Letter from the Editor

I am very pleased to present the sixth volume of Inquiry & Insight. This year, the publication strived to increase coordination with the Second Annual University of Waterloo Graduate Conference in Political Science. Therefore, those graduate students whose papers were selected to be included in the journal were also given the opportunity to present their work at the Second Annual Graduate Conference in Waterloo, Ontario. This led to excellent debates on the ideas put forward by each author, allowing exchange and feedback for all the authors on their work.

I would like to thank our faculty advisors, Dr. Anna Drake and Dr. Jingjing Huo for all their advice and input throughout this process. I would also like to thank members of the journal committee, who spent many hours reviewing abstracts and editing the articles in this journal. Finally, I would like to thank and congratulate the authors featured in this issue of Inquiry & Insight for their wonderful presentations at the conference, and for the quality of their final articles.

We currently inhabit a world which is characterized by rapid changes and transformations. This can be observed in evolving international norms, technological advances, the changing environment and shifts in the political power structures. Therefore, both Inquiry & Insight and the Second Annual Graduate Conference in Political Science decided that the overarching theme for this edition would be the transitions which have occurred in the conception or practice of International Relations and Comparative Politics within the past decade.

This year, the articles selected were grouped under two broad categories: transitions in security and transitions in public policy. While those papers selected did not have to fall into either category, after a double-blind review of the submitted abstracts, each article that was selected to be included in the journal were found to fit within one of these themes. Grouped under the umbrella of security were Karina Sangha, Jeffrey Chalifoux, Joe Yang, and Daniel Kosciniski, while Nicholas Mucci, Malcolm Campbell-Verduyn, Chris Bordeleau and Jasmine Bélanger-Gulick discussed topics with public policy implications.

I truly hope that you enjoy the articles that are featured in this edition of Inquiry & Insight.

Sincerely,

Michelle Legassicke
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Building an Army for Peace

Ethnic Integration and Cooperation in the Militaries of Post-Conflict States

Karina Sangha

A key component of peace-building efforts in post-ethnic conflict societies has been security sector reform, which encompasses a wide array of tasks, ranging from transferring greater authority to local police forces, to bringing the state's security forces under greater civilian control. Noteworthy among these tasks is the reconstitution of a state's national military. In many societies that have experienced ethnic conflict, the military has been used as a tool to terrorize and kill particular ethnic groups within society. As a result, one of the main goals of reconstituting the military is to re-establish its legitimacy, instituting a composition and control structure that is agreeable to all parties and provides the security necessary to prevent a return to conflict. Although most peace settlements envision a more legitimate national military that contributes to internal stability, the ideal way to go about achieving this goal remains open to debate. Ultimately, this paper argues that the best way to transition from conflict to long-term peace through military restructuring in post-ethnic conflict states is through the integration of rival military groups into a single national army with ethnically mixed units.

To be sure, there are two elements to this argument: the integration of rival groups and the ethnic mixture of units. Although this paper will argue for each of these elements in turn, it is important to note that they do not need to be pursued in concert. Given the complexity and uniqueness of each post-conflict situation, it is quite possible that the circumstances may not be conducive to one - or even either - of these elements. Consequently, in addition to arguing as to the merits of military integration and the ethnic mixture of units, this paper will also address the conditions that are likely to encourage or inhibit their success.

Military Integration: Description and Rationale

The creation of integrated national militaries out of warring militias and government forces has become a common peace-building strategy in post-ethnic conflict states. This form of military restructuring has been implemented or attempted in close to a third of all peace
processes since the 1990s, with some of the most notable cases occurring in Southern Africa.\(^1\) Although it is not impossible for integration to take place after a decisive military victory by one ethnic group over another, it is most commonly proposed in instances of negotiated peace.\(^2\) In these cases, the negotiation process makes it difficult for a single group to dominate post-war institutions, such as the military. In fact, equal representation in state institutions is typically a necessary condition for the warring groups to agree to a cessation of violence.

Military integration is a costly and time-consuming process, involving the disarmament and disbandment of existing military forces and the incorporation of individuals into a new, more professional army in positions similar to those they previously held.\(^3\) In most cases, combatants are instructed to report to assembly points where they can be disarmed, evaluated, and eventually demobilized or sent for military training. In the case of those who are sent for training, the goal is to establish a sense of uniformity within the new military and to provide individuals with the skills they will need to operate in a post-conflict setting.\(^4\) Those who are demobilized are often children, disabled, or elderly, though young, capable individuals may also be taken out of active service to prevent a bloated military. These individuals are typically provided with reintegration services and financial compensation in order to ease their transition to civilian life.\(^5\) With this in mind, integration is not simply about constructing a new military; it also incorporates various DDR (Disarmament, Demobilization, and Reintegration) strategies that are essential to the maintenance of peace.

Questions abound as to how such a seemingly risky policy could possibly contribute to the preservation of peace. Allowing former combatants to remain armed would seem to pose a direct threat to fragile peace settlements.\(^6\) Further, from a more practical standpoint, it would seem difficult to motivate individuals who were just killing one another to work together in a newly

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5 Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination," 22.
6 Licklider, "Merging Militaries after Civil War."
formed military. Given these concerns, it may seem logical to disband existing forces and build an entirely new military from the ground up, excluding or limiting the inclusion of former combatants. Despite the initial appeal of this option, military integration emerges as the superior strategy for the preservation of peace in post-ethnic conflict states.

The reason for this is twofold. First, military integration helps to reduce the security dilemma that often pervades post-conflict societies. With the cessation of violence, the government, rather than the previously warring parties, is granted a monopoly over the legitimate use of force. Despite wanting peace, some of the parties, particularly those unrepresented or underrepresented in the new state institutions, are reluctant to disarm out of fear that doing so will leave them vulnerable and open to attack by the government, which could easily go back on its commitment to peace. The most logical way to convince all groups that it is in their best interest to disarm and move past violence is to incorporate power-sharing mechanisms into state institutions, including the military.

Integrating members from all rival forces into a single national military limits the ability of a single group to use the coercive capacity of the state to pursue its own goals to the detriment of its enemies. This, in turn, creates a greater sense of security for the various ethnic groups in society and encourages militia forces to lay down their arms. Moreover, as argued by Matthew Hoddie and Caroline Hartzell, the very act of agreeing to and implementing military integration serves as a credible signal of the parties' commitment to peace, which helps build a sense of trust among the previously warring ethnic groups. By agreeing to and moving forward with military integration, the various groups incur significant costs, not the least of which is a loss of monopoly power within the state. The fact that each group is willing to accept these costs serves as a signal of its intent to pursue peace, which can limit feelings of distrust that may otherwise motivate combatants to resume acts of violence.

It could be argued that power-sharing mechanisms are not limited to militaries formed through the merging of existing forces. A new military built from the ground up could also be

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7 Ibid.
9 Hartzell and Hoddie, "From Anarchy to Security," 158.
11 Ibid., 306.
constructed to incorporate members of all ethnic groups and, as a result, limit feelings of insecurity. Such individuals would simply be drawn from the broader population, rather than from the pool of former combatants. However, the inclusion of former combatants from all sides of the conflict is significant for the preservation of peace. Not only does their integration lend a degree of legitimacy to the process due to the signalling activities mentioned above, but it also helps to limit instability by reducing the number of ex-combatants who need to be demobilized and reintegrated into society.

This brings us to the second reason for integration: by providing combatants with opportunities for stable employment, military integration can reduce their perceived need to continue fighting. Demobilization can be an incredibly difficult and destabilizing process for former combatants, especially given the few employment opportunities available in post-conflict states. Ex-combatants who find themselves unemployed or underemployed often return to violence or resort to criminal activities to make a living, which weakens the potential for peace and stability. Thus, by providing combatants with positions similar to those they held previously, the process of military integration can limit the number of ex-combatants who find themselves unemployed and see a reversion to conflict as in their best interest. In societies that demobilize all existing combatants and re-build the military anew, this benefit is not available.

Although merging forces may reduce unemployment and instability, it is unlikely to be a cure-all solution. In an attempt to contain costs, most post-conflict states reduce the size of their militaries during the integration process, which results in a large number of individuals being demobilized. Consider, for example, the case of South Africa. Beginning in 1989, in anticipation of the fall of the apartheid regime, the South African Defense Force (SADF), the guerillas of the African National Congress (ANC) - referred to as the Umkhonto We Sizwe (MK) -, and five other militia groups began negotiations that culminated in the creation of an integrated South African National Defence Force (SANDF). The SANDF initially integrated 90,000 of the 101,000 combatants who reported to the assembly areas; however, within a few years, its size was reduced to 57,000 due to budgetary constraints, resulting in the demobilization of over 30,000 troops. Although a large number of combatants were demobilized, this number would have

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12 Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination," 21.
13 Licklider, "Merging Militaries after Civil War."
been significantly greater if the state had opted to rebuild the military from the ground up. As the case of South Africa reveals, military integration allows demobilization to occur gradually, which reduces the number of individuals reintegrating into society at any given time and allows reintegration programs to ease the transition of ex-combatants to civilian employment more effectively. Thus, while military integration may not eliminate the need for demobilization entirely, it does reduce the number of individuals who need to be demobilized and makes their transition easier to manage, which may, in turn, reduce the potential for violence.

With this twofold rationale in mind, it should come as little surprise that successful attempts to implement military integration are strongly associated with long-term peace in post-conflict states.16 The experience of countries like Zimbabwe, Mozambique, South Africa, and Tajikistan acts as a testament to this strategy's merits. However, while integration is likely to ease the post-conflict security dilemma and provide combatants with stable employment when it is successfully implemented, the process is fraught with difficulties and is not immune to breakdown, either temporary or permanent. For as many countries that have witnessed the success of military integration, there are just as many have witnessed its failure. These varied degrees of success would seem to imply that there are certain factors that make military integration more or less likely to succeed. We will now turn to a closer examination of some of these factors.

**Military Integration: Factors for Success**

Although each state possesses unique circumstances that may limit or encourage military integration, it is possible to identify general factors that can aid in its success. Drawing on various case examples, this section will focus on four key factors for success: a well-planned strategy, management by a strong state, external support, and adequate representation of all ethnic groups. The case examples used in this section include states recovering from both ethnic and civil conflict. Indeed, military integration is not limited to post-ethnic conflict states, but can serve as a viable policy in any deeply divided post-conflict society. Most studies that explore the successes and failures of integration examine cases of ethnic and civil conflict alongside one

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another, indicating that there are common conclusions to be drawn from both types of cases.\textsuperscript{17} With this in mind, let us examine each of the factors in turn.

\textit{A Well-Planned Strategy}

As indicated above, military integration is not a simple process. The volume of combatants to be monitored and either demobilized or trained necessitates a clear and adaptable strategy that is developed and agreed to by the parties to the previous conflict.\textsuperscript{18} Among the things to consider in developing this strategy are: the establishment of accessible assembly points to receive, disarm, and direct former combatants; the development of criteria that can be used to determine a combatant's eligibility for inclusion in the military; the number of combatants that can be accommodated in the new military; the development of training programs to ensure professional, uniform forces; the creation of civilian reintegration programs to ease the transition of ex-combatants into society; and the composition of observing forces to ensure order throughout the process.

In addition to these short-term considerations, the state would be wise to develop strategies for how individuals will be recruited into the military in the future. While some states adopt a quota-based system to ensure an ethnic balance within the military, others opt to select individuals on the basis of merit.\textsuperscript{19} The former strategy can be very useful in the short-term, when distrust among a state's ethnic groups are high; however, basing recruitment on individuals' ethnicity can have negative consequences in the long-term by entrenching ethnic identities and perpetuating existing divisions.\textsuperscript{20} The idea of avoiding policies that cement existing ethnic divisions will be explored in greater depth in the second section of this paper.

The condition of a well-planned strategy has been met by most countries that have managed to successfully implement military integration. For example, in South Africa, where the process of military integration was successfully completed in 2003, detailed plans for the reconstruction and integration of the national military began in 1994. Within the Transitional

\textsuperscript{17} Burgess, "Fashioning Integrated Security Forces after Conflict"; Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination"; Licklider, "Merging Militaries after Civil War."

\textsuperscript{18} Mark Knight, \textit{Security Sector Reform: Post-Conflict Integration} (prepared for the Global Facilitation Network for Security Sector Reform, University of Birmingham, August 2009), 14; Burgess, "Fashioning Integrated Security Forces after Conflict," 71.


\textsuperscript{20} Ibid.
Executive Council, a Sub-Council on Defence was established to oversee the process, though much of the planning and policy-making was delegated to a Joint Military Co-coordinating Council (JMCC), which was dominated by the SADF and the MK. The SADF and the MK agreed to integrate troops from the eight existing military forces into the new SANDF, using the SADF's existing procedures, doctrine, and training structures as the basis for the new military.²¹ Members of the non-SADF military organizations who were eligible for integration were certified by their organizations and then instructed to report to assembly areas where they would be either demobilized or assigned ranks in the new military by placement boards consisting of members of the eight forces, the new SANDF, and the British Military Advisory and Technical Training Team. The selection and ranking of individuals was based on seemingly objective criteria, including experience and prior training.²² Non-SADF members accepted into the military received further training, and individuals who were rejected or chose not to join the SANDF were provided with monetary compensation. In addition, a Service Corps was established to ease the transition of demobilized soldiers to civilian life. Overall, the plan for integration was quite comprehensive.

A similarly in-depth strategy was devised in Mozambique following the General Peace Agreement (GPA) between the Front for the Liberation of Mozambique (FRELIMO) government and the Mozambique National Resistance Movement (RENAMO). The GPA provided for the integration of the two forces into a new Armed Forces of Mozambique (FADM). Beginning in November 1993, former government and RENAMO military personnel were accepted into assembly areas where they could be disarmed and evaluated. As agreed upon in the GPA, the strength of the new force was to be a mere 30,000, which necessitated the demobilization of close to 70,000 government and rebel military personnel.²³ Given this requirement, the Mozambican strategy incorporated a particularly effective civilian reintegration program. Efforts were undertaken to make demobilization appear attractive by offering demobilized troops job training, reintegration services, agricultural supplies, and monetary compensation for two years.²⁴ These efforts were so effective that the government struggled to

²¹ Licklider, "Merging Militaries after Civil War."
²² Ibid.
²⁴ Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination," 22-23.
recruit new members into the army, with force levels settling around 12,000.\textsuperscript{25} Despite the small size of the FADM, the integration efforts are typically viewed as a resounding success, especially given the ease with which the reintegration programs allowed ex-combatants to transition into society.

These two cases support the need for a well-developed strategy when pursuing military integration. They also highlight the importance of developing strategies that are agreeable to all parties, an idea that will be examined in greater detail below. Nonetheless, while a well-developed and agreeable strategy is necessary for success, it is certainly not sufficient. In order to be successful, a strategy needs to be backed by resources and managed by a legitimate body, which often takes the form of a strong state.

\textit{Management by a Strong State}

A strong state, in this context, has two key components: state capacity and state legitimacy. State capacity refers to the ability of the state to provide the resources - both human and financial - that are necessary for the management and implementation of military integration. This concept also includes the ability of the state to maintain order throughout the integration process, stemming any incidents of violence that may encourage a return to conflict.\textsuperscript{26}

This latter component can be particularly difficult for post-conflict states to achieve, since the security forces needed for the maintenance of order are part of the process requiring oversight. Nonetheless, some states have managed to make use of existing forces to monitor the process and intervene in cases of violence. In Zimbabwe, the existing military - the Rhodesian Army - was kept on standby throughout the integration process and was ready to intervene if violence occurred. Similar to the case of South Africa, the Zimbabwean integration process involved absorbing the rebel militias (the Zimbabwe African National Liberation Army (ZANLA), and the Zimbabwe People's Revolutionary Army (ZIPRA)) into the structure of the existing Rhodesian Army to create a single Zimbabwe National Army (ZNA). As a result, most of the evaluation and demobilization efforts were directed towards ZANLA and ZIPRA, leaving significant portions of the Rhodesian Army intact and ready to intervene. This allowed the state to call in elements of the Rhodesian Army in 1981 to subdue faction-fighting between former

\begin{footnotes}
\item[26] Burgess, "Fashioning Integrated Security Forces after Conflict," 70.
\end{footnotes}
members of ZANLA and ZIPRA, thereby eliminating a significant threat to the integration process.\textsuperscript{27}

Certainly, the use of existing forces to maintain order throughout the integration process can be a risky endeavour. Since each of the existing military groups is a party to the process, granting any of them the exclusive power to maintain order and oversee the integration of other groups provides them with the ability to disrupt the process and take power for themselves. Of course, there are ways to minimize this risk. An interim monitoring force that draws individuals from all existing forces could be created or, alternatively, the state could invite external actors to send forces to monitor the process. The role of external actors will be explored in greater detail below.

In addition to state capacity, the legitimacy of a state can also aid in the success of military integration. If a state has the support and trust of a large proportion of the population, the various militant forces within the country will arguably be less inclined to destabilize the process by attempting to increase their power. This was demonstrated in the case of Zimbabwe. As indicated above, the initial stages of the integration process saw members of ZANLA and ZIPRA reporting to assembly points to be either demobilized or sent for military training. The Rhodesian Army, commanded by Lieutenant General Peter Walls, was left relatively intact throughout this process. This imbalance in power between the various sides provided the conditions for a coup by the 14,000 strong Rhodesian Army.\textsuperscript{28} ZANLA and ZIPRA managed to partially deter such a coup from taking place by keeping parts of their forces in reserve in neighbouring countries, but the cementing factor for preventing the coup seems to have been the landslide victory by the Zimbabwe African National Union-Patriotic Front (the political wing of ZANLA) in the 1980 elections.\textsuperscript{29} As soon as the results were released, it became clear that a military coup could not succeed given the government's popular support. As a result, each group saw it as in its best interest to proceed with integration.\textsuperscript{30}

Power-sharing mechanisms within the government can also be a viable means of ensuring state legitimacy and preventing disruption throughout the integration process. Glassmyer and

\textsuperscript{27} Ibid., 74.
\textsuperscript{28} Ibid., 72.
\textsuperscript{30} Rupiah, "Demobilization and Integration," 2.
Sambanis have found that military integration is likely to be more successful if it is pursued alongside political integration.\(^{31}\) Power-sharing mechanisms can help to discourage disruptive pursuits of power not only by making them less likely to succeed, but also by ensuring representation for all groups within the state, thereby reducing feelings of insecurity that may contribute to disruptive actions.

In sum, a strong state, both in terms of capacity and legitimacy, is important for ensuring the success of military integration efforts. However, this is often a very tall order in post-conflict states. State capacity, particularly in the form of financial resources, is often weakened, and legitimacy takes time to develop. Even so, simply because a state is lacking in these elements does not mean that military integration will inevitably fail, especially since most post-conflict states have the assistance of external actors during their transitional period.

\textit{External Support}

Given the weakness of many post-conflict states, external involvement and assistance typically plays a key role in ensuring the success of military integration.\(^{32}\) Ranging from multilateral peacekeeping operations to assistance provided by single states, external support takes many different forms and consists of a wide-variety of services designed to ease the integration process. Three particular forms of support are worthy of note: financial assistance, the provision of civilian personnel and security forces, and training services.

In light of the numerous programs and services that are typically included in the process of integration, the first form of external support - financial assistance - can be very important for success. States recovering from ethnic conflict typically do not have the financial resources to fund the process without external assistance. To be sure, financial assistance is often a key component of more robust support efforts, such as those outlined below. Nonetheless, since it is often provided separately from other forms of assistance, it is worth mentioning on its own.

\(^{31}\) Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination," 10-11, 22-23. Although Glassmyer and Sambanis found a positive connection between power-sharing and military integration, the authors note that the relationship is not necessarily causal. Rather, the relationship between the two variables is complex and mutually reinforcing, and the degree to which power-sharing aids in the success of military integration depends on the nature of the power-sharing arrangement.

External support can also entail sending security forces and civilian personnel to oversee the integration process. Although the role of these personnel can be limited to monitoring the process and verifying progress, they can also provide far more robust forms of support, including the coordination of DDR efforts and the provision of armed troops to intervene in cases of violence. The military forces supplied by these robust missions can be particularly beneficial for reducing feelings of insecurity and distrust that may otherwise prevent adherence to the process.\(^{33}\) That is, the presence of neutral, third-party forces to guarantee the safety of individuals and maintain peace can make defection appear far more costly than compliance, thereby helping to remedy the security dilemma faced by the opposing groups in post-conflict states.\(^{34}\)

Examples of this form of external support abound in cases of success. Consider the case of Tajikistan. Following the 1997 General Agreement between the Tajik government and the United Tajik Opposition (UTO), the United Nations and the Commonwealth of Independent States commenced peacekeeping activities within the country. Noteworthy among the initiatives undertaken by these organizations was the relocation of UTO troops from their posts in Afghanistan to ten officially established assembly points in Tajikistan, where they would be registered for integration into the military or demobilized.\(^{35}\) These supervision efforts were crucial for preventing a recurrence of violence as UTO members returned home.

Mozambique also benefited from the presence of external security forces and personnel during its process of military integration. Given the relative weakness of the Mozambican state, such support was arguably essential for the country's success.\(^{36}\) Shortly after the GPA was reached in 1992, the UN Security Council authorized a peacekeeping mission, the United Nations Operation in Mozambique (ONUMOZ), to assist the country during its postwar transition. More than 7,000 military, police, and civilian personnel were assigned to the country,

\(^{33}\) Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination," 10.


\(^{36}\) Burgess, "Fashioning Integrated Security Forces after Conflict," 81.
and though the contingent's objectives were broad, a key focus was military integration and associated DDR efforts.\(^{37}\)

In contrast to these cases of success, many states that have failed to implement military integration have lacked sufficient support of this kind. For example, in the case of Rwanda, although a peacekeeping force - the United Nations Assistance Mission in Rwanda (UNAMIR) - was authorized to monitor the integration process provided for in the Arusha Accords, this force was provided with insufficient enforcement powers and, as a result, was not able to prevent violence from breaking out.\(^{38}\) Similar shortcomings arose with the United Nations force that was authorized to monitor the integration process in Angola. With limited personnel and a very small budget, the United Nations Angola Verification Mission II was unable to prevent the breakdown of the process.\(^{39}\) Although the failure of these cases cannot be attributed solely to the lacking nature of these forces; it is arguable that, had they been more effective, the process of military integration would have had a better chance of succeeding.

The final form of external support, training services, can be essential for converting former rebel forces into professional combatants and ensuring uniformity within the newly integrated military.\(^{40}\) Since many post-conflict states lack the capacity to provide such training themselves, external involvement is necessary. For example, throughout the 1990s, the British Military Advisory and Training Team (BMATT) played a prominent role in training forces throughout Africa prior to integration, including those in Zimbabwe, Mozambique, Namibia, and South Africa.\(^{41}\) Without the assistance of the BMATT, the integration of the forces within these countries would have been much more difficult.

Ultimately, external support in its various forms seems to aid in the success of military integration, especially in countries where the state is weak. However, while external actors can play a key role, it is important for the process to be driven by the local population. That is, in order for military integration to be successful, it needs to be supported by the groups it will affect, rather than imposed by external forces.\(^{42}\) In cases like Rwanda, where one or more of the parties are strongly opposed to integration, it is arguable that external forces can do very little to

\(^{37}\) Ibid., 80.
\(^{38}\) Ibid., 85.
\(^{39}\) Ibid., 84.
\(^{40}\) Ibid., 71.
\(^{42}\) Hartzell and Hoddie, "From Anarchy to Security," 162.
ensure the success of military integration. As a result, efforts should be taken to encourage local participation in the integration process, with external support complementing local efforts rather than overriding them. Of course, in order to be widely accepted, local participation needs to be representative of the relevant ethnic groups, a point which will now be examined in greater detail.

_Adequate Representation of Ethnic Groups_

Ensuring adequate representation of a society's ethnic groups, both within the new military and throughout the integration process, would seem crucial to ensuring success. This does not necessarily mean that each group needs to be equally represented. Rather, in this context, adequate representation refers to the degree of representation a particular group requires in order to see a reversion to conflict as more costly than compliance. Given the variances in power between militant groups, the degree of representation a group requires is often related to its power. While a group possessing limited power relative to other groups will likely be satisfied with even minor representation, groups possessing greater power will likely need assurances of greater representation before putting down their arms and agreeing to integration. Thus, the underrepresentation of certain groups relative to others does not necessarily mean that integration will fail; the key is the perception of each group and whether it sees its representation as sufficient.

As has been discussed briefly already with reference to the development of a well-planned strategy, the potential for success can be significantly enhanced if the various ethnic groups, through their militant structures, are provided with the opportunity to shape and direct the process of integration.\footnote{Knight, _Security Sector Reform: Post-Conflict Integration_, 18; Burgess, “Fashioning Integrated Security Forces after Conflict,” 71.} We saw this in the case of South Africa, where the two most prominent forces, the SADF and the MK, dominated the JMCC and made most of the key decisions pertaining to integration. Similar joint bodies to oversee and direct the process were created in Zimbabwe and Tajikistan. In the case of the former, a Joint Military High Command (JHC), commanded by Lieutenant General Wells and comprised of senior commanders from the Rhodesian Army, ZANLA, and ZIPRA, was established in 1980 to facilitate integration.\footnote{Burgess, "Fashioning Integrated Security Forces after Conflict," 74.}
Tajikistan, the joint body took the form of the Commission on National Reconciliation (CNR), which consisted of representatives of the government and the UTO and was responsible for overseeing the implementation of the various reforms encapsulated in the 1997 General Agreement, including military integration.\textsuperscript{45} Although the groups were not always represented equally (if at all) in these joint bodies, each provided a forum for the most prominent groups to have a say in the process, thereby limiting the potential for insecurity.

To be sure, the use of joint bodies to oversee the process of integration is not limited to cases of success. Angola - a notable failure - developed multiple commissions to oversee the reconstitution of its military.\textsuperscript{46} Nonetheless, although the use of representative structures to monitor implementation may not always lead to success, the fact that they are a common feature in cases of success implies that they can at least contribute to it.

In addition to representation throughout the process, ethnic representation in the new military is also important for success. In particular, adequate representation should be sought within the senior ranks of the military where power and authority reside, thereby preventing the military from being effectively controlled by a single group.\textsuperscript{47} Most successful integration efforts have focused on achieving representation at this level. In Mozambique, for example, although the goal was to integrate combatants from the two opposing sides into all levels of the new FADM, the GPA only provided for roughly equal representation at the officer level.\textsuperscript{48} Further, in Zimbabwe and South Africa, although combatants at all levels benefited from training programs, these programs were particularly directed at providing the leaders of the former rebel groups with the education and skills they would need to assume senior ranks within the new military.\textsuperscript{49}

Of course, as indicated above, adequate representation is all about perception. Simply because a military is dominated by a particular ethnic group, at the senior level or otherwise, does not necessarily imply that it is incapable of contributing to peace and stability. In South Africa, for example, the newly formed SANDF was strongly dominated by former SADF personnel, with these individuals comprising nearly 80% of the new military in its early years.\textsuperscript{50} Since the existing SADF structures and practice were to serve as the basis for the new military, it

\textsuperscript{45} Abdullo, "Implementation of the 1997 General Agreement."
\textsuperscript{46} Burgess, "Fashioning Integrated Security Forces after Conflict," 84.
\textsuperscript{48} Stanley and Call, "Military and Police Reform after Civil Wars," 302.
\textsuperscript{49} Knight, Security Sector Reform: Post-Conflict Integration, 8-9.
\textsuperscript{50} Glassmyer and Sambanis, "Rebel-Military Integration and Civil War Termination," 21.
was clear from the outset that they would dominate at all levels, yet the other groups, including the MK, agreed to move forward with integration. According to Roy Licklider, the dominance of the SADF in the new military was a product of the negotiation process. The other militant groups conceded to the SADF's dominance in order to ensure their inclusion in the SANDF. Thus, certain groups may have been underrepresented in an objective sense within the SANDF, but since the composition of the new forces matched their relative power, each group saw it as in its best interest to move forward with integration.

Ultimately, ensuring the adequate representation of a society's ethnic groups, both during the process and within the new military, is important for success. Adequate representation of all relevant groups is not a simple undertaking, especially when certain groups are particularly hostile and threaten to destabilize the new military. Nonetheless, since the exclusion of certain groups can contribute to insecurity and, in turn, the return of violence, efforts should be undertaken whenever possible to ensure adequate representation.

**Summary**

Although this list of factors is not exhaustive, it serves as a useful guide for determining whether or not integration efforts are likely to contribute to stability in a post-ethnic conflict society. The absence of one or more of these factors does not necessarily mean that integration will fail. As has been shown, the absence of one factor can be compensated by another, as is the case with the relationship between state strength and external support. Nonetheless, if the circumstances in a particular society make it very difficult to satisfy the above factors, military integration may not be a viable option. In such cases, peace-builders should consider disbanding existing forces and building a new, ethnically representative national army. This process may not be preferable to integration, but it is also not completely impractical.

The preceding arguments establish a good case for the integration of rival ethnic groups into a single national military; however, this is only one part of the process. Once these groups have been integrated into the military, the question remains as to how to structure the military to limit the potential for infighting and breakdown. The next section seeks to answer this question,

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51 Ibid.
52 Licklider, "Merging Militaries after Civil War."
focusing on how the military should be structured and, specifically, how the units should be comprised in order to build lasting peace.

