on the part of international donors occurred in the first place, highlighting their lack of consultation with locals on the ground prior to building the road.

Infrastructure in Afghanistan: A Historical Context

Beginning with the invasion by the former Soviet Union in 1979, followed by civil wars and the rise of the Taliban in the 1990's, the past decades of Afghanistan's history have been rife with conflict. These years of war have resulted in large-scale deterioration of the country's infrastructure, with many important roads and bridges being destroyed.[5] In 1991, only 13% of the country's roads were paved, and most of them were decimated to dirt tracks during the following ten years of warfare.[6] After years of war, "[roads] were almost impassable. [They] had been washed out by floods, ground apart by tank treads and bombed in repeated military campaigns. The husks of looted cars and deserted Russian armour lined its shoulders. In places it was mined or littered with unexploded rockets, shells, and bombs."[7] The large-scale destruction of roads left Afghanistan in an economic crisis, as people could not easily move from one place to another, and local goods could not make it to the market on time. Following the al-Qaeda terrorist attacks on New York and Washington D.C. in September 2001, the United States intervened militarily in Afghanistan and removed the Taliban regime from power. Immediately following this event, Afghanistan suddenly became a major target of international aid and security efforts. At this time, Afghanistan was one of the poorest places on earth, with 70% of the population malnourished and over 64% being illiterate.[8] Once the Taliban was overthrown, the international community wanted to take immediate action to promote peace and long-term stability throughout the impoverished nation.

Shortly after the defeat of the Taliban, the United States Agency for International Development (USAID) conducted the *Afghanistan Civil Infrastructure Assessment*, identifying the reconstruction of the Ring Road as a priority for Afghanistan's development. USAID presented a final report of their assessment to the Afghan government, which stated that "damaged roads have become bottlenecks to the movement of people and goods."[9] At the Tokyo Conference on Afghan Reconstruction in January 2002, donor agencies concurred that the large-scale reconstruction of the Ring Road would help extend the central government's influence in bringing peace and economic prosperity to the rest of the country. Three main goals of the Ring Road were outlined at the Tokyo conference: a) facilitate trade and economic linkages, b) improve access to schools, health clinics, and other government services and c) bring rural areas into commercial interaction with the marketplace.[10] The Ring Road reconstruction project began in 2003, involving the cooperation of twelve countries and multilateral agencies under the leadership of USAID. Each of these donors is responsible for financing and constructing their allocated segment of the road by 2015. To date, the international donors have

collectively donated approximately $3 billion towards rebuilding the Ring Road; after security expenditures, road reconstruction is the largest recipient of aid money in Afghanistan.[11] The most significant financial contributors include USAID, the Asian Development Bank, Japan, and the World Bank, respectively.[12] Upon completion, this road will connect sixteen major provinces and cities within the country, while connecting Afghanistan to neighboring Tajikistan, Pakistan and Iran.[13]

Road Reconstruction and Development: What the Evidence has Shown

There is a widespread consensus among development practitioners and academicians that, given the right conditions, roads have the potential to bring about development and target poverty. At the core of this claim is the belief that roads reduce social isolation by connecting citizens to vital services such as market, health and education services, as well as social and political networks.[14] In a rural context, roads provide a foundation for increased agricultural yields through improved access to markets, increased availability of relevant inputs, and lower input costs. According to a 2002 report by the Asian Development Bank, "The improvement of roads is broadly recognized as a fundamental precondition for development, and remoteness and lack of mobility are widely identified by the poor themselves as factors in heightening their vulnerability and perpetuating their poverty."[15]

The belief that roads have the potential to catalyze social and economic development has been widely supported in the literature through various country case studies. The most successful modern example of investment in road reconstruction as a means of poverty alleviation has been in China. Since 1985, China has reconstructed over 250,000 kilometers of roads and bridges, with investment focused on 28% of the poorest districts in the country.[16] The reconstruction of these roads have served as vital transport corridors for the export and import of goods as well as domestically commercialized products.[17] Additionally, the agricultural yields of Chinese farmers have increased significantly with travel times to commercial markets reduced by over 75% in some villages.[18] Other similar success stories have been reported in regions of Cameroon, Vietnam, and Ecuador.[19] In each of these cases, road reconstruction efforts were supplemented with government service provision, consultation with local villagers, and a high degree of transparency. It is becoming increasingly evident that while roads serve as a critical complement to development, they will not necessarily alleviate poverty on their own. As the World Bank cautions, "Roads should be considered as a necessary but not sufficient tool for development."[20] At present, the literature is heavily focused on developing a more nuanced understanding of the conditions needed for successful road implementation. Analyzing the detrimental experience of the Ring Road in Afghanistan will serve to build upon this understanding, providing insight into road reconstruction in a post-conflict context.

Negative Unintended Effects of the Ring Road

Despite intentions to promote peace and security through reconstruction of the Ring Road, these post-conflict reconstruction efforts appear to have exacerbated the conflict within Afghanistan. While summary reports from donor agencies have downplayed the extent of insecurity and instability along the Ring Road, the media has reported on the detrimental consequences of the road since it was first constructed. According to the *Afghanistan Times,* land grabbing by corrupt government officials has skyrocketed since the construction of the road, leading to large-scale displacement of local Afghans from their land.[21] This issue of land grabbing along the road is further aggravated by Afghanistan's crippled land tenure system and the widespread corruption in the country. In addition, the Taliban have seized control of many parts of the road, planting landmines, kidnapping workers and setting up illegal checkpoints along the road.[22] In many cases, criminals masquerade as police officers and order drivers to pull over, sacking their vehicles and stealing their goods.[23] A 2012 article in *The Telegraph* reported that "[The Kabul-Kandahar Ring Road] was built at massive expense as a symbol of success for the new Afghanistan, but instead the…road has become a highway of death that shows what has gone wrong."[24] By the month of August, over 190 bomb attacks had occurred along the Ring Road in 2012 alone, along with 284 shootings; this equates to nearly one shooting for every mile of road.[25] The subsequent sections will further investigate the negative unforeseen consequences of the Ring Road including increases in land grabbing and strengthening of the Taliban.

Increases in Land Grabbing

Since the construction of the Ring Road in Afghanistan, significant increases in land values along the road have resulted in large-scale land grabbing by powerful interests. Of the thirty-four provinces in Afghanistan, the nine provinces with the greatest levels of government-seized land are located in closest proximity to the Ring Road.[26] In six of these provinces, over 80% of the land has been grabbed.[27] It is currently estimated that over four million acres of land across Afghanistan have been seized illegally, primarily by top government officials and military leaders.[28] Anecdotal evidence suggests that the majority of this grabbed land is being used for speculation purposes. Since the construction of the Ring Road, land within 10 kilometers of the road has increased in value by as much as 20 times over the past decade.[29] With the knowledge that land values along the road continue to skyrocket, land speculation has become a common practice amongst wealthy elites. The seized land remains unused until its value goes up so that it can be sold for a profit. Other elites then buy the land and repeat the same process.

