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Journal of Global Analysis

Constraints on Aid Conditionality:

The case of the European Commission and the Palestinian Authority

By Dr. Guy Burton*

Donors tend to be perceived as more powerful actors than the recipients in relation to foreign aid. However, this article presents a contrary example through the donor-recipient relationship between the European Commission (EC) and the Palestinian Authority (PA) during 2006-07. Drawing on previous scholarship and the EC-PA case, the article notes the roles played by recipients, third parties and donors in limiting conditionality. In addition to these actor-oriented explanations, the article draws attention to the constraining effect that structure (in the form of constant and changing local political contexts and actor preferences) can play to limit aid conditionality. The article concludes with an observation on the continuing relevance of conditionality in general and a recommendation for further research on the role of structure in limiting conditions in relation to aid.

Key Words: European Commission, Palestinian Authority, Hamas, Israel, foreign aid, conditionality.

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Constraints on Aid Conditionality: *The case of the European Commission and the Palestinian Authority*¹

The international community has come in for a great deal of criticism in relation to the Israeli-Palestinian conflict and especially within the Palestinian territories occupied by Israel since the 1967 war. The donors who dominate the international community are accused of shaping and dictating the development of Palestinian political, economic and social life. This claim is based on their ability to impose their agenda on a relatively weak and dependent Palestinian community through the use of their financial assistance.

The underlying assumption associated with this perspective is that power lies with the donor rather than the Palestinian recipients. Indeed, the Palestinian case is both pertinent and unique. It is especially pertinent because it is one where the general assumption is that donors are largely in control of the aid relationship while Palestinians are denied agency as a result. It is also unique because Palestinians are one of the largest recipients of donor aid per capita in the world. As a result, the implications of donor conditionality and their impact are therefore magnified in the Palestinian context, providing a useful insight for other cases of aid and aid conditionality. Moreover, it arguably leads to a relatively weak position for Palestinians, since their reliance on donor assistance should rob them of their agency.

Given these issues then, the criticism of the international community and the lack of Palestinian agency are evident in both direct and indirect ways. First, in terms of direct actions, foreign donors stand accused of dictating the terms on which aid is provided in the occupied Palestinian territory (OPT) of the West Bank and Gaza.² Both the US and European Union (EU) have come in for particular attention in this regard, through the requirements that they make of Palestinian beneficiaries not to make use of their financial resources in ways which may assist 'terror' organisations like the Islamist political party, Hamas. Second, donors are accused of setting the wider agenda for development through their selective support of the Palestinian leadership prepared to implement their preferred policies, in particular those related to structural readjustment, liberalisation programmes in the economic and social spheres and

1. The motivation for this article was prompted by the 'Geographies of Aid Intervention in Palestine' conference at Birzeit University in September 2010, organized by the Centre for Development Studies, Birzeit University and the Middle East and North Africa Research Group, Ghent University, with support from the Vlaamse Interuniversitaire Raad (University Development Cooperation—VLIR-UOS). I would like to thank Rachel Busbridge and the anonymous reviewers for reading earlier versions of this article.
2. Benoit Challand, *Palestinian Civil Society: Foreign Donors and the Power to Promote and Exclude*, London: Routledge 2009; Leila Farsakh, *Democracy Promotion in Palestine: Aid and the "De-Democratization" of the West Bank and Gaza*, Birzeit: Centre for Development Studies 2012; Linda Tabar, *Humanitarianism: Pacifying Anti-Colonial Agency – Towards Alternatives Reclaiming Solidarity*, Birzeit: Centre for Development Studies, 2012; Nithya Nagarajan, *Development under Colonialism?* Birzeit: Centre for Development Studies, 2012.

the expansion of security services and their reform.³ The result is that in both cases donors are seen to 'condition' their assistance.

But to what extent is this state of affairs accurate? Is it really the case that donors dominate Palestinian political life? This article challenges that assumption by studying the relationship between donor and recipient in the Palestinian context through the specific case of the European Commission (EC) and the Palestinian Authority (PA). Particular attention is given to the 2006-07 period when the EC failed to realise its objectives. Indeed, contrary to the assumptions made about donors in the OPT, the EC has not been as successful at imposing its objectives as is sometimes believed. While it has certainly sought to impose its agenda on the political, economic and social dimensions of Palestinian life, it has not completely succeeded in this regard. By analysing the role of aid conditionality, the article accounts for the ways in which the EC appears to have achieved its goals while also illustrating the ways in which it has not. Specifically, the article notes that the importance of structure has been largely overlooked in accounts of why conditionality may fail. The case of the EC and the PA therefore provides a useful account of how this can happen, where despite pursuing its own agenda, the EC found itself undermined in a number of indirect ways.

In examining the relationship between the EC and PA the article notes that in making these observations, the article applies the use of previous scholarship associated with aid and its conditionality. This is presented in the first three sections: the first outlining the nature of EC assistance to the OPT generally; the second presenting the ways that it has sought – and achieved – conditionality; and the third presenting the three main ways that it has not (through recipients, third parties and donors). Through this analysis the article helps challenge the commonly held view that donors are more powerful than Palestinian actors and therefore able to impose their agenda. At the same time, this account arguably overlooks other significant factors which have played their part in constraining donors such as the EC, specifically that of structure. Therefore a fourth section provides details of the structural issues which have prevented the EC from achieving its objectives in relation to the PA. The article subsequently concludes with a plea to recognise that the conventional view of donor strength-Palestinian weakness is too simplistic and emphasises the need for future scholarship on aid conditionality to address the agency-structure dimension in more detail. More specifically, it notes the importance of contingency (through structural constraints) beyond the more commonly identified agency-related ones as an important factor in the realisation (or not) of policy objectives.

The EU-PA relationship

The PA was formed following the signing of the Oslo accords between Israel and the Palestinians' representative body, the Palestinian Liberation Organisation (PLO), with the objective of realising a final agreement between the two sides and including a Palestinian state within five years. As a precursor to a state, a quasi-government for Palestinians residing in the OPT would be established; this became the PA. After its formation, the PA has been the primary recipient of much of the foreign assistance that has been allocated to the Palestinians, beyond that supplied to Palestinian civil society.

Donor assistance is especially important to the PA. Since the beginning of the Oslo process the PA's funding has come from three main sources: internal taxes; taxes and customs revenues on imported products (and administered by Israel); and foreign aid. By far the most