**The Ethnic Mixture of Units**

The rationale behind military integration discussed so far has focused largely on the establishment of short-term peace in post-conflict societies. Uniting former enemies within a single military in order to provide individuals with a sense of security and prevent a return to conflict centre on temporary considerations and cost-benefit analyses that can shift or change over time, providing a weak basis for lasting peace. This section focuses on how the newly integrated military can serve as a tool for lasting peace by helping to construct a new identity among the combatants that transcends existing ethnic divisions and contributes to nation-building. More specifically, it focuses on how the integrated military should be structured to produce this effect, arguing for the ethnic mixture of units, rather than segregation. With this in mind, while the first section of this paper applied to all post-conflict states, the insights contained in this section are distinctly important for those that have experienced ethnic conflict.

The idea that the military can serve as a tool for nation-building has typically been associated with modernization theory, which stood as the prominent theory of development throughout the 1960s and 1970s. Individuals who subscribed to modernization theory generally argued that the best way to ensure prosperity within developing countries was to help them develop "modern" values and institutions. The military came to be viewed as the ideal institution through which to educate and re-socialize these "traditional" peoples, helping establish a sense of national unity among individuals from diverse ethnic groups that could serve as the basis for state development. There are several reasons the military was chosen for this purpose: the military acts as a total institution, which isolates individuals from the rest of society and other socializing influences, making it easier to re-shape individuals' identities; the military places strict emphasis on certain values like rationality and loyalty, which can help overcome the limiting effects of "tradition" and foster a sense of unity among the recruits; and the military is centred on achieving national objectives that are common to all groups. Ultimately, the hope

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54 Simonsen, "Building 'National' Armies - Building Nations?" 3.
was that individuals would emerge from the military as ideal citizens and promote greater cohesion within society as a whole.\textsuperscript{55}

Although modernization theory has been largely discredited due to its prioritization of a single historical trajectory and its portrayal of the Western world as the epitome of progress, its view of the military as a vehicle through which to build a peaceful, unified society is useful for our purposes. Many scholars have noted that, in practice, the military is unlikely to instill new values and beliefs in individuals, at least in any meaningful sense beyond pure indoctrination, limiting its ability to actively construct a new identity among individuals from various ethnic groups.\textsuperscript{56} However, although the military may not be able to directly impose a new identity upon its members, it can serve as a tool for greater cohesion by providing formerly antagonistic groups with a venue for positive, cooperative endeavours.

This idea draws heavily on the contact hypothesis developed by Gordon Allport, which holds that positive contact between groups in relatively equal positions of power can help individuals overcome prejudicial attitudes towards other groups.\textsuperscript{57} Since the military depends on collective action among individuals and allows for interaction between troops on a relatively equal footing, it seems plausible to hold that it could help reduce divisions between ethnic groups and provide the conditions for the formation of an overarching identity that forms gradually among individuals without being directly imposed.

A recent study conducted by Florence Gaub on the integration efforts in Nigeria, Bosnia, and Lebanon would seem to confirm this idea. According to Gaub, even in deeply divided post-ethnic conflict societies, cooperation within the military can reduce the salience of ethnic identity, "providing individuals with alternative identities that help soften boundaries."\textsuperscript{58} We can see this in the case of South Africa, where the merging of the various rival forces ensured a high level of social cohesion, contributed to the formation of a new institutional culture, and produced a non-prejudicial leadership structure within the SANDF.\textsuperscript{59}

While the military may serve as a venue for cohesion at the individual level, the question remains if and how such cohesion can translate into society at large, thereby establishing the

\textsuperscript{55} Ibid.
\textsuperscript{58} Gaub, \textit{Military Integration after Civil Wars}, 143.
\textsuperscript{59} Burgess, "Fashioning Integrated Security Forces after Conflict," 78.
military as a tool for nation-building. According to Gaub, the military's contribution to nation-building is symbolic in nature. The cohesion within the military is not transmitted to society by way of individual combatants relaying their new-found affinity towards other groups. Rather, the military, as a state institution, can act as a "projection screen" for social aims, reflecting and reinforcing a society's desire to either integrate its ethnic groups or maintain existing divisions.  

The cases of Lebanon and Nigeria seem to support this idea. Following their respective ethnic conflicts, each created an integrated military with ethnically mixed units. The creation of these militaries was, in part, a product of a general unifying discourse already in circulation within each society, and their development served to reinforce this discourse and encourage further societal discussions surrounding reconciliation and integration. In this sense, in states that harbour a desire for greater social harmony, the military can serve as a positive force for unity.

In essence, under the right circumstances, the military has the potential to encourage cohesion at both the individual and societal level, thereby contributing to the maintenance of peace in post-ethnic conflict states. However, in order for this potential to be realized, the military must be ethnically representative and have ethnically mixed units. The first section of this paper has already drawn attention to the importance of representation and has argued for the process of integration as a viable way of ensuring this. The ethnic mixture of units, as opposed to segregation, is equally important for the military to act as a unifying force. Indeed, without the ethnic mixture of units there would be few, if any, opportunities for the various groups to interact within the military and engage in the cooperative endeavours necessary for the elimination of prejudice. It would also be difficult for the military to serve as a symbol of unity and, as a result, encourage greater nation-building efforts in society at large.

The difficulties associated with encouraging unity while maintaining a segregated military can be seen particularly well with the case of Bosnia Herzegovina. The Dayton Accords of 1995 put an end to the war in Bosnia and created the state of Bosnia Herzegovina, consisting of two separate entities: the Croat-Bosniak Federation of Bosnia and Herzegovina and the Serb Republika Srpska. The Accords did not provide for a united national military, nor did they seek to establish a state-level ministry of defence. Rather, each entity was accorded its own defence.

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60 Gaub, *Military Integration after Civil Wars*, 143-44.
61 Gaub, *Military Integration after Civil Wars*, 144.
ministry and armed forces, and a weak Standing Committee on Military Matters was established at the state level. In addition, the Accords allowed for the continued existence of the three militias that had operated during the war: the Army of the Republic of Bosnia and Herzegovina (Bosniak), the Bosnian Serb Army of Republic Srpska (Serb), and the Croat Defence Council (Croat). As a result, what emerged in the aftermath of the Bosnian War were two separate armed forces with three different types of uniforms, reflecting the degree of distrust and insecurity that prevailed between the country's three dominant ethnic groups.  

Although the tripartite nature of the Bosnian forces has since unravelled, culminating in the creation of a single Bosnian Army on January 1, 2006 with ethnically mixed units, its persistence for more than a decade allows us to draw some useful insights as to the dangers of ethnic segregation in the military. Rather than contributing to peace and stability within Bosnia Herzegovina, the ethnic homogeneity of the three armed groups, and their isolation from one another, only served to further entrench existing divisions. In turn, the divisions between these armed groups spread to other institutions connected to them, including the defence ministries, making it increasingly difficult to encourage integrative efforts over time.

The official reason for not establishing ethnically mixed units after the war was the fear that violence would ensue between members of the various ethnic groups if they were forced to work together. Most arguments for incorporating segregation into the militaries of post-ethnic conflict societies seem to centre on this fear. However, such a view is problematic insofar as it assumes divisions between certain groups to be inevitable.

On the contrary, ethnicity is a dynamic identity that can undergo dramatic shifts over time, reducing or increasing the potential for divisions to form. In the case of Bosnia, the conflict served to increase the salience of ethnic identities, producing a deeply divided society in its aftermath. Prior to the war, ethnic identities existed but they were not incompatible with one another, and individuals often attached greater importance to familial, local, and religious

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63 Gaub, Military Integration after Civil Wars, 94.
64 Although the three armies are now fully integrated into a single military, with ethnically mixed units, three ceremonial regiments exist that are ethnically homogenous. They are meant to serve as remnants of the former armed forces and to preserve the country's military heritage.
66 Gaub, Military Integration after Civil Wars, 95.
67 Ibid., 127.
identities.\textsuperscript{69} Just as ethnic identity increased in salience with conflict, so too can it be reduced. In fact, during its short existence, the newly integrated Bosnian Army has already produced evidence of cooperation between groups.\textsuperscript{70} Bosnia may be a long way from achieving societal cohesion, but this line of reasoning shows that ensuring an ethnically mixed military will likely do far more to encourage peace and stability within this country than one based on segregation and the maintenance of division.

While ethnically mixed units seem to play a key role in ensuring peace, this does not imply that they can or should be employed in all cases. Just like military integration, there may be certain cases where the ethnic mixture of military units is not viable, especially in the short-term. In particular, differences in language and a lack of common military objectives can make complete integration difficult to pursue. In the case of language, if the various ethnic groups to the previous conflict lack a common language, it can be difficult to ensure a representative military without allowing for a degree of segregation. During the process of integration in South Africa, for example, the dominant languages used in the military were English and Afrikaans, which proved to be a major barrier to the integration of many of the non-SADF forces.\textsuperscript{71} Had the military allowed for segregated units that made use of these groups' native tongues, at least in the short term, it may have been easier to ensure their adequate representation.

Similarly, if particular ethnic groups do not share common military objectives, ensuring the efficacy of mixed units can be very difficult.\textsuperscript{72} Consider the case of Afghanistan, where the Afghan National Army (ANA) has been reconstituted to become ethnically representative of the Afghan population.\textsuperscript{73} One of the key tasks of the ANA has been to target remnants of the Taliban. However, since the Taliban is associated with the Pashtun ethnic group and the areas it inhabits are typically dominated by Pashtuns, it has been difficult to carry out these tasks with Pashtuns in the ANA.\textsuperscript{74} In such cases, segregated units may be necessary to ensure efficacy, at least until greater cohesion can be achieved.

Although it may not be viable in all cases, instituting ethnically mixed units within the militaries of post-ethnic conflict states seems essential in order for the military to act as a

\textsuperscript{69} Ibid., 251.
\textsuperscript{70} Gaub, \textit{Military Integration after Civil Wars}, 113.
\textsuperscript{71} Licklider, "Merging Militaries after Civil War."
\textsuperscript{72} Simonsen, "Building 'National' Armies - Building Nations? 12.
\textsuperscript{73} Ibid., 7.
\textsuperscript{74} Ibid., 12.
unifying force, thereby contributing to cohesion at both the individual and societal levels and helping to ensure long-term peace. Conversely, since segregated units limit the potential for contact and cooperative endeavours among ethnic groups, they limit the ability of the military to serve as a tool for nation-building. This is not to imply that segregated units will necessarily result in further conflict or that there are not cases when segregation may actually help maintain peace. However, given the potential for segregation to maintain existing ethnic divisions and, as result, contribute to instability, segregation should be limited to the short-term or avoided altogether.

**Conclusion**

Reconstituting the national military in such a way as to ensure its legitimacy and contribute to stability is typically viewed as one of the key tasks of security sector reform in societies recovering from ethnic conflict. However, while there is general agreement as to the importance of this task, the question remains as to the best way to accomplish this. This paper has argued that the best way to ensure long-term peace and stability through military restructuring is through the merging of rival ethnic forces into a single national military with ethnically mixed units. While the former is beneficial for reducing individuals' incentives to revert back to conflict, the latter's benefits stem more from its contribution to individual and societal cohesion, contributing to a more lasting sense of peace.

As was stated at the outset of this paper, the circumstances within a particular country may make it difficult to pursue one - or even either - of these policies. If a country is incapable of developing a clear strategy agreeable to all parties, lacks a strong state and/or external support, and is unable to ensure adequate representation in the new military, military integration may not be a viable option. Further, although a military should employ ethnically mixed units in order to take advantage of the military's nation-building potential, segregation may need to be employed in the short-term in order to ensure efficacy and stability. Each state will have to evaluate the benefits for itself, taking into consideration the factors and conditions this paper has outlined that will either encourage or inhibit success. Although military integration and ethnically mixed units may not be a cure-all solution for a society's ethnic divisions, and although these strategies may not work in all cases, they do have the potential to contribute to peace in states recovering from ethnic conflict.
Bibliography


“The primacy of opportunity for the United States in Asia is a statement of fact.”¹ This statement has a familiar ring for us in 2013; however, it originates not from today but from a 1993 remark by then secretary of state Richard Warren. At the time, the rise of the Asian tigers, led by the dominant Japanese economy, and the growing ability of China stirred both anxieties and aspirations for a new era of international affairs within the American psyche. With the collapse of the Soviet Union in the early 1990s Americans became fixated with identifying who would rise onto the international stage to become the primary competitor(s) to challenge their newly acquired dominance. Fast-forward to November of 2011, Secretary of State Hillary Clinton announces the establishment of a framework detailing the Obama administration’s intention to shift its strategic focus towards Asia, the backyard of its rising competitor, China. The genesis of this new policy; however, is not solely driven by the U.S. anxiety over losing its coveted mantle as the only great power or the desire to extract trade as was the case in 1993, rather the rationales seem to be much more nuanced. Within this paper the nature of the “Asia pivot,” as it has been coined, will be discussed, but the primary goal will be to examine the ability and enthusiasm of the Obama administration to fully embrace and develop this policy into a doctrine that has a substantial impact on the Asia-Pacific region. In an era of national austerity, ongoing and emerging strategic threats in other regions, and the primacy of domestic issues, the relevance of asking if Obama’s Asia pivot will actually be of any substance or just rhetoric could not be any clearer.

Within the context presented above, the following pages will demonstrate how the Obama administration’s Pacific pivot is not unique in American foreign policy, his approach is partly consistent with previous administrations, but also offers both positive and negative changes. The challenges confronting the current century; however, mean that the legacy of his Asia policy will be judged upon its ability to project soft power, concerted engagement, and low-cost strategic influence in Asia, while hedging against an unpredictable budget climate. Keeping these

assertions in mind, the structure of the paper will consist of three sections. In the first section, the paper will explore the novelty of the Asian pivot in American strategic thinking historically and how this compares to the policy as it has been articulated by the Obama administration. The following section will be focused on examining the contemporary strategic force realities for the United States around the globe, such as old and new threats, shifting hard power forces, and new leadership at State and Defense. The final section will address the issues of budget austerity and the partisan atmosphere of the beltway, as embodied in the 2013 sequester, as it affects the administration and Department of Defense’s ability to carry out an Asia Pacific strategy.

President Obama’s foreign policy legacy has yet to achieve a comprehensive, clear, and consistent strategy or doctrine that represents something starkly new; however, the Asian pivot has the potential to change this trend. Much will rely upon creatively navigating the challenges facing his policy as he begins a second term in office. But, if Obama wants to prepare America for the inevitable global shifts of the coming decades he will have to go beyond facilitating a counter-terrorism doctrine and revolution in military tactics based on drones to positioning America as a key participant in the growing powerhouse of the Asian-Pacific region.

**Part I: Twenty Years in the Making**

Obama is not the first American president to direct foreign policy strategy towards the Asia-Pacific region since the end of the Cold War by recognizing the rising economic and military potential of the resident states. Asia has arisen to economic and military prominence on the international stage over the course of the post-World War Two period and only after the fall of the Soviet Union has it begun to be viewed by those in the West as more than a strategic front against communism. Each post-Cold War administration has attempted to re-orientate itself towards the region, President Clinton in 1993 and President George W. Bush in 2001, both of whose approaches were shaped by distinct ideological outlooks and the unique global atmospheres of their time. The current administration shares some similarities in approach and circumstance from both of its predecessors, but it also shows indications of a different understanding on its execution. What follows within this section will be a brief discussion of the Bill Clinton and George W. Bush approaches to Asia and China, followed by a characterization of and comparison to Obama’s pivot. By doing so the intention will be to establish Obama’s pivot within the context of its previous iterations and demonstrate the influences, the lessons, and
its novelty, which will help facilitate the succeeding sections on global strategic realities and budget uncertainties.

**Clinton: Mixed Results**

As previously mentioned, the Clinton administration had announced its intention to place Asian policy as a top priority in 1993, marking the first official post-Soviet era policy recognition by the White House of the need to address Asia. Before this, discussions were taking place in America as early as 1988 on the approaching “Pacific Century” that would emerge in the twenty-first century; however, those in the Regan administration, although aware of South Korea, Japan, and China’s rise, felt displacement of America’s leadership and economic dominance in the region was unthinkable into the next millennium. Clinton’s strategy in Asia can be characterized by four points that were laid out in a 1995 Department of Defense (DoD) report: maintain forward troop presence in the region (100,000), establish a firm basis for its alliances (i.e. Japan), develop multilateral institutions such as the ASEAN (Association of Southeast Asian Nations) Regional Forum (ARF), and encourage China to develop its interests towards being compatible with the U.S. and its neighbors.

These points worked in tandem with what would become Clinton’s legacy of soft power multilateralism, a focus on human rights (a basis for the interventionism of the doctrine that bears his name) and a focus on trade to bolster a domestic climate that was orientated towards economic growth. Through the policy’s first year in 1993 the administration got off to a good start. Richard Cronin describes the success in terms of providing a “new conceptual underpinning to U.S. Asian policy and gaining qualified acceptance of its agenda, both at home and in the region,” he adds, that there was an inability to extract concessions on human rights and trade from China.

In the ensuing years of the administration, progress on the Asia agenda faltered as perceptions of its strength as well as its ability to invest sufficient attention and resources in the region diminished. The causes of the faltering, according to James Kelly, can be attributed to

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three factors: an “in basket approach” where issues are worked on through quick action and forgotten, the inability to provide a more labor-intensive dialogue to pursue a multilateral agenda, and, between services, there is a lack of coordination across issue areas and intense competition fueled by tightening budgets. Some of Kelly’s recommendations are: one, in light of budget cuts U.S. forces should be restructured in ways that reinforce a long-term security commitment and develop a leaner concept, both in forces and budgets, of military cooperation in the region; two, the U.S. must realize regional groupings should be worked with and are not a threat; and, three, to improve the quality and frequency of dialogue in Asia, potentially with a new ambassadorial post. Nye reinforces some of these recommendations by stressing that: Asia requires America’s deep engagement, defense budgets in the region must be maintained and due to basing arrangements are actually cheaper than force reductions in the end, and multilateralism and regional institutions must be promoted to build confidence. Unfortunately, by the end of his term Clinton’s foreign policy achievements in Asia were more mixed than outright successful. Frank Ching frames Clinton as a president who did not place enough consistent personal attention on foreign policy, even though he had a knack for grasping the issues quickly, and in a post-Soviet period he was more focused on domestic issues and the economy that gained geo-economics a priority status, he was also seen as hypocritical on human rights issues, and responsible for a rocky period of ups and downs in U.S.-China relations.

The aforementioned experiences of the Clinton administration’s Asia policy in the 1990s and identified recommendations represent important lessons for comparison that resemble a balance of realist and liberal internationalist ideologies. As we move to look at the next administration it will be important to remember Clinton’s focus on multilateralism and soft power approaches along with the factors that weakened their execution.

**Bush: Building on the Old**

In the presidential election campaign of 2000, George W. Bush had characterized China as a “strategic competitor,” in contrast to the Clinton administration’s engagement approach with

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6 Kelly, para. 117-126.
8 Ching, pp. 176-179 and pp. 181-182.
China; however, with the events of September 11, 2001 these views within the new Bush administration were shelved.\(^9\) Most famous for its neoconservative influences, the Bush administration ushered in the rise of the principal of unilateralism, promotion of democracy and freedom in all regions of the world, and a focus towards maintaining American military pre-eminence. The architects of this policy doctrine, who occupied positions at the cabinet and key sub-cabinet levels, were termed the Vulcans by Jim Mann in his insightful work “The Rise of the Vulcans.”\(^10\) Curiously, these influences were not overtly present in the policy towards Asia, barring the realist for the use of hard power manoeuvres to balance off the rising military power of China and its hard-line against the People’s Republic of Korea (DPRK).\(^11\) In a twist, it seems that the administration’s actions in the region began to take a multilateralist character and resembled a degree of continuity with the goals of the Clinton administration, which will be discussed below.

Initially the Bush administration was reluctant to become too entwined in Asia’s unique brand of regional multilateral institutions. For instance, the ASEAN Treaty of Amity and Cooperation (TAC), which all members of the East Asia Summit (EAS) must sign, caused concern in the administration of how signing on may compromise its alliances and hamstring its efforts for advocating human rights in the region.\(^12\) The reason for this concern is embodied in one of the norms of TAC and ASEAN institutions in general, it is called the ASEAN Way and it insists that members practice non-interference and operate by way of consensus if they are to be a part of these organizations.\(^13\) Such norms in Asia are a contrast to the character of the more deeply integrated regionalism of the European Union. In light of hesitancy towards Asian regionalism the Bush administration still decided to undertake an approach of engagement and multilateralism. Successful engagement and cooperation was achieved and built upon with ASEAN, APEC, and the Six-Party Talks; and bilaterally in cultivating cooperation and guiding

China towards being a “responsible stakeholder” while enhancing once strained Japanese ties. Brendan Taylor offers that “in practice, the substance of [the Bush administration’s] multilateral activism and engagement in the Asia-Pacific has also been significantly greater than is generally acknowledged,” which is a result of the great economic and military powers present in the region making unilateralism untenable, the abundance of security challenges being favorable to multilateralism, and a strategy to bind China to a complex web of regional arrangements. Harry Harding echoes the idea that there is a degree of continuity in Asia policy with that of the Clinton administration, especially by the end of Bush’s first term in 2004, and he remarks that novel approaches “are ultimately abandoned as new administrations learn old lessons.”

There were instances where the Bush administration was inconsistent with the previous administration, particularly in its expertise and its ideas on the deployment of forward troops. In appointing his administration Bush selected experts on the region and those who constituted the best of George Schultz and James Baker’s Asia teams. This is in contrast to the relative lack of deep expertise in the Clinton administration on Asia, as mentioned earlier. A second example is the “sharp” change in policy away from maintaining 100,000 forward deployed troops in the region, which was largely influenced by Secretary Rumsfeld’s Revolution in Military Affairs (RMA). These forward force reductions were partly a reality of the War in Afghanistan and later Iraq, but they likely helped to create a more amicable non-threatening atmosphere in the region for engagement with the United States. This leaner concept resonates with the recommendations of James A. Kelly mentioned earlier under Clinton, but practically speaking enabling changes to the forward deployed concept was likely more politically feasible under a Republican administration. Also, there was one aberration in Bush’s continuity with Clinton’s policy of engagement in Asia and that was with North Korea or the Democratic People's Republic of Korea (DPRK). With the DPRK the Bush administration undertook a hard-line

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15 Taylor, pp. 3 and 8-9.
18 Harding, p. 35. RMA based on idea of light and flexible forces enabled by technology to deploy instantly worldwide.
approach, placing it within the “Axis of Evil,” which resulted in an exacerbation of the problem on the peninsular\textsuperscript{19} that was changed in 2006 for a less belligerent approach and towards the adoption of a coherent voice through the Six-Party Talks.\textsuperscript{20}

During Bush’s tenure, U.S. foreign policy in Asia constituted at first something that was quite different from the Clinton administration, however, as the administration progressed through its two terms it adopted on the ground policy initiatives that were substantially active in the multilateral sphere and had success at engagement with those in the region. There remained instances of stances in the region that resembled hard-line approaches and a reluctance to become too entangled in deep participation in Asian institutions, but overall positive movement was achieved through a more concentrated and active policy engagement in the region, which was not the case relative to the previous administration.

\textit{Obama: Where Are We Now?}

Through the previous two administrations U.S. foreign policy orientations shifted from one with a liberal internationalist tilt mostly focused on economic issues and human rights to one dominated by neo-conservatives and realists. One administration found itself attentively distracted from developing a comprehensively executed approach in the Asia-Pacific region due to distractions in other regions and a greater orientation towards domestic and economic matters. While the other administration realized its initial stance towards the region would need to be adjusted. It is interesting to see though how the Bush administration’s neoconservative unilateralism gave way to a more multilateral activism that possessed a greater intensity than Clinton’s. What has been shown is that Asia has garnered considerable U.S. foreign policy attention in the two administrations before Barack Obama’s, between them there was much policy consistency, but there was a gap among their effectiveness that is instructive. In recognizing this and Bush’s ability to improve upon Clinton’s policy, Christensen points to one success in the Bush administration’s bilateral relations with China saying that Obama would be wise to build upon it rather than succumbing to calls for “Anything But Bush.”\textsuperscript{21}

To an extent the Obama administration seems to be taking just this kind of advice and even going even a bit further by doubling down on previous initiatives.\textsuperscript{22} In a divergence with Bush, in regards to American involvement within the region, Obama has appointed an ambassador to ASEAN, signed the TAC, and joined the EAS.\textsuperscript{23} This break from the Bush administration displays a willingness to operate more intimately within the existing Asian regional frameworks and shifting even more towards multilateralism from the traditional U.S. bilateral framework in Asia. Also, in learning lessons from the Clinton days, Obama seems to be ensuring Asia has his personal attention by making the first presidential trips to Burma and Cambodia, while also having made frequent trips to South Korea and Japan, and in selecting two Vietnam veterans to head State and Defense, an aspect to be investigated later.\textsuperscript{24} There is however a caveat, as Robert Ross notes, Obama has adopted an “alarmist” attitude in carrying out Asia policy, which created a more tense and conflict prone region, in an apparent move away from the more nuanced engagement of the previous two administrations.\textsuperscript{25} As Obama moves into a second term he would be wise to understand the reasons why his predecessors were keen on the delicateness of their engagements, but this may be yet another instance of an administration taking time to realize the lessons of the older ones. The question is, will Obama recognize this and adjust?

Considering the historical evolution and general consistency of policy towards Asia, key questions remain for Obama in a second term. Will global challenges old and new have a detrimental effect on Obama’s ability to carry out an intensive and focused approach to Asia? What about the pressure of budget cuts and domestic partisanship as seen in the sequester? Although Obama seems to have initially picked up the baton towards building on America’s trends in Asia policy, he may still encounter problems in rolling it out, something similar to Clinton’s experience, due to tight budgets and pressing distractions elsewhere.

\textsuperscript{25} Ross, pp. 16 and 13.
Part II: Obama’s Looming Challenges

Global Threats Beyond 2013: A Sisyphean Task?

In his first four years as president, Obama was confronted with winding down the war in Iraq, deciding on the need for a surge in Afghanistan, inheriting a campaign against global extremism, rescuing the global economy, in addition to following through with ambitious agendas to change America’s image in the world and reduce nuclear weapons, just to name a few. At the precipice of a second presidential term Obama faces an equally challenging agenda in foreign policy. The purpose of this section will be to explore Obama’s foreign policy challenges and their ability to divert the attention and resources of, both, him and the administration away from making serious inroads on the Asian pivot.

For the past decade America’s strategic attention has been heavily orientated around the Middle East and Central Asia, in 2013; however, Obama has withdrawn combat troops from Iraq and in a year’s time plans to do the same for Afghanistan. Policy makers, assumingly, seem to be expecting a windfall of strategic manoeuvrability as a result. But with the uncertainty over regional stability after exiting from Afghanistan, rising tensions with Iran, unresolved civil strife in Syria, and the surge of extremism in Africa the potential of losing this manoeuvrability cannot be ignored.

Probably the most important region outside of Asia for United States’ strategic foreign policy is in the Middle East/Central Asia, the auspice of CENTCOM, and commentary on how to balance interest in this region while also pivoting to Asia will be instructive to other theaters as well. According to Lieutenant Colonel Aaron Bergstein, a number of efforts are being made to enhance partnerships and alliances in the region, thus increasing cooperation on a broad range of issues, and ensuring increased interoperability through joint exercises. Together these initiatives create what he calls “a self-sufficient coalition of nations” allowing America to keep “itself firmly planted in the Middle East” while pivoting to Asia.26 David Barno, Nora Bensahel, and Travis Sharp echo the importance of facilitating allies’ capacities in the region and adds that it will be essential, in order to hedge against turmoil and shocks in the region, to give the services

leadership roles in specific regions while also preserving the ability of ground force robustness and capability for power projection.\textsuperscript{27} The Obama administration seems to be on the right course, but in order to ensure its ability to respond to events in the Middle East and elsewhere successfully without draining other strategic capacities it will need to heed the above recommendations by developing a tailored and focused attention on regional allies and flexibility in ground forces to respond if they are needed. Of course, the challenge is always in the execution.

In facilitating the next evolution of the RMA, Obama’s expanded drone program and affiliated kill lists have presented the administration with an effective, albeit ethically contentious, way of keeping operating costs down in the fight against global extremism. In addition, Obama is ushering in a new type of American leadership around the world, which relies more on facilitating the ability of allies to address crises rather than bearing the brunt of the burden. For instance, the first such instance of this was in Libya, where Obama’s approach, termed “leading from behind,” saw a cost to taxpayers in the U.S. that ran between $1-3 million per day within the context of a supportive role, while in Afghanistan the cost has been $300 million per day.\textsuperscript{28} Also, there is Obama’s handling of the crisis in Mali, where France has taken the leading Western role and those states who are part of the Economic Community of West African States (ECOWAS) are being positioned to take over. This showcases another appeal for other states to take on greater international responsibilities not simply to spread the burden, but the ownership as well.\textsuperscript{29} However, in a word of caution Harlan Ullman stresses that allies, especially NATO in a post Afghan role, will be unlikely to increase defense spending due to their own austerity programs, as such the U.S. must help facilitate leaner ways of operating the alliance and smarter defence approaches.\textsuperscript{30}

In a related context, the withdrawal from Afghanistan will also pose a challenge for the new leadership, especially in the way they can coordinate with one another. A successful Afghan


withdrawal means the reduced potential of another heavy investment in the region down the road, which could undermine attention towards Asia. Speaking to this issue, Rep. McDermott and Wilkerson stress that Obama must establish long-term sustainability and genuinely meet the needs of Afghans to establish a stable future.\textsuperscript{31} Generally, these trends in Obama’s wider foreign policy strategy are a clear indication of the administration’s desire to avoid the possibility of expedition and intervention that became a problem for both Clinton and Bush, but work in key areas still needs to be addressed to alleviate all the risk.