This widespread increase in land grabbing is further fueled by the lack of an enforceable land tenure system in the country. Land tenure in Afghanistan is based on a "confusing and highly divisive" mix of statutory, customary, Islamic, and warlord laws.[30] Afghans are not convinced that the statutory courts can resolve land disputes as the judicial system is the most corrupt sector of the government.[31]

Consequently, customary agreements and land documents have been rendered "virtually meaningless" due to fraudulent officials who demand bribes.[32] Since the Ring Road reconstruction has occurred in the context of unstable land tenure and widespread corruption, powerful interests frequently use threats of land seizure along the road for extortion. In 2003, the *Washington Post* reported on a case involving twenty families in the Sherpur community whose homes were located along a newly paved segment of the Ring Road.[33] The Afghan police forced these families out of their homes and the land was redistributed to 29 cabinet ministers, Kabul's mayor, and the Central Bank's governor.[34] Ahmad, a 56-year-old father of six, said, "The police came in and beat me with their guns when I refused to leave…I have worked for the army for 26 years, but now the powerful people with guns have humiliated my family and destroyed our home."[35] According to the Afghan Independent Human Rights Commission, this incident in Sherpur represents a "microcosm" of what has been happening on land along the Ring Road throughout Afghanistan.[36] While land grabbing by wealthy elites continues to rise, 1.6 million people in Afghanistan do not have adequate housing, and the supply of land available for long-term citizens, refugees, and Internally Displaced Persons does not meet even 10% of the demand.[37] As U.N. reporter Kothari describes, for the past decade "there [has been] a crisis of housing and a freeze on land allocation, but that doesn't apply to the wealthy, the well-connected, the commanders, or the drug lords."[38]

Upon revisiting the original goal of the Ring Road to extend the influence of the government in promoting peace and security, it appears that this has not happened in practice. While the road has extended the influence of the government, corrupt government officials have abused this influence by seizing land along the road to satisfy their profiteering interests. This, in turn, has displaced many innocent citizens from their homes, creating a widespread sense of distrust towards the government amongst the majority of Afghans. This problem is expected to worsen in the near future due to the recent discovery of mineral-rich regions throughout the country.[39] These untapped mineral deposits have an estimated value of $1 trillion, which is extremely lucrative considering that Afghanistan's current gross domestic product is only $12 billion.[40] It is believed that this discovery will lead to aggressive seizures of land above mineral deposits and along segments of the Ring Road leading to these mineral-rich regions. According to Batson, the public resentment over land grabbing "is so acute that it is thought to constitute a significant conflict-related flash-point, able to push the country into renewed civil unrest."[41] Therefore, instead of promoting peace, the Ring Road, through increases in land grabbing, has actually detracted from long-term peace and security in the nation.

Strengthening of the Taliban

Since the international community first stepped into Afghanistan to reconstruct the Ring Road, the road has become a prime target for the Taliban. The Taliban has destroyed vehicles, attacked construction sites, and killed and kidnapped

construction workers. Between 2003 and 2008, 162 contractors associated with the USAID road reconstruction project have been killed, and an additional 202 workers have been injured in Taliban attacks.[42] In addition to targeting construction workers, the Taliban has been attacking members of the International Security Assistance Force (ISAF), a NATO-led security mission that was launched in Afghanistan by the U.N. Security Council in 2001. There have been frequent reports in the news of Taliban fighters killing drivers, hauling cargo for NATO, or slicing off the noses and ears of NATO workers before setting them free.[43] In addition, the Taliban have set up various checkpoints along the Ring Road, demanding bribes in exchange for the security of vehicles that want to pass.[44]

In addition to collecting bribes, the Taliban have also been profiting from under-the-radar alliances with contracting companies that are involved in the Ring Road reconstruction. For example, the World Bank subcontracted their segment of the road to the Louis Berger Group (LBG), a New Jersey-based international engineering consulting company. LBG, in turn, subcontracted the project to an Indian company, who then subcontracted the project to Mr. Ghulam Arafat, a warlord in the Khost province without a registered company.[45] Mr. Arafat has been paying the Taliban $1 million per year for "security purposes" since LBG's contract began to ensure that the Taliban did not attack the project.[46] Upon the discovery of this subcontracting misdemeanor by the international community in November 2012, LBG was fined $69.3 million dollars in criminal penalties by the U.S. Justice Department.[47]

These types of incidents have led to widespread criticism that international donors, through financing the Ring Road reconstruction, are simultaneously funding the Taliban. As development practitioners caution, "the more reconstruction activity there is, the richer the Taliban and warlords become."[48] This sentiment has been further echoed in the media, with a 2012 article in BBC News entitled *The Taliban's Secret Weapon: Security*. This article claims, "The Taliban doesn't rely on drug money or Iranian bounty rewards for serious funding. It takes protection money from infrastructure and transport projects, and donations where it can get them."[49] Overall, while the Ring Road was originally intended to promote peace and security, this goal is being severely undermined through the Taliban's control over the road.

MEASURING THE SOCIOECONOMIC IMPACT OF THE RING ROAD

A critical analysis of the Ring Road would not be complete without investigating the positive socioeconomic impacts of the reconstruction project. While the media has intensively focused on the insecurity created by the road, little attention has been paid to determine whether the road has exhibited positive effects on local livelihoods. Out of the twelve international donors, USAID is the only agency that has conducted an impact assessment of the Ring Road since its construction began. In 2009, USAID published an assessment, *Roads Socioeconomic Impact Assessment*. However, the United States Government Accountability Office (GAO) has criticized this assessment heavily. A 2010 GAO report found that USAID failed to perform a

sound impact assessment of the Ring Road, as the majority of their findings were "based on rough estimates, anecdotes, and impressions…therefore the results are not generalizable."[50] As such, data is limited on the socioeconomic impact of the road, making it difficult to draw firm conclusions about any beneficial effects of the reconstruction project based on the existing USAID report.