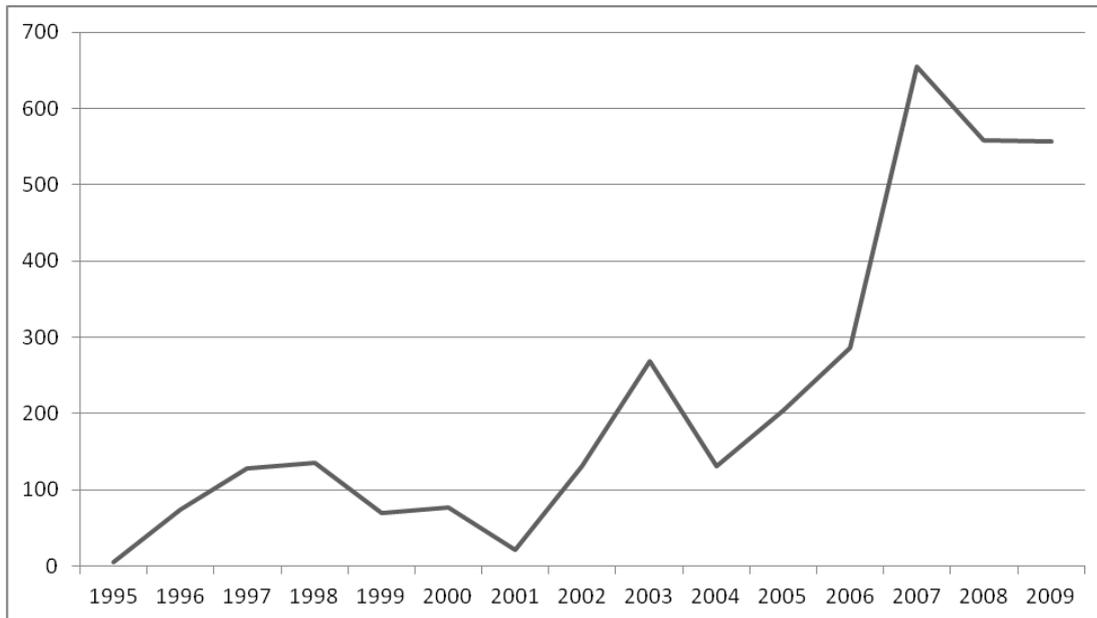
significant is foreign aid, followed by customs revenues/import duties (collected by Israel) and domestic taxes. In 2005 foreign aid totalled \$1.1 billion. Domestic taxes amounted to \$396 million and \$662 million came from clearance revenues administered by Israel. In 2010 the PA's expenses were \$3.29bn and its revenue amounted to \$3.59bn. Of this, taxes made up \$1.82bn of the total while grants were \$1.31bn – almost all of which came from foreign governments and international organisations.⁴

The EC is the executive body of the European Union (EU), an organization made up of 27 European member states. The EC is the EU's executive body, proposing legislation, implementing decisions, and ensuring that the organization's treaties are upheld and managing the day-to-day activities of the EU. Although composed from the different member states it effectively operates as a bilateral rather than a multilateral actor and is based in Brussels.

The EU's relationship with the Palestinians has been in place since 1971, when its predecessor, the European Economic Community, began financial support of the UN's refugee agency, UN Relief and Works Agency (UNRWA), in 1971. The formation of the PA through Oslo and the potential for some self-government in parts of Gaza and the West Bank provided scope for the EC and other actors to pursue a direct relationship with the Palestinian political leadership. In multilateral terms the EC was one of 26 donor countries and international organisations that pledged support to the Palestinian case in the mid-1990s. It has become increasingly relevant within the international donor community on account of it being one of the most important donors to the Palestinians since the signing of the Oslo accords. Indeed, between the start of the Oslo process and the end of the second intifada (between 1994 and 2005), it contributed \$1.17 billion in aid to the Palestinians, equal to 25% of all foreign aid over the period.⁵ Since then EC aid has further increased. As Figure 1 illustrates, there has been a surge in documented funds to the PA after 2006; this coincided with the political changes following the Fatah-Hamas conflict and donors' commitment to increase their level of aid to the PA at the Paris donors' conference in December 2007. By 2008-09, the EU and its institutions provided \$601m per year on average, making it second only to the US, which provided support worth \$667m.⁶

3. Mandy Turner, "The Power of 'Shock and Awe': The Palestinian Authority and the Road to Reform," *International Peacekeeping*, Vol. 16, No. 4, 2009, pp. 562-577; Mandy Turner, "Aid and the 'Partners For Peace' Paradigm in the Occupied Palestinian Territory," *Bulletin of the Council for British Research in the Levant*, Vol. 6, No. 1, 2011, pp. 35-42; Raja Khalidi and Sobhi Samour, "Neoliberalism as Liberation: The Statehood Program and the Remaking of the Palestinian National Movement," *Journal of Palestine Studies*, Vol. 40, No. 2, 2011, pp. 6-25.
4. Ministry of Finance, "General Government Operations 2010-Table 1," Ramallah: Palestinian National Authority, 2011, <http://www.pmf.ps/news/plugins/spaw/uploads/files/General%20Government%20Operations%202010%20-%20table%201.pdf> (Accessed 1 April 2012); Ministry of Finance, "General Government Operations 2010-Table 2," Ramallah: Palestinian National Authority, 2011, <http://www.pmf.ps/news/plugins/spaw/uploads/files/General%20Government%20Operations%202010-%20table%202.pdf> (Accessed 1 April 2012).
5. MIFTAH (Palestinian Initiative for the Promotion of Global Dialogue and Democracy), *Fact Sheet: The Palestinian Authority's Sources of Funding*, February, 2006, http://www.miftah.org/Doc/Factsheets/MIFTAH/English/PA_Sources_of_Funding2.pdf (Accessed 19 July 2010).
6. OECD (Organisation of Economic Cooperation and Development), "Aid at a Glance Chart," not dated, <http://www.oecd.org/dataoecd/23/38/1882818.gif> (Accessed 1 April 2012).

Figure 1: European Commission assistance to the Palestinian Authority, 1995-2009 (US\$m)⁷



EC conditionality over the PA

Like other donors, the EC sees its financial assistance to the PA as a means of sustaining the Oslo process and supporting Palestinian socio-economic development and institution-building.⁸ Furthermore, as the level of EC assistance to the PA has increased, it has arguably become more influential, by being able to shape and determine the way in which resources are allocated to condition funds towards administrative and judicial reform and greater financial accountability.⁹ This conforms to the generally held view that donors tend to be stronger than recipients in aid relationships. Indeed, it does appear to be the case that this asymmetry between donor and recipient is captured in much of the scholarship related to aid. This is particularly so within the scholarly literature where much attention accounts for why donors give aid. Donors may give aid for a variety of reasons, from the altruistic to the self-interested. These include: (1) to address emergency needs in a recipient country; (2) to achieve economic growth and poverty reduction; (3) to show solidarity; (4) to further a donor's own strategic and national political interests; (5) because of historical ties; (6) to strengthen global public goods and reduce the impact of negative global effects; and/or (7) to support human rights.¹⁰ To realise these outcomes (whether self-interested or not), donors may 'tie' aid by requiring recipients to deliver on these objectives. Specifically this can take

7. The data is in constant 2009 US dollars. AidData, "Donor-Recipient Database." November 2011, <http://www.aiddata.org/content/index/Research/research-datasets>, (Accessed 25 March 2012).
8. Anne Le More, "The international politics of aid in the occupied Palestinian territory," *Humanitarian Exchange Magazine*, Vol. 28(November), 2004, <http://www.odihpn.org/humanitarian-exchange-magazine/issue-28/the-international-politics-of-aid-in-the-occupied-palestinian-territory>, (Accessed 1 April 2012).
9. François D'Alancón, "The EC Looks to a New Middle East," *Journal of Palestine Studies*, Vol. 23, No. 2, 1994, pp. 41-51; CEC (Commission of the European Communities), *European Neighbourhood Policy. Country Report. Palestinian Authority of the West Bank and Gaza Strip*. SEC(2004) 565, Brussels, 12 May 2004, http://ec.europa.eu/world/enp/pdf/country/pa_enp_country_report_2004_en.pdf (Accessed 16 July 2010).
10. Roger Riddell, *Does Foreign Aid Really Work?* Oxford: Oxford University Press, 2008, pp. 91-92.



the form of donors linking their foreign assistance to specific projects where they are able to exercise more influence over the use of aid.¹¹

Tied aid – otherwise known as conditionality – has generated considerable criticism within the aid sector among scholars and practitioners alike. Even if done for the most selfless of intentions, it reveals the asymmetrical donor-recipient relationship. The imbalance between the two sides has prompted a reappraisal and a shift (at least among Western and Northern donors) towards ‘decoupled aid’ and a greater emphasis on recipient countries’ priorities rather than those of donors.¹² This rhetoric has been encapsulated at various donor meetings since Rome in 2003 and recommends ‘untying’ aid by stressing poverty reduction, principles of good practice and more partnership between donors and recipients.