Having noted methods for maintaining strategic capacity outside of Asia and instances of policy action along these lines, there is another factor that is pivotal in bringing these together and establishing the focus of the Obama administration’s second term. As integral actors in Obama’s Asia pivot John Kerry, Secretary of State, and Chuck Hagel’s, Secretary of Defense, attitudes and visions for American strategy will be telling indicators for the amount of attention on Asia and the ability to manage turmoil elsewhere. Both could also prove instrumental in alleviating tensions and the eventuality of a crisis over Iran because of how both were staunch advocates against the war in Iraq and have built up a background on the region’s issues, but as Edward Luce points out this is hardly a guarantee for a good outcome and it will remain to be seen if this new team can work “urgently and effectively” on this issue.\textsuperscript{32}

If we look at these actors’ views separately, we find that Hagel has voiced support for the Asia “pivot,”\textsuperscript{33} but in the context of his background, Kerry’s too, he is substantially Atlanticist.\textsuperscript{34} Considering this and the previously mentioned background in Middle East policy, his devotion to Asia may depend on the amount of pressure Obama puts on him, otherwise his natural tendencies may guide him elsewhere. In terms of Kerry, there is a similar background, but he has shown reluctance to fully support the Asia “pivot,” which may be reinforced by the departure of


Assistant Secretary of State for East Asia and the Pacific Kurt Campbell.\(^\text{35}\) Campbell and others such as Michèle Flournoy, former undersecretary of defense for policy, represented the Democrats efforts to create a "team of anti-Vulcans," which originated at the Center for a New American Security where they advocated for a blend of soft power and military power, later termed "smart power."\(^\text{36}\) As such, the departure of these individuals and failure to replace them with equally as knowledgeable and vocal policy thinkers could prove important to future foreign policy competence and focus intensities. Some commentators have downplayed this, pointing to how the White House under Obama has been the primary location for shaping policy and so changes are unlikely.\(^\text{37}\) All considered, the biggest weakness of the Asia pivot may lie in the enthusiasm of Kerry and Hagel. Their backgrounds in regions outside of Asia may drive their personal investment to issues elsewhere and as we saw in the Clinton administration, foreign policy leadership that is focused on other regions and domestically ends up producing less effective policy in Asia.

Overall, it would seem that as President Obama enters a second term his Asia “pivot” has the potential to be detrimentally sidelined by unforeseen events, the most likely candidate being Iran on its nuclear program, but at the same time there is an understanding to develop a smart and lean ability to manage issues outside of Asia that may reduce the fallout. These other challenging issues around the world would seem to be manageable under Obama’s low cost and “leading from behind” approaches, which although not perfected or consistent policies have been effective at reducing American commitments and avoiding overstretch. Considering the Bush administration’s success in Asia and their oversight of two wars, Obama should be fine if he can continue to manage and improve responses to crises with this distinct approach. Given all of this, Kerry and Hagel’s enthusiasm for the Asia “pivot” may be the undermining factor. So assuming that the administration does not abandon the policy, the next logical questions are: what if budget cuts and political partisanship at home drastically reduce funding allotments to State and Defense? And, can the Asia “pivot” remain viable?

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Fallout from the Budget Axe

Obama’s presidency has been faced with the challenges of slow economic growth and calls for budget cuts since day one. As a result there has been a gradual move to reduce programs and budgets, a task in which former Secretary of Defense Robert Gates bravely took on within the Pentagon up until his resignation in July of 2011. These cuts at the DoD go beyond the reductions that winding down the wars in Iraq and Afghanistan have and will entail, but they do represent a large chunk of the savings. Between 2010 and 2012, DoD reduced its total budget by $6.146 billion to $699 billion, and there is another $26.285 billion in reductions planned for 2013.38 Beyond the already agreed upon planned cuts, the recently activated sequester, a part of the 2011 debt ceiling agreement, presents another budget problem in cuts that would see $46 billion axed in 2013 alone, compounded by the inability of Congress to appropriate defense funding for fiscal year 2013 that would create a shortfall of $35 billion in operations and maintenance.39 In this final section the effect of these cuts will be assessed to determine exactly how damaging they may be to Obama’s Asia pivot.

In a report by the Center for Strategic and International Studies (CSIS), China was recognized as being the largest military spender in Asia by 2005.40 Between 2000 and 2010 official Chinese figures reported total defense expenditures increasing by 300% and an independent estimate put it at 315%; while the gap between the independent and official sources per soldier went from $5,000 in 2001 to $23,100 in 2011, which means that roughly one third of actual spending is being officially reported by China.41 Considering the substantial rise in both measures and the gap in the estimate it is likely that military planners and civilian policy makers in the United States are interpreting these as both threatening and deceitful trends. This is also one of the likely reasons why those in the DoD establishment are worrying about cuts to defense

41 Berteau, et al., p. 1. Independent analysis conducted by the Stockholm International Peace Research Institute (SIPRI).
spending and the rationale behind the uptick in American sabre rattling, meant to balance China’s perceived rise in aggression. Former Secretary of Defense Leon Panetta has already announced that 60% of naval forces will be based in the Pacific by 2020, and pointed to the increased military exercises with allies and development of enhanced or new strategic hubs, Guam and Australia. All these measures reinforce hard power balancing with China’s perceived aggressive moves, but the rationale behind this flexing, and the spending it entails, may not be as necessary as has been claimed.

Colonel Brian Killough (U.S. Air Force) addresses the American nervousness surrounding China’s first aircraft carrier, The Liaoning, and points out that it may be a stepping stone to greater capacity down the road, but it is far from a threat in itself. Another issue with China’s perceived threat concerns the effect that U.S. policy has had on increasing Chinese military buildup. Jonathan Pollack voices such concerns, saying China’s accelerating modernization activities “are all directly linked to American priorities and programs” and the U.S. must acknowledge that China “is responding to U.S. strategies and research and development activities, not embarking on a unilateral defense buildup.” In reinforcing this, Ross also notes that substantial hard power force increases by the U.S. in South Korea and Indochina are ironic, because the “strategy that was meant to check a rising China has sparked its combativeness and damaged its faith in cooperation.”

Upon looking at budget figures over the previous administrations it becomes obvious how expansive the DoD budget has become, by the end of the Clinton years, 2001, the budget was at $398.584 billion and in 2012 it increased to $699.109 billion. What this means is that over approximately eleven years the defense budget has grown by $301 billion. As such, pending reductions will be nowhere near reaching the levels of 2001 anytime soon. So when you consider

46 Ross, pp. 10-12 and 15.
47 Office of the Under Secretary of Defense, pp. 173-175. DoD overlays in constant dollars.
the previously mentioned requirements for U.S. projected forces in Asia during the Clinton years, where the policy outcomes were mixed at best, and then remember how Bush had subsequently made cuts to this concept and more as part of the RMA, and was more successful in Asia, the rationale over a need for high expenditures in hard power in the Pacific seems shaky at best. Ezra Klien reinforces this, noting that “during the war on terror, the defense budget increased by more than it did during the Cold War or the Vietnam War, and even with the sequester, the cut to the defense budget will be less than it was after either of those” (Figure 1). He adds that the catch of the sequester is that it is a bad way of making cuts, as there is no way to choose what gets chopped, and cautions against the rationale of maintaining high defense budgets as it re-imagines America’s posture in the world as in a “permanent state of semi-war.”

If the cuts are, in fact, not in themselves negative, it would seem that instead it is how they are reacted to and managed that may cause the most damage. Michèle Flournay addresses reasonable ways for making cuts – eliminating unnecessary overhead in the Pentagon, military healthcare, excess infrastructure and reform acquisition – and underscores the inability to do it in

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Figure 1


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49 Klein, para. 12.
the right places could create a hollow force.\textsuperscript{50} Additionally, in a recent Center for Strategic and Budgetary Assessments (CSBA) report, the sequestration and budget uncertainty will contribute heavily towards impeding future planning for fiscal year 2014 and that a new approach is needed towards getting better value from DoD investments in military personnel, and readiness and training.\textsuperscript{51}

More recently, late April, the DoD has been able to more effectively avoid some of the more jolting aspects of the sequester. Apart from the exemptions it gained for pay and benefits of personnel the DoD has shown itself to be more flexible and capable of planning around reductions in its operational budget, the main focus of the sequester, than was expected, which Gordon Adams points out may mean that it can come out of the sequester better than other departments.\textsuperscript{52} This underscores the importance of why the Obama administration, especially the new Secretary of Defense Chuck Hagel and Secretary of State John Kerry, needs to recognize and implement the reasonable strategies for managing the fallout of budget cuts and the sequester, that were discussed above, so that the Asia pivot and related policies remain effective and viable. The DoD seems to be on track to cope with tighter budgets, it remains to be seen if the Department of State can be equally as flexible.

The issue of budget cuts and the sequester will certainly pose a challenge to the Department of Defense, possibly even more so for the Department of State under indiscriminate sequester cuts, but this might not mean a direct or inevitable damaging of the Asia pivot. The key to success will be in the ability to reorganize and create efficiencies in light of the new budget realities, while also recognizing that an effective Asia pivot policy does not require a heavy tilt towards hard power spending, in fact doing so might actually be deleterious to regional stability.


Conclusion

What the Asia pivot represents as a U.S. policy approach has generally been a consistent trend towards the same goals across administrations since the Cold War and the factor that sets each apart from the other is in fact the minor adjustments in carrying out those goals. Clinton was the first president to develop a substantial approach towards Asia in a post-Cold War era, his success; however, was mixed. Bill Clinton started off unprepared for the nuances of facilitating productive relationships in the region and further into a second term was able to develop better strategies for engagement, but in the end domestic issues and more urgent events elsewhere drained his resources for making any sustained progress on the ground. Later during George W. Bush there were initial indications that Asian policy would change noticeably; however, in realizing the complexities of the region and the drawbacks of relying too much on hard power in the region, Bush adopted similar engagement strategies to Clinton’s and put intensive expertise and resources into the mix. The result was a marked improvement in American policy towards Asia, even though the administration still held on to the wider overestimation of the country's military power. By the first term of Obama there were indications of a continuation of Bush's gains in relations with the Asia-Pacific, especially those seen in the last few years of the administration, but the new administration ended up focusing more on building hard power stances in its Asia pivot with some instances of soft power breakthroughs, joining EAS and signing the TAC as examples.

For Obama the latter examples are quite encouraging; however, Obama must reflect on the logic behind flexing American military power in the Asia-Pacific and its reversing effect on the engagement policy built over the previous two administrations, except in regards to Bush on North Korea, with China and the region. In doing so America must find more creative ways to reassure allies in the region other than displaying American might and dissuade Japan or those in the South China Sea from becoming militaristic because they feel vulnerable. Under Bush, force projection was cut in the region and allies were still able to feel relatively secure, while facilitated lines of engagement ensured China-US relations were not exceptionally adversarial.

Lessons gleaned from the sections that comprise the second part of this paper can be summarized together as challenges that do not necessarily equal the death knell of the Asia pivot. First it was established that a prioritized policy in Asia is possible within the context of active strategic interests developing elsewhere, the key is in Obama’s low-cost and “leading from
behind” strategies. Conversely, one element that may change the Asia pivot’s order of priority might be the new leadership at State and Defense; however, their expertise in areas outside of Asia may actually help avoid missteps that would result in deteriorating situations in Africa or the Middle East that would thereby deflect focus away from Asia. Leadership at State and Defense will be key to the amount of attention and whether the angle of approach to be chosen will stay consistent with that of Hillary Clinton and Robert Gates or become something new.

In the second portion of part two, the budget cuts and sequester were put in the context of historical experience and of the rationale for the need to maintain high levels of spending in defense. For the Asia pivot and beyond cuts matter, but it is not because cuts are bad, it is because how cuts are managed and how the administration adapts to a new operating environment will make the difference between a sudden damaging drawdown and a smooth smart one. Additionally, a smart reduction in defence and foreign policy will be difficult if Obama insists on increasing a realist, hard power stance in the region, which costs more than an intensified soft power approach through engagement.

These points will all certainly have major roles within the development of Obama’s Asia pivot into the next four years towards 2016. The major question is if Obama and his administration will be able to recognize the need to address and take heed of the above points and not repeat the failures of his two predecessors in not recognizing the utility of policy that came before them.


Post-Lulzsec Cybersecurity

Challenges of Moral Ambiguity Associated with the American Government as a Referent Object

Joe Yang

This paper focuses on the issues associated with the securitization of the United States government when dealing with threats from the hacktivist group Anonymous. I argue that the cybersecurity challenge from the United States government stems from western liberal values and a zero cost of entry for Anonymous and its subgroups. Integration with and cooperation from groups within Anonymous are central to sufficiently securitize against a group with no visible overarching strategy components.

This paper also argues securitizing agents must consider Anonymous as an entity both separate from and intertwined with the United States government. Its zero cost of entry challenges notions of ‘them’ versus ‘us.’ Furthermore, the United States government cannot compellingly label itself a referent object in the fight against Anonymous, as Anonymous’ decentralized structure and unique adoption of a highly liberal moral persona makes it unsympathetic to these arguments.

This challenge is important because of changes influenced by LulzSec. Lulzsec, for better or worse, propelled Anonymous’s activities past Church and private spheres, and fully into public, antiestablishment ones. Whereas Anonymous worked on a large scale, directionless, Lulzsec’s attacks on several private and public entities solidified supporting and dissenting subgroups within Anonymous.

If the United States government has any intention to effectively combat ideologically charged threats in cyberspace, it must adopt a two-pronged strategy. One, it must acknowledge the decentralised structure of Anonymous and shift focus towards co-opting - not just recruiting - white hat (benign hackers with genuine intentions to improve security) groups into its fold. Two, Anonymous has adopted a loose, semi-amorphous set of expectations for online behaviour and articulated a loose moral structure. To Anonymous, this ‘war’ is about indeterminate morality and ideology, not just cyberspace.
What is Anonymous?

Anonymous is a hacktivist (portmanteau of ‘hacker’ and ‘activist’) group that emerged from the online image board 4chan.org in 2003. The use of the name Anonymous emerged because of the structure of 4chan, which frowned upon internet nicknames. The lack of nicknames reveals how the social structure of Anonymous emerged and enabled an energized, chaotic hivemind. This highly horizontal structure birthed small subgroups within Anonymous, leading to the construction of groups such as Lulzsec.

As a collective, Anonymous grew mostly from a large, specific subsection of 4chan. Random (more commonly known as /b/), is a den of offensive, racist, and virulent humor and dialogue recollective of a Hobbesian state of nature. Anonymous began as mainly capricious and unstable, prone to targeting individuals. However, despite major foundational problems at its inception, Anonymous proved resilient and adaptable. This is because Anonymous adopted the mantra of “We are Anonymous. We are Legion. We do not forgive. We do not forget. Expect Us.” This underpins its fearsomely low (to nearly nonexistent) cost of entry. Becoming a member of Anonymous requires little to no effort, and as a result, anyone can be part of Anonymous.

Why Lulzsec? What about it?

Lulzsec, in comparison, is a subgroup splintered from the larger hivemind. Emerging sometime in early May 2011, Lulzsec gained notoriety for breaching Sony Pictures Entertainment’s network security and gaining access to over 100 million user accounts on the Playstation Network. Two days later, Nintendo announced a nondestructive breach on its

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2 Ibid.
3 Ibid.
servers. On June 13, Lulzsec accessed a public-facing server, but no files were breached or compromised. On June 20, Lulzsec claimed responsibility for a Distributed Denial of Service (DDoS) attack on the CIA’s official website.

On June 7, 2011, the de-facto leader of the Lulzsec group - Hector Xavier Monsegur, more famously known as Sabu - was arrested by federal agents and began assisting the FBI in tracking down and apprehending the other members of Lulzsec. After releasing data from Arizona law enforcement (a practice known as ‘doxing’, where private information is released on an individual or corporation), Lulzsec officially announced the hacking spree over on June 25, 2011.

Though the span of Lulzsec’s famous hacking spree was short, it was a chaotic and highly influential one, spawning groups such as LulzSecBrazil and post-announcement Lulzsec. It also partly influenced the Occupy Movement, as well as the BlueToad breach by hackers on September 10, 2012.

LulzSec was predisposed to attack for the sake of theatrics and notoriety, honeying their words with trenchant, infantile, and sarcastic dialogue to rationalize its motives. Its attacks on the CIA’s website, for example, were announced with the tweet: “Tango down - cia.gov - for the lulz.” Indeed, LulzSec’s primary mantra for its attack is “for the lulz.” However, LulzSec’s

8 “A timeline of hacking group LulzSec’s attacks.”
15 ‘Lulz’ is a variation of the acronym LOL, which stands for ‘laugh out loud’. Lulz is a noun noting that emphasizes on the amusement or enjoyment one receives at witnessing or committing an action, whether good or bad.
claim is that they are releasing and acquiring personal information to send a message to companies about what they claimed to be major security issues. While Anonymous failed to directly establish a set overarching strategy and clear intentions (save for specific incidences), LulzSec, despite the chaos and security problems it created, was relatively consistent, clear, and upfront about its mayhem. Securitizing efforts by public and private security groups against LulzSec, and the enmeshment of Internet netizens with access to tools in cyberspace on a wide scale, have forced Anonymous to develop overarching strategies for its activities.

Anonymous pre-Lulzsec

Pre-LulzSec, Anonymous’ major activities were aimed against individuals. Chris Forcand, Cheyenne Cherry, and Kenny Glenn were notable targets of Anonymous’ activities prior to LulzSec. Cherry and Glenn were targeted due to their treatment of animals, specifically cats, whereas Forcand was found to have been posting nude photos of himself on the Internet and propositioning underage girls. Though there were major mobilized, anti-organization activities such as Project Chanology, Project Ouraboras, and Project Avenge Assange, these were rare. Large scale attacks were not the modus operandi of Anonymous prior to Lulzsec.

Before LulzSec, Anonymous was a collective of poorly linked black, grey, and white hat hackers, each working in small, isolated groups for specific purposes, usually resonant on basic key beliefs. Collaboration was based upon hatred of another entity, and the construction of a moral foundation for the group was extremely simplistic. Prior to LulzSec, Anonymous was primarily a large, amorphous group connected by a thin wire of identity.

Anonymous post-LulzSec

After the dissolution of LulzSec, Anonymous radically (but not suddenly) shifted gears. LulzSec revealed that while hacker groups functioned outside of an overarching moral scope, the

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16 Ibid.
vast majority of hackers seemed to respond and resonate with citizens.\textsuperscript{18} Groups such as Web Ninjas and The A-Team and hackers such as th3j35t3r mobilized against LulzSec, revealing highly complex and fractured infighting among various subgroups.

The fame of LulzSec also moved these groups out of the private sphere and into the public one. LulzSec became a symbol of the chaotic activity on the Internet, leading Julian Assange to aggressively pursue more sensitive information to leak.\textsuperscript{19} LulzSec, Parmy Olson argues, was very close to becoming the black hat version of Wikileaks.\textsuperscript{20} In other words, the group changed how information the handling of information on a large scale.

Prior to LulzSec, Anonymous attacks have been firmly rooted in takedown, hijacking, and online-to-offline mobilisation. LulzSec, however, introduced a new form of cyberwarfare - group-based doxing (the acquisition of personal information through investigation, usually for the purpose of publicly releasing it). To be fair, doxing was never new to LulzSec, and Anonymous had engaged in doxing before.\textsuperscript{21} The case of Jessi Slaughter, an 11 year old girl targeted because of her confrontational (but otherwise unremarkable) behaviour on the internet by parts of Anonymous was a massive doxing attack, with people acquiring her home address and phone number, harassing her and her family.\textsuperscript{22} Anonymous is not new to the concept of releasing large amounts of information, but their impetus for doing so had been fairly different. Originally, Anonymous had done so mainly because of its reactions to organizations, such as the Tea Party\textsuperscript{23} or the Church of Scientology.\textsuperscript{24} However, post LulzSec, Anonymous aggressively pursued large, mainstream, and complex organizations en masse. LulzSec is arguably the catalyst for a highly coordinated reaction to black and grey hat hackers on the Internet, and as a response Anonymous is learning to mobilise.

\textsuperscript{20} Ibid.
Whereas their responses are usually set by demands, Anonymous has developed a foundation, in the vein of LulzSec, around information and the freedom of information. However, it was not until LulzSec and subgroups of Anonymous collaborating to form Operation AntiSec that Anonymous radically shifted to what it believes to be a major threat to internet freedom: governments.

**Why using the label ‘Anonymous’ is self-destructive and dangerous for the US government**

Why is this a challenge for the United States government? The change in Anonymous’ activities post-LulzSec is not entirely unique to the United States government - in fact, other states, such as India, Zimbabwe, Great Britain, and Austria have all reported attacks by Anonymous. Likewise, because Anonymous has achieved a highly complex ideological master status determined by an evolving and refining moral foundation situated upon freedom of information, any attack that co-opted into Anonymous can be considered Anonymous. Therefore, Anonymous’ reach is global, its numbers vast, and its construction based purely on ideas and ideals. Operating as Anonymous and as part of Anonymous does not require being opted into Anonymous.

However, Anonymous has had consistently considered the United States government a potential threat since Operation Avenge Assange in 2010. The United States government, in turn, has always been framed as a backer of what Anonymous conceives as ‘thought crime’ legislation, notably SOPA and PIPA. Whether this relationship exists in truth is not the issue: what matters is that Anonymous believes this is the issue, and the United States government has made no major or compelling reason for them to believe otherwise. This is central to Anonymous’ evolving anti-establishment attacks, especially against the United States. The ‘war’ against governments, against private individuals, and against organizations that oppose Anonymous is not just about cybersecurity, defined by publishing or information, but also evolving ideology. Anonymous has yet to fully define their ‘grand strategy,’ but a ‘grand strategy’ is nevertheless developing. If any state government is to combat or prepare against

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Anonymous, it must treat Anonymous as a force morphing in an unclear direction. Governments must take its preamble “We are Legion” seriously.

Currently, powerful state and private actors such as HBGary and the Recording Industry Association of America (RIAA) are treating Anonymous alongside traditional cybersecurity lines. Governments continue to treat Anonymous, especially post-LulzSec, as a radical group that can be demarcated and separated from the populace. Anonymous, by its rhetoric and design, is a populace manifested online with secret intentions. This is central because if we take the process of securitization and attempt to conceive of the referent object, in the context of Anonymous versus any state (though predominantly the United States government), we can find a notable change (figure 1).

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If we take the United States as the main case study, the main referent object is the United States government, which depends on the confidentiality of information held by private and public actors\textsuperscript{29} and the distribution of copyrighted material.\textsuperscript{30} This creates a different set of risks for states and private corporations: information can be duplicated and moved, but not destroyed, so there needs to be reconceptualization how ‘threatened’ is being determined. Figure 2 shows that the securitizing actor can create threats when attempting to bring light to the referent object because ‘locking away’ information fuels conspiratorial sentiments in a group such as Anonymous. Likewise, as the government becomes threatened, many groups do not register it as a means of survival, but rather of social stagnation. In turn, attempts such as SOPA and PIPA (bills proposed in the United States which garnered considerable online ire), which can be seen as securitizing acts, tend to galvanize more threats from Anonymous. This is very close to a lose-lose scenario for the current US government, since attempts to retain information or release information create threats nevertheless. However, the modern Anonymous’s highly advanced, decentralized, and ideologically charged structure provides several lessons on how a government may have to define an ideological threat in cyberspace.

First, since LulzSec, Anonymous is developing a dependency on information retrieved from an increasingly integrated and complicated network of suppliers of information separate from the group itself. As a result, not only does Anonymous attempt to defend its own, but also in some cases will attempt to defend its suppliers and allies. For example, in regards to Private First Class Bradley Manning, who was charged with revealing military archives and diplomatic files to WikiLeaks,\textsuperscript{31} Anonymous initially responded with threat of an aggressive doxing attack to ensure Manning’s care at the Quantico holding facility.\textsuperscript{32} Likewise, Operation Avenge


Assange was an attack on Paypal, Mastercard, and Visa after online banks refused to support WikiLeaks in fear of the US government.\textsuperscript{33}

Furthermore, secretive state documents and information are not Anonymous’ only targets. Any failure to disclose information, especially of perceived injustices, is fair game for Anonymous. In Steubenville, two players from a local high school football team were accused of sexual assaults on a drunk and unconscious teenager.\textsuperscript{34} Anonymous claims that the football team’s considerable prestige creates a familiar, corrupt, and cozy relationship with Steubenville’s leaders, which kept a hushed silence on the situation.\textsuperscript{35} A similar attack can be seen in case of the DDoS attack on the Delhi police website after Anonymous learned of the force’s reaction to the protests of a gang rape of a young woman.\textsuperscript{36} Though the case in Delhi may not be as small as Steubenville, the message remains: freedom and transparency of information is a primary concern for Anonymous, not only on the state or corporation level, but also on personal levels.

Second, Anonymous is becoming more of an online-to-offline mobilizing actor. The change is not in the fact that this is new; in fact, Anonymous mobilized for Project Chanology (pre-LulzSec) prior to LulzSec. However, such mobilizations on a large scale were rare and had their origins from Anonymous. Starting in 2011, Anonymous began integrating with offline movements, such as Occupy Wall Street in 2011,\textsuperscript{37} Operation Syria,\textsuperscript{38} and the Steubenville trial in 2012. Whether it is sending groups to other areas, or integrating itself into already existing groups, Anonymous is slowly becoming more and more viable as not only a force online, but also offline.

Third is Anonymous’s increasing willingness to declare war. State governments have always been willing and capable of mustering the resources to declare: the Pentagon often claims

\begin{thebibliography}{99}
\bibitem{35} Ibid.
\end{thebibliography}
that cyber attacks count as acts of war, and countries such as Iran and the United Kingdom have been attempting to amass ‘cyberwarriors’ for a very long time. However, prior to LulzSec, Anonymous’ attacks have been in response to what it conceives are major violations of its self-image. Cases such as WikiLeaks and Project Chanology were in response to catalysts, but for the most part, most of them were manifestos that simply outlined Anonymous’ main problems with specific policies. They were originally defensive, responding to what they believed were injustices meted upon them.

However, since LulzSec, Anonymous has become wildly active in responding or pushing for changes, and more often, it has been doing so by declaring war. On January 11 2013, Internet activist Aaron Swartz was charged for 13 felony charges and a $1 million fine for downloading nearly 5 million JSTOR articles. Swartz, overwhelmed, committed suicide. Anonymous declared war. The same pattern is seen during the debate over SOPA and against Israel. In short, Anonymous’s behavior is rapidly evolving beyond direct, reactionary approaches, and is instead becoming more involved through abstract goals.

The moral base of Anonymous

Post-LulzSec, Anonymous is becoming increasingly cohesive in terms of an online zeitgeist. Whereas Anonymous was a poorly constructed, malformed means of organization and a loose connection of networks that have demarcated and defined messy boundaries prior to LulzSec, it has evolved into an online fighting force that draws its troops from outside and within the state apparatus. Post-LulzSec, it has become increasingly willing to criticize and attack extremely large public and private actors, and is moving beyond being an opportunistic and timely anti-established collection of organizations.

42 Ibid.
Instead, Anonymous is developing a widely known brand symbol as a unified fighting force, clear doctrinal direction, and an understanding of state response and behavior. Most importantly, it is developing a moral foundation based upon principles of freedom of information and a loose and nascent sense of ethics and justice. Furthermore, as seen in response to Aaron Swartz’s suicide, Anonymous is very much willing to get involved in cases where it is only peripherally related.

Central to this development is the cohesive identity of Anonymous. Anonymous works because it preaches and believes in the freedom of information. Pre-LulzSec this partially formed in the case of Project Chanology and pre-LulzSec WikiLeaks, whereas post-LulzSec Anonymous is moving beyond retaliatory measures and becoming intimately involved in pushing for freedom of information and defending freedom of information wherever it seems to be threatened.

These are very western liberal ideas. Anonymous is not a foreign entity - it is a byproduct of a disenfranchised group. The cases of Bradley Manning, WikiLeaks, SOPA, and LulzSec are not cases where Anonymous’ ‘soldiers’ are recruited into the fighting force; members of Anonymous become involved in Anonymous because of the moral foundations it espouses. Therefore, for an organization such as Anonymous, these are ingrained ideals in western liberal nations and thus concepts of countering recruitment and punishment are not sufficient in terms of landing a significant blow to Anonymous. People enter Anonymous because it is an organic net-society-turned-fighting-force that shares their beliefs in pacifism. In short, any registration of harm is minor, and nonviolence a unifying modus operandi for Anonymous’ war. Even though Anonymous is involved in doxing attacks and shutdowns, it does not consider itself a generator of major negative externalities.

What this means for Cybersecurity

LulzSec fundamentally changes how we must deal with a large civilian group on the Internet. Constructing a framework for cybersecurity pertaining to Anonymous shows that


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policymakers cannot depend on just defining referent objects, threats, and securitizing actors. The problem with Anonymous is that as a highly decentralized organization with the capacities to force change, create demands, declare war, and target groups through an ideological lens with little cost of entry, it opens up and challenges the origins of threats. In this case, the United States government is the referent object, but the case of WikiLeaks shows that information from the referent object can also create threats. Furthermore, threats can emerge organically from within securitizing actors.