The following section will revisit the three original goals for the Ring Road that were outlined by international donors at the 2002 Tokyo Conference on Afghan Reconstruction. The progress toward each of these goals will be critically investigated, providing for a more comprehensive, balanced perspective of the socioeconomic impact of the Ring Road and its impact on local livelihoods.

a) Facilitate Trade and Economic Linkages

It was originally proposed that the Ring Road would facilitate regional and international trade by reducing transportation costs and decreasing travel times along the road. According to the 2009 USAID Report, freight transport into the capital city, Kabul, has increased by 27.6% between 2003 and 2008.[51] In addition, travel times between major cities have been drastically reduced along the newly reconstructed road. For example, the Kabul to Kandahar segment of the Ring Road took 48 hours to cross in 2003, compared to a mere 12 hours after being reconstructed by 2008.[52] USAID surveyed 143 shop owners in 81 settlements along the southern Ring Road, from Kabul to Herat, in 2008.[53] Of these small businesses, 89% received their goods using the southern Ring Road and 76% used the road to get to their shop each day.[54] More importantly, 56% of these shops had opened within the past five years, suggesting that the reconstruction project has led to the proliferation of new businesses along the road.[55]

However, while the road has promoted local businesses and increased freight transport, it has failed to decrease the cost of transport along the road. In fact, the cost of transportation has increased by an estimated 36% since the reconstruction of the road.[56] This is due to the overwhelming number of checkpoints along the road, many of which require substantial bribes to be paid to corrupt officials and members of the Taliban. For example, along the Kabul-Kandahar segment of the road, there are an average of 4.6 "official" stops and 18 "unofficial" stops.[57] It is estimated that one large cargo truck from Kabul to Kandahar can cost anywhere from $250 to $1,500 in checkpoint payments and bribes.[58] USAID found that that the "checkpoints demanding bribes undermine the potential gains from international trade" and have "limited the use of the road as a trade corridor."[59]

Perhaps the greatest factor hindering the ability of the Ring Road to facilitate trade is the deterioration in security due to the Taliban presence along the road. This situation is expected to worsen in the future, as ISAF peacekeeping troops are beginning to withdraw from Afghanistan. In May 2012 at the NATO Summit in Chicago, an exit strategy was proposed to remove all 130,000 ISAF members from Afghanistan by the end of 2014.[60] The members of the ISAF have played an integral

role in promoting security along the Ring Road by protecting segments of the road that have not yet been accessed by the Taliban. According to a *New York Times* article in March 2012, as the Taliban continues to strengthen and the ISAF drawback begins, large-scale companies have begun to reconsider scaling back their future involvement in Afghanistan.[61] The article elaborates, "The only Western bank operating [in Afghanistan] said on Wednesday that it would be leaving. Piles of cash equaling about a quarter of Afghanistan's annual economic output were physically carried out of Afghanistan last year. Fewer foreign companies are seeking to do business here, and those already here are downsizing and putting off new investments."[62] Therefore, the concern of increased Taliban presence along the Ring Road may serve to hinder Afghanistan's economic linkages in the future. This has effectively subverted the original goal of the international community to bolster trade and economic growth through reconstruction of this road.

b) Improved access to schools, health clinics, and other government services

According to the 2009 USAID report on the Ring Road, between 2003 and 2008, real household incomes of Afghans increased by an average of 39%.[63] Moreover, USAID reported that within this five-year span, the number of hospitals increased by 23.5% and rates of female school enrollment almost doubled.[64] While these indicators appear to be promising, they are also misleading, as there is no way of attributing these changes directly to the construction of the Ring Road itself. For example, rather than being a direct consequence of the Ring Road, the increase in female enrollment is more likely due to the 2001 overthrow of the Taliban regime and their decree that girls could not attend school. While the construction of the Ring Road may have coincided with increased female school attendance, this correlation does not imply causation; this same critique applies to the other socioeconomic impact indicators provided by USAID. In fact, in fine print at the end of its report, USAID acknowledges, "these [social welfare] gains cannot be fully attributed to the Ring Road, but are merely coincident…some of the gains may have even occurred even without the Ring Road rehabilitation."[65]

The common belief that road reconstruction will facilitate greater access to social services is more complicated than international donors may have initially realized. It was originally assumed by donors that these social services would be provided by the state, NGOs, and internationally funded programs. These services, in turn, would contribute to improved welfare of the population and sustained peace. However, while these assumptions may hold true in a peaceful country, they are often impractical and unrealistic in an unstable, conflict-prone setting. According to Unruh and Shalaby, "road reconstruction is actually quite complicated…in a war-related context, service provision is in many instances non-existent, weak, or highly corrupt…this is something that insurgent groups capitalize on with the insertion of their own services."[66]

In recent years, social service provision has become a fundamental way in

which insurgent groups gain power. The Taliban has begun promoting their own hospitals, schools, and courts, and other services to the Afghan public as an alternative to government counterparts.[67] At the same time, insurgent groups attack those who cooperate with the government to inflict fear amongst local populations. In February 2013, Integrity Watch Afghanistan estimated that over 50% of Afghans have begun using traditional courts and courts governed by the Taliban due to the widespread corruption of the government judicial system.[68] As more citizens turn to insurgent groups for social service provision, the Taliban will be able to recruit more members, increase economic gains, and ultimately strengthen their influence. This begs the question as to whether the Ring Road is promoting security by increasing access to government services, or undermining security by enabling citizens to access Taliban-provided services.

c) Bring rural areas into commercial interaction with the marketplace

According to the 2009 USAID report, the percentage of farmers using the southern Ring Road to transport crops to the market increased from 40% to 70% between 2003 and 2008.[69] The report also claims that the use of purchased inputs, including fertilizers and improved seeds, has become more widespread amongst rural farmers since the construction of the road.[70] These findings suggest that the road has, in fact, managed to bring rural areas in closer proximity to the marketplace. Despite these positive indicators, however, anecdotal evidence suggests that the extension of the Ring Road to rural villages has actually occurred against the will of many Afghan farmers. Prior to the construction of the Ring Road, many of these rural villages remained isolated from the road network, allowing them to remain hidden and off the radar of the Taliban. However, the extension of the road has actually "exposed" these villages to the Taliban, enabling them to tax or attack citizens due to greater accessibility. As a local resident of the Paghman province explained, "foreign forces came to our villages and said they want to asphalt the road but we said no. We know the road is good but we also know that an asphalted road brings ISAF patrols, and with them comes suicide and roadside attacks."[71]

The construction of the Ring Road has also led to a surge in the number of landmines planted along the road, particularly in these newly exposed rural areas. Between 2009 and 2010 alone, there was a 94% increase in landmine incidents involving the Taliban along the Ring Road.[72] An estimated 95% of these explosive devices have been planted in agricultural and grazing areas, directly threatening rural livelihoods.[73] As a result, many rural Afghans are becoming apprehensive about using the Ring Road to transport their goods to the market. The planting of landmines in agricultural areas is especially detrimental given that 75% of the Afghan population is rural, and only 12% of Afghanistan's terrain is arable.[74] In essence, it appears that the Ring Road has served as a double-edged sword for rural Afghan villages; while the road has brought more rural villagers into interaction with the marketplace; it has also brought the Taliban into interaction with the rural villages themselves.

Understanding the Lack of Foresight by International Donors: What Went Wrong?