In the case of the EC and the PA conditionality is evident. Political considerations have been at the heart of the international donor community’s concerns within the OPT generally, with donors using aid to support the Oslo process and contribute to the social and economic development of Palestinians and institution-building by the PA and Palestinian civil society.¹³ Despite this, scholarship has emphasised donor priorities over those of recipients, whether it be the PA or Palestinian society more generally. Specifically, these objections have stressed the dominance of donors over the PA through their focus on security reform, good governance and economic liberalisation on the one hand and the damage done to traditional Palestinian civic life and association as a consequence of donors’ financing of NGOs that promote individual engagement with the PA.¹⁴

The EC is no different in this regard. Although it has broadly supported the peace process and the establishment of a Palestinian state,¹⁵ it has prioritised – and thereby conditioned – its own concerns. This is apparent through its specific objectives in its relationship with the PA and the search for partners that will work to this end. In terms of goals, the EC has pressed for political and economic liberalisation, both themes which are present in its individual relationship with the PA and in its wider regional relationship with the Middle East and North Africa (MENA). The EC’s drive towards liberalization can be seen as a defensive mechanism resulting from the European Union’s expansion southwards (Spain, Greece and Portugal) and eastwards (Central and Eastern Europe) during the 1980s and 2000s. This expansion brought it closer to the challenges faced by various MENA governments, including insufficient economic growth and largely unrepresentative political systems which have failed to satisfy the region’s societies. This was reflected in increasing (and in many cases, illegal) migration from MENA to

11. Tito Cordella and Giovanni Ariccia, “Budget support versus aid support: a theoretical appraisal,” *Economic Journal*, Vol. 117, No. 523, 2007, pp. 1260-1280.

12. Roger Riddell, *Does Foreign Aid Really Work?* Oxford: Oxford University Press, 2008; Andrew Rogerson, “Aid harmonisation and alignment: bridging the gaps between reality and the Paris reform agenda,” *Development Policy Review*, Vol. 23, No. 5, 2005, pp. 531-553.

13. Anne Le More, “The international politics of aid in the occupied Palestinian territory,” *Humanitarian Exchange Magazine*, Vol. 28(November), 2004, <http://www.odihpn.org/humanitarian-exchange-magazine/issue-28/the-international-politics-of-aid-in-the-occupied-palestinian-territory>, (Accessed 1 April 2012).

14. Benoit Challand, *Palestinian Civil Society: Foreign Donors and the Power to Promote and Exclude*, London: Routledge 2009; Leila Farsakh, *Democracy Promotion in Palestine: Aid and the “De-Democratization” of the West Bank and Gaza*, Birzeit: Centre for Development Studies 2012; Raja Khalidi and Sobhi Samour, “Neoliberalism as Liberation: The Statehood Program and the Remaking of the Palestinian National Movement,” *Journal of Palestine Studies*, Vol. 40, No. 2, 2011, pp. 6-25.

15. EU (European Union), *EU/Palestinian Authority Action Plan*, Brussels: European Union, 2010, http://trade.ec.europa.eu/doclib/docs/2010/june/tradoc_146237.pdf (Accessed 1 April 2012).

Europe and – during the 1990s – rising support in the Maghreb for Iraq, especially in response to the sanctions imposed on it after the 1991 war. These issues prompted Brussels to take a pro-active approach to the region.¹⁶ Specifically, the aim was to stimulate domestic economic growth, reduce migration and promote political developments which prevented civil unrest and strife. These goals were institutionalized in the European Mediterranean Policy (1994-2004) and European Neighborhood Policy (since 2004) through which the EC based its bilateral relations with each MENA government. These relationships took the form of an individual Action Plan between the EC and each government. Among the common themes they shared were statements in support of greater economic liberalisation of the domestic economy, increased trade and the realisation of internal stability and order (e.g. through reforms in the judiciary, home affairs and social policy sectors).

In the case of the EC's relationship with the PA, its southward policy coincided with the ending of the second intifada. The Palestinian leadership was in a much weaker position than it had been at the highpoint of the Oslo process in the late 1990s. This meant that the EC was in a stronger position to push its agenda, which was reflected in the various themes set out in its Action Plan with the PA in May 2005. It proposed greater integration through more political cooperation, more trade and deeper economic relations (including a reduction in trade barriers and more economic legislative convergence), more targeted financial support and more PA participation in EC activities (i.e. cultural, educational, environmental, technical and scientific).

EC conditionality was further reflected in the demand that the PA commit to the implementation of the 2002 Quartet Road Map (of which the EU was a Quartet member, along with the US, Russia and the UN) in order to receive additional targeted assistance.¹⁷ The PA acquiesced to these demands, as reflected by its acceptance of the Action Plan. However, it would be wrong to assume that the PA was an unwilling partner: the EC's agenda was shared by the Fatah leadership and its allies (including the current prime minister, Salam Fayyad). They have prioritised themes of good governance, construction of public institutions and economic liberalisation in the three key development and institution-building documents associated with the PA over the past half-decade: the 2007 Palestine Reform and Development Plan, the 2009 Ending the Occupation, Establishing the State and the 2011 National Development Plan.¹⁸

In developing its Action Plans in the MENA region generally and with the PA in particular, the EC has made use of incentives. This is apparent in the offer of financial assistance based on the goals it espouses. At the same time though, the EC is also prepared to use the stick rather than the carrot in implementing conditionality. In the case of the PA this became apparent in the period following Fatah's defeat and Hamas's win in the 2006 legislative elections when it imposed a boycott on the continued allocation of funds to the PA.

16. Clara Mira Salama, *The Political Aspects of the Euro-Mediterranean Partnership*, Discussion Paper 23, European Development Policy Study Group, 2002; Patrick Holden, *In Search of Structural Power: EU Aid Policy as a Global Political Instrument*, Farnham, UK, Ashgate, 2009.

17. EC (European Commission), *EU/Palestinian Authority Action Plan*, Brussels: European Commission, 2005, http://ec.europa.eu/world/enp/pdf/action_plans/pa_enp_ap_final_en.pdf (Accessed 16 July 2010).

18. Raja Khalidi and Sobhi Samour, "Neoliberalism as Liberation: The Statehood Program and the Remaking of the Palestinian National Movement," *Journal of Palestine Studies*, Vol. 40, No. 2, 2011, pp. 6-25; PNA (Palestinian National Authority), *Palestinian Reform and Development Plan*, Ramallah: Palestinian National Authority, 2007; PNA, *Palestine: Ending the Occupation, Establishing the State*, Ramallah: Palestinian National Authority, 2009; PNA, *The National Development Plan: Establishing the State, Building our Future*, Ramallah: Palestinian National Authority, 2011.