Additionally, because Anonymous threatens a large, broad set of conditions on how governments must handle sensitive information rather than a traditional referent object, securitizing can be costly and challenging. Raising an army (whether metaphorically or literally) is no guarantee of proper defense against a group formed by a loose ideology congruent with ideal US politics, as seen in the case of Bradley Manning. Pinning them down to an ideology is also too simplistic, as Anonymous has revealed in the Aaron Swartz case - they are capable of reacting to perceived injustices with no defining criteria. Furthermore, Anonymous does not conceive of itself as a threat to a populace, arguing in a letter to NATO that “the government and the people are, contrary to the supposed foundations of ‘democracy,’ distinct entities with often conflicting goals and desires.”

LulzSec, despite its short and explosive run, was the first offshoot from Anonymous to show all of these changes, and while they were a black hat group, the borrowing of idealism as a master status, the modus operandi of LulzSec, the fixation on information as a means of warfare, and the act of targeting groups irrespective of its relevancy to Anonymous all can be traced back to LulzSec.

However, the case of LulzSec can also provide lessons on how to deal with Anonymous, in terms of combating and opening dialogue. Establishing Anonymous-resistant networks is not impossible, but it does require a reconfiguration of standard, ongoing procedure.

Hackers have clearly defined ethics within the group. Anonymous is no different: LulzSec has shown that not all groups are in favour of hacking behavior, regardless of the rhetoric. The rhetoric is a means, and simply arguing that a specific activity is ‘good’ either through evoking the Anonymous ‘lulz’ or for the sake of bettering society (or the public) is not a compelling impetus for the support of other groups. In other words, full unity cannot be achieved. LulzSec, despite its fame, was under constant attack by groups such as th3j35t3r and The A-Team.

47 “Anonymous Message to NATO.”
In the case of WikiLeaks and for Anonymous in general, there are groups that oppose them.\textsuperscript{48} Understanding the reasoning behind these groups is the first step to understanding how people join Anonymous, as it reveals why these other groups, though they apply the same general rhetoric and support for liberal values, do not identify with Anonymous.\textsuperscript{49}

Authorities also must be careful not to draw the furor of online groups that are already heavily retrenched. Declaring Anonymous to be cyberterrorists or declaring any hacktivist group to be a threat to the state, will strengthen anti-establishment sentiments, as we see in the case of online takedowns against the RIAA, the MPAA, and the CIA website during the SOPA blackouts. Empathy is not an effective tool to combat Anonymous.

The United States government is better off gaining the trust of members of Anonymous’ groups, or finding a way to incentivize cooperation. The case of Sabu in the LulzSec scenario revealed intricate webs of trust that can be exploited to destabilize a group. In comparison, the case of Aaron Barr, who infiltrated Anonymous under the name CogAnon to identify certain ‘leaders,’ proved a failure.\textsuperscript{50} When they began to distrust him, his email was hacked and he was revealed to be a traitor.

Comparing the case of Sabu and CogAnon, we see intricate layers of horizontal trust implicit in Sabu’s position, where the case of CogAnon’s revealed hierarchy and vertical structures.\textsuperscript{51} For example, Barr was so certain of Anonymous’s structure that he claimed it had only 20-30 core members and a static leadership.\textsuperscript{52} Whereas Sabu was later ousted as a traitor, CogAnon was unable to understand the logic in Anonymous’ behavior, resulting in his programmer refusing to copy an altered source and a compiled executable on an IRC chat because his programmer “[enjoyed] the LULZ.”\textsuperscript{53} Being able to counter Anonymous requires borrowing implicit trust structures that exist in the current online ecosystem, as well as having an

\textsuperscript{52} Ibid.
\textsuperscript{53} Ibid.
innate understanding of the semantics and linguistics used online. Gaining an ‘Anon’ to fight for a state is not only doable, but preferable.

Finally, labeling Anonymous as an overarching group is not good policymaking. Anonymous is a decentralized structure and although its overarching goals and moral foundations are forming, its targets vary. Though groups such as LulzSec targeted corporations and acquired credit card information from Sony Entertainment, others were slowing the websites of the regimes of Egypt, Libya, and Tunisia. Regardless of Anonymous’ activities, each one must be evaluated on its own terms, as Anonymous’s reasoning for getting involved in any movement at any given moment is only underpinned by its shaky, evolving moral foundations.

**Should Anonymous be considered a threat?**

Yochai Benkler argues that Anonymous is not as dangerous while groups such as the RIAA, MPAA, the Department of Justice, and the Department of Defense are more willing to label them as threats. Benkler argues that Anonymous is a manifestation of democratic values, here to provide aid to an ailing civic society. Many in Anonymous certainly believe that claim, and much of its membership and adoption of the label is because of that claim.

Anonymous’ sense of right and wrong is difficult to ascertain. Likewise, their central mantra - ‘information wants to be free’ - can run at odds with realist perspectives on state behavior. What if a potentially hostile nation wishes to use information released by Anonymous against the United States? Anonymous has never publicly considered the ramifications of its attacks, and whether this validates them as a threat or not is a different topic altogether.

**Concluding Thoughts**

This paper is a short summary of the evolution of Anonymous and how its lack of a cost of entry to the group is a challenge for the United States government because not only are its members part of the state apparatus, but also depend on similar western liberal values. The case of LulzSec has shifted Anonymous’ direction considerably, as within the span of a few months we have seen a completely new form of hacktivist group: an aggressive, careful, and high profile organization that is unafraid to use information as a weapon.

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54 Benkler, "Hacks of Valor," *Foreign Affairs.*
55 Ibid.
Prior to LulzSec, Anonymous had yet to use information as warheads. Anonymous has defended and referred to information as potential tools for bargaining, as in the case of WikiLeaks in late 2010. However, with the introduction of LulzSec in early to mid 2011, a trend towards ‘information warfare’ was revealing. Not only is Anonymous capable of acquiring information, but also it was weaponizing this information. Furthermore, because of its structure and its dependency on liberal ideology, this challenges conventional conceptions of the referent object. The United States government as a referent object shows that it cannot presume to be the victim - sentiments and ideas that emerge from Anonymous are organic, not recruited. Furthermore, information from the referent object can in turn create threats, which thereby further threatens the referent object.

Overall, Anonymous teaches us several key lessons on understanding how a highly complex, ideologically charged online group functions, and how a state can securitize against it. However, the inclusion of models to the equation can be obfuscating and confusing, and because the underlying moral reasoning for Anonymous’ power is its support for freedom of information, this can lead to ineffective policy.
Bibliography


Governing Private Security Companies

One small step for law

Daniel Koscinski

Many problems interfere with the proper regulation and governance of private security companies (PSCs). The first of these is definitional: academics, policy makers, and journalists refer to PSCs by a variety of terms, from the generally appropriate private military and security company, to the more out dated mercenary or the heavily biased ‘dogs of war’. Following these are the more commonly discussed problems: the human rights abuses committed by PSCs, their lack of accountability, their secrecy and lack of fiscal transparency, and the industry’s penchant for advertising its success stories and de-emphasizing its failures. A problem unique to PSCs is their interaction with international humanitarian law (IHL) and their lack of explicit definition within it, especially when employed by non-state actors such as corporations or non-governmental organizations (NGOs). This paper focuses on this problem after providing a thorough background and context for PSCs to ensure clarity in its definition of PSC, something the literature is occasionally inconsistent with. Ultimately, the current state of security governance and national regulations revolving around PSCs is insufficient, and the first step to remedying this issue is an update to the body of IHL literature that includes a working, sufficient definition of PSC.

Mercenaries

A mercenary is an individual who offers to fight on behalf of whoever is willing to pay for their services, regardless of some or any of the following: their own or their employer’s ethnicity, political or factional allegiance, or any other motivating factor. Mercenaries are referred to as the second oldest profession,\(^1\) with the first official reference of mercenaries dating back to around 2094 – 2047 BCE. The battle of Kadesh in 1294 BCE is the first detailed account we have of their use, but their historical relevance remains minor until the Middle Ages.\(^2\)

The proliferation of mercenaries coincided with rising conditions of instability, such as sudden changes in political order or when standing armies were reduced at the end of war. These

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characteristics were emphasized in the Hundred Years War between the kingdoms of France and Britain (1337 – 1453 CE). As armies disbanded during peace treaties, soldiers without homes or careers banded together to form ‘companies’ to gain employment or at least provide one another with sustenance and protection. These companies travelled together in search of employ and supported themselves along the way by extorting towns and villages. These companies eventually evolved into ‘free companies’ that intentionally challenged the feudal system of the time and disrupted the feudal hierarchy. By being the dominant military actors in this period, these free companies broke their feudal bonds in favour of looking for employment elsewhere, because no single area could support their numbers. Furthermore, they undermined feudal ideals – such as genealogy and land as a basis of authority, and loyalty and personal honour as the sole motives for fighting – which aided in the collapse of the feudal order.³

Eventually, the free companies changed from temporary establishments into permanent military and economic organizations. They developed complex contracts, deliberate marketing strategies, and bureaucracies that were capable of managing the increasing complexity of their organizations. Loyal to their unit rather than any kingdom or employer, these free companies still conducted themselves within professional strictures of warfare, preferring to take prisoners to ransom, rather than murder, for greater economic gain. That is not to say they were always bloodless or completely moral. If fighting ceased and employment ran out, free companies would roam country sides and pillage towns that refused to pay for their protection. This led King John II of France to attempt to wipe out the free companies. The mercenaries banded together and crushed the King’s feudal army at the battle of Brignais in 1362, and then disbanded again to find work independently. This led to successive French monarchs mounting new campaigns against foreign countries to keep the free companies employed and busy outside of their kingdom. A similar situation was found in Italy, with more advanced contracts arising as well as local enterprises run by noble families to compete with foreign companies.⁴

This is the concept of mercenary reflected in the United Nations’ definition of mercenary, found in the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. In article 47 of this Protocol, a lengthy and unflattering description of mercenaries is given which

³ Ibid., 23-24.
⁴ Ibid., 23-26.
emphasizes their lack of rights as combatants, and therefore their right to be treated as prisoners of war (POW). Six conditions are laid out that must be met for an individual to be considered a mercenary, such as being primarily motivated by private gain and being compensated for their services “substantially in excess of that promised or paid to combatants of similar ranks and functions in the armed forces of that Party.”\textsuperscript{5} Furthermore, Article 1c stipulates that mercenaries cannot be Nationals of the conflict nor live in the territory afflicted by combat. This means the definition cannot be applied to people hired to fight within their own country, or to people who are motivated by goals aside from “significant private gain“.\textsuperscript{6} The specificity of the definition weakens the law on the use of mercenaries to the point that a running joke exists where “any mercenary who cannot exclude himself from this definition deserves to be shot – and his lawyer with him!”\textsuperscript{7} The private security industry has also adopted this mentality when confronted with the UN’s International Convention against the Recruitment, Use, Financing and Training of Mercenaries (UN Mercenary Convention).

Before continuing it is important to note that, despite the derogatory use of ‘mercenary’ to refer to PSCs, mercenaries exist alongside PSCs as separate entities. PSCs and modern mercenaries are a divergent evolution of the classical mercenary company. Modern mercenaries no longer follow the formal, military company-like structure of their ancestors – instead functioning as illegal opportunists, scavengers or rebel groups. In contrast to this, PSCs are legal entities based on permanent corporate structures with public, rather than clandestine, patterns of recruitment.\textsuperscript{8} Both exist in the current world and both require separate regulations and governance.

**Private Security Companies**

The private security industry boomed after the Cold War ended in 1991, when there was military downsizing across the globe. This left many veterans and skilled combatants looking to continue using skill sets they were familiar with rather than re-integrating with society. Certain elite units retained their previous structure and formed their own private companies, such as the

\textsuperscript{5} U.N. General Assembly, 72nd Plenary Meeting, “International Convention against the Recruitment, Use, Financing and Training of Mercenaries,” 4 December 1989, Article 1, 1b.
\textsuperscript{6} Ibid., Article 1, 2b.
\textsuperscript{7} Percy, “Mercenaries: Strong Norm, Weak Law,” 369.
Soviet Alpha Special Forces unit. Some intelligence agents, like those formerly of the Soviet Union’s Committee for State Security (KGB), also joined the industry. More than just human resources became available, however, as a massive arms market opened that enabled PSCs to purchase weapons and military vehicles. Finally, smaller states shorn of their superpower support suffered breakdowns in governance. As Singer notes, “Given their often poorly organized local militaries and police forces, the security apparatuses of these regimes can be exceptionally deficient, resulting in near military vacuums.” PSCs sought to fill this vacuum, supplying a myriad of services not offered by mercenaries and fulfilling a demand that public actors apparently were incapable of satisfying.

PSCs do not feel that they fall under the definition of mercenary laid out in the UN Mercenary Convention despite any similarities they may have with historical or current mercenaries. Given the negative image and connotations associated with the term mercenary, it is not surprising that PSCs would want to distance themselves from it. Likewise, it is no surprise that ‘mercenary’ is used as a derogatory term against PSCs, along with ‘soldiers of fortune’ or ‘dogs of war’. Academics, politicians and journalists tend to be inconsistent in their conceptualization and definition of PSCs, referring to them as private military contractors (PMCs), private military and security companies (PMSCs), private security providers (PSPs), private security service providers (PSSPs), private military firms (PMFs), private security companies (PSCs), or mercenaries almost interchangeably. Some have even referred to them as ‘dogs of peace’ when referring to PSCs in the business of peacekeeping. While some people have continued without clear definitions, a few academics have attempted to further define the terms to better delineate their use.

Peter Singer identifies three categories of PSC based on the services they offer: military support firms, military consultant firms, and private military firms. The first type of service is non-lethal support. This category covers logistical support to military and peacekeeping operations; this can refer to the maintenance and operation of information technology, communications, reconnaissance, surveillance and various weapons systems. This category includes PSCs such as Kellog, Brown and Root (KBR), which constructs and runs military bases,

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10 Cusumano, “Policy Prospects for Regulating PMSCs,” 12.

some in secret locations, as part of the United States Army’s Logistics Civil Augmentation Program (LOGCAP), but also operations like laundry services, meal services (dining halls), entertainment (Internet and cable access), and recreation (basketball courts and gym equipment).\textsuperscript{12}

The second type of PSC, military consultant firms, provides training and advice to governments and soldiers. These companies do not provide troops to do the fighting, but provide risk assessments, intelligence collection and analysis, and technical advice and provision of training to armed forces and security forces.\textsuperscript{13} This category includes PSCs like DynCorp International, which provides training courses to the intelligence community for intelligence, counterintelligence, special operations and law enforcement personnel. DynCorp also provides linguistic operations, including language training, translation specialists recruiting, and field translation support for the U.S. armed forces. Currently, they are perhaps best known for training much of Afghanistan and Iraq's fledgling police force.\textsuperscript{14}

The third type is a private military firm that deploys their own troops to part in the combat. Some of the first PSCs, such as Executive Outcomes (EO), primarily provided this service.\textsuperscript{15} In Angola, EO trained government soldiers to fight against the National Union for the Total Independence of Angola (UNITA) when the latter refused to accept the election results in 1992. Later, EO was contracted to deploy their own troops against UNITA, which resulted in UNITA's defeat and a peace treaty. The UN and US pressured Angola to terminate EO's contract, and EO was replaced with an ineffective peace keeping force that saw the outbreak of additional hostilities. In Sierra Leone EO was contracted to fight off the Revolutionary United Front (RUF). They trained soldiers and defeated the RUF, forcing a peace treaty on them. Again, the government was pressured to terminate their contract and replace EO with a peacekeeping force. This resulted in a resurgence of the RUF and their successful sacking of Sierra Leone's capital in Operation No Living Thing.\textsuperscript{16}

Scholars could refer to military support firms and military consultant firms as PSCs, and to military provider firms as PMCs to further differentiate them, but these classifications are loose.

\textsuperscript{12} Ibid., 136-137. For more details on KBR’s services, see the KBR website: http://www.kbr.com/Services/, accessed 3/13/2013
\textsuperscript{13} Singer, Corporate Warriors: The Rise of the Privatized Military Industry, 95-96.
\textsuperscript{15} Singer, Corporate Warriors: The Rise of the Privatized Military Industry, 92-95.
\textsuperscript{16} Ibid., 101-118.
at best. Many PSCs provide more than one type of service, and since Singer created these categories in 2003 the industry has expanded even further. Now PSCs offer humanitarian services, reconstruction services, disaster relief, and often civilian construction services and more.\(^\text{17}\) At this point, direct security services are actually the smallest part of the private security industry’s revenues.\(^\text{18}\) This may render Singer’s subcategories of less value, as they are no longer as descriptive as they used to be, but leaves us with no clear description either.

PSCs do not categorize themselves and their websites do not always advertise their security features, such as Kellog, Brown and Root’s website which lists eight major services. Only one of these services is left without clear description or advertisement, and clicking on it provides a brief description of the security services the company provides.\(^\text{19}\) In the International Code of Conduct for Private Security Service Providers (ICoC), the newest and perhaps most effective charter on PSCs, the agreed upon term is private security company (PSC). The definition for PSC used in the document is as follows:

Any Company (as defined in this Code) whose business activities include the provision of Security Services either on its own behalf or on behalf of another, irrespective of how such Company describes itself.\(^\text{20}\)

But even this definition does not note that many PSCs have civilian elements, like the KBR example above, and that security services are merely a branch of larger companies or corporations.

This paper utilizes the ICoC’s definition of PSCs, but will focus more specifically on the branches of companies that provide security services and not those that provide indirect support or logistics as they receive less criticism regarding their governance. Similarly, this paper will use the ICoC’s definition of client\(^\text{21}\), company\(^\text{22}\), and security services\(^\text{23}\) and will refer to


\(^{18}\) Cusumano, “Policy Prospects for Regulating PMSCs,” 15.


\(^{21}\) “An entity that hires, has formerly hired, or intends to hire a PSC to perform Security Services on its behalf, including, as appropriate, where such a PSC subcontracts with another Company.”

\(^{22}\) “Any kind of business entity or form, such as a sole proprietorship, partnership, company (whether public or private), or corporation, and “Companies” shall be interpreted accordingly.”
employees of PSCs performing security services as security personnel or employees. As the ICoC was created only in 2010, and its oversight mechanism released only in the past month, this paper interprets the use of other abbreviations and terms as PSCs and clarifies when such interpretations are less than explicit or hazy. This also means that PSCs have been without explicit definition in international humanitarian law (IHL) for over twenty years.

Problems with the use of PSCs

IHL refers to the body of law laid out in the four Geneva Conventions of 1949 and their two extra Protocols of 1977. This is important for the definitions of combatant and civilian, and the rights and responsibilities associated with both. PSCs operate in a legal grey area, as there is little coverage of PSCs in IHL. They are not mentioned specifically, so much of their governance is done by inference. Furthermore, until 22 February 2013 no oversight mechanism existed to ensure PSCs followed IHL. Even still, the ICoC’s oversight mechanism is new and untested. It’s also optional – while more than 600 PSCs have signed onto the charter, there is nothing forcing other PSCs to do so and nothing enabling the oversight mechanism to ensure non-subscribers adhere to IHL. Alongside other Non-State Armed Groups (NSAGs), there has been a ‘crisis of compliance’ to IHL and some legal scholars question the continued relevance of IHL. This crisis focuses more on NSAGs caught on the losing side of an asymmetric conflict, as these groups are have less interest in respecting a system of rules that further limits their capabilities and are more likely to specifically violate IHL to achieve their goals. However, the theory also covers the lack of training, discipline and oversight to be accountable to IHL, an aspect applicable to PSCs even if this concern is more likely to arise from different types of NSAGs.

This grey area means problems arise requiring interpretation that could otherwise be resolved immediately and efficiently had PSCs been explicitly defined in IHL. For example, it is implied in the Commentaries on Protocol II of the Geneva Conventions that humanitarian organizations that hire PSCs are indirectly participating in hostilities (by bringing weapons into a warzone). This means they lose their protected status as civilians under the international law of armed conflict and become valid targets at all times. This is inconsistent with other, more

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23 "Guarding and protection of persons and objects, such as convoys, facilities, designated sites, property or other places (whether armed or unarmed), or any other activity for which the Personnel of Companies are required to carry or operate a weapon in the performance of their duties."

specific IHL, like the right of medics and law enforcement officers to carry weapons for defense of themselves and their charges.\textsuperscript{25} It might then be logical to grant humanitarian organizations a specific entry in IHL to allow them a protective escort while delivering humanitarian aid, so long as the armed escort follows IHL and is used only in the defense of the aid workers or other civilians.

For domestic PSCs this grey area is a lesser problem, because they are beholden to the state in which they operate, but in active warzones where there is no legal system, or their contract allows for extradition to the employing state and immunity for their crimes, this becomes a serious problem. One example of this is Blackwater International’s random killings of civilians in Iraq, where they cannot be tried for their crimes because the US State Department provided immunity against crimes committed during their contract. This immunity is currently disputed by the US Department of Justice, which argues the US State Department had no authority to grant it.\textsuperscript{26} Another example is Bosnia, where a few members of DynCorp International engaged in under-aged sex trafficking and the company did its best to protect its reputation by suppressing the opinion of whistle-blowers and extensive public relations.\textsuperscript{27} One of the first and most popular controversies revolved around Sandline International. The first is the Sandline Affair, where the head of Sandline International, Tim Spicer, was arrested for breaking the arms embargo in Sierra Leone which resulted in an extensive investigation and trial in Britain regarding the shipment of arms into Sierra Leone, in which Tim Spicer and Sandline Affairs were acquitted of all charges. Secondly, Spicer came under attack again by bringing security personnel into Papua New Guinea (PNG) under President Chan’s orders, but apparently without the approval of the PNG military. This resulted in a near-military coup in PNG, as the head of the PNG military opposed the president’s reliance on PSCs over his state’s troops and forced President Chan to step down from office.\textsuperscript{28}

\textsuperscript{25} Benjamin Perrin, “Private Security Companies and Humanitarian Organizations: Implications for International Humanitarian Law,” 137; 139-140.
Another problem with the use of PSCs is a growing dependency on their services. While PSCs can provide short term and immediate solutions to problems, in the long run they do not help with an area’s instability as the government becomes overly reliant upon the PSC’s services rather than improving their state’s infrastructure. This leaves the client state dependent on the PSCs’ services beyond the negotiated contract and reduces citizens’ faith in the state’s ability to provide for their needs.\(^29\) In other countries, the reliance on PSCs is increasing by choice and a greater integration of PSCs with state militaries is the goal. The US Armed Forces, for instance, can no longer function effectively or sustain themselves without contractor support. In Iraq, the US government employs more contractors than military personnel, approximately 265,000 in the 2nd quarter of 2008 – though only a small percentage of them are armed.\(^30\) As of September 2009, the US Department of Defense (DoD) has 119,706 contractors in Iraq alongside their 134,571 uniformed personnel. In Afghanistan, the civilian workforce is greater than the troops there, with 109,100 DoD contractors present in comparison with 63,950 troops. Additionally, contractor casualties have been quite large: 1,360 contractors have died since 2009, with over 29,000 wounded. The withdrawal of US troops from Iraq has only led to more reliance on contractors.\(^31\) Other Western countries are following suit, replacing more and more of their Armed Forces with PSCs because they can do the job more effectively for less money.\(^32\) This means that national regulations and regional governance institutions will be insufficient to police PSCs, as countries like the US would be unable (and unwilling) to leave important military assets at home when engaging in operations and could relax regulations to promote additional private sector investment. This dependency on and integration with PSCs is not a problem to be solved by security governance, however – it is up to client states to decide how and where to spend their money.

This leads to two additional problems related to PSCs: the lack of bargaining with their contracts and their lack of transparency. The first concept here is a ‘no-bid contract’. Many of the contracts given to PSCs are 'no-bid contracts' where there is no competition and the PSC’s fees are accepted without negotiation. Many of the price estimates given by PSCs are optimal


projections and they do not prepare for (or at least do not advertise) possible setbacks that result in a longer reliance on their services. Furthermore, many PSCs lack transparency, defined as a state or organization being open to the public about its past, present, and future activities, including fiscal spending and investment. This leads to more than a little distrust towards their methods as well as how they arm themselves. Humanitarian organizations are guilty on this point as well. A number hire PSCs, but they tend to withhold the identity of who they contract and the scope of the contract.\textsuperscript{33}

**Current State of National Regulations and Security Governance**

This leads to questions of how PSCs are currently regulated and governed. Currently, and for the most part, they have not been the target of effective governance. Individual states have outlined the duties and responsibilities of PSCs on a case-by-case basis within their contracts. The idea of governing guns for hire is far more novel than the idea of mercenaries. The first act of governance put in place was the UN's International Convention on Mercenaries, 1989. However, PSCs refuse to be recognized as mercenaries by the Convention's definition, and so it is of no use regulating or policing PSCs.

Nine years later, in 1998, South Africa released its own policy paper on the use of PSCs - encouraged by Executive Outcomes due to the number of groups masquerading under their name. The Regulation of Foreign Military Assistance Act, 1998, banned the use or training of mercenaries within the borders of South Africa. As a separate definition, it allows for South African nationals to provide foreign military assistance if they apply for the authorization to do so. The act's definitions leave much to be desired, as it suggests that the only difference between a private security contractor and a mercenary is the South African state's approval, which allows for only an arbitrary distinction between the two categories. Also, under section iii, point C, it is implied that with the state's approval PSCs can undertake any action aimed at overthrowing a government, as long as it falls under IHL. Ergo, this document also falls short of providing effective regulation for PSCs.


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Companies during Armed Conflict was finalized. A joint initiative by the Swiss government and the International Committee of the Red Cross (ICRC), the Montreux Document, in its own words, "does not endeavour to establish new regulations but simply seeks to provide guidance on a number of thorny legal and practical points, on the basis of existing international law." The Montreux Document lays out how existing IHL applies to PSCs and the states that utilize them. It is a non-binding document that states and companies can sign onto to show their compliance, but no oversight mechanisms exist to enforce signatories to follow the document's clarifications on IHL.\(^{34}\) Overall, it serves as a useful document, but one that only provides advice to PSCs, states, and other curious entities and focuses on PSCs employed by states, not other actors.

In 2009, the UN attempted to rein in PSCs with its Draft International Convention on the Regulation, Oversight, and Monitoring of Private Military and Security Companies, as written by the UN Working Group on the Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-Determination. This document recognizes the risks presented by PSCs and that they cannot be addressed by national governments acting of their own accord. The Draft Convention outlines the responsibilities of States employing PSCs - specifically ensuring that those contracted are trained and disciplined enough to follow standard IHL and human rights norms. This convention pins responsibilities and obligations on the state contracting the PSCs. If a contractor violates IHL, the state must take responsibility for the action and prosecute the guilty party.

Most recently, in 2010, the Swiss government supported the creation of an International Code of Conduct for Private Security Service Providers (ICoC) that has been signed by 592 PSCs to date.\(^{35}\) While still a voluntary code grounded in IHL and human rights standards, as of 22 February 2013, an oversight mechanism has been finalized. There are two major points that set the ICoC apart from other conventions and regulations: (i) it includes a grievance procedure for reviewing alleged violations of IHL by PSCs and; (ii) shows that there is interest among states AND PSCs for clearer oversight of their activities, as the initiative has allowed for the participation of PSCs in the formation of its rules.\(^{36}\)

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Recommendations for how to improve the governance of PSCs

Of the problems discussed above, only one is uniquely generated by PSCs – the lack of explicit definition and mention in IHL when interacting with non-state clients. Regulations and forms of governance already exist to tackle more general problems that overlap with state militaries, NSAGs, and corporations. State militaries, like PSCs, are non-transparent organizations that have committed human rights abuses and maintain a certain level of secrecy regarding their operations. NSAGs other than PSCs likewise commit atrocities. Specific governance of PSCs on these issues is unnecessary and possibly harmful to their applicability. Instead, governance should focus on defining PSCs and updating IHL to take into account their existence.

The main reason PSCs complicate IHL is their classification. IHL recognizes two groups in an armed conflict: combatants and civilians. This is important because both have different rights. Combatants have the right to take part in hostilities and may be targeted at all times. If captured, they are entitled to prisoner of war status and cannot be prosecuted for having participated in hostilities. Civilians on the other hand may not be attacked so long as they do not participate directly in hostilities. If they participate directly in hostilities, they not only lose immunity from attack during such participation, but also become 'un-privileged belligerents.' As such, they are not entitled to POW status and can be tried for having participated in hostilities, even if they did not commit any violations of IHL. 'Persons accompanying the armed forces' are an exception to this. This classification is for people who do not carry out military activities, but do keep the military functioning. Their rights mimic those of civilians, but gain POW status if captured. They cannot utilize force except in self-defense. These distinctions are important because, if PSC contractors do not count as combatants, they do not have the right to participate in hostilities and can be prosecuted for their participation if captured.

Despite common belief, there is no gap or legal vacuum concerning the law in regards to the engagement and operations of PSCs in situations of armed conflict – as long as they are hired by a state. If hired by a state, PSCs are clearly classified as 'members of the armed forces'
because Article 43 (2) of Protocol I Additional to the Geneva Conventions of 1949 states that armed forces include all organized armed forces, groups, and units that are under a command responsible to that party for the conduct of its subordinates, which includes paramilitary or armed law enforcement agencies. Additionally, some PSC contracts with the US have indicated contractors that do not claim combatant status and are to be considered non-combatants. However, there are four additional conditions to be a recognized combatant, as laid down in Article 4A (2) of the Third Geneva Convention: (i) must be commanded by someone responsible for their subordinates; (ii) have a fixed distinctive sign recognizable at a distance; (iii) carry arms openly; and (iv) follow the laws of war. Points 1 and 2 are where the problem arises. Currently, not all state militaries bear the responsibility for the actions of the PSCs they have contracted, such as the US granting Blackwater Security immunity for crimes committed in Iraq. Furthermore, PSCs rarely bear the distinctive sign of the state employing them. 37 Even if this were to be the case, this still leaves a gap regarding PSCs hired by international and regional IGOs, NGOs, multinational corporations operating in the extracting sector, and individuals.