Despite the well-intentioned efforts of international donors to use the Ring Road as a means of economic development and improved social welfare, these goals have clearly not been realized in practice. As security along the road continues to deteriorate, many development practitioners and scholars have begun to question the apparent lack of forethought on the part of international donors. What were the errors in the planning process that led the Ring Road to become an instrument of extortion and insecurity, rather than one of stability and peace? In attempting to address this question, it is essential to first understand the context in which the original plans for the Ring Road were laid out.

Following the 2001 U.S. invasion of Afghanistan, international aid agencies felt a sudden sense of urgency to implement security projects to prevent the Taliban regime from re-asserting their dominance. Only two weeks after the overthrow of the Taliban, a U.N., World Bank and Asian Development Bank-sponsored consultation occurred in Islamabad, followed by the Afghan Reconstruction conference in Tokyo.[75] During this time, "All [donors] were engaged in a scramble to submit plans, budgets and proposals, based on desk studies and inadequate assessment missions [due to] the imposed urgency of the process."[76] In the preface to the U.N. document, *Immediate and Transitional Assistance program for the Afghan People 2002* (ITAP), the authors mention that the process was "fast-tracked" in order to be presented at the Tokyo conference, and consequently, consultations with partners were incomplete.[77] This suggests that the planning of the Ring Road was not a carefully orchestrated process, but rather part of a rushed "knee-jerk" reaction by international donors to respond to the events that occurred in September 2001. This lack of planning and consultation amongst donors was perhaps one of the first mistakes that led to the downward spiral of the Ring Road reconstruction.

One of the consequences of this rushed planning process was that donors failed to consult with local Afghan village members prior to building the road. Local elders were almost entirely ignored in the decision-making process, and as such, Afghans did not feel a strong sense of support for the project from the beginning. The World Bank has even admitted that "project implementation in a conflict-affected environment like Afghanistan requires a nuanced understanding of local social structure, including the ability to work with community leaders to ensure access to project sites and security."[78] Perhaps if the international donors had first consulted with the locals, they would have realized how the Taliban and corrupt government officials might impede the ability of the road to promote peace. In addition, rather than employing local Afghan workers, international donors hired Indian, Turkish, and Chinese laborers from abroad to reconstruct the four major segments of the road.[79] This conscious choice by the donors to not to employ local Afghans is highly contradictory, given that one of the primary goals of the Ring Road was to boost the

local Afghan economy.

  Another inherent flaw in the reconstruction process stems from the highly fragmented nature of the project. Each of the twelve donor countries and multilateral agencies are currently responsible for financing, subcontracting and overseeing the reconstruction of their own segments of the road. Despite the leadership of USAID, there is no overriding or impartial body responsible for ensuring a transparent procurement process by all twelve donors. This may explain why the subcontracting alliances with the Taliban have been able to go unnoticed for so many years. According to Barakat, the Ring Road project "shows serious evidence of fragmentation and contradiction, where, as we have seen, an integrated and holistic approach is needed."[80] In summary, the lack of a cohesive process, combined with rushed planning and the failure to consult with local Afghans, have all undermined the efforts of donors to promote peace through the Ring Road.

Future Recommendations and Concluding Remarks

  Upon investigating the effects of the Ring Road, it is evident that this reconstruction project has actually exacerbated conflict and detracted from peace, despite the intentions of international donors. The detrimental impacts of the road have been demonstrated through large-scale increases in land grabbing and strengthening of the Taliban presence along the road. Looking into the future, these negative impacts are expected to worsen, as the corrupt government pushes more citizens towards Taliban-provided services and ISAF peacekeeping patrols retreat from Afghanistan. Based on the lessons learned from the original mistakes of donors, a variety of recommendations can be made to improve future management of the Ring Road. First and foremost, donor agencies should attempt to work more closely with local Afghans. This includes incorporating them in the decision-making process and taking their suggestions into consideration. In addition, attempts should be made to hire local Afghan workers for the remaining segments of the Ring Road in efforts to boost the local economy. This sense of community investment in the projects will also serve to strengthen the support for the roads; perhaps making locals more likely to defend the roads against Taliban attacks in the future. Finally, an objective, third party mediator should be hired to conduct a thorough assessment of current subcontractors employed by each of the twelve international donors. This will help facilitate a more transparent procurement process, ensuring that money is not being continuously siphoned to the Taliban through under-the-radar alliances. Ultimately, through understanding where donors went wrong in the original planning process, a variety of lessons have been learned about road reconstruction in a post-conflict context. The lessons learned from the Ring Road experience may serve to facilitate more successful road reconstruction projects undertaken in the future.

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Modern Challenges to Intelligence: How Can the CIA Keep Up?

Michael Morell served both as Deputy Director and twice Acting Director of the Central Intelligence Agency. He joined the CIA as an economic analyst and climbed to senior leadership positions, including the Director of the CIA's Office of Asian Pacific and Latin American Analysis, the Director of Intelligence who functions as the Agency's chief analyst, and the Associate Deputy Director, CIA's lead administrator. He also served as the daily intelligence briefer to President George W. Bush, as DCI George Tenet's Executive Assistant, and as the head of analysis at the Intelligence Community's National Counterterrorism Center. Morell obtained his Bachelor's degree from the University of Akron and his Master's degree from Georgetown University. He retired from CIA in 2013.

Though your two stints as acting director of the CIA were only about a year apart, they were at times of very different challenges to the American intelligence community. How did your first tenure differ from your second, and did active challenges make your second tenure more difficult than the first one?

They were different in a couple of ways. One was that the first time I knew exactly how long it was going to last because the president quickly made the decision that Dave Petraeus would be the next director, and it was clear he was going to sail through confirmation, so I knew when my starting day was and my ending day would be. The second time around, the timing was much more open; there wasn't a clear successor and the president went through a process of identifying one, so it was much more open-ended. In fact, the second stint lasted much longer than the first one—four months compared to two.

Another way they were different was that the first time around there wasn't anything that popped up in the world that required a new approach or a change in direction for the organization. But the second time around, we were in the midst of the beginning of the Syrian civil war, so the president was in the midst of putting together a policy with regard to that war, so I found myself leading the agency at a time when we were trying to provide as much intelligence and support to the president as possible on a critically important emerging issue.

Having served at senior levels for both the Obama and Bush administrations, could you compare both of their leadership styles and perhaps how they grew throughout the presidency?

A comparison is very hard to do, but I do think what struck me about both of them was their reliance on intelligence. One of the things I talk about a lot is the growing importance of intelligence. I don't think that the number of national security issues facing the United States has ever been greater, and many of those issues are first and foremost intelligence issues. Whether you're talking about terrorism, proliferation, drug trafficking, organized crime, human trafficking, or a host of other issues, a senior policymaker really needs first-rate intelligence to understand the issue, to make

policy on it, and often times to carry out that policy. And because of the growing importance of intelligence, both administrations and both presidents were heavily reliant on intelligence and they really wanted to know what the intelligence community knew about and thought about an issue before they made a decision on what to do about it. That really characterized both of them.