The EC's opposition to the new Hamas government was based on the fact that it did not see Hamas as a viable partner. The EC supported the PLO's Fatah leadership and its decision to recognise Israel's existence through its signing of the Oslo accords. By contrast, Hamas refused to join the PLO and opposed Israel's right to exist. Hamas's opposition on both issues challenged the basic tenets of the EC's policy towards the Israeli-Palestinian conflict. In addition, the EC was opposed to Hamas on the grounds that it advocated violence. In 2003 Brussels had classified Hamas as a 'terrorist' organisation which meant that European funds could not be made available to it. The EC therefore responded by withholding its payments and suspending political contact and assistance with the PA government. To force the issue, Brussels pressured the Hamas government to accept the Quartet principles, which was a commitment 'to non-violence, recognition of Israel, and acceptance of previous agreements and obligations, including the Road Map.'¹⁹ The pressure was a vote of confidence for Fatah and arguably contributed to the fall of the Hamas government in early 2007. At the same time, the restart of EC aid to the PA was designed in such a way as to control the use of those funds and avoid it being accessed by those it deemed beyond the pale, like Hamas. This was done by channeling it either to the PA directly or to those companies and individuals that were deemed to be in cooperation and agreement with the PA.²⁰

Undermining EC conditionality

The previous section makes clear both how donors are able to impose their objectives on recipients generally and in the case of the OPT, between the EC and PA. Specifically this entailed the EC adopting a proactive approach in its relationship with the PA, setting out clear objectives (i.e. recognition of Israel and support for the Oslo process and political and economic liberalisation) and finding a suitable Palestinian partner with which to work. However, despite this, the EC failed to realise these aims and lost its Fatah client in 2006-07 as a result of Hamas's election victory. That this happened reiterates the point that donors do not always control aid and condition its use with recipients. Indeed, this assumption does not take into account how different actors – recipients, third parties and donors – may challenge and undermine conditionality.

A review of the scholarship on failed conditionality points to three main ways in which donors may see their ability to impose conditions undermined: by recipients, third parties and donors themselves. First, recipient countries can constrain conditionality through the use of domestic veto players by working against the implementation of donor's favoured policies and programmes or merely paying lip service to a donor's interests.²¹ Second, third parties can weaken donors' conditionality. This might include third parties, such as other donors, especially from the global South, who offer assistance without the conditions demanded by

19. Secretary-General of the UN, "Statement by Middle East Quartet." SG/2104 PAL/2042. 30 January 2006, New York, UN Department of Public Information, <http://domino.un.org/UNISPAL.NSF/0/354568cce5e38e5585257106007a0834?OpenDocument> (Accessed 15 July 2010).

20. EC (European Commission), *Implementation of the European Neighbourhood Policy in 2009: Progress report on the occupied Palestinian territory*, SEC(2010) 515. Brussels, 12 May 2010, http://ec.europa.eu/world/enp/pdf/progress2010/sec10_515_en.pdf (Accessed 16 July 2010).

21. O. Arpac, G. Bird and A. Mandilaras, "Stop interrupting: an empirical analysis of the implementation of IMF programs," *World Development*, Vol. 36, No. 9, 2008, pp. 1493-1514; Bettina Woll, "Donor harmonisation and government ownership: multi-donor budget support in Ghana," *European Journal of Development Research*, Vol. 20, No. 1, 2008, pp. 74-88.

Northern donors.²² Finally, established donors themselves may face difficulties when acting both individually and collectively. For example, lack of coordination between donors or different strategic interests by donors working together may place recipient countries at a greater advantage when dealing with more than one donor. Bureaucratic structures and incentives may work against donor conditionality, as may donors' view regarding whether a recipient is a strategic concern. Alternately, donors may go against their preferred interests and choose not to enforce conditions, as may happen when there is a humanitarian crisis.²³

In the case of the EC, its ability to impose its objectives faced a number of challenges. First, the recipient itself has been perceived as problematic by pursuing objectives which went against the EC's own conception of 'good governance', most notably more transparent and accountable public institutions. This occurred both during the highpoint of Oslo during the late 1990s and during the years of the second intifada in the early 2000s. Although the PLO (and therefore the PA) under the leadership of Yasser Arafat had effectively recognised Israel through the Oslo accords, Arafat oversaw a period of growing political authoritarianism and corruption. This undermined the EC's pursuit of good governance. As the situation between Israel and the Palestinians deteriorated in the early 2000s Arafat came to be seen as a liability, especially when he proved incapable of reigning in the violence perpetrated by militants during the second intifada. Increasingly, donors began looking for an alternative, eventually settling upon the more accommodating Mahmoud Abbas after Arafat's death. Abbas was elected president in 2005 but although he received support from the donor community, who hoped he would behave less like Arafat, he was unable to reverse Fatah's fortunes among the Palestinian population; not only was he able to improve their economic situation and incomes, he was unable to bring an end to the occupation. As Fatah's stock declined, that of Hamas rose, resulting in its election win in 2006.²⁴

Given its opposition to Hamas, the EC responded to the new PA government by withholding its funds for several months. During this time it looked for alternative ways to redirect assistance to those parts of the PA not in the hands of the new Hamas government, including through Abbas's office, contacts in the legislature, judiciary and other autonomous agencies. However, although the EC's action caused financial hardship to the PA, its employees and their families, it arguably did little to challenge public attitudes towards Hamas who remained generally

22. Ngaire Woods, "Whose aid? Whose influence? China, emerging donors and the silent revolution in development assistance," *International Affairs*, Vol. 84, No. 6, 2008, pp. 1205-1223; Sven Grimm, John Humphrey, Erik Lundsgaarde and Sarah-Lea John de Sousa, *European Development Cooperation to 2020: Challenges by New Actors in International Development*, Bonn, European Association of Development Research and Training Institutes (EADI), 2009.

23. James Boyce, "Aid conditionality as a tool for peacebuilding: opportunities and constraints," *Development and Change*, Vol. 33, No. 5, 2002, pp. 1025-1049; Paul Hoebink, "European donors and 'good governance': condition or goal?" *European Journal of Development Research*, Vol. 18, No. 1, 2006, pp. 131-162; Axel Borchgrevink, "Limits to donor influence: Ethiopia, aid and conditionality," *Forum for Development Studies*, Vol. 35, No. 2, 2008, pp. 195-221; Seonjou Kang, "Agree to reform? The political economy of conditionality variation in International Monetary Fund lending, 1983-1997," *European Journal of Political Research*, Vol. 46, No. 5, 2007, pp. 685-721; C. Kilby, "The political economy of conditionality: an empirical analysis of World Bank loan disbursements," *Journal of Development Economics*, Vol. 89, No. 1, 2009, pp. 51-62.

24. Karin Aggestam and Annika Björkdahl, *Just Peace Postponed: Unending peace processes & frozen conflicts*, Just and Durable Peace by Piece working paper series No. 10. Sweden: Lund University, 2011; Azzam Tamimi, *Hamas: Unwritten Chapters*. London: Hurst, 2007; Graham Usher, "Facing Defeat: The Intifada, Two Years On," *Journal of Palestine Studies*, Vol. 32, No. 2, 2003, pp. 21-40; Graham Usher, "The Democratic Resistance: Hamas, Fatah, and the Palestinian Elections," *Journal of Palestine Studies*, Vol. 35, No. 3, 2006, pp. 20-36.



supportive.²⁵ This was apparent in the fact that EC pressure did not lead to Hamas's immediate fall from government. Furthermore, when it did fall, Hamas's popularity meant that the EC's preferred option of a non-Hamas government was not possible; instead a national unity government was formed between Hamas and non-Hamas members in March 2007. As a result, the EC and the Quartet were obliged to review their position in relation to Hamas; while they maintained that they would continue to suspend direct aid assistance, they conceded that they would be prepared to open dialogue with the more 'moderate' Hamas members in the government.²⁶ This outcome could be seen as a failure for EC diplomacy; not only was it unable to enforce its opposition to Hamas (as shown by associating the party with terrorism) it was unable to encourage the Palestinian population to share the same opinion. This meant that the EC faced the unappealing prospect of recognizing Hamas government ministers.