There is an ongoing debate regarding whether or not humanitarian organizations should have armed security, and where it should come from. Humanitarian organizations have typically resisted security by state armed forces because they feel it undermines impartiality, neutrality, and independence. Concerns also exist when recruiting local guards, due to their ethnic affiliations, low quality skills, and the potential to create a localized ‘arms race’ to ensure the personal guards can ward off local security threats. 38 PSCs receive similar scrutiny when their usage as armed guards is debated, but because of their lack of definition in IHL additional problems arise. It is unclear whether or not the use of PSCs as an armed escort constitutes ‘direct participation in hostilities,’ which would nullify the protected civilian status of the humanitarian aid workers they are escorting. Emanuela-Chiara Gillard, a legal advisor to the ICRC, has argued that all employees of PSCs “present in situations of armed conflict and hired by entities other than states” will be entitled to civilian status, unless and for such time as they take a direct part in hostilities. 39 This view is more in line with specific treaty laws, such as the right of civilian medical units to retain their protected status when equipped with weapons to defend themselves.

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or their charges, or when they are guarded by armed escorts or sentries. Likewise, civil defense forces are allowed to bear arms for self-defense and to maintain order. Thus, Perrin argues “blanket assertions that humanitarian personnel automatically lose their protected status as civilians by using armed private security contractors are therefore not consistent with international humanitarian law.”40 If IHL treaties already imply that this is the case, the best course of action would be to formally and explicitly update the Geneva Conventions with an additional Protocol. This would ease the minds of some humanitarian organizations and allow those seeking protection from the increasing number of attacks against aid workers41 to do so more easily.

Humanitarian organizations are not the only groups to look to PSCs for security. Corporations, specifically those in the extracting sector, look to PSCs to secure operations and personnel in areas considered hazardous, as do IOs and even individuals. This allows anyone to purchase the legitimate use of force, if PSCs are allowed to define when they are combatants or civilians under IHL. It is important to note the difference between PSCs and modern mercenaries again, as seen in the divergent cases of the alleged murders of union leaders in Colombia by illegal paramilitary groups hired by Coca-Cola42 and the shooting of armed intruders by police and security personnel hired by Barrick Gold in Tanzania.43 In the former case, the actions are completely illegal regardless of one’s classification in IHL. Corporate Social Responsibility (CSR) would encourage PSCs to not accept any contract that results in illegal actions, but additional regulation, domestic or international, could be used to ensure security personnel are trained to understand and obey IHL. This would leave only illegal modern mercenaries to be hired for the actions. In the case of Barrick Gold, the police have the unique classification that allows them to bear arms in self-defense and to maintain order, but without clarification in IHL the security personnel of PSCs are merely civilians and unable to take proactive action to protect the property until they are threatened and allowed to defend themselves. If allowed to be combatants, this enables anyone to purchase the legitimate use of force – as long as the client and PSC abide by IHL.

There is a historical precedent for corporations having access to personal security, as in the cases of the British East India Trading Company or the United Dutch East India Company, but this was not always limited to security services as defined in the ICoC. Rather than granting the full combatant status under IHL, a new status could be created offering limited offensive capabilities to protect the person, place or thing the security personnel have been charged with. Additionally, this status could explicitly state that security personnel accompanying their charge, if a civilian, do not void them of their protected civilian status under IHL – circumventing the possible problem of armed escorts working for humanitarian organizations. This falls in line with other, more specific exceptions to standard IHL, such as civil enforcement officers and that of medics.

This does not have to override or interfere with the ability of state militaries to include paramilitary forces intended to use force within their ranks, as explained by Schreir earlier. As long as these paramilitary security personnel follow the four requirements laid out in IHL, they become legal combatants under IHL and can provide offensive capabilities to state militaries that choose to utilize them within the laws of war and that take responsibility for their actions if any of these combatants break the law. This allows non-state organizations to utilize PSCs for their security services while fully integrating the security personnel into IHL. This also does not interfere with the use of PSCs by state militaries, while emphasizing the need for PSCs working for state militaries under the paramilitary regulations of IHL to set themselves apart as stipulated in Article 4A (2) of the Third Geneva Convention. From there, it remains in the hands of the state military to self-regulate its uniformed personnel and the security personnel outsourced from PSCs – as the situation calls for due to the non-transparent nature of military operations.

Conclusion

Private security companies are not mercenaries, and therefore require regulations and governance of their own. As legal companies, many regulations and norms already constrain them, but currently none that engage with their unique capability of providing the use of force to non-state actors. Some people have a negative gut reaction to this, fearing the private sector is more prone to abuses and less accountable than the public sphere’s provision of force. This gut

reaction commonly applies to security personnel used as combatants outside of their home state, where the rule of law may be tentative or non-existent, where accountability is more important due to the tension and possibility for human rights abuses in a chaotic field of war. This gut reaction is rarely applied to domestic security personnel or to the logistics and support services offered by private security companies. Since the War in Iraq, greater scrutiny has been placed on these companies due to human rights abuses or the documentary based on DynCorp International’s sex trafficking. While certainly problematic, specific governance of these in relation to private security companies is unnecessary – these problems are covered by other forms of governance because they are not uniquely committed by private security personnel. State militaries and non-state armed groups likewise commit atrocities, but can be held accountable for their actions and prosecuted for their crimes because they do not cause confusion with regards to international humanitarian law.

The International Code of Conduct for Private Security Service Providers has taken the first step by defining private security companies. The next step needs to be accepting this definition and incorporating it into international humanitarian law. This may not be easy, but once recognized explicitly within the law remaining acts of regulation and governance will be able to reference what private security companies can be held accountable to and be more effective for it. Then employees and clients of private security companies can be made aware of what is expected of them. Ad hoc measures are simply insufficient when the use of force is involved, and until explicitly defined, governance cannot be appropriately formed for private security companies.
Bibliography


Global Obesity and the Changing Materiality of Food

Nicholas Mucci

Obesity has become a serious global health epidemic. There are eighty-eight countries world-wide with half their population classified as overweight or obese;¹ in 2008, the World Health Organization (WHO) tallied approximately 500 million people as obese. Traditionally thought to have been a marker of developed countries or affluence, the WHO has shown that obesity epidemics are rapidly on the rise in low and middle income countries.² This health condition is defined as the abnormal or excessive fat accumulation that may impair health³; it is measured by a height to weight ratio called Body Mass Index (BMI) where a score above 30 signals obesity.³ The consequences of obesity are drastic as it is associated with the fifth leading risk for global deaths.⁴ Many of these deaths are related to non-communicable diseases such as diabetes, heart-disease, and cancer.⁵ Moreover, obesity has recently become a pressing issue as the global population of obese people has doubled since 1980 and is expected to double again within the next ten years.⁶ Governments around the world have started taking action by implementing educational reforms, demanding product labelling on processed foods, and taxing highly processed and refined foods.⁷ However, halting the spread of obesity around the world is believed to be an impossible task given the vested interests of transnational corporations (TNCs) in global food production systems.⁸ How have the vested interests of TNCs been responsible for creating a global environment conducive to becoming obese?

⁴ "Obesity and Overweight Factsheet."
⁵ "Obesity and Overweight Factsheet."
⁶ "Obesity and Overweight Factsheet."
Obesity is a multifactorial health condition brought on by physiological, behavioural, environmental, and social changes.\(^9\) These factors have been recognized by scientists, epidemiologists, public policy analysts, and popular commentary. However, an explicit global political economy account of the spread of obesity has not been made. A global political economy reading places attention on the social determinants of the global obesity epidemic by examining the relationship between food producers and consumers. The WHO has acknowledged that changes in dietary and physical activity patterns due to environmental and societal changes associated with development is partly responsible for the rise of obesity worldwide.\(^10\) This characterization is insufficient because it fails to address how TNCs contribute to the global obesity epidemic through their control of global agri-industrial food networks. The application of critical international relations approaches on Actor-Network Theory (ANT) and neo-Gramscianism will be made to the role that global agri-industrial food networks have played in stimulating what has been called an “obesogenic” environment.\(^11\) Obesogenic environments are defined as the sum of the influences that the surroundings, opportunities, or conditions of life have on promoting obesity in individuals or populations.\(^12\) Both actor-network theory (ANT) and neo-Gramscianism share similarities in that they analyse the material nature of social relationships. In addition, both theories focus on the role of actors that come to power through accumulation and distribution of material objects. The application of these two critical theories to the global obesity epidemic will highlight how powerful actors, primarily TNCs, through global agri-industrial food networks are central antagonists to global obesity in the way they control global food sourcing. The changing material composition of food since the industrial revolution is also an important element in understanding how agri-industrial food networks contribute to global obesity. Eating and dietary transitions that shifted consumption to refined and processed foods during the industrial revolution have also played a central role in creating an obesogenic environment. Global agri-industrial food networks have sustained such transitions and cemented


\(^10\) “Obesity and Overweight Factsheet.”


The first section of this critical reading of global obesity will outline the conditions that brought about obesity as a modern “disease of civilization.”\textsuperscript{13} The second section will be an application of ANT to global obesity by building off the first section while also incorporating Philip McMichael’s Food Regime Genealogy. The third section will apply neo-Gramscian theory to the role that TNCs have played in expanding the power of global agri-industrial food networks. Lastly, counter arguments will be addressed and a discussion of biocapitalism will be made to provide a different perspective on how transnational capital can profit from counter-hegemonic movements.

**The Epidemiology of Obesity**

The global obesity health epidemic is rooted in significant eating and nutritional transitions in human diets that began during the industrial revolution. Significant eating transformations that began during the industrial revolution include the way in which food was acquired, how it was prepared, and how it was consumed.\textsuperscript{14} During the industrial revolution, food acquisition was made easier by agricultural and technological developments such as monocropping and transportation that resulted in the expansion of agri-industrial food processing networks.\textsuperscript{15} Food preparation that was traditionally done in households was increasingly commercialized and performed by food service enterprises.\textsuperscript{16} Food consumption changed markedly with dietary individualization becoming more prominent.\textsuperscript{17} These transformations are noted to have reflected broader cultural and social changes to labour and work, time shortages associated with work, social stratification, and smaller families that are associated with industrialization.\textsuperscript{18} Dietary transitions that accompanied eating transitions during this period are important as well. Dietary transitions included the consumption of fewer vegetables and whole grains, but increases in animal source proteins, edible vegetable oils, and refined carbohydrates stripped of their outer

\textsuperscript{15} Sobal, *Food System Globalization*
\textsuperscript{16} Ibid.
\textsuperscript{17} Ibid.
\textsuperscript{18} Ibid.
bran and germ. Changing food composition has been linked to sustaining industrial development and military expansion. Influential in this process was the recognition by social planners that the best way to increase productivity in the workplace was to increase Body Mass Index (BMI) and the available energy stores that an individual had and would be able to expend. In addition, industrialized agriculture contributed to significant increases in the proportion of food and micronutrients available. The increasing availability of different varieties of food and higher volumes led to more overall energy intake by people. The industrial revolution was a critical juncture in the epidemiology of obesity in the way it altered eating, diets, and lifestyles. Critical in this process was the expansion and development of agri-industrial food networks and the shift to consumption of energy dense, cheap, and palatable food. More importantly, eating, diet, and lifestyle transitions had reciprocal relations with agri-industrial food networks in the way that consumer demands for highly palatable fat and sugar rich foods started to drive food system operation; this relationship simultaneously continued to modify eating patterns.

Another important element in the epidemiology of obesity that industrialization influenced was urbanization. Concentrated, high density urban food systems that featured industrialized food created different eating and nutritional patterns and problems than less dense rural areas. With peasants and farmers moving to cities to find work changes to individual energy expenditure would ensue because of the nature of the work or labour being performed by people. Urban living was associated with lower energy demands and sedentary or remedial work as compared to the rural life where physical labor was central to everyday life. In addition, urban dwelling made growing foodstuffs more difficult and people increasingly started to rely on non-local food that was supplied by agri-industrial food networks that expanded their food sourcing network with the incorporation of animal proteins, and exotic cultural

20Caballero, The Global Epidemic of Obesity
21Ibid.
22Sobal, Food System Globalization
23Ibid.
24Ibid.
25Acs, Cotten, Stanton, The Infrastructure of Obesity
26Sobal, Food System Globalization
27Caballero, The Global Epidemic of Obesity
28Ibid.
ingredients. By the 1930s obesity had become a recognized public health problem when the correlation between high levels of adiposity was made with non-communicable diseases like heart disease.

Eating, nutritional, and environmental changes that occurred during the industrial revolution established the foundation from which obesity would become a global public health epidemic. However, obesity was not as pervasive during the industrial revolution as it is today. The critical period came in the 1960s where increasing energy uptake and population weight coincided with a growing food energy supply. Significant changes to food production led to an increased supply of cheap, palatable, energy-dense foods, improved distribution systems to make food more accessible and convenient, and more persuasive and pervasive food marketing. However, the expansion of agri-industrial food processing networks was heavily influenced by post-WWII politico-economic structural changes associated with Fordist-Keyensian mass production and embedded liberalism in the United States especially. The Fordist-Keyensian model of subsidized production influenced the industrial expansion of livestock breeding and grain production that effectively worked to create vast food surpluses for the US. In addition, reductions in the time-cost of food production and distribution were also very important causal factors associated with obesity. Ultimately, obesity is the result of people responding to the obesogenic environments that they find themselves in. The origins of global obesity lie in the United States and build upon American agri-industrial food processing networks but also the globalization of an “Western diet.”

Currently, 35% of American adults are obese and this has been attributed to the presence of an “obesity infrastructure.” This infrastructure has built on the eating, nutritional, and environmental changes mentioned above. Moreover, it is marked by the oversupply in the

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31 Swinburn et al., *The Global Obesity Pandemic*.
34 Swinburn et al., *The Global Obesity Pandemic*.
35 Ibid.
36 Popkin, Adair, and Ng, *Global Nutrition Transition*.
production of food, an increased supply of processed food, a growing fast food industry, and an increase in urban sprawl. This infrastructure also includes increasingly persuasive strategies to encourage greater consumption by intensifying advertising of unhealthy foods and beverages through mass media that disproportionately targets children. In addition, the proliferation of unhealthy snack and beverage machines in schools has worked to cultivate lifelong poor eating habits in children especially. Technological advances also played an influential role in changing lifestyles as television viewing, communications technology, computers, and improved production systems changed the way people performed work, daily tasks, or traveled. This has had important effects on calorie expenditure as physical activity levels have declined despite caloric intake having increased on an individual basis. In addition, this obesity infrastructure features vast food production, distribution, and transportation networks. These commodity chains play a salient role in delivering food to people. This occurs in three ways: the globalized distribution of technology related to food production, transportation, and marketing; the role of mass media in producing meaning with regards to consuming food; and the flow of capital and services associated with these food chains. Changing diets in low and middle income countries are argued to be a product of the adaptation of American diets and lifestyles. The subsequent spread of obesity stemming from the US has been cited as a manifestation of economic globalization.

Changes in the way that people acquire food have been important too. The rise of supermarkets builds on the effects of increasing urbanization where people primarily rely on non-local food sources for their dietary requirements. However, supermarkets, for critical commentators like Patel and Pawlick, mask the true composition of the food that they sell. For Patel, supermarkets have a tremendous ability to limit the choices of food available to consumers. For instance, he makes note of six variations of apples that usually populate produce aisles because they are resilient to long distance travel, pesticides, and look edible; at the same time he makes note of the tremendous variety and availability of highly refined, processed, processed, processed,

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38 Ibid.
39 WHO, *Understanding How Overweight and Obesity Develop*
40 Ibid.
41 Popkin, Adair, and Ng, *Global Nutrition Transition*.
42 Ibid.
43 Acs, Cotten, Stanton, *The Infrastructure of Obesity*.
and sugary breakfast cereals that in some circumstances are cheaper than the fresh produce being sold.45 Pawlick, through his own personal experience, writes of a changing supermarket where genetically modified organisms (GMOs) comprise much of the structure of fresh produce.46 For instance, he makes note of the nutritional value of tomatoes that have been altered to the extent that they now have almost half as much vitamin A and C then they did in 1930 but twice the sodium and fiber so that they can be transported over long distances and time periods.47 Through these perspectives it becomes clear that consumers are less aware of the quality of food they are consuming. For Hamilton, by way of Berry, this is because food has become an abstract idea that consumers do not know of until it appears in the supermarket or on the dinner plate.48 Consumer knowledge of the nutritional quality and material composition of food being eaten tends to be circumscribed by palatable, nutrient deficient food (comprised especially of fats and sugars) that has been shown to increase endorphins once eaten.49 Taste is a very important element in understanding global obesity because it helps to explain supply-demand relationships between producers and consumers.

Obesity is a systemic issue and the development of obesity in lower and middle income countries signifies this. Patel provides a rather illuminating example of this when he discusses the growing population of Mexican teenagers who are gaining weight rapidly because of the influx of foods and ingredients from the US that are highly processed and rich in sugar and fat.50 Patel also makes note of perverse situations where impoverished and malnourished children growing up in Sao Paolo, Brazil are becoming obese. For example, children living in poverty and unaccustomed to a balanced diet, do not metabolize energy efficiently. As a result, children as well as adults, come to store as fat the poor quality food that they can afford.51 In addition, diets rich in legumes, vegetables, and coarse grains are disappearing in favour of much more affordable alternatives that are remarkably unhealthy because families unable to grow their own

45 Ibid.
47 Ibid.
50 Patel, Stuffed and Starved.
51 Patel, Stuffed and Starved, 4.
food or able to afford healthier alternatives opt for choices that they do not realize are poor simply because it is affordable.\textsuperscript{52}

The epidemiology of obesity points to important structural changes that have occurred in the production of food since the industrial revolution. More importantly, dietary and eating transitions to higher density, lower quality foods have been sustained by agri-industrial food networks. The application of actor-network theory and neo-Gramscianism will demonstrate how the agri-industrial food network has expanded its influence around the world thus creating an environment where gaining excessive weight potentially resulting in obesity is commonplace.

**Actor-Network Theory**

Actor-Network Theory (ANT) places a central focus on objects and how they produce social relations. One of the key concepts of ANT, according to Law and Hetherington, is that if we want to understand social processes like the flow of capital, information, culture or even inequality then we must investigate "how the relations that produce these are materially brought into being and sustained in particular locations."\textsuperscript{53} Implicit in this assertion are two important elements: first, objects play an important role in bringing actors (people, technology) and processes or activities together to perform certain functions; second, actors are a patterned network of heterogeneous relations, or an effect produced by such a network of objects. So, instead of thinking of people as agents that define objects, ANT does the opposite, people are defined by the relation that they have with objects. Therefore, actor-networks are relational effects defined by the objects that comprise them. Law seeks to uncover whether an agent is so because he or she inhibits a body that carries knowledge, skills and values, or, if it is because he or she inhabits a set of elements that stretches out into the network of materials that surrounds it. This approach is considerably constructive in that it posits that actors (their identity and function) are determined by the relational effects they have with other objects (human or non-human). Additionally, Law argues that machines, architectures, clothes, and texts all contribute to the patterning of the social; ANT posits that order is an effect generated by heterogeneous means or a complex network of varying elements that are governed by centres of accumulation or

\textsuperscript{52} Popkin, Adair, and NG, *Global Nutrition Transition*, 7-11.

obligatory points of passage.\textsuperscript{54} ANT approaches advocate that obesity is a relational effect brought about by the way agri-industrial food networks provide food and how people consume it in light of current lifestyles. In addition, not only does ANT focus attention on agri-industrial food networks and consumers, it also highlights that food as an object itself, and its material composition, produce relational effects.

ANTs analytical value comes from its micro-level approach to understanding social relations that in effect are borne out of material relations. Jean Anthelme Brillat-Savarin's famous aphorism "tell me what you eat and I will tell who you are"\textsuperscript{55} follows with the widespread understanding that obesity is a product of ingesting high quantities of nutrient deficient food.\textsuperscript{56} Coupled with the analysis of the changing structure of food since the 19th century, ANT provides credence to the argument that global obesity, as a relational effect, is born out of the quality of food circulating in food networks which include production/distribution chains, supermarkets, fast-food establishments, restaurants, and households. The other benefit of ANT is that not only does it reveal a unique relationship between people and food but it also reveals the other actors and agents that comprise a network.

TNCs in agri-industrial food networks play an especially prominent role sustaining and circulating poor quality food. This food network dynamic can be enhanced by Michel Callon and his work on techno-economic networks (TENs) that follows in suit with ANT.\textsuperscript{57} For Callon, TENs are a coordinated set of heterogeneous actors who successfully interact with one another to develop, produce, distribute, and diffuse methods for generating goods and services.\textsuperscript{58} Food is the object that underpins agri-industrial food networks. These networks, in turn, supply and distribute food to other actors (processors, distributors, retailers, and people); TENs streamline this process in self-interest, hoping to extract economic gains.\textsuperscript{59} Agents in food TENs develop asymmetries because of scale effects (increasing quantity at the expense of quality), leading to an unhealthy food supply.\textsuperscript{60}

\textsuperscript{56} WHO, \textit{Understanding How Overweight and Obesity Develop}.
\textsuperscript{58} Ibid.
\textsuperscript{59} Ibid.
\textsuperscript{60} Law and Hetherington, \textit{Materialities, Spatialities, Globalities}. 92
A Genealogy of Food Regimes

The rapid increase of obesity around the world since the 1980s must be seen in terms of broader structural changes to the global economy that began in the 1970s and resulted in tremendous increases in power for TNCs. Transformations in the global economy that globalized the obesity infrastructure will be conceptualized by the application of ANT to McMichael's genealogy of food regimes. 61 McMichael, by way of Friedmann, notes that food regimes refer to rule-governed structures of production and consumption of food on a global scale. 62 However, food regimes also prioritise the way in which capital accumulation in agriculture constitute global power arrangements as expressed through patterns in the way that food is circulated. This follows with ANT and its emphasis on centers of accumulation or obligatory points of passage that come to govern the flow of objects moving through or operating in actor-networks. However, centres of accumulation can either be states or transnational corporations depending on historical contingencies. 63 The food regime genealogy helps ANT approaches to understanding obesity because it highlights how social relations are determined by the actors that control the flow of objects and materials within a given network. The ANT-food regime conception helps explain global obesity because it highlights how agri-industrial food networks exported the obesity infrastructure through their control of food and how this was aided by structural changes to the global economy that began in the 1970s. McMichael’s third food regime is most applicable to this reading of global obesity because it places central focus on the role of TNCs and their control of food networks.

McMichael’s the third food regime began in the 1980s. 64 This regime is built upon the agri-industrial food network constructed after WWII. However, this regime differs from the Fordist-Keyensian food regime in the way that global economic structural changes to the Bretton Woods international monetary system in the 1970s gave more power to TNCs and the agri-industrial food network in three distinct ways. 65 First, the collapse of the gold standard, the move

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62 Ibid.
63 Ibid.
64 Ibid
to floating exchange rates, and the reduction of capital controls effectively liberated transnational capital flows thus giving TNCs greater ability to move in and out of new markets. Secondly, the creation of the World Trade Organization (WTO, formerly General Agreement on Tariffs and Trade) has further enhanced the ability of TNCs to operate in the global market by removing trade barriers thus enabling the expansion of food exports that is heavily controlled by TNCs and the agri-industrial food network. This is supported by accompanying institutional arrangements such as the WTO standards on sanitary and phyto-sanitary (SPS) measures which effectively reduce national food quality standards to ensure that stricter food quality requirements do not prevent cheaper food (usually of lesser quality) from entering a market. Lastly, the 1980s debt crisis and the East Asian Financial crisis gave TNCs the opportunity to expand their reach into developing countries that were in desperate need of foreign capital to rebuild their economies. TNCs were able to construct the global agri-industrial food network by incorporating developing country food sourcing systems into their existing food production and distribution systems under the auspice of the “Washington Consensus” that was dictated by International Monetary Fund (IMF) structural adjustment policies and World Bank (WB) food aid programs. In addition, this regime has incorporated new regions into animal protein chains like China and Brazil and has consolidated differentiated supply chains thus bringing about a 'supermarket revolution' for privileged consumers. It also generates populations of displaced small-farmers who have been forced to leave their farms to look for work in cities because of the growing power of TNFCs who undercut their business. This adds to an emerging global food/fuel complex where 'food miles' add to rising food costs, and mass production increasingly standardises and processes foods.66

The third food regime highlights the increasingly globalized nature of the food supply. For Hamilton this means TNCs like Archer-Daniels Midland, Monsanto, and Wal-Mart can extract, produce, and distribute food faster than many industrialized nation-states.67 TNCs in agri-industrial food networks can benefit from the scale effects that mass production and standardization allows: these firms can shift production in rapid response to changing patterns of regulation, labor and farmer demands, and changing consumer desires.68 Elsewhere, McMichael picks up on this idea, by noting that dietary commodification has led to the expansion of market

culture and the notion of 'development.' However, this is problematic for him when he argues that: “... this role is double-edged, since its singular logic undermines non-capitalist food cultures, adulterates distinctive capitalist food cultures via 'McDonaldization' and genetically modified organisms, and incubates serious epidemics of diet-related cancers, obesity, and similar diseases.”

These developments lead to an environment where food, as an object and as a commodity, has tremendous value for agents that can exploit the relationship between producers and consumers. This has exacerbated by the structural changes to the global economy that enabled TNCs to expand their control over the global food supply resulting in globalizing agri-industrial food networks.

**TNCs and Neo-Gramscian Analysis**

Politics play an important role in sustaining global agri-industrial food networks and TNCs have tremendous interest in the global governance of food. Neo-Gramscianism is premised on the linkage of ideas and class interests that work to order social relations through transnational capital flows and material accumulation.

This section will discuss neo-Gramscianism as a way to identify the key factors that bring about obesogenic environments through the food that they supply. As previously mentioned, obesity is a response to the environment one finds him or herself in. To complete our mapping of this environment, an analysis of TNCs and their ability to influence the global political economy of food will be illustrated through neo-Gramscian analysis.

The value of neo-Gramscian analysis is that it combines two critical approaches to understanding social relations. First, it places an emphasis on Marxian historical materialism, and second, it also stresses the importance of class hegemony and the control of state apparatuses by ruling elites through the use of ideas that the masses consent to. Overbeek provides this analysis and it will be explored by first elaborating on transnational historical materialism and then Gramscian analysis.

Historical Materialism is rooted in the writings of Karl Marx which stress that societal relations are best understood in how humans have organized the production...
and reproduction of their material life. This happens in two ways: the continuous commodification of various dimensions of life into market relations, and the socialisation of the division of labor into functionally differentiated specialisations, in turn enhanced by commodification. This means that we can understand society in the ways that it is governed by its materiality as defined by class relations. Gramscianism on the other hand has a much broader focus. It moves beyond the determinism of historical materialism and ANT to emphasize the importance of ideas. Overbeek notes that political power in the West does not rely on overt coercion, instead it is organized through institutions and social relationships in civil society. What neo-Gramscian analysis does is combine understandings of historical materialism and Gramscian analysis to posit that transnational relations are produced by the hegemony of economic and political ideals of societal elites.

Neo-Gramscian perspectives place states and self-interested economic actors in tandem with one another to achieve rule. As noted by Gill, this synthesis enables a 'New Constitutionalism' whereby the interests of multinational private firms come to dominate policy in the way that they co-opt political power in their favour at the expense of civil society. Gill calls this an organic crisis in which a restructuring of prevailing ideas, institutions, and material capacities work to constitute historical structures of world order. This world order, as outlined by the likes of Cox and Gill, stems from European Imperialism in the 19th century and resurfaces post World War II in the form of American Hegemony. Understanding obesity as a product of a world order based on transnational capital becomes especially relevant because TNCs that control global agri-industrial food networks are able to sustain a global obesogenic environment through their control not just of materials but of international politics as well. Presently, there are numerous examples of the ways in which TNCs and states are complicit in achieving a world food order that is beneficial to both states and firms.