You played a very central role in the search for Bin Laden, and you said in the past that the search was a decade-long effort. How did you manage to make decisions throughout the process with only piecemeal or sometimes incorrect information, and how did you make the statistical calculations of when you had enough information to make a move?

The hunt for Osama Bin Laden was a priority from the day he slipped away from U.S. forces at the end of 2001, and the CIA followed every lead as far as we could follow them. There were literally hundreds of leads over that ten- or eleven-year period and we followed each lead as far as we could, until it hit a dead end. We had a very systematic approach for identifying leads. One of the approaches was to focus on the couriers, those individuals who carried handwritten communications between al Qaeda's leaders, and that's the approach that hit pay dirt at the end of the day. We identified the courier who would end up taking us to Bin Laden in 2002 when a handful of detainees told us about him. It took us a number of years to identify his true name, and a number of additional years to identify his general location, and even longer to follow him to where he actually lived. So you follow all these leads, and this one—this particular lead—just never ended. It just kept going and going, all the way to a residential compound in Abbottabad, Pakistan.

Now I will say, as an answer to the second part of your question, that CIA's judgment that Bin Laden was hiding in the Abbottabad compound was a circumstantial one. There was no direct evidence that he was there. It was just circumstantial, and we made that very clear to the president. We told him it was a powerful circumstantial case, but still circumstantial. The president ultimately had to make a tough decision to put US soldiers at risk based on a circumstantial case.

You talked about how we've spent many years trying to find the courier by looking at the communications of the terrorist network, as well as the proliferation of cellular phones in a lot of third-world countries. Would you say that technology has made terrorists easier or harder to find?

Technology is an advantage for the adversary and for us. It's a constant game of them using new technologies to their advantage and us using new technologies to collect intelligence. I think of it as just a reality that you have to deal with. Technology creates both challenges and opportunities for the Intelligence Community. We hire really smart people to be able to figure out what the bad guys are doing with technology and how we can use it to our advantage.

We've also seen this recently with ISIS being so active on social media. Do you think that is a hindrance or a help to them?

I think it's a huge help to them. It's the way they get their message and their narrative out and they're very effective at doing that. I think it's been one of the reasons why so many foreign fighters have gone to Syria to fight with them. They're very good at social media and they're the best I've ever seen at getting a tailored message out in a very sophisticated way to audiences they want to reach.

How do you combat that as someone who doesn't want this message to get out there, other than simply shutting down these networks?

Does the United States have the ability to shut down these websites? I'm not getting into that, but I'm going to say that doing so might only keep their message off the net for a day or two. So, it is off of one website, but it'll pop back up someplace else. So, there's not a lot of benefit in following that route because it would become a game of whack-a-mole. To win at this part of the fight against extremists you really have to challenge their narrative at the end of the day. You have to have a narrative that is just as persuasive as theirs, and that's something we can't just do on our own; we need other countries and Muslim clerics to take ownership of part of that narrative. That's how you have to combat it: you need to take on their narrative and show why their narrative doesn't make any sense at the end of the day.

On a different note, in the wake of the Snowden and WikiLeaks scandals, and considering that over a million Americans have top-secret clearance, what are your thoughts on the fact that some have said that America is currently over-classifying and then giving too many people security clearances to that over-classified information?

In my time at CIA I didn't see a lot of information that was over-classified. I think most things are appropriately classified. Could someone find a document here, a document there, that is not classified properly? Absolutely; it's a bureaucracy. But, in general, no, things are not overly classified. With regard to how many people have security clearances, the United States has a need to protect its national security and you need people to do that, so you give security clearances to the number of people that you need to do the job. At the CIA, I felt I didn't have enough people, so I would have actually given more security clearances to people if I could have.

I think there is an issue with regard to security clearances: just because you have them doesn't mean you get to know everything. Inside the CIA, we have a concept called "need to know." That means just because you have a security clearance, you still have no business knowing what I'm doing unless you need the information to do your job. Because the lack of sharing within the government was an issue related to 9/11, after that event there was a significant pendulum swing towards sharing everything with anybody who has a security clearance, and the pendulum swung too far; at some agencies, if you were an analyst, you had access not only to what you were working on, but to almost everything else as well. In my view, the pendulum swung to far and now needs to swing back. There are issues, like terrorism, where you really need to share everything, because it's all about connecting the dots. But there are oth-

er specific issues where you don't really need to share, because they're so narrow and so compartmented. We really need to move back to a case-by-case situation, in which you look at an issue and say, "How much sharing does we need to here and who's going to get to see this? On this issue, there's going to be a lot of sharing and on that issue, there's not." That's what needs to happen. It's not about the number of people who have clearances or about over-classification, it's about who has access to what.

Has the change in political climate, from perhaps the early 2000s to now, changed the way Congress deals with the CIA or the way CIA deals with Congress?

Yes. I'd say in two related ways. First, historically, in the United States, politics ended at the nation's shores. There was an understanding in both parties that making national security decisions was hard, and that the last thing you needed was politics to make it even harder. There was also an understanding that for U.S. foreign policy and national security policy to be effective, we needed to be united at home. So, there was a tacit agreement that politics didn't belong in foreign policy and national security policy. All that has just gone out the window. Politics now invades everything, including national security and foreign policy, including CIA's operations, and I don't think that's healthy for CIA or for the nation.

The second way is that people in a political use what CIA says on issues as weapons against each other, and the CIA often finds itself in the middle. "Well you said this," but "the CIA said that." We call it becoming the "meat in the sandwich," and it's not a fun place to be. I don't think that's healthy for the organization or for the country either.

Considering the incredible pace of world events—just this summer, we've seen conflict in Ukraine, the rise of ISIS, the conflict in Gaza, even the Ebola outbreak—how does the CIA stay ahead of the curve in predicting these, or how much of your role is reactive in trying to gather as much information as quickly as possible once something has arisen?

One of the ways to think about what the agency does is that it has two responsibilities: one is to be able to anticipate important discontinuities and developments before they happen so that the United States can be prepared for those. The second is to be able to answer all the questions that a policymaker might have about an event once it happens, so that we can fully inform decision-makers as they're trying to make policy regarding it.

We do the latter better than the former because anticipating discontinuities is hard. I don't think I had to anticipate events until I went to work with the agency. One of the ways to try to anticipate a discontinuity is by identifying trends and the key factors behind them. That's something that's really important to help policymakers think about, because maybe they can influence the factors and then influence the outcome. The Arab spring is an example of a discontinuity, and we did a pretty good job over the years of doing analyses that showed there were real pressures in these countries—economic and social pressures—building for political change. We didn't tell policy-

makers that the top was definitely going to blow off or when it might blow, but we did tell them that pressures were building.