In addition to its inability to change society's attitude towards Hamas, the EC was unable to employ any means of persuasion. Because it had no official contact with Hamas's leadership it lacked any alternate means of influence.²⁷ This was not helped by its determination to divert funds to the PA in such a way that it did not have to engage Hamas officials (and to this Hamas threatened to access alternative sources of revenue to make the EC's funds redundant). As a result, because of a lack of contact, in early 2007 the EC now faced the unpalatable prospect of making peace with what it saw as a terrorist organization if it wanted to retain influence with the Palestinian leadership. That it eventually did not do so was largely through the conflict which soon broke out between Fatah and Hamas, leading to an effective civil war and a political separation of the OPT between Gaza, dominated by Hamas, and the West Bank, controlled by Fatah, by mid-2007. The conflict effectively discouraged any previous willingness to review the EU's ban on direct aid. At the same time though, the removal of Hamas from the PA government in the West Bank made it easier for the EC to re-engage with those parts of the PA controlled by Fatah and its allies.²⁸ Donors' re-engagement with the Fatah-led PA sought to promote the West Bank and encourage economic development and prosperity and contrast it with the lack of assistance provided to Hamas-run Gaza.²⁹ This approach aimed to demonstrate to Palestinians the advantages of supporting the donor community and Fatah over Hamas. Despite this though, the social and political pressure unleashed by the Arab Spring has once again arguably undermined this aim of the EC and other donors. Since early 2011 both Fatah and Hamas have been in negotiations and discussion is taking place over the possibility of a new national unity government. This is

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25. Scott Lasensky and Robert Grace, "Dollars and Diplomacy: Foreign Aid and the Palestinian Question," United States Institute of Peace Briefing, 2006, <http://dspace.cigilibrary.org/jspui/bitstream/123456789/15206/1/Dollars%20and%20Diplomacy%20Foreign%20Aid%20and%20the%20Palestinian%20Question.pdf?1> (Accessed 1 April 2012).
26. *Haaretz*, "PA Finance Minister to visit Brussels, discuss resumption of EU aid," 29 March 2007, <http://www.haaretz.com/news/pa-finance-minister-to-visit-brussels-discuss-resumption-of-eu-aid-1.216904> (Accessed 17 July 2010).
27. EUCE (European Union Center of Excellence), "Europe's Role in the Palestinian-Israeli Conflict." EU Briefing, March. Chapel Hill: European Union Center of North Carolina, 2008, http://www.unc.edu/depts/europe/business_media/mediabriefs/Brief6-0803-palestinian-israeli-conflict.pdf (Accessed 3 April 2012).
28. Benita Ferrero-Waldner, "Middle East Peace Process: occupied Palestinian territory. EP Plenary, EC Statement. Strasbourg." SPEECH/07/324. 22 May 2007, <http://europa.eu/rapid/pressReleasessAction.do?reference=SPEECH/07/324&format=HTML&aged=1&language=EN&guiLanguage=en> (Accessed 17 July 2010); Rory Miller, "Why the European Union Finally Sidelined Hamas," *InFocus*, Vol. 1, No. 2, 2007.
29. Nathan Brown, "The Hamas-Fatah conflict: shallow but wide," *Fletcher Forum of World Affairs*, Vol. 34, No. 2, 2010, pp. 37-51.

currently going on even as Hamas continues to be opposed to the EC's desire for Palestinian partners to accept Israel's existence and the Oslo process. As a result, the EC is once again being made to review its position vis-à-vis Hamas.³⁰ Moreover, this is happening at the same time that the EC and other Western donors have tacitly supported the Fatah leadership's continued delay of local and national elections, thereby undermining a core component of its good governance agenda (i.e. to build greater transparency and accountability into public institutions).

Second, third parties have also played a part in undermining EC conditionality. They have included donors and non-donors, specifically other Arab countries and Israel respectively. Following its election win and the threat of withheld funds from the EC and other Western donors, the new Hamas government claimed that financial assistance from Arab and Islamic states would help offset the loss. Among the governments which said they would support the Hamas-led PA were Saudi Arabia, Egypt and Iran.³¹ Although the decision by Western donors including the EC to halt its financial assistance did ultimately prove costly to the PA, Western policy makers could not be certain that this would necessarily be the case; in the first months following Hamas's election they faced the prospect of significantly diminished influence had they continued their effective sanctions. Meanwhile, in the case of Israel, its actions in relation to the Palestinian political scene in 2006 also created difficulties for the EC, by withholding Palestinian customs duties to the new Hamas government. This deprived the PA of important revenue and obliged donors like the EC to make up the shortfall. And as noted above, in the case of Hamas, the EC has also faced several stumbling blocks towards its agenda.

Third, the EC itself has failed to impose conditionality. This is most apparent in its response to the humanitarian crisis which was a consequence of the EC's decision to withhold funds and thereby deny thousands of public sector workers and dependents of their income. The EC had hoped that by stopping funds to the PA it could put pressure on the new Hamas government. However, this turned out not to be the case. Despite Hamas's claim that the aid boycott would be overcome with support from elsewhere this did not happen. Within months of the sanctions, a quarter of the Palestinian population was at financial risk. Faced with this situation, the EC and other donors were obliged to respond to the damage that their policy was inflicting on the Palestinian population and restart payments, albeit in an indirect way. That the EC and other Western donors did so may have contained the level of public dissatisfaction, directing it against the donors rather than the embattled government. This may account for why the payments sanctions did not lead to Hamas's immediate fall despite the precarious situation it found itself in. Moreover, the EC and other donors found themselves funding a PA for several months whose government they opposed – and had no means of influencing.

30. AP (Associated Press), "Israel condemns Palestinian reconciliation deal." *USA Today*, 6 February 2012, <http://www.usatoday.com/news/world/story/2012-02-06/israel-palestinian-rift/52986912/1> (Accessed 1 April 2012); Yossi Lempkowicz, "EU's Ashton cautious over Palestinian reconciliation agreement, 'will study the detail'," *European Jewish Press*, 28 April 2011, <http://www.ejpress.org/article/50561> (Accessed 1 April 2012).

31. Esther Pan, "Mideast Unwilling to Cut Off Hamas," Council on Foreign Relations Analysis Brief, 23 February 2006, <http://www.cfr.org/palestinian-authority/mideast-unwilling-cut-off-hamas/p9922> (Accessed 3 April 2012); BBC (British Broadcasting Corporation), "Hamas dismisses Israeli sanctions," 20 February 2006, <http://news.bbc.co.uk/2/hi/4731058.stm> (Accessed 3 April 2012); Christopher Blanchard and Alfred Prados, *Saudi Arabia: Terrorist Financing Issues*, Congressional Research Service Report for Congress, Washington DC: Congress, 2007.



Structural factors

The previous section has highlighted both the scholarly literature and the case of the EC-PA relationship to show how aid conditionality can be contained. Specifically, they point out the role that particular actors have played in this regard, whether as recipients, third parties or the donor themselves. While such explanations provide a useful account of the blunting of EC conditionality on the PA, they do not provide a full explanation. Indeed, they overlook other non-agent related factors, such as structural ones. These constitute constraints which may be more indirect than agent-related factors. That they are so should not mask the significance of such factors. In this section, several structural factors are pointed out in relation to the EC-PA relationship, which highlight the need for a more nuanced understanding of the range of issues which may undermine aid conditionality.