McMichael makes note of the convergence of utterly powerful multi-national food and crop corporations into very powerful agro-food conglomerates that control up to half of a given

72 Ibid.
73 Ibid.
75 Ibid.
crop and food market. He provides the example of the Cargill/Monsanto joint venture that see's Cargill join it extensive seed capacity with Monsanto's biotechnology and genetic products. Moreover, Cargill has also acquired Continental Grain giving it control of more than 40% of all U.S. corn exports, a third of all soybeans exports and more than 20% of wheat exports. McMichael attributes this to the desire for vertical integration: the control of all aspects of food production from seeds, fertilisers, and equipment, to processing, transporting and marketing. For example, through convergence, the five largest 'gene giants' like AstraZeneca, DuPont, Monsanto, Novartis and Aventis account for 60% of the global pesticide market, 23% of the global seed market and about 100% of the transgenic seed market. This 'food chain clustering', where gene giants form strategic alliances with agribusiness firms, allows firms with transgenic interests to access production.77

Elsewhere, Leslie Sklair, in his work in the Transnational Capitalist Class, has made significant inroads into the permeation of global food regulation by TNFCs through their creation of the voluntary standards program at the UN FAO titled CODEX Alimentarius. What began as a club that desired to standardize food chain processing in the name of efficiency became an intergovernmental body with the hopes of setting minimum food safety regulations. Yet none of the standards are obligatory and states or corporations can attend meetings. In fact, Swiss conglomerate Nestle had more representatives available at the 1989-1991 session than did most countries with 38 delegates.78 Additionally, the US had 243 delegates present with 119 coming from industry and 112 from the government.79 Moreover, the SPS agreement of the WTO relies extensively on decisions by Codex for the health standards of food.80 Decisions that Codex has reached in the past over food safety have been shown to promote international trade and reduce national food safety regulations.81 Sklair's work highlights that governments and corporations, in either political or economic self-interest, are working to play an increasingly prominent role in influencing global food governance.82

77 McMichael, Globalization, Free Trade, Technology.
79 Ibid.
81 Ibid.
82 Sklair, Democracy and the TCC.
Addressing Counter-Arguments and BioCapitalism

Obesity is a multifactorial health condition, yet prevailing explanations on why it has gone global tend to address broader social and environmental changes brought about by economic development, modernization, and globalization more generally.\(^8^3\) The shift towards industrialization and a market economy based on trade within a global market in most of the developing countries has led to deleterious nutritional and physical activity lifestyles that contribute to the development of obesity.\(^8^4\) Indigenous populations have been socially dislocated when traditional lands are used for production of mass produced food for the export market.\(^8^5\) In addition, reductions in energy expenditure due to activities associated with modernization such as motorized transport, mechanized equipment, and labour saving technologies both in households and at work have freed people from physically arduous tasks.\(^8^6\) Industrial and post-industrial revolutions led to the intensification of globalization as technologies in the food system, but also transportation and communications, transformed food production, processing, distribution and consumption.\(^8^7\) However, global agri-industrial food networks have expanded on the back of convergent globalization which occurs when local, traditional food sources lose their autonomy and are subsumed with parts of global agri-industrial food networks.\(^8^8\) This is due to emergent globalization where the present global agri-industrial food network was developed as part of industrialization thus offering a privileged priority to the TNCs that helped construct such a network. In addition, it would be imprudent to ignore how previously mentioned structural changes to the global economy negatively impacted developing countries whilst benefiting TNCs. Understanding global obesity through a historical institutionalist perspective is important because it sheds light on the contingency of global obesity as being influenced by TNC control of the global food supply and not just national development and modernization.

Counter-arguments to ANT approaches to global obesity may disprove the arguments presented here if evidence can find if individuals who do not consume food from global agri-industrial food networks still manage to become obese. The WHO has noted that adults who still live a “traditional” lifestyle appear to gain little or no weight with age and that anthropometric

\(^{8^3}\) WHO, *Understanding How Overweight and Obesity Develop*. Also, Sobal, *Food System Globalization*.

\(^{8^4}\) WHO, *Understanding How Overweight and Obesity Develop*.

\(^{8^5}\) Ibid

\(^{8^6}\) Ibid

\(^{8^7}\) Ibid

\(^{8^8}\) Sobal, *Food System Globalization*.

\(^{8^8}\) Ibid
studies have reported an absence of obesity in the few remaining hunter-gatherer populations of the world, since energy expenditure is generally higher and food supply is much more scarce (depending on the season). However, recent reports from Samoa noted dramatic increase in obesity prevalence of 297% in men and 115% in women in a rural community. In light of this, there are conflicting reports with regards to obesity in Polynesia as it is cited as being an effect of opening up to colonial powers before and after WWII that saw many islands integrate with global agri-industrial food networks. Also, the development of tourist industries on Polynesian islands has seen an influx of cheap, highly refined foods, and fast food restaurants. Future research on obesity in rural, hunter-gatherer, or indigenous societies could prove useful for assessing the extent to which global obesity is attributable to global agri-industrial food networks as explained by ANT.

Counter-hegemony movements that seek to displace the power that TNCs have over the global food supply have become abundant. One of the most prominent counter-hegemony movements is Slow Food International and it seeks to socialize a new approach to eating by getting people away from living a “fast life” that forces people to eat “fast foods.” The Slow Food movement implicitly challenges and problematizes conceptions of identity that are created through the consumption of food that is increasingly being influenced by commercial interests which undermine traditional culture cuisines, ethnicity, and quality nutrition. The value of counter-hegemonic movements cannot be understated because they provide new opportunities for representation, resistance, and voice. However, McMichael argues that counter-hegemonic movements actually constitute the corporate regime because they “express the material and discursive conditions that the corporate agents actively seek to appropriate.” For example, seed patenting by large transnational pharmaceutical corporations reduces biodiversity to monoculture working to undercut farmers from the developing world all under the guise of addressing the

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89 WHO, *Understanding How Overweight and Obesity Develop.*
90 Ibid
93 Pietrykowski, *Economy of Slow Food Movements.*
94 Ibid.
95 McMichael, *The Power of Food.*
world’s food needs.\textsuperscript{96} This has been done with seed and grain patenting by large TNCs that make use of WTO free trade and intellectual property provisions that effectively displace farmers in the developing world.\textsuperscript{97} Moreover, biocapitalism conceptualizes a new way in which private capital can cater too the concerns of consumers.\textsuperscript{98} Biocapitalism is a new stage of capitalist development that ushers in a biotechnological utopia promoting the optimization of life. Technological, industrial, and consumptive capitalism have been opened up by promising health, beauty, wisdom, longevity and environmental protection through things like organ transplant, reproductive intervention, bio-medicine, genetically modified food and biofuels (among other things).\textsuperscript{99} The creation of a genetically based value system renders life no longer a natural and immutable destiny, but rather a cultural or artificial construct open to calculative and regulative interventions of administration.\textsuperscript{100} Biocapitalism fits well with notion that counter-hegemonic movements constitute the corporate regime because it highlights the new ways in which TNCs can appropriate the negative material and discursive externalities that they create.

\section*{Conclusion}

Given the trajectory of the debate on the stark increase in obesity, opponents to the argument presented here could cite a simpler causality; that of individual choice. Ultimately, it does come down to what and how much someone decides to eat. If global obesity is to be minimized, then ignoring a person's surroundings, or the social environment that they find themselves in is a grave mistake. This research, through ANT and neo-Gramscian approaches, has outlined how food, as a material object, can be used by powerful interests to sustain or seize social order. Additionally, this research implicitly outlines a connection between ANT and neo-Gramscian analysis by illustrating that actor-networks, as manifested by material objects, can come to obtain and then exert influence upon agents or actors in its network. The rise of the global obesity epidemic is indicative of the growing size of agri-industrial food networks. As these networks continue to grow, the proliferation of food that is unhealthy, of poor nutritional

\textsuperscript{96} Ibid.
\textsuperscript{97} Peter Drahos with Braithwaite, \textit{Information Feudalism: Who Owns the Knowledge Economy} (London: Earthscan Publications Ltd., 2002)
\textsuperscript{99} Ibid.
\textsuperscript{100} Ibid, 289.
quality, and increasingly processed and preserved will only become a mainstay in the global food supply.

Moreover, as was addressed in the epidemiology of obesity and in the genealogy of food regimes, food as a material object has played an especially important role in state formation, the expansion of imperial power, and the construction of systems of world order. Food history over the last two hundred years has worked to uncover the relationship between objects and power. For critical Political Economic theorists Emmanuel Wallerstein, this is indicative of the expansion of capital production and industry. ¹⁰¹ Wallerstein puts it rather succinctly when he states: "It is that social system (Historical Capitalism) in which those who have operated by such rules (the law of value) have had such great impact on the whole as to create conditions wherein others have been forced to conform to the patterns or to suffer the consequences." ¹⁰² Obesity provides researchers the opportunity to understand it as part of the social order that constitutes it. More importantly, TNC responses to counter-hegemonic movements can explain how vested interests that control the supply of food try and find new ways to commodify resistance by offering new products that don’t seem so harmful. It will be important to monitor how TNCs seek to manipulate the social and physical environment in order to keep consumers coming back to markets. Whether or not consumer knowingly understand that the social environment is constructed by private interests may be most telling of the kind of relationship that consumers have with producers moving forward.

¹⁰² Ibid, 18.
Bibliography


Re-Accounting for Power?

Governing Global Financial Reporting Standards in the Post-Crisis Period

Malcolm Campbell-Verduyn

Introduction

The architecture of global governance consists of various types of international organisations, associations, and standard-setting bodies.¹ Though focus is frequently accorded to formal, intergovernmental, and state-based institutions such as the International Monetary Fund and the World Bank, it is apparent that non-state, transnational networks such as business associations increasingly function as de facto global rule-makers, regulators, and supervisors. Rules, arrangements, and codes of conduct governing global finance have increasingly relied on actors outside the official inter-state realm.² In other words, private authority has become vital to the contemporary politics and policy of global financial governance.³

Yet organisational procedures, norms, routines, practices, and conventions based on as well as driven by market actors have become unsettling and controversial due to the on-going

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¹ Martin Hewson and Timothy Sinclair, “The Emergence of Global Governance Theory,” in Approaches to Global Governance Theory, eds Martin Hewson and Timothy Sinclair (New York: SUNY Press, 1999); Matthew Hoffmann and Alice Ba, “Introduction: Coherence and Contestation,” in Contending Perspectives on Global Governance, eds. Matthew Hoffmann and Alice Ba, (London: Routledge, 2005). In accordance with a focus on more dynamic and less state-centric systems of rule while nevertheless avoiding dualistic state versus markets perspectives, global governance is broadly conceived here as the interactions between organisational procedures, norms, routines, practices and conventions at all levels of authority.


succession of cross-border financial crises since the 1970s. Academic investigation has
demonstrated the role of market-based governance in the numerous crises that have stricken
the global financial system over the past decades. Meanwhile a large and seemingly ever-expanding
literature has asserted that unconstrained finance, freed from government interference and left to
the efficient workings of free markets, has been a central cause of financial crises, including the
most recent one. While this reliance on market-based authority may now be discredited in
theory, how has role of private actors in global financial governance changed since the 2008
global financial crisis? This paper investigates if, how, and why private actors continue to hold
influence and exercise power in global financial governance.

There has been a flurry of reforms in aftermath of the most severe financial crisis since the
Great Depression. Private and public authorities at all levels of governance and in all sectors of
the financial industry have since 2008 introduced a wide range of new proposals, policies, and
institutions. As an analysis of the developments in all areas of global finance is well beyond the

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8 Change involves transformation, replacement, reversion or obsolescence, see Kalvi Holsti, Taming the Sovereigns: Institutional Change in International Relations (Cambridge: Cambridge University Press, 2004).

scope of a single paper, the changing nature of post-crisis financial governance is empirically evaluated through an examination of the shifting norms and institutional configurations in the global accounting industry.

The central claim of this paper is that a blend or mix of the two main opposing frameworks for analysing post-crisis developments in global financial governance is required to adequately understand changes in global accounting standards since 2008. This theoretical argument, labelled here as a ‘hybrid’ approach, builds on state-market “condominium” or “ensemble” models formulated elsewhere and which have hitherto been applied in a limited range of governance issues. A main objective here is therefore the further refinement of a more nuanced third framework in order to improve its applicability not only to other areas of finance but also to the analysis of the wider range of concerns in the governance of the global commons.

This paper first provides an overview of the continuity and upheaval models before highlighting their respective applicability to global accounting reforms initiated since 2008. A third model is then introduced to illustrate the limitations of the preceding frameworks as well as to depict increased hybridisation in the post-crisis governance of global accounting standards. Each model compares shifting governance dynamics in four interrelated areas: private power, institutional arrangements, standards harmonisation, and accounting philosophy.

### Continuity In Post-Crisis Global Accounting Standards

The first overarching framework for analysing developments in post-crisis global financial governance is the continuity model. This section presents an overview of this framework before

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listing its implications for the post-crisis governance of global accounting standards and comparing its predictions with reforms introduced since 2008.

**Overview of the Continuity Model**

The overarching claim uniting diverse literatures in this first approach to understanding post-crisis global financial governance developments is that the recent financial crisis has functioned as a critical juncture in unsettling the pre-crisis market-based paradigm. As such this model alleges that market authority still dominates post-crisis financial governance. The pre-crisis trend of outsourcing the design and implementation of financial governance to private actors remains well established.

The continuity model presents post-crisis global financial governance as reflecting the preferences of powerful global financial firms. New laws, agreements, and institutions formulated since 2008 have singularly benefited private interests. A transnational community of large private profit-seeking entities is seen to exert sustained command over reforms in the post-crisis period. As a result market-based ideas are continually transmitted through unaccountable transnational corporate networks that seek to prevent public interference in self-regulated markets. Scholarship in this approach highlights the enduring diffusion of market-based ideas.

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preferences through the “intellectual capture” of public actors. The persistence of a ‘market knows best’ mentality continues to demarcate a restricted role for the public sector in global financial governance. With little lapse in the belief in the efficient market hypothesis (EMH), the very ideas at the foundation of the crisis remain at the foundation of post-crisis diagnoses and policy prescriptions.

In this model the private sector reforms rapidly developed at the outbreak of the crisis are portrayed as attempts to preclude public intrusion in self-regulated financial markets. By simply tweaking the existing governance framework these early post-crisis initiatives effectively forestalled the elaboration of more fundamental public sector reforms. In short the overarching argument of the continuity model is that a paradigm shift has not taken place and that post-crisis financial reforms remain wedded to the pre-crisis reliance on market authority.

**Implications of Continuity for the Global Governance of Accounting Standards**

1. Private Power

   The continuity model expects that, due to their continued lobbying “prowess,” the large and influential Big Four accounting firms, who count many of the world’s largest financial organisations and governments as their clients, remain firmly in control of the global governance of accounting standards.

2. Institutional Arrangements

   Embedded in the institutional framework of accounting governance structure, the continuity model predicts that Big Four accounting firms have sought to leave global financial reporting standards to the efficiencies of free, unregulated markets. Private global organisations,
believed to offer minimal compliance costs and assumed to be more in tune with the latest developments in financial instruments, have been favoured over a United Nations-based International Accounting Organisation.

3. Standards Harmonisation

To reduce the transaction costs of operating in multiple jurisdictions worldwide as well as to increase their competitive advantages in new markets the continuity model envisages that the Big Four have used their considerable power to favour global harmonisation through a principles-based, rather than rules-based, accounting standards regime.

4. Accounting Philosophy

With the Big Four accounting firms stemming from Anglo-Saxon countries, the continuity model forecasts an on-going drive away from ‘Rhenish’ accounting governance prevalent in Continental European countries such as France and Germany. The main purpose of accounting standards in the Rhenish approach is taxation. Accounting standards are developed in order to clarify the wealth subject to government levy. Governments, corporations, and other debtors are said to hold close relationships with financiers, banks, and their creditors. In contrast, in Anglo-Saxon countries debtors must compete for funding on more neutral capital markets. With lenders at greater disconnects from borrowers, the imperative for creditors is to attain more clearly defined measures of organisational wealth. The continuity model predicts a continued post-crisis drive to align the content of financial reporting standards worldwide following a liberal, Anglo-Saxon philosophy.²¹

Evidence of Continuity in Post-Crisis Global Accounting Standards Developments

1. Private Power

The power and influence of the Big Four accounting firms was not dented by the worst financial crisis since the Great Depression. In contrast to the banking sector no major accounting firm went bankrupt in 2007-8 or has gone under since. On the contrary, the Big Four were only mildly damaged by the financial crisis. With revenues from audits fairly stagnant since the crisis large accounting firms increasingly depended on the high margins gained by advising the very clients they audit. Though such close relationships were previously banned in the United States (US), since the 2008 crisis the practice of providing non-audit services to recently audited firms has exploded outside the US. For the Big Four, non-audit work including consulting has come to represent almost two-thirds of revenues in the UK and more than one third of global revenues.

The ability to offer a wider range of services has enhanced the Big Four’s domination of audits for large private enterprises. In the UK for instance the Big Four accounting firms now audit ninety-nine of the top one hundred companies listed on the London Stock Exchange. Such grasp on the market for the world’s largest firms has cemented the Big Four’s ability to influence the governance of accounting standards. As a number of these large, multinational firms also participate in and contribute to the governing bodies of the International Financial Reporting Standards (IFRS) such as the International Accounting Standards Board (IASB), close relationships with the world’s largest firms bolster the Big Four’s influence on transnational accounting standards. Business and working relationships with the large firms contributes to the Big Four accounting firms’ continuing “high capacity for strategic action and lobbying.”

Considering this on-going grasp of the audit market and relationships with many of the private sector actors represented in IFRS governance, the continuity model appropriately predicts the continued power of the Big Four accounting firms.

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26 As “seals of professionalism” audits are important for “attracting internationally mobile capital”, see Botzem, “‘Transnational Expert-driven Standardisation,” 47.
2. Institutional Arrangements

The post-crisis period continues to be characterised by rapid financial change and complexity.\(^{29}\) The evolution of financial markets favours the governance of accounting standards by the actors holding the greatest familiarity and working knowledge of this complexity. In other words the progressive intricacy of finance has only increased the “technical and jargon-ridden” nature of accounting standards, facilitating the capture of governance institutions by the Big Four.\(^{30}\) Meanwhile, no alternative accounting institutions have arisen to challenge the dominance of the IFRS. As a result the continuity model also effectively envisages the continued reliance of accounting standards on market-based arrangements.

3. Standards Harmonisation

In order to minimise transaction costs and increase their competitive advantages in new markets, the Big Four have continued to press for the global harmonisation of accounting standards.\(^{31}\) The IASB and other IFRS governance institutions such as the IFRS Interpretations Committee have acted as main drivers of a common global financial reporting language. In 2012 emerging markets such as Argentina, Mexico, and Russia adopted the IFRS. The adoption of the IFRS has been promoted in Asia by the Asian-Oceanian Standard Setters Group.\(^{32}\) This regional grouping comprising the major economies of Japan, China, South Korea, Malaysia, India, and Indonesia, has encouraged adoption and convergence with the IFRS. South Korea for example has begun IFRS implementation in its national standards while Japan and India have both pledged to adopt the IFRS over the course of the next decade. While China has not yet mandated its state-owned enterprises to adopt the IFRS, the world’s second largest economy has formally announced its commitment to converge with the IFRS.\(^{33}\) Continuing the pre-crisis trend of gradual worldwide dissemination the IFRS are now being adopted in over one hundred countries,

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including two thirds of the G-20.\textsuperscript{34} The on-going convergence of global accounting standards in the post-crisis period remains “one of the most advanced cases of globally consistent financial rules.”\textsuperscript{35} As a result of these trends it appears that continuity model successfully forecasts the continued push for worldwide standards harmonisation.

4. Accounting Philosophy

The drive to reduce the “cosy” relationships between auditors and their clients illustrates the on-going trend towards Anglo-Saxon philosophies predicted in the continuity model. Prominent figures in the accounting world such as the former head of the IASB have criticised the “monogamous” relationship between auditors and their clients.\textsuperscript{36} Much publicity has been granted to the long-lasting relationships between accounting firms and their clients, which in extreme cases pre-date the First World War.\textsuperscript{37} Meanwhile a number of prominent lawsuits have highlighted how close relationships between the Big Four and large financial firms led to poor valuations and lack of attention brought to holdings of ‘toxic’ synthetic financial products.\textsuperscript{38} In addition to complicity in the misvaluation of assets and liabilities prices, the close relationships with financial firms permitted accountancy firms to assist with removing massive losses from public balance sheets. The most egregious instance of dubious accounting practices used to help hide liabilities from balance sheets was exposed in a court-ordered report examining the largest bankruptcy in American history. The 2010 Valukas report revealed that the accounting firm E&Y had on numerous occasions “improperly” assisted Lehman Brothers Holdings Inc., one of

\textsuperscript{34} Richard Crump, “Reporting Convergence: Frayed But Not Unravelling,” \textit{Accountancy Age}. 17 July, 2012. For a list of countries that have adopted or intend to adopt the IFRS see “Use Around the World,” Website of the IFRS Foundation and the IASB, accessed 7 March 2012, http://www.ifrs.org/Use+around+the+world/Use+around +the+world.htm.

\textsuperscript{35} Véron, “Keeping the Promise.”

\textsuperscript{36} Jones, “Tweedie Criticises ‘Cosy’ Auditor Ties.”

\textsuperscript{37} KPMG for instance has audited General Electric since 1909 while the estimate average length of these relationships has been half a century long, see Jones, “Tweedie Criticises ‘Cosy’ Auditor Ties.”

the world’s largest investment banks, to systemically disguise its true financial condition. The report detailed how days prior to quarterly financial reports E&Y employed suspicious accounting manoeuvres to temporarily shift tens of billions of dollars in debt from the bank’s balance sheets to a small company, known as the bank’s “alter ego.” These accounting techniques were regarded by those in the financial industry to be “window-dressing,” intended to promote false confidence in the bank’s overall liquidity position. The Valukas report has since formed the basis of a number of on-going investor and civil fraud lawsuits in a number of American states that have alleged misleading financial accounting practices by E&Y.

Despite the post-crisis emphasis on maintaining the independence of accounting firms, enhancements of accounting independence have rested entirely on internal private sector reforms. In line with Anglo-Saxon reliance on the efficiencies of the market, governance of audit relationships has been left to the board of directors justifications to shareholders with little in the way of rule-based standards. Accounting firms have thus been left to self-govern the length of their client relationships, highlighting the continued trend towards Anglo-Saxon accounting standards predicted by the continuity model.

**Summary of the Continuity Model**

The continuity model successfully predicts and explains a number of developments in global accounting standards since 2008. However as the following section reveals, examining post-crisis events solely through the lenses of the continuity model overlooks an equally significant set of advances by public actors.

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Upheaval in Post-Crisis Global Accounting Developments

The second overarching framework for understanding post-crisis developments in global financial governance is the upheaval model. In this section an outline of the model is presented prior to listing its predictions for global accounting standards and lastly detailing its applicability to developments since 2008.

Overview of the Upheaval Model

The central claim of the upheaval model is that a critical juncture in the governance of global finance has indeed taken place since the 2008 crisis. This second approach emphasises the extent to which states and the public sector have asserted control over self-regulated financial markets in the post-crisis period. The worst financial crisis since the Great Depression blatantly illustrated the limits of market-based authority and the ability of the public sector to “tame” the excesses of unregulated financial market.

The upheaval model focuses on how rejection of the EMH has led to state intervention in previously self-regulated financial markets. The assertion that financial markets are perfectly efficient if left unregulated is now viewed as a “mythic” and “utopian” idea. The rejection of this hypothesis has led to a decisive shift in favour of public command and control of more

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“managed” financial markets. Alluding to Karl Polanyi’s double movement, where the ills of the free market lead to a social countermovement, this framework invokes the connection between the hardships caused by under-regulated markets and subsequent post-crisis attempts by society to protect itself through public reforms. In short with market-based ideas thoroughly discredited, states and intergovernmental organisations have re-exerted command and control over markets.

Increased public intervention however has led to less globally coordinated approaches to financial governance. As the power of transnational market elites has decreased and various forms of public authority have arisen there has been “cooperative decentralization” and a retreat from global forms of governance. The “primacy of politics” and divergences between public attempts to exert control over financial markets has led to greater regional and national variation in financial policies. In the upheaval model the post-crisis environment is therefore also characterised by uncoordinated public attempts to ‘tame’ private market-based authority.

**Implications of Upheaval for the Global Governance of Accounting Standards**

1. Private Power

This second model anticipates that the power of the Big Four accounting firms has weakened as a result of the crisis and that global networks of public actors such as the Group of

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Twenty (G-20) and national regulators such as the US Securities and Exchange Commission have increasingly set the agenda for the global governance of accounting standards.

2. Institutional Arrangements

In order to reduce the inefficiencies of market-based governance the upheaval model predicts that public bodies have institutionalised public oversight and control over global accounting standards, leading to the development of higher and stricter compliance costs.

3. Standards Harmonisation

As a result of the increasing intervention of national and regional public politics in global accounting standards the upheaval model expects that there has been less agreement between actors over standards to converge on. This is especially the case given the valuation differences in Anglo-Saxon and Rhenish approaches to accounting, where the former favours current, up-to-date values of mark-to-market or Fair Value Accounting (FVA) and the latter supports longer-term valuations of wealth over specified historical periods following Historical Cost Accounting (HCA).

4. Accounting Philosophy

In the upheaval framework, the inability to promote a unified set of accounting standards has stemmed from major divergences in opinion regarding the nature of accounting standards. Disagreements between actors promoting liberal, Anglo-Saxon standards and those endorsing more Rhenish forms have intensified, reducing the applicability of a single one-size-fits-all model.

Evidence Supporting Upheaval

1. As detailed in the previous section, the absolute power of the Big Four global accounting firms has not significantly weakened since the 2008 crisis. However the relative power of these firms has fluctuated as a result of increasing “political meddling” in global accounting standards.48

   At their 2009 meeting in Pittsburgh, USA, and in subsequent bi-annual leaders summits since, the G-20 has disseminated a specific list of demands for private accounting bodies governing the IFRS to follow. Though the details will be discussed below, suffice it to note here that this ‘interference’ in previously market-based governance has underscored the power of public actors. The G-20 demands have functioned as a reminder that despite their global

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operations the Big Four accounting firms nonetheless remain “strongly rooted in their specific national and regional market and regulatory environments.” PwC and E&Y are registered in the United Kingdom and beholden to British and EU law. Meanwhile D&T and KPMG are subject to American and Dutch laws, respectively. Should public actors seek to interfere with existing standards or develop new standards for the accounting industry, the Big Four would be forced to comply or change their ‘home’ jurisdictions. Whether tacit or explicit, global “rules governing cross-border economic activity ultimately require the support of great powers.” Although a wholesale takeover of accounting standards by public authorities has clearly not taken place, the upheaval approach successfully envisages the rise of public ‘interference’ in formerly private governance arrangements.

2. Institutional Arrangements

Increasing high-level criticisms of the IFRS institutional arrangements have characterised the post-crisis period. Continental Europeans in particular have complained that the IFRS governance structure is “accountable to no one.” Strong criticisms from French officials have been especially notable as former Finance Minister Largarde called “into question the technocratic expertise” and legitimacy of the IASB while then Prime Minister Fillon argued that IFRS governance should be rendered “more transparent and representative,” and former President Sarkozy even chimed in by “decrying the coup of accounting rules by ‘technocrats.’” Meanwhile the G-20 increased its calls for the IASB to “further improve the involvement of stakeholders… [into] the framework of the independent accounting standard setting process” and placed a particular focus on increasing the participation of emerging market economies.

The Trustees of the IFRS Foundation, a twenty-one member non-governmental organisation responsible for recruiting and appointing the sixteen members of the IASB and the fourteen members of the IFRS Interpretations Committee, responded to such vocal public pressure with a number of measures to increase the legitimacy of the IFRS governance

49 Eberle Dagmar and Dorothee Lauter. “Private Interests,” 453.
institutions. The most significant change was the 2009 creation of a Monitoring Board to act as a “monitor of the Trustee’s oversight of the IASB’s operations.”\textsuperscript{54} This new body has embedded public capital markets regulators from the European Union (EU), the US, Japan, and the International Organisation of Securities Commissions (IOSCO) as the very top ‘tier’ of the IFRS governance hierarchy. Of equal significance for the claims of the upheaval model has been the ability of the Monitoring Board to reject calls to include more private sector interests in its membership. In a February 2012 report the Board re-affirmed its commitment to “continue to confine membership to capital markets authorities responsible for setting the form and content of financial reporting.”\textsuperscript{55} The Board has also reported that its new members, to be chosen in 2013, would stem “primarily from major emerging markets.”\textsuperscript{56} Other IFRS bodies have similarly sought to increase their perceived legitimacy by courting emerging market actors. For instance the former chair of the IASB Sir David Tweedie has described the AOSSG as the “third leg of the stool” in global accounting standards.\textsuperscript{57} While this group does involve Anglo-Saxon countries such as New Zealand and Australia, such statements imply that, in addition to major Asian powers such as China, Japan, and India, middle powers like South Korea, Indonesia, and Malaysia are to be increasingly represented in the governance of the IFRS. The sum of the changes indicates that while private actors remain embedded in the institutional structure of the IFRS, public bodies have greatly enhanced their presence. In this way the upheaval approach effectively forecasts and explains the increasing institutionalisation of public authority in global accounting standards.

3. Standards Harmonisation

Increased public pressure on private global accounting bodies is once again best exemplified by declarations of G-20 leaders at summits since the 2008 financial crisis. The 2010 G-20 Toronto declaration for instance stressed “the importance of achieving a single set of high quality improved global accounting standards” and urged the IASB and the US Financial Accounting Standards Board (FASB), which has long maintained sovereignty over American

\textsuperscript{55} Ibid.
\textsuperscript{56} Ibid.
financial reporting standards, to complete convergence at the earliest possible opportunity. Yet, as predicted by the upheaval model, the exact set of accounting standards upon which to converge has become a contentious matter as a result of post-crisis inter-state politics. While both Continental European and Anglo-Saxon countries have sought to promote global accounting standards harmonisation, the precise type of convergence has greatly varied. Calls by Continental Europeans to harmonise accounting standards have primarily referred to loosening the strictness of FVA principles. France and Germany, long time sceptics of FVA, have argued for more “selective application” of mark-to-market principles in IFRS pricing of long-term assets with steady income flows. These countries have pointed to the role of mark-to-market principles in the 2008 crisis as well as America’s loosening of FVA rules in its Generally Accepted Accounting Principles. Continental European countries have pursued global accounting standards convergence as a way to “level the playing field” with American standards. In this way, global accounting harmonisation for Continental Europeans has primarily meant equating FVA principles in the IFRS to those of the GAAP.