What's one of the more underrated stories going on right now or developing in the world that the media is not quite focused on but will have a huge impact?

      I think there are two. One is the fight going on in Libya between Islamic extremists and moderates over who is going to rule that country. That outcome is of significant importance to the United States, but we are all focused on ISIS. I don't remember the last time I saw a news report about what's going on in Libya.
The other one is what's happening in Hong Kong at the moment. It's of great significance and the media is not covering it to the degree, I think, that's reflective of its importance. This is a real challenge to the Communist government and it's going to be very interesting to see how this plays out.

Something that characterized the Arab Springs was the idea of "hashtag protests," or the ability to leverage the media to gain popular support. Do you think that might become a tool for future uprisings in places like Asia?

      Yes, and it also becomes a tool for anticipating events and for seeing them before they happen. To the extent that we're watching social media in the intelligence community, we can anticipate those events. But absolutely, people use technology and they try to get the most out of the technology for what they want to achieve. If you're organizing a protest, you're going to do what you can to get as many people to attend as possible.

Back in 2003, in Iraq, we saw a gap between the depth and breadth required of human intelligence. Major General Martin Dempsey said that the army was "either fighting for intelligence or fighting based on intelligence." Have we resolved that gap and are we better at collecting the human intelligence and having the area knowledge and language skills that we need now, or is that still a deficiency?

      Our success in collecting intelligence, by whatever means, depends on what part of the globe you're talking about. The places we have access to, like where we have an embassy, will be better than those places where we don't have that access. Iraq, prior to the Iraq War, was a place we didn't have access. We did not have an embassy in Baghdad, and so we were almost starting from scratch in terms of rebuilding our understanding of the country from an intelligence perspective at the beginning of the war. I think that's what he was referring to, but it's just a reality of the world, and the way that the world is, and how you have to operate.

Speaking of Iraq, I think it was David Petraeus who asked, "How does this end?" at the beginning of the Iraq war. As we begin airstrikes against ISIS in both Syria and Iraq, we want to ask that question again, to you. How does this end?

      The answer is, "I don't know." I'm not sitting at the policy table in Washington. I don't know to what extent they've talked about the end game. But it is a very im-

portant question whenever you go into any sort of operation, whether it be a military or an intelligence operation. My own view of the ISIS strategy is that the Iraqi side of it is pretty solid; the Syrian side of it is pretty weak. I can see significant success over the next year against ISIS in Iraq, but I don't see that same success in Syria for many reasons. So, I don't know how it ends. The goal is to degrade ISIS to the point where we don't have to worry about it as a threat to either us or to the region. Not just as a terrorist threat, but as a threat to the stability of the Middle East. Someone is going to have to make a decision about whether we've met that objective and sometimes it's hard to do that. Sometimes, inertia kicks in and people just want to keep going and it's hard to see that you've met your objective. So, I think, as a policymaker, it's important to asking consistently ask yourself "how am I doing against my objective?" and "have I met my objective?" It's really important to keep your eye on that.

Have you ever felt frustrated, as an advisor, when your policy suggestions haven't been able to be seen through by the policy makers in Washington?

A really important point to make is that intelligence agencies and officers don't recommend policy. There's a very sharp red line in the US government between intelligence and policy. My job, as an intelligence officer, was to put the facts on the table and share how we think about those facts. Then it is up to the policymakers to decide what to do. Intelligence officers don't make policy recommendations. We don't say, "based on all of this, we think you should do X, Y, or Z." We're part of the intelligence discussion—every policy meeting at the White House starts with an intelligence briefing. Then people ask questions to the intelligence guys, and then the focus turns to the policy discussion. Your role at that point, as an intelligence officer, is to make sure that the policy discussion doesn't get away from reality. Your job is to insert reality back into the policy discussion, "Remember A, B, and C, right? It's not X, Y, and Z—it's A, B, and C." I've never recommended policy as part of my job. I've had presidents ask me, "What do you think I should do?" Then you take yourself out of the role of being an intelligence officer and say, "I'm not in the policy business, but here's my personal opinion." The CIA doesn't have an official policy view on any issue and analysts don't have policy recommendations that they're pushing. We stay away from policy because we want intelligence to not only be objective, but to be perceived as objective. If we came to the table and said, "Here's what we think you should do, Mr. President," everyone around the table would have less confidence in our intelligence judgment because they would think that we're presenting it in a way to support our policy view.

Considering the high level of politicization of issues today and the amount of media coverage, is it ever the case that the President's views about certain issues actually ends up coloring the way that analysts will create reports in the future?

No, I don't think so. In fact, analysts pride themselves on telling policy makers when they're wrong, sometimes in a bad way, metaphorically poking their finger in

the eye of a policy maker. That's not the way to do it; you have to tell the policy maker when they're thinking about the intelligence in the incorrect way, but you need to do it in a way that is effective.

Analysts are not easily influenced: the director of the CIA can't tell analysts the way to think about a situation because analysts come to their own conclusions. I could ask them lots of questions; "Have you thought about this? And about that?" but at the end of the day, it's their judgment and I'm going to carry that judgment to the White House. There are times when I would say I have a different view, based on my own experience, but I would always start with, "here is what my analysts think" and they deserve that. We tell analysts in their training that no one is going to tell them how to think about an issue, we tell them nobody should be trying to force them to think about something in a certain way. We tell them to raise their hand and scream if they think anyone is trying to do that.

HEADLESS DRAGON: HOW FAILED *HUKOU* AND RURAL LAND REFORM COULD BE CHINA'S ECONOMIC UNDOING

Jonathan H. L. Silin

On March 16th, 2014, China's State Council released the highly anticipated most recent outline of its *hukou* reform policy titled *China's Urbanization Plan, 2016-2020*. The thirty-one chapter document specifically focuses on the human facet of urbanization. The plan traces out a scheme that would bestow 100 million urban hukou onto migrants by 2020, effectively allowing them to relocate to urban areas, with the intent of curbing the ever-growing gap between China's urban and rural populations. As part of this plan, the government has stressed its desire to promote "balanced allocation of public resources between urban and rural areas" and "to make basic urban public services available to all permanent residents in cities, including all rural residents."[1] Many anticipated that the State Council's announcement in March would provide a final answer to the urban-rural division problem that has plagued China for over the last forty years. But in actuality, China's newest reform does little to fundamentally change the strict prohibitive population control system put in place by the *hukou* system.