First – and arguably most significant in this regard – is the Israeli occupation which provides the context in which the EC operates. By ignoring the Israeli dimension, donor-led foreign assistance has largely failed; it has failed to provide a diplomatic strand to the peace process alongside the financial assistance provided since the 1990s.³² To give but one example, the World Bank regularly reports on the various restrictions on movement and access for Palestinians, which have disrupted the development of the economy in the OPT; but it falls short of blaming the occupation for establishing the framework within which these constraints occur.³³ As a result it does not directly specify why the international donor community's objectives (which are broadly similar to those of the EC) are incapable of being met. Indeed, despite the EC's intention to pursue political and economic liberalisation through its Action Plan with the PA, it has been unable to do so. This is mainly due to Israeli actions which constrain Palestinian capacity, from the creation and expansion of settlements, restrictions on Arab activities in east Jerusalem and curtailment of movement and access in the West Bank.³⁴

Second, structural changes were already occurring through the EC's relationship with the PA. While the EC was shaping its regional policy in the Middle East and North Africa, the situation within the OPT was changing. By 2000 the Oslo process was at an end, especially following the outbreak of the Second Intifada. Increasing violence transformed the EC's engagement with the PA from one that was directed towards infrastructure and institution building towards emergency and humanitarian relief. As the PA's largest funder, the shift from the development-oriented Oslo period (1994-2000) to the second intifada in the first half of the 2000s changed the nature of EC financial assistance. This is shown in Table 1 where EC financial assistance during the 1990s was directed towards interventions designed to develop the economy of the OPT, such as the development of infrastructure in the water sector and in agriculture. The second intifada brought Israeli military forces into conflict with the Palestinian militias who supported the armed uprising. The violence had wider consequences on the Palestinian

32. Anne Le More, *International Assistance to the Palestinians after Oslo: Political guilt, wasted money*, Abingdon: Routledge, 2008.

33. World Bank, *The Palestinian Economy and the Prospects for its Recovery*, Economic Monitoring Report to the Ad Hoc Liaison Committee, Number 1, December. West Bank and Gaza: World Bank, 2005; World Bank, *Stagnation or Revival? Palestinian Economic Prospects*. Economic Monitoring Report to the Ad Hoc Liaison Committee. 21 March. West Bank and Gaza: World Bank, 2012.

34. CEC (Commission of the European Communities), *Communication from the Commission to the European Parliament and Council. Implementation of the European Neighbourhood Policy in 2008: Progress report the occupied Palestinian territories*. SEC(2009) 519/2. Brussels, 23 April 2009, pp. 2-3, http://ec.europa.eu/world/enp/pdf/progress2009/sec09_519_en.pdf (Accessed 16 July 2010).

population, in the form of killings, injuries, destruction of homes and livelihoods. In response to the rising violence, donors like the EC began to change their mode of action; they began to allocate increasing funds towards humanitarian relief in the form of emergency support and food aid.

As the second intifada began to wind down in the mid-2000s, the nature of EC aid did not change; it continued to emphasise humanitarian intervention, which was now combined with providing support for the PA's social services and public finances. The changed composition of EC funding after 2000 was to have consequences, especially in the wake of the boycott imposed on the new PA government under Hamas after 2006. Because the PA had become largely dependent on external aid and especially that of the EC by 2006, the decision to withhold funds from the PA had a profound impact which extended beyond the PA to wider Palestinian society. The PA provided much of the employment available in the OPT given the lack of alternative jobs available. As a result, the EC boycott led to a lack of income for PA employees, who were unable to support their families. Within a couple of months, around a quarter of the Palestinian population was deemed to be facing hardship as a result of donors' decision to withhold funds.

Table 1: European Commission assistance to the Palestinian Authority by purpose, 1995-2009 (US\$m)³⁵

Purpose	1995-99	2000-04	2005-09
Reconstruction relief	-	-	89.2
Emergency/distress relief	135.7	142.4	228.2
Food security programmes/food aid	30.8	149.6	234.1
Agriculture and rural development	39.3	1.4	1.4
Social/welfare services	51.7	88.2	1436.2
Civilian peace-keeping	-	-	15.6
Security services	-	-	26.4
Water sector	24.6	19.5	1.4
Democratic development and human rights	4.4	31.7	1.5
Culture, recreation and media freedom	-	3.8	0.9
Public sector policy, finances and budget	32.1	149.2	157.4
Transport	8.9	33.3	-
Waste	3.6	5.3	-
Business, SMEs, trade	12.4	39.3	43.6

Third, the EC faces a more recent challenge as a result of the Arab Spring. The political changes that have swept across the Arab world since December 2010 have had repercussions in the OPT, leaving the EC as a bystander. Both Fatah and Hamas have faced pressure to overcome their differences as a result of each losing their external sponsor (Fatah through the

35. The date is in constant 2009 US dollars. The raw data has been aggregated by the author. AidData, "Donor-Recipient-Purpose Database." November 2011, <http://www.aiddata.org/content/index/Research/research-datasets>, (Accessed 25 March 2012).



fall of the former Egyptian president, Hosni Mubarak, and Hamas through the uncertainty surrounding the Syrian regime). Consequently, both faced pressure to reach a deal with the other. This resulted in an agreement between the two sides in April 2011. Throughout the rest of the year and to the present, discussions have taken place on the possibility of forming a national unity government. The changing political circumstances within the region highlight the extent to which the EC is arguably irrelevant at the present moment. Despite Hamas's continued rejection of Israel and the Oslo process, the EC's client, Fatah, has been ready to cut a deal with it. In addition, it arguably shows up the limited achievement of the EC and other Western donors in their 'West Bank first' strategy, to build up the West Bank as an economically vibrant and successful alternative to Hamas-run Gaza.³⁶ The EC therefore faces the same prospect that it avoided having to address in 2007 when conflict broke out between the two Palestinian factions: having to make peace with Hamas, despite its continued intransigence in relation to EC objectives.

Conclusion

This article has argued that donors are not always able to impose conditions in relation to aid generally and in the case of the EC and the PA in particular. Although the EC has clear objectives in its approach to the Israeli-Palestinian conflict – i.e. recognition of Israel and Oslo and the pursuit of political and economic liberalisation – it has not been able to realise them sufficiently or effectively with all actors. While it has been able to work with a Fatah client that accepts both demands, the EC has found its aims obstructed by Hamas in government. Moreover, it has found that because of its position in relation to Hamas it is unable to engage and influence it. Therefore, although the EC has been able to pursue the goals of Israeli recognition and support for Oslo in one part of OPT, namely the West Bank with the support of a part of the Palestinian leadership (i.e. Fatah and its allies), the period 2006-07 exposed the limits of its capacity to impose terms. The experience of the EC-PA relationship in the period following Hamas's election victory in and the period between 2006 and 2007 in the OPT is therefore a salutary corrective to the commonly held assumption that donors can direct the political, economic and social direction of the Palestinian people. In many respects, the case of the EC during this period suggests that it was less in control of its relationship with the PA and more a bystander in events happening within Palestinian society and between the two main Palestinian political actors, Fatah and Hamas. When the EC did attempt to influence events, its measures were detrimental, affecting Palestinian society adversely and requiring it to backtrack quickly. At the same time, its pressure failed to change Hamas's opposition to Israel's existence and the Oslo process. As a result, the EC is obliged to face the fact that the Palestinian polity continues to be divided between supporters and opponents of Israel and Oslo and the EC, both of which may be considered to be foundations of the EC's policy in the Israeli-Palestinian conflict.