On the other hand Anglo-Saxon countries have sought to achieve global accounting convergence in the post-crisis period by pressuring the FASB to equate its standards with the IFRS. Increased political pressure from Continental European powers led the IASB in June 2009 to loosen mark-to-market standards for a limited set of assets. This dilution was greatly opposed by the UK. As the home jurisdiction of two of the Big Four global accounting firms, the British government has remained steadfastly in favour of sticking with mark-to-market accounting principles, arguing that the 2008 crisis stemmed not from FVA but from the lack of effective

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58 The Generally Accepted Accounting Principles (GAAP) are the American national accounting standards maintained by the FASB, a seven-member body appointed by the SEC. Consisting of more precise rules, the GAAP have been described as the “most important adversary” (Botzem 2008) of the IFRS which, despite their title, form a much broader collection of less obliging principles, see Tim Büthe and Walter Mattli, The New Global Rulers. The Privatization of Regulation in the World Economy (Princeton: Princeton University Press, 2011); Véron, “Keeping the Promise.” Although the FASB signed a Memorandum of Understanding with the IASB in 2002 accepting to exchange views with the IASB as well as to develop a plan to minimise the gap and eventually unite the GAAP and the IFRS, the FASB has undertaken minimal convergence with the global accounting standards as small and medium American companies have generally remained staunchly opposed to the IFRS citing the high costs of convergence, see Sawani, “The Changing Accounting Environment.”
60 In line with their attacks on the institutional structure of the IFRS, post-crisis French critiques of FVA have been “vociferous”, see Mügge, “Paradigm Shifts.”
61 Ibid.
62 Ibid.
market transparency. To placate British dissatisfaction the newly created Monitoring Board has increased its pressure on the FASB to converge with the IFRS. In its February 2012 report the Monitoring Board announced that from the following year its membership would only stem from jurisdictions requiring the domestic use of the IFRS. These competing paths to standards convergence have highlighted the growing international disagreement and interstate rivalry in the promotion of global accounting harmonisation forecast in the upheaval model.

4. Accounting Philosophy

Plans to break long-standing relationships between accounting firms and their clients have also included mandatory auditor rotations enforced by public actors. While many schemes to decrease the length of the relationship between accounting firms and the clients they audit have relied on private self-governance, policies enforcing compulsory auditor changes have been floated on both sides of the Atlantic.

By far the most contentious public enforcement schemes have been those proposed by the EU. Draft legislation tabled in September 2011 by the European Commission sought to oblige the Big Four to abandon their consulting businesses, to mandate “joint-audits” of large companies between the Big Four and smaller accounting firms, and to enforce mandatory rotations of auditors every six years. Rather than relying on the forces of the market, EU legislation sought to reduce the length and nature of client relationships through public enforcement. This unprecedented intrusion into hitherto the privately governed accounting industry standards prompted the Big Four accounting firms to describe the measures as “uncompromising” and “merciless.” The proposals thus illustrate the increased prominence of public actors in global accounting standards foreseen by the upheaval model.

**Summary of the Upheaval Model**

The second major framework for analysing developments in post-crisis global financial governance predicts and explains a number of events and processes relating to financial reporting standards since 2008. Yet as the next section details, the combination of the upheaval and the

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64 IFRS Foundation Monitoring Board, “Final Report.”
65 Aubin, “Analysis.”
67 Ibid.
continuity frameworks provides the best understanding of the changing role of private actors in global accounting standards in the post-crisis period.

**Hybrid Explanations of Post-Crisis Global Financial Accounting Reforms**

The central claim of this paper is that neither the continuity nor upheaval models sufficiently explain post-crisis developments in the global governance of accounting standards. Accepting one of the above versions risks overlooking a fundamental dimension highlighted in the other. As a result an intertwined explanation blending elements from each approach best represents ongoing changes in global financial governance. In other words, by providing an “eclectic” mix that avoids “conceptual favouritism,” a third interconnected approach forms the most appropriate manner of understanding the nature of global financial governance in the post-crisis period. This section seeks to build a more holistic framework at the intersection of the earlier two models in order to illustrate the mutual influence of the private and public realms in global accounting standards since the recent financial crisis. A broad overview of the model will first be provided prior to elaborating more specifically hybrid explanations in regards to developments in global accounting standards since 2008.

**Overview of the Hybrid Model**

A third model for explaining the changing nature of post-crisis global financial governance reforms rejects the binary underpinnings of the state and market-centric models. The hybrid framework maintains that markets and states are neither dialectically opposed nor absorbed in continually antagonistic relations. Rather states and markets are symbiotic and increasingly

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70 Hoffman and Ba, “Introduction.”
dependent on each other. Labelled elsewhere as the state-market “condominium,”72 “ensemble,”73 and “assemblage,”74 this overarching approach views private and public authority as fundamentally fused.75 As one scholar has put it, “the evolution of financial markets and the evolution of the underlying authority to supervise them are, so to speak, two sides of the same coin.”76

Post-crisis governance reforms are conceived in the hybrid model to be part of a robust private-public mix. As the interactions of states and markets constitute an integral whole, neither private ‘capture’ of the public nor public ‘re-claiming’ of the private sufficiently explain policy developments since the 2008 crisis. Rather states have depended on markets and market actors for the implementation and supervision of global financial policy arrangements while private sector actors have relied on states for the legitimation of market-based rules. Public financial institutions are also viewed as market players while financial firms function equally as public regulators, supervisors, and de facto institutions of governance.77 With the blending of markets and governance along with the overlapping functions of states and markets it becomes difficult to clearly distinguish between private and public interests. Changes in global financial policy arrangements thus reflect the collusion of “intimately bound” public and private preferences.78

**Hybrid Explanations of Post-Crisis Developments in Global Accounting Standards**

1. Private Power

Evidence presented in the two opposing approaches described above suggests that both public and private actors have become equally powerful in the post-crisis period. The Big Four accounting firms have increased their market shares and expanded their influence over other private actors represented in the institutional arrangements of the IFRS. Meanwhile the

72 Underhill, “States, Markets and Governance.”
73 Germain, “Globalising Accountability.”
75 Germain, Global Politics. The approach is also influenced by institutional economists such as Ronald Coase, “The Institutional Structure of Production,” American Economic Review 82 (1992): 713-19.
77 See for instance Abdelal, Capital Rules; Mügge, Widen the Market.
The politicisation of global accounting standards since the crisis has increased the role of global public actors such as the G-20 in the development of accounting standards. While the growing power of public and private actors, illustrated in the upheaval and continuity models respectively, explains separate sides of the same coin, these frameworks ultimately fail to illustrate the mutually beneficial nature of the interconnections between the coin as a whole.

A hybrid approach recognises each of these post-crisis trends yet notes that neither public nor private actors have gained at the expense of one another. Rather the continued power of the Big Four accounting firms has benefited public actors as the latter have ultimately prised stability in financial markets during the post-crisis period. At the same time, the rise of public actors has greatly benefitted these same private actors by providing a veneer of accountability and legitimacy for their continued market dominance. In other words the continued power of global accounting firms has been masked by the increasing presence of public actors while investors and financial markets have not frayed at the increased power of public actors as a result of the continued dominance of the Big Four accounting firms. This hybrid interpretation of private power in the post-crisis period thus recognises the intertwined and mutually beneficial rise of public sector actors in global accounting standards.

2. Institutional Arrangements

A hybrid explanation moulds the seemingly contrasting overarching explanations of institutional reforms to the global governance of accounting standards since the 2008 financial crisis. Neither framework described above sufficiently elucidates the sum of contrasting post-crisis trends. On the one hand the upheaval framework accurately predicts the establishment of public oversight as the top ‘tier’ of the three-tier global accounting governance structure. Yet this model overlooks the enduring influence of the Big Four accounting firms in other lower tiers of IFRS governance. On the other hand this sustained private self-governance is depicted in the continuity model. However this second model fails to recognise the establishment of the Monitoring Board and its resistance to private sector membership. A hybrid explanation combines these explanations by arguing that these trends are in fact not mutually exclusive but part of an increasingly institutionalised public-private mix.

IFRS governance arrangements are developing into a hybrid system that balances the mutually beneficial interests of public and private actors. The most prominent institutional

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79 Guerrera and Chung, “Accounting Windfall.”
reform since the crisis, the establishment of the Monitoring Board, is a central example of this hybridisation. This new top ‘tier’ body illustrates the establishment of public control over previously largely unfretted private global institutions. However in order to circumvent the loss of private sector investor confidence due to the potential for political manipulation of accounting standards, the overarching influence of the Monitoring Board has been curtailed. Indeed, the Monitoring Board is wholly prohibited from “infringing on the IASB’s independence.” As such public actors, while present to ensure the legitimacy of the IFRS governance structure, are fundamentally restrained from ‘tampering’ with private standard setting processes.

Public actors nevertheless benefit from establishment of the Monitoring Board. As described above, a primary concern for public authorities has been the maintenance of investor confidence in the global accounting standards. The loss of certainty in the ‘independence’ of the standard setting process is often reported as a concern for investors. Despite the criticism levelled at the IASB, public authorities have shown scant desire to claim responsibility for the development, implementation, or supervision of accounting standards. Indeed, for all the attacks on the IFRS governance structure, little in the way of profound, overarching reform to the pre-crisis status quo has been suggested in the post-crisis period. Such lack of proposed alternative institutional arrangements has signalled a degree of tacit approval by public authorities with the continued private promulgation of global accounting principles. A hybrid framework therefore underlines the manner in which private actors have relied on the state for the legitimate consent of market-based rules while public actors have in turn depended on market actors for the implementation and supervision of global accounting standards.

3. Standards Harmonisation

Continuity and upheaval models describe the persistent post-crisis attempts to harmonise global accounting standards in seemingly contrasting manners. In the continuity model global convergence is precipitated through the sustained influence and drive by the Big Four global accounting firms to reduce transaction costs as well as increase their competitive advantages. Meanwhile in the upheaval model global accounting standards harmonisation is advanced in varying forms by groupings of public actors. A hybrid explanation advances the argument that the drive for standards harmonisation reflects intertwined private and public preferences.

80 IFRS Foundation Monitoring Board, “Final Report.”
81 Mügge, “From Pragmatism to Dogmatism.”
Continental European countries for instance have pushed for a loosening of FVA principles in the IFRS as well as for convergence with the US GAAP in order to limit the losses of the firms in their jurisdictions.\(^8^2\) A watering down of mark-to-market accounting principles benefits these domestic firms while contributing to the stability of national markets, a mutually beneficial outcome of global accounting convergence. Similarly in Anglo-Saxon countries public actors have pushed for the extension of mark-to-market principles in order to benefit the global accounting firms registered in their jurisdictions.\(^8^3\) Once again the drive for global accounting standards harmonisation has reflected the combined interests of private actors seeking material gain with those of public actors seeking market stability and investor confidence in the tumultuous post-crisis period.\(^8^4\) A hybrid explanation of global accounting convergence therefore illustrates the intertwined preferences of public and private actors in the governance of global accounting standards since 2008.

4. Accounting Philosophy

The persistent trend towards the Anglo-Saxon accounting approach is explained in conflicting manners by the continuity and upheaval models. The former framework depicts increased attempts to dislodge accounting firms from their long-term clients as driven by the private sector while the latter model points to the public enforcement of these efforts. A hybrid approach contends that these diverging pathways to achieving the similar goal of accounting harmonisation further underlines the blending of state and market authority.

The evolution of the EU legislation proposed in September 2011 and intended to curtail conflicts of interest in the accounting industry best exemplifies the emerging hybrid governance structure. A high stakes “lobbying battle” began once the draft proposals were introduced.\(^8^5\) Over a period of three months the Big Four global accounting firms spent a combined $9.4 million lobbying for their preferences to be represented in the final proposals.\(^8^6\) European Commissioners criticised the Big Four for their “fierce and excessive campaigning,” noting that the lobbying pressure exerted was “worse” than that of investment banks in the post-crisis period.

\(^8^2\) Mügge, “Paradigm Shifts.”
\(^8^3\) Posner, “European Approach.”
\(^8^5\) Barker, “Brussels Bombshell.”
Irrespective of these complaints, the Big Four global accounting firms succeed in watering down the content of the proposed legislation. Published in November 2011, the final draft measures removed the proposal to implement “joint-audits” of large companies by a member of the Big Four along with a smaller accounting firm and also lengthened to nine the number of years accounting firms could remain with a single client. The final vote on this legislation has been delayed till the summer of 2013. Yet an EU Parliament draft report released in the fall of 2012 further “watered down” the proposed rules. For example the draft report proposed to further extend the planned limits on audit-client relationships to twenty-five years. This legislative evolution demonstrates the combination of public and private preferences in the global governance of accounting standards. While the original proposals reflected the European Commission’s desire for strict enforcement, the lobbying power of private authorities succeeded in moulding the proposed measures into a mix of public and private preferences. This type of hybrid governance reveals the limitations of viewing post-crisis reforms in accounting governance solely through the lens of either the upheaval or continuity models. The continued trend towards the separation of accounting firms from their clients thus reflects neither the continued power of the Big Four accounting firms nor the rise of public actors but rather a system of increasingly fused governance authority.

Conclusions

This paper has sought to illustrate how the changing nature of accounting standards in the post-crisis period reflects the increasing hybridisation of global financial governance. This concluding section first summarises the main argument presented before considering the implications of these findings for the accounting industry in particular and for global governance in general. A final subsection contemplates implications for future research.

Summary of Post-Crisis Global Accounting Standards Developments

Both major frameworks for understanding post-crisis reforms of global financial governance explain a portion of the reforms of global accounting standards since 2008. On the
one hand the upheaval model correctly illustrates the continued influence of the Big Four global accounting firms and the on-going reliance on market-based governance. Yet this first model overlooks the rise of public actors and political ‘meddling’ in the developments and institutional structure of the accounting principles. On the other hand the upheaval model incorporates these developments but overstates the extent of the changes taking place. Although public actors have asserted oversight and control over some parts of the global standards-setting process, they have not fundamentally usurped the entrenched authority of private actors. The major shortcoming of this second model is that there has been no broad, overarching alternative governance vision put forward to restructure global accounting standards. Even the Continental European powers who have pushed to ‘relax’ FVA principles and to reorganise the IFRS governance structure have not sought to replace the pre-crisis system with an entirely distinct substitute. French and German proposals have merely modified existing structures rather than wholly dispose of them. While a tweaking of the IFRS governance structure has accommodated the rise of public actors following the 2008 crisis, it is apparent that public authorities have not succeeded in establishing sole control of global standard-setting processes.

In contrast this paper submits that global accounting standards reforms have been primarily characterised by the increasing hybridisation of governance. Public and private actors have relied on one another in the formulation and implementation of global accounting standards; reforms have been characterised by a blend of public and private preferences; and the rise of public actors has not come at the expense of private actors, but has rather constituted a mutually beneficial positive-sum gain. Table One summarises the applicability and limitations of each model as well as their synthesis in the hybrid framework.
**Table One: Summary of Post-Crisis Global Accounting Reforms by Theoretical Approach**

<table>
<thead>
<tr>
<th>Model</th>
<th>Continuity</th>
<th>Upheaval</th>
<th>Hybrid</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Issue</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Private Power</strong></td>
<td>Big Four stronger than ever; influence through market share, consulting</td>
<td>Increased G-20 “meddling” in private standards</td>
<td>Not a zero-sum but mutually beneficial rise of public actors</td>
</tr>
<tr>
<td><strong>Institutional Arrangements</strong></td>
<td>IFRS capture and continued reliance on market processes</td>
<td>Monitoring Board composed of public regulators, success in fending off private influence</td>
<td>Veneer of public oversight masking sustained role of private standard setting processes</td>
</tr>
<tr>
<td><strong>Standards</strong></td>
<td>Big Four driving push for worldwide adoption of IFRS</td>
<td>Divergences in type of convergence due to inter-state rivalry</td>
<td>Harmonisation due to combined public-private preferences</td>
</tr>
<tr>
<td><strong>Harmonisation</strong></td>
<td>Reduction of Rhenish client relationships through private self-governance</td>
<td>Reduction of Rhenish client relationships</td>
<td>Blending of governance through public enforcement and private lobbying</td>
</tr>
</tbody>
</table>

**Implications for the Accounting Industry**

As in many areas of finance, gaps in the global governance of accounting standards have since the 1970s been filled by private sector actors. This investigation has revealed the power yielded by private and public actors in the post-crisis governance of global accounting standards. Since the 2008 financial crisis public actors have increased their ‘interference’ in the formerly privately formulated and implemented standards. However this paper has argued that the increased public power has not come at the expense of large global accounting firms. Rather, global accounting firms and public securities markets regulators from the developed world have...
both been represented in post-crisis governance reforms. Although the inclusion of actors from emerging markets has been promised, it remains to be seen how precisely such a broader set of actors will be incorporated into standard-setting processes. Present trends indicate that an intertwined set of private and public actors will continue to shape future reforms. In particular, the fate of the EU proposals to separate accounting firms from their long-time clients, currently awaiting a final vote by the European Parliament and Council, will function as a precedent in the on-going balance between the desire for increased public oversight of the accounting industry as well as the need to maintain stability in unpredictable and turbulent global capital markets. Regardless of the results of the European deliberations, it is clear that private actors no longer have sole governance authority over global accounting standards. Public actors have gained greater roles in standard-setting processes. On-going reforms are thus likely to continue to reflect the collusion of state and non-state actors’ preferences.

Implications for Global Governance

The results of this case study examining post-crisis reforms in the governance of global accounting standards suggests the need to avoid the theoretical construction of dichotomous relationships between public and private actors. The paper has sought to illustrate how a focus on either the continuing power of market-based actors or on the rise of public actors limits understanding of trends in global governance. Extending the results of this research to the broader context of global governance scholarship promotes the argument that governance is rarely purely ‘public’ or ‘private.’ Academics and policymakers are advised to recognise that each side plays a role, whether overtly or covertly, and that a simple focus on either public or private actors is detrimental to the holistic framing of on-going events and processes. States and markets are not opposing dialectics but work in collusion and ultimately depend on one another. Scholarship must recognise the implications of the fusion of authority and construct theories that acknowledge the prospects for hybrid structures.

Suggestions for Future Research

The further refinement of the hybrid framework remains a central task for future research. The continuum between continuity and upheaval is undoubtedly marked by varying points where
power ultimately resides closer to either the public or the private sphere. It may in other words be just as rare for private and public actors to equally share governing power and authority as it is unusual for such influence to remain entirely on one end of the spectrum. Revealing more precisely the nature of the blended private-public authority is important to more completely understand the post-crisis hybridisation of governance. A main question to be resolved therefore is whether public or private actors bear more influential forms of power in hybrid governance structures. Put differently, towards which end of the continuum do governance arrangements lean and why?

A further ‘fleshing out’ of what specifically a hybrid approach involves will aid in the strengthening this framework for application to a broader range of governance areas. An increased understanding of hybrid governance should be conducive to investigations of whether blends of public and private authority vary in other governance issues as well as at different levels of authority. Key research questions to be resolved going forward include: do hybrid forms of governance change in other areas of finance as well as in non-financial issues? Do shifts in the public-private mix characterise the global, regional, national, and locals levels of analysis? Are hybrid forms of governance in the EU significantly different those in the Americas, Africa or Asia? Although a useful first step for conceiving the changing post-crisis financial environment, further development of the hybrid approach is necessary to more fully refine the framework for accurately depicting the changing nature of broader trends in global governance.
Bibliography


Is the Future Human Immoral?

*Morality, Human Nature, and Biotechnology*

Chris Bordeleau

The regeneration of damaged tissues and organs has become a very important area of research in modern medicine.\(^1\) Regenerative medicine promises to stimulate the body’s natural healing processes in order to heal damage. It also promises to allow scientists to cultivate new organs in a laboratory and use them in transplants. The added benefit of such a breakthrough is that immunosuppressant medication (anti-rejection drugs) would become obsolete, as a patient’s own DNA could be used to re-grow their missing organs.

While regenerative medicine is a fascinating prospect, I find myself asking: why not prosthetics? Why is attention being devoted to regeneration when recent advances would seem to indicate that we are moving toward a time when people will be able to simply replace a damaged organ with a prosthetic? In a sense, one can see how the regeneration of a dead organ may be viewed as a “safer” option since it does not represent a significant change. Your DNA is extracted, a new organ is grown, and then the switch is made. Indeed, regenerative medicine has only really drawn criticism insofar as it has required stem cells from human embryos, but recent advances are eliminating this need.\(^2\) Biotechnology, on the other hand, which includes the creation of artificial organs, has drawn attention not as a viable and trusted alternative, but as an area of research that is met with skepticism and fear. For example, in an article describing transhumanism as one of the world’s most dangerous ideas, Francis Fukuyama warns about the possible negative effects that biotechnology could have on society.\(^3\) Arguably, the “world’s most dangerous idea” descriptor indicates that biotechnology is the more controversial of the two


options and has generated calls for its regulation. But, what are we talking about when we say that biotechnology is dangerous? What is it about human augmentation that necessitates regulation? These are the questions that I intend to answer in this paper.

Not surprisingly, popular culture has thoroughly explored the subject of transhumanism, with Hollywood and the video game industry having been especially interested in the topic of genetic engineering. In 2011, a Montreal-based video game developer introduced Deus Ex: Human Revolution, a game heavily rooted in transhumanism, exploring issues related to biotechnology and human enhancement through the use of artificial implants. The game is set in 2027, when human enhancement technology has advanced far beyond humankind’s ability to comprehend or predict its effects on society. Players take on the character of Adam Jensen, the security chief at Sarif Industries, a leading biotechnology firm. Following an attack on the company’s headquarters, Jensen is seriously injured, and during the resulting surgery large portions of his body, including his arms, legs, and even his lungs, are replaced with advanced prosthetics. He then launches an investigation into the attack, only to uncover a massive conspiracy to dominate the world using enhancement technology. In the final minutes of the game players are presented with a choice. First, they can erase all evidence of the conspiracy, effectively leaving humanity to make its own decisions about human enhancement. Second, they can make the conspiracy known to the public, causing widespread fear and crushing the human enhancement revolution. Or, third, they can manipulate the information in one of two ways: the opponents of human enhancement technology can be framed for terrorism, paving the way for unrestricted research into human enhancement; or, widespread augmentation malfunctions resulting in rioting and violence can be blamed on corporate negligence, drawing attention to a need to regulate enhancement research.

One very clear theme is mentioned throughout the game: the moralization of human nature. Specifically, scenes in the game consistently ask whether absolute freedom is any better than chaos. The implication is that human biology imposes restrictions that are desirable since they enforce or ensure moral behavior. Giving human beings the freedom to alter their bodies in any way they choose removes these restrictions, leaving only abstract moral laws to govern human

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5 For example, see GATTACA (1997) or The Andromeda Strain (1971)
behavior. Jensen (and by extension the player) is actually an allegory for this dilemma. Given his
enhancements, Jensen possesses great strength and is able to perform a long list of superhuman
feats, including becoming invisible, seeing through walls, and jumping/falling from great heights
unscathed. Furthermore, there is no police officer or agent of the state that appears to be able to
stop Jensen, so he effectively operates beyond the coercive arm of the state. The only thing to
govern his behavior is his own personal moral code, and throughout the game players can either
use his powers in a non-lethal manner, or they can simply kill everyone in their path – which
actually makes the game easier to play. As such, the questions raised within the world of Deus
Ex focus on whether or not moral laws are enough to ensure ethical behavior among humans and
whether or not the very concept of morality is challenged by advances in biotechnology.

To be a proponent of human enhancement, or to say that human enhancement research
should be unrestricted, seems to imply that human beings are inherently moral and that freedom
will not bring about chaos. It also seems to assume that human beings desire freedom above all
else. Perhaps more specifically, human beings seek freedom from limitations. Indeed, to choose
an artificial heart over a regenerated one would seem to imply that a regenerated heart would be
deficient or limiting in some way. Overcoming these physical limitations, therefore, brings an
increased sense of freedom that human beings may desire.

However, there are those who do not trust humanity and who believe that augmentation
should be regulated. On a deeper level, their distrust would seem to assume that human beings
are naturally immoral, that they are predisposed to seek ends with no regards to the means, and
that chaos will ensue if restrictions are not imposed. This is not a new concept in political
thought. In fact it is precisely how Thomas Hobbes characterized the “state of nature” in 1651. Hobbes believed that ethical behavior is not a natural characteristic of humanity, and that, without the state to impose order human beings will kill and steal from each other, among other things. On that note, opponents of human enhancement often ask the question “where do we draw the line,” implying that there is some point at which humans will no longer abide by society’s laws and will do what they want. Arguably, this point would be crossed when a person has been augmented to the extent that the state is no longer able to condition his or her behaviour. It is not difficult to imagine how biotechnology could produce prosthetics that greatly improve upon the functions of natural organs and limbs. An extreme, and perhaps implausible,

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example is, again, Adam Jensen from *Deus Ex*: he is able to make himself invisible. Conceivably, he could commit crimes without being witnessed, or at the very least he could easily evade capture. How could the police be expected to contain a person they cannot see? Or whose artificial limbs grant them enhanced strength? Or whose legs are augmented to allow them to jump to and fall from great heights? While these scenarios are extreme, they would seem to be a logical extension of the arguments put forth against human enhancement.

In a sense, then, the disagreement over human enhancement is about competing visions of morality, and whether or not morality is grounded in human nature. It is to ask the following question: by transcending human nature – that is, by altering human beings to the point that they become different kinds of beings - do we also transcend morality? Opponents of transhumanism might say yes, noting that morality is ultimately grounded in a particular conception of human nature.\(^8\) This is an ancient principle in political thought. Indeed, Aristotle argued that human notions of right and wrong are ultimately based on human nature.\(^9\) Human traits, behaviors, and desires shape that which comes to be defined as good or moral.

Consider, for example, the value of human freedom inherent in Western conceptions of morality. Things that seek to enhance human freedom and autonomy are generally deemed to be good or moral. Freedom is not simply some abstract principle according to which our acts should be directed, but rather, is founded on an understanding of human nature that supports the view of the individual as an inherently important end, rather than a mere means.\(^10\) So too is the case with equality, another concept that is highly valued in traditional conceptions of morality. Like freedom, equality is based on assumptions about human nature, most notably that human beings share the same characteristics and abilities.

What happens, then, when we change human nature? What happens, for example, if biotechnology and human augmentation make it so that human beings are no longer equal in the way we currently understand them to be? These questions would seem be at the heart of the concerns raised by opponents of biotechnology. In an attempt to maintain mortality, opponents draw a line around a specific concept of the human – essentially, the human body and mind as

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\(^8\) Fukuyama, *Our Posthuman Future*, 103

\(^9\) Ibid, 10

\(^10\) Lauren K. Hall, “Biotechnology and the Problem of Liberal Democratic Governance,” *Perspectives on Political Science* 28 (2009), 170
we know it today - unaltered - and make that concept sacrosanct.\textsuperscript{11} In liberal democracies, where values such as freedom and happiness are considered to be the highest pursuits of the individual, this establishes a moralizing aspect of human nature. That is to say, in order to be moral, we must be a specific kind of person. While scholars like Fukuyama admit that we cannot prove that future augmented people will be immoral, the general sentiment seems to be that this is something we should be prepared for.\textsuperscript{12}

In this sense, transhumanists who assert that devices for human enhancement will ensure greater autonomy for human beings are met with opposition from those like Fukuyama who argue that the kind of autonomy presupposed here would seem detrimental to other human goals like the pursuit of happiness. The transhuman response to such critiques goes something like this: from the perspective of the liberal state, the freedom of science is entitled to legal guarantees because any enhancement of these technologies is connected to the prospect of enlarging the scope of individual choice. Therefore, since enlarging the scope of individual choice brings about greater freedom, science has formed an “alliance” with liberalism, holding that all citizens are entitled to equal opportunities for autonomy.\textsuperscript{13}

Furthermore, transhumanists argue that moral principles are not based in human nature. In fact, they maintain that the association of moral principles with human nature is not a natural association, but rather a normative assertion. When science creates technologies that allow us to manipulate parts of the human body, there would seem to be an almost immediate reaction that those parts of the body should not be subject to human manipulation and control.\textsuperscript{14} For example, it would seem that almost as soon as it became possible to manipulate human genes through genetic engineering, genes acquired a status as something that should not be meddled with. In a way, there is a sense of nostalgia here, albeit a false one, referring back to a time when DNA research did not dare interfere with human nature via gene splicing, or chimera-making.\textsuperscript{15} Why does this nostalgia occur? Well, you could say that, until biotechnology came along, the human body was the ultimate piece of technology. It is highly complex, and its inner workings often

\textsuperscript{11} Fukuyama, “Transhumanism.”
\textsuperscript{12} Fukuyama, Our Posthuman Future, 7
\textsuperscript{14} Habermas, The Future of Human Nature, 24
\textsuperscript{15} Mixing human DNA with that of other animals to foster certain characteristics
seem almost magical and impenetrable to us.\textsuperscript{16} Science has a way of instrumentalizing the human body, making it a tool to be used rather than something sacred. This destroys that magical and awe-striking view of the human body. Indeed, we can see how this comes to be true in modern science. Max Weber noticed how science intellectualizes and rationalizes aspects of nature that are often taken for granted.\textsuperscript{17} Whereas human beings might be perfectly content to simply rely on things like our bodies without really knowing how they work, intellectualization and rationalization brings a growing understanding of the conditions under which we live. In principle, then, we do not live in a world of wonderful, mysterious, and unpredictable forces. Rather, we are disenchanted by the fact that we can control everything by means of calculation. As such, it seems plausible that the moralization of human nature is not something “natural” in itself, but is merely a reaction stemming from our disenchantment – a way of holding on to a view of the human body that science has taken away.