While means of population control have existed in China since the Tang Dynasty, the *hukou* (　　) system stands alone in its high level of restriction. Two years after the establishment of the People's Republic of China in 1949, the newly legitimized communist government began enforcing a household registration system that identified citizens by their area of residence. The National People's Congress formally adopted the *hukou* system in 1958 as a means of enforcing the Maoist doctrine of Agrarian socialism and for preventing starving migrants from rushing into cities. While citizens' travel under limited circumstances was permitted, their *hukou* record effectively limited access to social services—education, healthcare employment, etc.—to strictly their hometown or province.

China's Urbanization Plan, 2016-2020 notes that the described reforms will be a gradual process. While smaller commerce centers may be more accessible under the new platforms, major commerce centers—the places where migrant workers are interested in relocating to—will be as remain inaccessible to migrants. More importantly, while the government announcement outlines a definite—albeit flawed— plan for dealing with *hukou*, it fails to take the *hukou* issue into consideration in the overall context of the urban-rural divide. After all, *hukou* is just one of many variables contributing to the urban-rural divide, the land tribute system being the most notable other. As one scholar elucidates, "the current reforms do represent a reform, but they ignore the forest for the trees…[T]he truly critical problem in *hukou* reform is

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how to peel away the political, economic and cultural rights that are associated with the residence permit."[2]

Hukou and the Urban-Rural Divide

With the advent of the economic "opening up" under President Deng Xiao Ping in the 1980s, China's rural population began to flood into the coastal cities. This mass migration, that occurred in spite of the *hukou* system's restrictions on travel, drastically perpetuated already present disparities between China's rural and urban populations. Since 1978, China has experienced the largest internal migration in world history, with over 160 million holders of rural *hukou* migrating to urban centers.[3] These migrant workers have been the driving force behind China's rapid economic growth; in the past thirty years, migrant labor has been responsible for 40% of national aggregate labor productivity.[4] Yet while coastal cities have flourished as a result of migrant labor, the rural hometowns of workers have not shared in the rewards. In 2002, the per capita income for *hukou* holders in eastern urban areas such as Fujian was 13,029 RMB, whereas the per capita income for holders of *hukou* for western rural areas like Guizhou was a paltry 2,005 RMB.[5]

Figure 1: Per capita income of urban and rural households, 1990-2012[6]
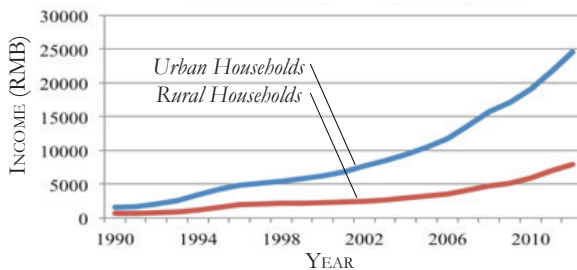
Hukou has also had negative social impacts on migrant workers. In Zhejiang Province (China's fifth wealthiest), only 26% of migrants qualified for any form of sick pay, as opposed to 68% for urban residents.[7] Moreover, only 19% of workers were covered by any form of health insurance versus 58% of holders of Zhejiang *hukou*.[8]

The educational consequences of the *hukou* system have also been profound. Until recently, migrant workers' children (those that are not one of the 60 million "left behind" children put in care of grandparents while parents seek jobs in urban areas)[9] were prohibited from attending public secondary schools in areas different from the residential area identified by their family's *hukou*. While this regulation has been eased, official government policy still charges migrant worker families a "migrant tax" to attend school in areas outside the jurisdiction of their *hukou*. In Shandong Province, for example, migrant students are levied with fines of up to 1,000 RMB per year[10]—an

enormous figure considering the median migrant wage of 2,290 RMB.[11] As a result, many migrant students seek out low quality and cheap private education or refrain from attending school altogether. Also adding to the gap between urban and rural education is the fact that students from outside of major cities are required to score higher on the gaokao (national college entry examination) to be accepted into the nation's top universities. A small fraction of openings are allotted to the rural provinces. In Shanghai's Fudan University, one of the nation's most competitive schools, only 29 out of the approximatly 14,100 undergraduates come from Heibei, a province of over 70 million. That is, while the Hebei Province accounts for over 5% of China's population, only 0.2% of students at Fudan's student body are from Hebei.

Migrants are also faced with blatant discrimination. In a poll of native Shanghai *hukou* holders, one-third of those surveyed stated that they would not want live next to a migrant worker. This figure increased two-fold for those surveyed in Changchun, a second tier city in Jilin province.[12] One is rather unsurprised, then, when University of Toronto political scientist professor Lynette Ong asserts that "*hukou* is basically apartheid."[13]

Less than Meets the Eye

The Chinese government seems to have become aware of the nature of the *hukou* issue. Since 2013, Premier Li Keqiang has spoken of a "human-centered new style of urbanization."[14] In a speech at the Boao Forum for Asia in Henan this past April, he spoke of the need to "address the bifurcation between urban and rural areas and within cities, and grant urban residency in an orderly manner to rural people who have moved to cities."[15]

However, Li's statements and the directives outlined in *China's Urbanization Plan, 2016-2020* come with a major catch. The *hukou* system does not disappear with the execution of these reforms. Instead of eliminating the system altogether, the government plans to merely confer urban *hukou* to more citizens. The current goal of granting urban residency to 100 million within the next six years, if successfully realized, would still leave two-thirds of the country's migrant workers without urban residency authorization.[16] Furthermore, strict stipulations exist on who can qualify to apply for official resident status in cities. While the government touts that 100 million Chinese citizens will be granted urban *hukou* and thus become urban residents, the reality is that most will not receive residency in prosperous, appealing cities but in backwater county-level administrative seats and small towns. The government has capitalized on the ambiguous definition of the term "urban."

In the new system described in *China's Urbanization Plan, 2016-2020*, if a migrant worker seeks official residency in a city whose population exceeds half a million people, he or she is required to have steady employment, stable accommodation and a proven history for financial contribution to the regional social security system.[18] These stipulations are rarely satisfied by migrant workers, and instead favor educated and middle to upper-class individuals, who rely on the benefits of urban *hukou* less.

Figure 2: 2014 Hukou *Stipulations*[17]

Who Gets a Hukou?

Migrants in China's cities have to meet a daunting array of requirements before they can apply for official resident status.

	County-level cities and other small towns (e.g. Dunhuang)	Population 500,000 to 1 million (e.g. Dandong)	Population 1 million to 5 million (e.g. Qingdao)	Population 5 million and above (e.g. Beijing)
Stable accommodation	✓	✓	✓	✓
Steady job		✓	✓	✓
Paid into local social security for minimum time		✓	✓	✓
Steady job for minimum time			✓	
Minimum continuous residency				✓
Other, unspecified requirements				✓

Sources: State Council of China; U.N. Population Division   The Wall Street Journal

In addition, almost 200 hundred cities in China have populations of over 1 million, ruling out the possibility for migrant workers to acquire *hukou* in major commerce centers. Certainly, there is a need for prudence in the urbanization process. If the government were to remove restrictions on migration altogether, cities like Beijing and Shanghai would be incapacitated by the influx of migrants and society would fall into disarray. The problem rests not with the fact that the Chinese government has been cautious, but rather with the excessiveness of this cautiousness. Until the Chinese government abandons its unduly apprehensive approach to *hukou* reform, both migrants and the Chinese state as a whole will continue to struggle to modernize.