The EC's failure to realise its objectives in 2006-07 is relevant for reasons which go beyond the immediacies of the case in question. At one level, it exposes the continued relevance of studying and analysing aid and its conditionality. Despite the global rhetoric on ending conditionality, donors have not entirely removed their commitment to tied aid. Contrary to the

36. Nathan Brown, "The Hamas-Fatah conflict: shallow but wide," *Fletcher Forum of World Affairs*, Vol. 34, No. 2, 2010, pp. 37-51.

global agreements at Rome, Paris and Accra, the EC appears unwilling to completely untie its financial assistance to the PA. As the experience of 2006 showed, the EC was prepared to withhold its funds on the grounds that it did not recognise Hamas as a legitimate political actor. At the same time, the EC's objectives in relation to the PA have remained largely consistent, before and after Hamas's entry into government: namely towards political and economic liberalisation and the establishment of institutions, especially in the security sector and the elimination of corruption. These aims have been evident throughout the EC's relationship with the PA, including its 2005 Action Plan and in its support for the PA's development programmes since mid-2007, (i.e. the PRDP, the Ending the Occupation, Establishing the State programme and the National Development Plan) – but only once the EC's preferred clients, Fatah and its allies – were back in control of a truncated PA in the West Bank. In pursuing these objectives, the EC illustrates a shift noted by scholars that donors may be moving from imposing conditions to being selective, by supporting those recipients who share their aims.³⁷

At another level, the case of the EC reinforces the point that despite donors' efforts to pursue conditionality, they do not always work. The article suggests that despite the general assumption that donors are in control of the aid relationship, Palestinians are not completely denied agency. While this is partly redressed, through the study of the different actors who have constrained EC and donor conditions (including Hamas and the PA under Fatah itself before the second intifada), this only accounts for part of the story. Certainly the role that different individuals and groups have is important. But is it not the only one; in addition to agency there is the important part that structure – and its different political and economic forms (e.g. the nature of the Israeli occupation, EC preferences and assistance) – may play.

The form that structure may take – the local political context, the EC's own preferences and actions – mean that the EC is bound to a number of factors which are both within and outside its control. In terms of the latter, the most notable is the Israeli occupation with which the EC and other donors have tended not to engage. Another is the change in the nature of the Oslo process, which has shifted from one of anticipated realisation of a Palestinian state and final settlement to a status quo of continued donor support to the PA. To this may be included the nature of aid itself: as the case of the EC has shown, the composition of its financial assistance has changed over time, from development-oriented projects to humanitarian relief. The result of this was to have profound implications beyond the PA and on wider Palestinian society when the EC decided to withhold funds. Such findings are important not only for scholars, but also practitioners as well. The case of the EC illustrates the fact that despite demands for change and pressure to realise it, without reflecting on what the direct and indirect consequences of those actions may be, a policy decision may just as easily contribute to failure as it may do towards its intended outcome. Consequently, further investigation of the various factors which may contribute to such policy failure (whether within the Palestinian context and among other donors who operate alongside the EC or in other conflict settings) would do much to shed light on such matters.

37. James Boyce, "Unpacking Aid," *Development and Change*, Vol. 33, No. 2, 2002, pp. 239-246; James Boyce and Shephard Forman, "Financing Peace: International and National Resources for Postconflict Countries and Fragile States," *Political Economy Research Institute, Working Paper No. 238*, 2010.

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Journal of Global Analysis

A Case Study of China's Membership of the World Trade Organization: Implications on Sovereignty

By Binneh S. Minteh*

Since becoming a member of the World Trade Organization, China embarked on several commitments to become a key player on the international economic stage. This paper is a case study of China's membership of the World Trade Organization (WTO) and the implications on Chinese sovereignty. Theorizing China's historical evolution amid concerns of sovereignty, the paper looks at China's Regime Commitment and Compliance in the WTO, major Compliance and Commitment Concerns with China in the Organization. China may have complied with some of its commitments particularly in the service area. The paper distinctively concludes that China's membership of the organization has forced it to share power with other actor whilst protecting the interest of its citizens on the global stage.

Keywords: Sovereignty, Regime Commitment, Compliance, Trade, Interest, Economic Development, Globalization

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A Case Study of China's Membership of the World Trade Organization: Implications on Sovereignty

Introduction

Widely called mainland China, The Peoples Republic of China is the oldest civilization, and the largest country in the world in terms of population.¹ Since 1980, China has become the fastest growing major power, and home to the World's largest One-Party-State –run by the Chinese Communist Party (CCP).² Prior to becoming a member of the World Trade Organization (WTO), China's attitude has been centered on parameters of need to use basis – a policy largely attributed to the quest of strengthening national sovereignty, and enhancement of economic prosperity.

Following the death of Mao Zedong in 1976, his successor Deng Xiaoping announced the commencement of an "Open-Door" policy, endorsing China's economic engagement of the world, thus becoming the anchor of the Asian nation's economic strategy. This paper argues that China's commitments and compliance under obligations of the WTO is based on an "Open-Door Policy," aimed at economic growth, whilst strengthening the Chinese Communist Party (CCP) and not compromising national sovereignty.

The paper proceeds in Part I with a Conceptual Background Information of China's neo-liberal market policies and globalization. In Part II, the paper looks at China's Regime Commitment and Compliance in The World Trade Organization. Part III discusses Major Compliance and Commitment Concerns with China in The World Trade Organization. In Part IV, I analyze the theoretical and empirical implications of Chinese WTO membership on Sovereignty. And I conclude in Part V.

Part I: Conceptual Background Information

The relevant literature theorizing China's relation with the World Trade Organization (WTO) is not conflicting at all. China's relation with the WTO has long been a strategic policy underpinning for reasons of protecting national sovereignty and the interest of the people. From its traditionally premises, the literature on China's relationship with the WTO evolved around similar paradigmatic shifts – notably an early 1970 doctrine of market liberalizations around the empowerment of the state machinery. Scholars such as Alex E. Fernandez, Gilberto, and Barbara Hogenboom (2007) argued that "the economic miracle of market socialism has been the result of the structural transformations that started in 1978 under Deng Xiaoping at a time when China was economically devastated by the cultural revolution of Mao

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1. United States, Dept. of State, Bureau of East Asian and Pacific Affairs, *Country Report*. August 5, 2010 Washington DC.
 2. Ibid, see Country Report, United States Dept. of State

Zedong (1966-76).³ These structural transformations of market socialism were the beginning of China's pathway to economic reforms.

The emergence of market oriented economic policies were the hallmark of China's economic reform across various trajectories of its systematic integration into the global economy. Throughout the process, evolutions in technological innovations, and the progressive engagements of Transnational and Multinational Corporations epitomized economic growth and prosperity. Whilst policy formulation evolved around those parameters, China was cognizant of not compromising sovereignty and the interest of its citizens. This is evidently the backbone for the proliferation of market oriented economies across Mainland China. China realizes that to be a global competitive force, it has to be a part of the growing global trend. Along those parallels, it embarked on a strategic and tactical economic reform epitomizing its integration into the global neo-liberal economy.

According to Roya Akhavan – Majid, economic reform in China began shortly after the death of Mao Zedong and the rise of Deng Xiaoping to China's presidency in 1978. This was a time China was on the verge of famine, and faced not only a severe economic crisis, but also high levels of social and political instability in the aftermath of the Chinese Cultural Revolution.⁴ During such critical times, reforms aimed at economic reconstruction were argued to be the fundamental tenet of restoring faith in socialism and the Chinese Communist Party. Gordon was justified when he argued that:

'Deng's rise to power led to the development of a new basis of legitimacy: Socialism was redefined to mean raised living standards, with regime overtly appealing to the individualist desire to get rich quick.' (Gordon, 1997: 30)⁵

China has since then witnessed series of reforms. Reforms such as production from group lines to family lines, the election of village commissions, engagements in business activities in cooperation with township and village authorities and the growth of Township and Village authorities were the hallmarks of China's economic evolution.⁶ These reforms were responsible for the irreversible adoption of China's market oriented policies.