In order to tie these competing views together, let us revisit the question of regulating human enhancement. At the beginning of this paper I posed two questions: what is it about biotechnology that is dangerous? What is it about human enhancement through prosthetics that necessitates regulation? Neither proponents nor opponents of transhumanism seem to disagree that humankind’s highest pursuits are those of happiness, health, etc. However, one human desire, liberty, seems to be in dispute. Transhumanists, with their assertion that science should be free to research ways to increase happiness and health, seem to argue that liberty is a means to an end. The opposite is true of scholars like Fukuyama, who by problematizing transhumanism’s effects on things like equality, which is a pre-requisite for political liberty in many liberal democracies, seem to imply that liberty is an end in and of itself. So, when we say that human enhancement is something that must be regulated, I would argue that that is to say; (a) human nature is sacrosanct, something that should not be altered because; (b) by altering human nature, human enhancement raises the possibility that the values of transhuman people will change, causing a fundamental change in morality.

Thus, in conclusion, human augmentation, and perhaps biotechnology more generally, provoke very meaningful questions about what it means to be human and what kind of human

\textsuperscript{17} Max Weber, \textit{The Vocation Lectures: Science as a Vocation, Politics as a Vocation} (Indianapolis: Hackett Publishing, 2004), 12-13
beings will result from these advances. There are those, namely transhumanists, who believe that biotechnology provides only benefits for humanity, and who do not believe that a dystopian future awaits us if biotechnology is allowed to advance. On the other hand, for those who make a strong connection between morality and human nature, and who believe that altering human physiology will change human morality, advances in biotechnology raise questions about how far that technology should be allowed to progress. This is a theme that has been explored time and again in popular culture, with movies, novels, and even video games creating scenarios in which augmentation creates people who operate above the law. Moreover, these individuals are portrayed as having no regard for the law at all; augmentation appears to have stripped them of their morality. Arguably, this is what causes us to be somewhat skeptical of the idea of artificial organs; biotechnology provokes a sense of fear about what kind of human beings we will become if we start replacing parts of our bodies with prosthetics.
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Explaining the paradox
Canada's agricultural trade position in the Uruguay and Doha rounds

Jasmine Bélanger-Gulick

Introduction

Agriculture has been a heated issue of debate in the Uruguay and Doha rounds of negotiations at the World Trade Organization. States are polarized on the subject of agricultural trade liberalization. On one end of the spectrum, Australia argues for near-complete liberalization. On the other end, the United States and the European Union want to continue to protect their agricultural sectors. Developing countries are asking for special and differentiated treatment. Somewhere in the middle, Canada holds a nuanced but contradictory position. In both rounds, Canada advocated, and still advocates for, deep liberalization of agricultural trade, while at the same time strongly defending its supply management sector. It therefore advocates for both liberalization and protectionism; both for reform and for the status quo. The Canadian government has been criticized by several countries on the international scene, but its position has remained the same in both rounds. What factors explain the inconsistent position Canada has held in the Uruguay and Doha rounds of negotiations? Several variables explain Canada’s position. First, Central Canada’s dominance over Canadian politics partly explains why supply management continued to be defended despite the government’s preference for liberalization. Second, Quebec exceptionalism and separatism also provide an explanation to why Canada continues to support supply management. Third, important inter-sectoral and inter-provincial divisions cross-cut Canada’s agricultural sector, and the federal government’s position can be explained by a desire for reconciliation and national unity.

Background

The World Trade Organization (WTO) determines and implements rules for international trade, including agricultural trade. These rules are agreed upon by consensus through negotiation rounds between its member countries. Before the 1980s, agriculture was considered an
exceptional sector that could be exempted from international trade rules. It was included in international negotiations for the first time through the Uruguay Round (1986-1992) and then again in the Doha Round. The latter was initiated in 2001 and has not ended yet, despite the fact that it had been scheduled to end in 2005. It includes 21 negotiation themes, one of them being agriculture. When Doha Round started, Canada was the third largest agricultural product exporter in the world. It has been an active member in both negotiations, but has held a paradoxical position since the beginning of Uruguay Round. Indeed, Canada has been advocating for a deep liberalization of agricultural trade while at the same time demanding that decisions relating to production and marketing remain domestic. The latter point would allow Canada to keep its current supply management system in place, which the federal government openly acknowledges.

The agricultural trade negotiations of both rounds are articulated along three areas of regulation: domestic support, export subsidies and market access. When the Uruguay Round was launched, member countries made commitments to increase liberalization. However countries have very diverse and nuanced positions along these lines, based on different interests. Canada’s position can be articulated as: an elimination of export subsidies, a drastic lowering of domestic support, a substantial increase in market access and the decisions for production and marketing to remain domestic.

Supply management is a pan-Canadian system that was implemented in the 1970s, motivated by low prices as a result of chronic overproduction. It applies to five sectors: dairy, chicken, turkey, incubation eggs and consumption eggs. It is based on three pillars: the control of production through quota allocation; import limitations through high tariffs; and product prices calculated based on production costs. In summary, supply management aims to equalize supply and demand in order for prices to remain stable and relatively high. Because prices are not set by market forces directly, it allows for stable and high revenues for farmers. However, for this system to function, import restrictions are required. Supply management is therefore protectionist.

2 Ibid.
3 Ibid.
Canada’s position is even more surprising considering it has been part of a coalition of agro-exporters formed for the purpose of WTO agricultural trade negotiations, the Cairns Group, since the start of the Uruguay Round. Australia initiated the coalition and convinced Canada to join. The Cairns Group has been advocating for a deep liberalization of agricultural trade, but Canada’s individual position has bifurcated from the coalition’s. It advocates for liberalization, but wishes to keep supply management in place for the five sectors mentioned above. Why?

Since the end of World War II, agriculture has been treated as an exception in international trade negotiations in order to shield it from international competition and increase its productivity. Western countries have supported their domestic agricultural sector through subsidies and import tariffs. It is widely acknowledged that a state-assistance paradigm defined agricultural policy in OECD countries since 1945 and that it still prevails in most countries, including in Canada. Skogstad demonstrated that Canadian agricultural policy is still framed by this paradigm. Despite the forces of internationalization, it has not morphed into a paradigm that is marked-based. Still, Skogstad explains that numerous programmatic changes have occurred and Canadian agriculture is more market-oriented than before. Indeed, the federal government’s ideological stance on political economy has shifted towards liberalization and free trade since the beginning of the 1980s. The change has been observed in policy at large and in agricultural policy in particular. The shift was clearly expressed in the Canadian government’s agricultural policy document of 1989, Growing Together. It stated that Canadian agricultural policy now had the goal of making agriculture more efficient, less dependent on the state, and more market-oriented. Wilson reports that Brian Mulroney’s Conservative government developed close and even preferential relationships with Western farmers’ organizations that advocated for free trade:

Mayer [Grains and Oilseeds Minister under Mulroney] and the government rewarded these like-minded farmers representatives by using them as advisors, consulting them often, appointing them to positions of influence and referring to them often as the legitimate representatives of the majority of farmers who supported Conservative policies.

7 Grace Skogstad, Internationalization and Canadian Agriculture (Toronto: University of Toronto Press, 2008).
8 Barry Wilson, Farming the System (Saskatoon: Western Producer Prairie Books, 1990), 239.
9 Ibid., 239, 269.
10 Ibid., 134.
But despite this preference for neo-liberal policies, the federal government has vigorously defended supply management over the last thirty years.

Central Canada dominance

The first explanation for Canada’s contradictory position is the dominance that central Canada exercises over federal politics. Supply management appears to be predominantly an interest of Quebec and Ontario, and these two provinces’ interests often capture special attention of federal policies. Supply management farms are highly concentrated in Quebec and Ontario. Those two provinces contain 74% of supply management farms. Additionally, supply management represents a large proportion of each province’s agricultural sector; this is more so the case for Quebec though. Over 30% of Quebec farms function under supply management, and they generate 42% of provincial agricultural revenue, whereas 11% of Ontario’s farms produce under supply management and generate 29% of provincial agricultural revenue. Farmers from these provinces have a clear stake in the protection of supply management.

Quebec and Ontario have been said to have an upper hand in federal politics. It has been demonstrated that their interests prevail to the detriment of the interests of Western and Atlantic Provinces. This has fuelled considerable discontent among “peripheral” provinces, particularly in the West. One of the most cited examples to illustrate this trend is the National Energy Program introduced by Prime Minister Trudeau in 1981. The ascendancy of Central Canada is explained by its electoral, demographic, economic, and historical importance. Together, the two provinces elect 181 of the 308 House of Commons seats (59%). The population of both provinces is 62% of Canada’s and their combined share of the national GDP is 57%. Furthermore, the two provinces are part of the four founding provinces of Canada.

12 “Farms, by farm type and province,” Statistics Canada.
13 “La gestion de l’offre,” Coalition GO5.
14 “Farms, by farm type and province,” Statistics Canada.
It has indeed been suggested by several authors that supply management has continued to be defended domestically and internationally because it is concentrated in central Canada. Cooper underlined that during the Uruguay Round, Conservative MPs from Ontario and Quebec and Prime Minister Mulroney were very concerned about the potential impact of the WTO agreement on the livelihoods of supply management farmers in these two provinces. Skogstad also claims that “federal parties and parliamentarians of all stripes have been cognizant of the political power of supply management in central Canada: in part a result of swing rural votes in large provinces such as Ontario and Quebec, but also in large part a function of the organizational strength and coherence of the supply management lobby.” The latter part of Skogstad’s explanation points to another important element embedded in the dominance of central Canada for supply management.

Farmers’ organizations from these two provinces have been particularly influential. Supply management farmers’ organizations in Quebec and Ontario have developed corporatist relationships with their respective provincial governments. Because of the legislative and administrative structure of supply management which include government officials and farmers’ groups, close relationships have emerged between the groups and the provincial government. Corporatism usually entails a tripartite relationship. In the case of agriculture, the three participants are the government, the producers, and processors. In the supply management sector, these three actors cooperate and have convergent interests. Corporatist relationships appear to be unique to supply management in Ontario and Quebec. Farmers’ organizations in other provinces and non-supply management groups in central Canada, in contrast, have pressure pluralist relations with government. They do influence governments, but they are not viewed as partners by them. In Ontario and Quebec, farmers’ organizations are viewed as collaborators by government and processors. Both producers and processors are consulted by the government when it elaborates new agricultural policies or modifies existing ones. Because Ontario and Quebec governments have particular and close relationships with supply management farmers’

18 Cooper, In Between Countries, 185.
19 Skogstad, Internationalization and Canadian Agriculture, 143.
22 Skogstad, Internationalization and Canadian Agriculture, 143.
organizations, with whom processors have shared interests, these two provincial governments have become strong advocates of supply management.\textsuperscript{24}

\textbf{Quebec exceptionalism and separatism}

The close relationship between governments and farmers’ organizations is particularly strong in Quebec. Furthermore, Quebec separatism was at its peak in the 1980s and early 1990s and is another explanation of Canada’s position.

The Western prairies’ economies are more dependent on agriculture than Quebec, but there is something unique about the agricultural sector in the French province. First, the Quebec government is even more committed to the state-assistance paradigm than in other provinces. There appears to be an ideological cleavage between Quebec and the rest of Canada in relation to agriculture.\textsuperscript{25} In the 1970s and 1980s, the provincial government invested into agriculture more than any other province, in order to encourage the growth and competitiveness of the sector.\textsuperscript{26} Consequently, Quebec’s agriculture flourished during the 1980s.\textsuperscript{27} Wilson uses the income-stabilization programs as an example of the commitment of the Quebec government to the province’s agricultural sector: “It was a policy motivated by both politics and economics, but at its base was an ideological commitment to rural Quebec and a view of agriculture as a potential economic engine for the province.”\textsuperscript{28} Additionally, “with its expenditure and regulatory latitude over agricultural policy diminished by international agreements and deficit-driven fiscal restraint, the Government of Canada’s capacity to demonstrate the continuing benefits of federalism to Quebec agriculture is further handicapped.”\textsuperscript{29} Indeed, there has been a progressive disengagement by the federal government from Quebec’s agricultural sector and federalism was perceived by Quebec farmers as being detrimental to their interests.\textsuperscript{30} Quebec’s provincial farmers’ organization, l’Union des producteurs agricoles (UPA), endorsed separation in 1995

\textsuperscript{25} \textit{Ibid.}, 497.
\textsuperscript{27} Wilson, \textit{Farming the System}, 194.
\textsuperscript{28} \textit{Ibid.}
\textsuperscript{30} Skogstad, “Canadian Federalism, Internationalization and Quebec Agriculture.”
and after the referendum’s failure, asked for agriculture to become an exclusively provincial power.\textsuperscript{31}

Furthermore, UPA has a peculiar status. In 1972, the Quebec legislature granted the organization a monopoly on representation of the province’s farmers. UPA is the only farmers’ organization in Canada that has a legislatively guaranteed monopoly. It also has the right to raise compulsory fees from all farmers in the province. Skogstad argues that general organizations’ influence has decreased and that, in parallel, sectoral organizations have become the most influential producers’ groups. UPA is the only exception to this trend.\textsuperscript{32} It has a lot of resources (such as budget, employees, expertise, research units, etc.) and influence on governmental decisions; it has strong links with the provincial agriculture ministry.\textsuperscript{33}

UPA has always been a strong advocate of supply management. Its links are much stronger with Quebec’s government than with the federal government. And, as explained before, because the Quebec government has such a close relationship with UPA, it has become an important ally to supply management as well. Furthermore, supply management is more important to that province’s agriculture than to that of any other province. The dairy sector is particularly significant. 50% of Canadian dairy farms are in Quebec (Dairy Farmers of Canada 2012; Fédération des Producteurs de Lait du Québec 2012) and roughly 30% of Quebec farms are dairy.\textsuperscript{34} Skogstad says that if Quebec seceded, supply management in Canada would lose its most important voice.\textsuperscript{35} Her argument implies that UPA and the Quebec dairy sector are very powerful and have had preponderant influence on the maintenance of supply management in the rest of the country.

In addition to Quebec nationalism and exceptionalism associated with agriculture and the influence of UPA, it is also possible that supply management has been maintained by the federal government because of Quebec separatism. Quebec farmers do not seem to be more separatist than Quebec citizens in general. It seems that the proportion of separatists among farmers was about the same as those who support separation in the general population: approximately half.\textsuperscript{36}

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\textsuperscript{31} \textit{Ibid.}, 28.  \\
\textsuperscript{33} Skogstad, “Canadian Federalism, Internationalization and Quebec Agriculture,” 28.  \\
\textsuperscript{34} “Qui sommes nous?”, Union des Producteurs Agricoles, accessed November 15, 2012, http://www.upa.qc.ca/fr/Qui_sommes_nous/Qui_sommes_nous.html.  \\
\textsuperscript{35} Skogstad, “Canadian Federalism, Internationalization and Quebec Agriculture.”  \\
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Other things being equal, it would be plausible to think that if the federal government had announced a position in the Uruguay or the Doha Round threatening supply management, it could have resulted into an increase of support for separatism among farmers. Roy McLaren was Minister of International Trade under Jean Chrétien from 1993 to 1996, and was directly involved in the Uruguay Round negotiations. In his memoirs, he reports that Chrétien told him he did not agree with Canada defending supply management. Chrétien reportedly told McLaren that they had to defend supply management because of Quebec, because Quebec farmers are “all separatists.”37 This last example illustrates for one the importance of perception when analyzing Quebec separatism and its interpretation by federal politicians.

In summary, Quebec’s uniqueness and separatist movement appear to provide an explanation of the federal government’s contradictory position in the Uruguay and Doha Rounds. It is plausible as Quebec separatism and nationalism, or rather “territorial integration,” has been a motivation for several federal policies, such as public health insurance and income redistribution policies.38 It is difficult, and beyond the scope of this paper, to untangle the influence of Central Canada dominance and Quebec exceptionalism and separatism. As both explanations point in the same direction and involve similar dynamics, we cannot know which one has been more important in explaining Canada’s position. Still, it is reasonable to think that given the evidence, both have had some influence.

**Divisions and reconciliation politics**

The position the Government of Canada has held in both rounds of negotiation can also be explained by an underlying feature of Canadian politics: divisions and reconciliation. Canada is a very diverse state: culturally, linguistically, geographically and economically. Additionally, it is a federation. Because of federalism and the diversity of the country, Canadian politics distinctively feature compromise and accommodation. Furthermore, regionalism is a constant obstacle to national unity, but federal governments have continued to try to bridge regional and provincial interests.

Multiple schisms occur in the Canadian agricultural sector and the federal government’s position in the WTO negotiations is an expression of compromise between diverging interests.\(^{39}\) In fact, it does not involve much compromise; rather the Canadian position attempts to represent the interests of all farmers and tries to avoid exacerbating tensions. Major rifts occur along two axes: between agricultural sectors and between provinces. These rifts are exacerbated by regionalism and federalism.

Canada’s agricultural sector can roughly be divided into two preponderant sub-sectors with very different interests and ideologies.\(^{40}\) On the one hand we have the supply management sector which covers dairy, poultry and eggs. Their market is domestic and they are dependent on protectionist measures for the system to function. They argue for the status quo and support government intervention in the agricultural sector. On the other hand we have the sector that is dependent on export. It comprises grains, oilseeds, beef and pork. Their success depends on exportation, as only part of their production is sold on the Canadian market. They therefore have strong interests in accessing new foreign markets. They are advocates of free trade and liberalization, and have clear stakes in the WTO negotiations. They support liberalizing agricultural trade, instituting trade rules, and establishing a level playing field in international agricultural trade. They usually ask for the dismantling of supply management. They fear that Canada, by defending supply management, threatens market access gains.\(^{41}\) Indeed, Canada’s reputation and influence in agricultural trade negotiations has been weakened because of its dualist position, even sometimes viewed as hypocritical.\(^{42}\) Its position in the Uruguay and Doha Rounds has been to represent the interests of both sectors even though it entails a clear contradiction.

Canada has put forward a selective position.\(^{43}\) It pushed strongly for liberalization and market access in the sectors for which it is export dependent, while at the same time arguing against reform in the sectors in which it is domestically oriented. Before the Uruguay Round, supply management remained ‘legal’ and acceptable because of Article XI. This WTO rule allowed protectionist measures in sectors where production was controlled and limited to the domestic market. The logic was that it would not distort international trade and prices. Canada hoped to

\(^{39}\) Cooper, *In Between Countries*, 176.

\(^{40}\) Skogstad, “The State, Organized Interests and Canadian Agricultural Trade Policy,” 331.


\(^{42}\) Cooper, *In Between Countries*.

\(^{43}\) Ibid.
strengthen Article XI through the Uruguay Round, but failed. After the round, import quotas had
to be translated into import tariffs and these tariffs gradually decreased.\textsuperscript{44} Still, Canada has been
able to maintain very high import tariffs for supply-managed products because the WTO allows
for a percentage of “sensitive” agricultural products to be protected this way.

Furthermore, each production sector has strong organizations to represent the interests of its
farmers. There is a complex set of farmers’ organizations in Canada. There are general national
(Canadian Federation of Agriculture and National Farmers’ Union) and provincial organizations
(Ontario Federation of Agriculture, Union des Producteurs Agricoles, Agricultural Producers
Association of Saskatchewan, etc.). They represent all or a vast majority of the farmers in their
province or in the country. There are also sectoral national (Dairy Farmers of Canada, Canadian
Cattlemen’s Association, etc.) and provincial organizations (Egg Farmers of Ontario, Manitoba
Grain Growers Association, etc.). Each sector has distinctive interests and has an array of
organizations to influence government at the provincial and federal levels. Analyses show that
farmers’ organizations exercise considerable influence.\textsuperscript{45} In the context of the multilateral trade
negotiations, strong coalitions have also been formed. The supply management sector formed a
coalition in Quebec, Ontario, British-Columbia and on the national level. They were all formed
in the early 2000s, when the Doha Round started. The export-oriented sector formed the
Canadian Agri-Food Trade Alliance (CAFTA) in 2001.

The Canadian Federation of Agriculture (CFA) is the dominant general national farmers’
organization, and its position mirrors that of the federal government. The CFA’s trade policy is
to “achieve the maximum possible access for agricultural exports, but also respect the domestic
interests of Canadian farmers [...] and to] ensure a continuing commitment to not to allow one
commodity to be traded off to enhance the interest of another commodity.”\textsuperscript{46} The weakness of
the CFA is often underlined:

By the late 1980s, the CFA rarely was able to play its traditional role as a forum
within which regional or inter-commodity tensions could be debated and resolved
before farmers went to government with a single stance [...] Meanwhile, single-

\textsuperscript{44} Benjamin Lefebvre, “La gestion de l’offre de produits agricoles au Québec et les négociations commerciales
15, no. 1, 14-15.
\textsuperscript{45} See Skogstad, The Politics of Agricultural Policy-Making in Canada; Internationalization and Canadian
Agriculture; “The Uphill Struggle to Prevail”; Andrew Schmitz et al., Agricultural Policy, Agribusiness, and Rent-
Seeking Behaviour (Toronto: University of Toronto Press, 2010).
\textsuperscript{46} “Trade Policy Statement: Basic Trade Policy Goals,” Canadian Federation of Agriculture, accessed November 15,
commodity lobby groups were supplanting CFA’s role as the most valued farm sector advisor to the government.  

It seems that the federal government has taken the same attitude as the CFA and retracted itself from a debate, preferring to represent all interests despite the apparent contradiction.

The inter-sectoral divisions are further deepened and made apparent by federalism and regionalism. Indeed, agriculture is a joint jurisdiction, and provinces have been involved both in agricultural policy and trade policy related to agriculture. The concentration of agricultural sectors in specific regions has also heightened divisions.

Inter-provincial tensions are observed in addition to inter-sectoral tensions and divergences, because agriculture sectors are regionally concentrated. As mentioned above, supply management farms are highly concentrated in central Canadian provinces. Export-dependent sector farms, on the other hand, are concentrated in the Prairie provinces. Skogstad points out that the concentration of an economic activity in a region raises the chances of the interests of this sector influencing the provincial government. Canadian agriculture has been the scene of West-Centre antagonism for several decades. For example, Western producers are predominantly feed growers whereas Central producers are feed users. Put simply, feed growers want to sell their feed for a good price; users want cheap feed. The 1980 debate regarding the Crownest Pass freight rates, on the other hand, showcases the complex interplay between inter-provincial and inter-sectoral interests. Grain producers enjoyed subsidized railway transportation fees since 1897, which made grain export through the West coast relatively inexpensive. In 1980, the government announced its intent to abolish the preferential rates. The Western Wheat Pools and the Saskatchewan and Manitoba governments strongly opposed the decision, while Western cattle and hog producers and the Alberta government favoured it, claiming that artificially low transportation fees encouraged export and was detrimental to the development of their own sectors. Other organizations in Canada sided with one group or another, sometimes by province, sometimes by sector. For instance, cattlemen’s associations were against rules that facilitated export, while Quebec farmers sided with the Wheat Pools. A contradiction can be seen in this example, as today cattlemen ask for more market access and Quebec farmers generally defend supply management. Still, the example demonstrates that sectors are self-interested and, more

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47 Wilson, *Farming the System*, 142.
49 Wilson, *Farming the System*, 144-145.
often than not, have contradictory interests and positions which translate into deep divisions on
the national scene. Because sectoral activities are regionally concentrated, provincial
governments have become the voice of the predominant sector in their province. For example,
Saskatchewan’s premier Grant Devine criticized the federal government’s dualist position in the
1980s, claiming it prevented Western growers from gaining substantial market access through
the negotiations. On the other hand, supply management has officially been supported by all
provincial governments and it is not clear how provincial governments reconcile both interests
when they intervene on the federal scene.

Although sectoral activities are regionally concentrated, all types of agricultural activity are
present in every province. The Prairies also have supply management farmers and Quebec and
Ontario also have hog, beef and grain producers. But inter-provincial tension exists within each
sector as well. For example, the supply management system entails important provincial
marketing boards which independently determine prices and allocate quotas (although quota
allocation depends on federal agreements). Each provincial marketing board wants to benefit its
own province. Each wants to maximize its provincial producers interests. The hog sector
presents another example of the complex relationships between provinces and sectors. The
Quebec government highly subsidized the sector through income support programs, to the
objections of Western provinces who accused Quebec government of undermining their
comparative advantage. As Skogstad summarizes, there are “eleven governments responding to
different pressures and interests.”

Agricultural policy is a shared jurisdiction between the federal and provincial governments,
according to the constitution. Trade policy, on the other hand, is exclusively under federal
jurisdiction. Still, in the domain of agricultural trade policy, provinces have gained a voice.
During the negotiation process of the Canada-United States Free Trade Agreement, the Canadian
federal government realized an agreement affecting agriculture would need the cooperation of
provinces to be fully implemented, and so it sought the input of provincial governments. It
implemented a complex structure to seek their advice and positions. Since then, provincial say in
agricultural trade policy has become institutionalized and the same process has been observed

50 Skogstad, “Canadian Federalism, Internationalization and Quebec Agriculture,” 34.
51 Skogstad, Internationalization and Canadian Agriculture, 171.
53 Ibid., 88.
54 Skogstad, “Canadian Agricultural Programs and Paradigms,” 228.
during the Uruguay and the Doha Rounds. Skogstad further specifies that the input of provincial
governments “gave agricultural sector interests institutionalized linkages to state officials
influence over the FTA outcome.”

It is because provinces now have input to the elaboration of
agricultural trade policy that inter-provincial cleavages have become so important to explaining
the federal government’s position; it is because of the complex interplay of provincial and
sectoral interests.

Deep and persistent antagonistic positions divide sectors and provinces in the Canadian
agricultural sectors. Canada’s position in WTO negotiations is the expression of choice
avoidance. A coherent position would imply giving more weight to one side than to the other.
Instead of making compromises and risking the alienation of certain sectors or certain provinces,
the federal government represents the interests of everybody. Cooper states that reconciliation
politics are at the heart of the federal government’s position:

To comprehend the dichotomous nature of Canada’s position, the salience of
accommodation in Canadian politics must be taken into account. [...] Canadian state
officials, fearing the risk of division between different societal interests, did not
present the public with clear choices. On the contrary, Canadian politics favoured the
art of compromise, whereby abundant efforts were made to satisfy as many interests
as possible. [...] Given the potential for regional divisions to inflame political
emotions, everything possible was done to defuse tensions along these lines.

It is probable that national unity and an encompassing position were seen as important in the
context of the more general regional rifts and divisions among the country during the 1980s and
1990s. These are indeed years when alienation of the western provinces gained momentum on
the national scene. They are also the decades of the rise of Quebec separatism, with referendums
on sovereignty in 1980 and 1995. The beginning of both negotiation rounds occurred only a few
years after each referendum. Furthermore, the 1993 elections showcased national divisions: the
Bloc Québécois and the Reform Party became the two leading opposition parties. It is possible
that the federal government did not want to exacerbate the Canadian disunion as agricultural
interests are clearly regional interests.

Finally, it must be acknowledged that defence of supply management by the federal
government domestically and internationally can also be attributed in part to other minor factors.
Indeed, Hall argues that for a paradigm to change, failure of the previous paradigm has to be

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55 Skogstad, “Canadian Agricultural Programs and Paradigms,” 504.
56 Cooper, In Between Countries, 176.
Supply management is often seen as a success in terms of supply and revenue stability. Plus, it does not necessitate state subsidies. The defense of supply management could therefore be justified by its success. Additionally, processors are becoming more and more concentrated, and supply management allows thousands of individual producers from these sectors to have a strong negotiation position with them. Furthermore, “because of its importance for employment, regional development and trade, governments have considered the maintenance of a viable agricultural sector an important policy goal with or without farm lobby prodding.” The dismantlement of supply management could have detrimental effect on the viability of the sectors currently under supply management. Canada may continue to defend supply management in part to assure the persistence of lively rural communities and the survival of these farms.

**Conclusion**

In conclusion, several factors explain the paradoxical position Canada has held in the agricultural negotiations of the Uruguay and Doha rounds. Since the 1980s, the federal government has shifted towards a general preference for free trade and liberalization, including in agricultural policy. Despite this, it has continued to defend supply management in multilateral negotiations. Three preponderant factors explain this. First, Central Canada dominates Canadian politics. Second, Quebec has the strongest farmers’ union, with which the provincial government has a close relationship, and both are vocal advocates of supply management. Defence of supply management might also be seen as a concession to Quebec to curb separatism. Lastly, important divisions are omnipresent in the Canadian agricultural sector. The federal position is therefore also an expression of accommodation. Canada privileges unity over coherence. It avoids making a choice and represents all interests in its position. Even though the Doha Round is at an impasse at the moment and talks are indefinitely suspended, Canada is signalling that its position could change. The federal government dismantled the Canadian Wheat Board in 2012. The members of

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58 Skogstad, “Canadian Agricultural Programs and Paradigms”.
59 Ibid.
61 Wilson, *Farming the System*, 139.
the Trans-Pacific-Partnership and the European Union, with whom Canada is currently negotiating trade agreements, are strongly opposed to Canadian supply management. The Harper government has been subtly suggesting that supply management could be put on the negotiation table, stating that Canada would otherwise be prevented from accessing markets of several million consumers.
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