A Second Variable: The Land Tenure System and the Urban-Rural Gap

Surprisingly, many holders of rural *hukou* are not eager to cash in on urban residency. One user on China's popular micro-blogging site Weibo questioned, "do I want to give up my rural *hukou*? No, because it means losing a sense of belonging and security. If I lose my job in the city, I'd be out on the street. Land is my lifeline."[19]

This popular sentiment relates to another major shortfall of the March 16th

reforms: the failure to tackle the complicated issue of land rights. The Constitution of the People's Republic of China dictates that urban and non-farmland is state-owned, whereas farmland is owned under the Maoist system of rural collectivism. Under this system, each agricultural family is allotted a small plot of land, but cannot sell these rural collectives under any circumstances.[20] Thus, while an inpouring of capital has flooded urban areas as a result of a vibrant property market, farmers in rural areas are unable to sell their land. Local governments largely ignored the collective ownership provision, instead profiting from their orchestration of off the book sales of this agricultural land in which the landowners themselves are barely compensated.[21] According to a report composed by the Word Bank in conjunction with the Development Research Center of China's State Council, approximately 90% of new land in Chinese cities comes from deals in which farmers received less than 20% of the Open Market Value of their properties.[22] As agribusiness insider Sun Dawu puts it, "Farmers cannot…enjoy human rights unless they enjoy property rights."[23] Economically, the land tenure issue disrupts the well being of rural China. With the two options for rural farmers being a) to keep in in the collective ownership of farmers or b) to illegitimately convert it to urban land, rural areas have no valid opportunity to prosper or grow. While the national government did set dates in January 2014 for a trial period during which a small number of collectively owned properties could be sold on the open market, some government officials are opposed to such revisions— the government-controlled sale of rural land covers 70% of most local government's annual revenue.[24] Thus, if government serves to profit at the expense rural citizens, it is unlikely that substantive reform of land tenure will occur anytime soon.

Figure 3: Local government income from land sales, 2003-12[25]
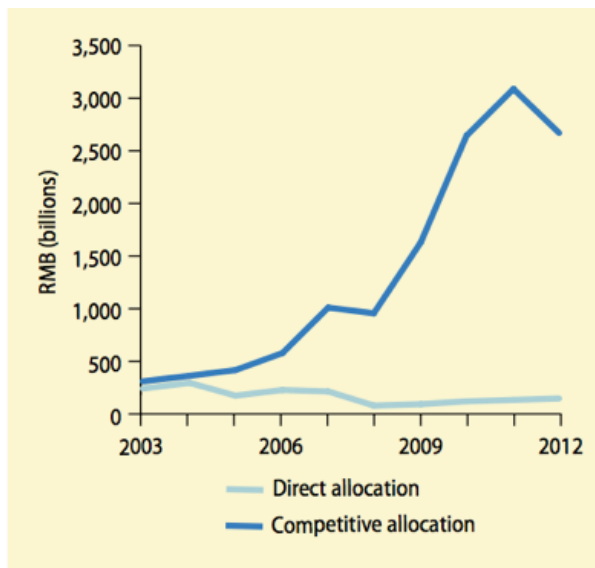
An Economic Case for Reform: Avoiding the Middle Income Trap

     The small town and county-level administrative seats that the Chinese government has allotted for migrant workers to obtain urban *hukou* are not important centers of commerce. Available employment opportunities in these areas, if any, will be extremely finite.[26] However, similarly sized towns and small cities in coastal China are economically vibrant, but with a demand for labor and a local population not large enough to meet this demand.[27] This is precisely why local governments should welcome migrants from interior provinces; the relationship would be a mutually beneficial exchange for both parties involved. China's GDP growth rate has fallen from 10.7% in 2010 to 7.7% in 2013,[28] but the inflow of migrants to smaller, vibrant coastal cities would diversify economic productivity to underserved markets there. In a short-term sense, this inflow would help to quell a slowdown in growth; what bank HSBC has called, the fact that "new export orders and employment contracted" in April 2014.[29] In a long-term sense, opening the eastern coast to rural migrant workers will help them better both their disposable personal income and social status.[30] Having an economically and educationally well-off population across the nation also ensures that China can successfully transition from a mass labor economy to an industrialized economy. Yet leaving the migrant population in the lurch would be a major economic miscalculation in and of itself. Incentives to increase the disposable incomes of rural citizens should be seen as beneficial to the well being of the economy, since citizens with more income will be able to invest in and spend more on the market. China ranks number eighty-two in terms of nominal GDP per capita, behind countries such as Turkmenistan, Botswana and Bulgaria,[31] indicative of the fact that China is still far from being able to call itself a first world country. If China wants to avoid falling into a middle-income trap,* it should aim to ensure that rural migrants of the interior Chinese regions have access to opportunities in small yet growing cities on the coast.

     China may have been able to get away with exploiting its migrants for economic gains it its ascendant past, but as it attempts to take on the role of a first-world country on all fronts, China needs a solid and practical policy that reduces the urban-rural divide and promotes economic and social modernization. China's manufacturing and export economy of the last twenty-five years was built on the backs of migrant workers. Yet, where is the government when they need a favor in return?

     While it would be incorrect to say that the Chinese government has ignored the issue of *hukou* and land tribute reform, policy-makers have displayed a lack of both insight and courage in tackling these problems—the result is an overhyped, do-little agenda that skirts between action and inaction. While there is danger associated with the rapid urbanization of all 300 million migrant workers in China, the government overestimates the danger and pays little attention to the rewards. It is only a matter of time before China feels the economic repercussions of its failure to address these problems, and by then it could be too late to reform and avoid further economic backlash. In 2011, scholars and observers alike eagerly anticipated the Chinese government's cabinet reshuffle of 2013 as a possible watershed moment in *hukou*

reform, only to be disappointed by the resulting lack of change. While the March 16th announcement of *hukou* reform may have been marginally more satisfying, China's migrant worker and rural populations must still wait for the day they are freed from the shackles of socioeconomic apartheid.

*"The problem in a nutshell is that countries can get stuck at a level of development in which its populace has been generally lifted out of poverty but hasn't been elevated to the income levels of more advanced economies. That happens because it is easier to jump from a very poor country to a middle-income nation than it is to advance from that middle-income status to the ranks of the truly developed."

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