Deng's rise to Chinese presidency marked the abandoning of Communist ideological orthodoxy and the beginning of a pragmatic approach to economic development, with the global technological revolution as driving mechanism to growth.⁷ Arguably, with the ravages of poverty, China did not have a lot of choice when the growth model followed by industrialized countries and largely based on industrialization did not allow for sustainable growth particularly when market oriented economic models were adopted by emerging or developing countries.⁸ Amidst the well founded theory about the success of digital communications networks, it realized that such pragmatic approaches facilitate the quest to help people meet their basic needs at all economic levels.

3. Alex E Fernandez, Jilberto and Barbara Hogenboom, " Developing Regions Facing China in a Neoliberal zed World," *Journal of Developing Societies* 2007 23: 305
4. Majid. R (2004) " Mass Media Reform in China: Toward a New Analytical Framework" *Gazette* 2004(66); 553
5. Gordon. K. (1997) "Government Allows a New Public Sphere to evolve in China: Convenience or Contradiction?" *Media Development* 4: 30-4
6. Ibid
7. Ibid
8. Information Society Forum (1996) 'Networks for People and Their communities: Making the Most of the Information society in the European Union', First Annual Report to the European Commission, June. Luxembourg: Office for official Publications of the European Committees.



Against that background, China's openness to technological advancements, such as Satellite dishes, and the Internet enhanced by its global accessibility, channel capacity, interactivity and decentralized structure, played an important role in China's economic growth (Chen and Chan, 1998; Lee, 2000).⁹ More than ever before – with exception of Hong Kong – the Chinese have alternative information sources and websites, with the internet posing difficulties for absolute control, thus making the media freer from Party-state monopoly.¹⁰

Today, while some scholars view the Chinese Communist Party (CCP) as having been successful in keeping the media (Internet) within its orbit (Zhao, 2000:3-25; see also Gordon, 1997: 32), others emphasized that the tug of war between the Chinese Communist Party (CCP) and the liberating forces of the market economy are causing the Chinese state a loss of control over the media and other economic institutions.¹¹ These economic reforms in China evidently led to the emergence of the rich theoretical literature that characterizes media censorship in the former communist strong hold.

In comparison to other nations (Abott, 2001; Fan, 2005; Srikantaiah & Dong, 1998; Xue, 2005), the intervention and domination by the Chinese government has been the major distinctive feature of China's Internet Development.¹² The Chinese Internet boom was therefore made possible largely as a result of a "State Centric Strategy for comprehensive informationization".¹³ Thus, it has become recognizable that the internet has also strengthened the ideals of the Chinese Communist Party.

With economic growth as a developmental priority policy of the Chinese Communist Party (CCP), its leaders are safer with the Internet than without it. And their "three- part strategy for maintaining authority in a networked society – by providing economic growth and some personal freedoms, managing the Internet's risks, and harnessing its potentials - will be effective for some time."¹⁴ The power shifts wrought by the Internet will surface clearly only during an economic and political crisis in a future China where the Internet is far more pervasive.¹⁵ When that time lands across global horizons, "the Internet could very likely fuel discontent, becoming the linchpin to a successful challenge to party rule."¹⁶ This is evident with China's on-line population increasing at unprecedented paces. A report by China's Internet Networks Information Center showed that four out of 10 Chinese use the Internet, with the country's online population hitting 538 million by the end of June, 2012¹⁷ additionally, the Chinese Ministry of Information and Information Technology (MIIT) also unveiled an Internet Development Plan 2011 – 2015, to provide online access to 800 million users by 2015¹⁸ The progressive economic growth propelled the capital Shanghai to emerge as the most dynamic urban center, "with an annual GDP growth 1.92 trillion Yuan in 2011, an

9. Chen, H. and J.M. Chan (1998) 'Bird-caged Press Freedom in China', pp. 691–7 in J.Y. S. Chang (ed.) *China on the Post-Deng Era*. Hong Kong: The Chinese University Press.

10. Ibid, See Chen.H, and J.M. Chan

11. Huang, Y. and X. Yu (1997) "Toward Media Democratization: The Chinese Experience and a Critique of the Neo Authoritarian Model", *China Report* 33: 313-33

12. Srikantaiah, T.K., & Dong, X. (1998). The Internet and its impact on developing countries: Examples from China and India. *Asian Libraries*. 7, 199-209

13. Hartford, K. (2000). Cyberspace with Chinese characteristics. *Current History*. 99, 255-262

14. Hachigan. N (2001), "China's Cyber Strategy," *Council on Foreign Relations* (80)2

15. Ibid

16. Choy, D & Cullen.R " China's Media; The Impact of the Internet" *HeinOnline*, Sandiego Int'L.J 2004-2005 (323

17. Xinxua, " China's Internet Users to Hit 800 million by 2015," *China Daily*, May 5th, 2012, http://www.chinadaily.com.cn/business/2012-05/05/content_15217515.htm

18. Ibid, See , "China's Internet Users to Hit 800million by 2015," *China Daily*, May 5th, 2012



increase of 8.2 percent over the figure for 2010, and considering the city's official population of registered residents, per capita GDP for the year came to 82,560 Yuan, equivalent to \$12,784.¹⁹ With the "Internet Development Plan 2011 -2015 projected to provide 2.3 million jobs by 2015," it is evident that developments of the Telecommunications and Internet sector in Shanghai epitomize the rapid economic progress characterizing the Asian nation.

In view of the rapid global impact, the fast development of the Internet in China created a significant dilemma for the Chinese government. Nina Hachigan was justified to argue that Beijing's, involvement in the Internet resembles a "love- hate" relationship. On the one hand, due to practical necessity, the Chinese government understands very well that powerful communication possibilities of the Internet are crucial in helping China: a) to communicate internally with other parts of the world; b) to enhance economic growth; c) to strengthen its government administration.²⁰ On the other hand China is concern about the potential political backlash to the Communist administration.

Against that backdrop the Chinese government has established a complicated regulatory framework controlling the Internet Industry. Although numerous government and quasi-government bodies are included in this regulatory framework, the Chinese government has since 1966 promulgated a series of regulations governing all the persons involved in China's Internet (including Internet users, Internet Service Providers, Internet Content Providers, and entities providing international network connections.²¹ It is therefore eminent that the growth of Internet in China is caught up in a tug-of-war between the forces of economic prosperity and political controls.

With the Internet's potential radical transformation of the Chinese economic and political landscape, the Chinese Communist Party is working very hard to maintain its traditional attitude towards new technologies- that is strengthening sovereignty and enhancing economic prosperity, whilst minimizing a negative political impact. Economic growth in China is evidence of how well the strategy worked. What is certain is that contemporary developmental theory suggests that mass communication can make a substantial contribution to a nation's economic and social goal when used adequately and well (Schramm, 1964).²²

Others opined that such developmental efforts bring about social and material advancement and enables people to gain more control over their environment.²³ It also leads to and triggers self-sustaining growth, modernization, technical advancement, political participation, and a change in the modernization process.²⁴ Such developments further suggest the prevalence of an interrelation between economic and political growth. Traditionally, Chinese media censorship policy was crafted in expectation of an optimum economic growth from the expansion of the internet without the tolerance of a significant information flow geared towards the protection of national Sovereignty.

Following the in-depth conceptual and background information, one major question comes to mind: Have China's obligations under commitment and compliance of the World Trade Organization compromised Chinese sovereignty? Amidst contemporary challenges across the

19. ZHU, Na, "Shanghai, Beijing and Tianjin Lead Country in per Capita GDP," *The Economic Observer*, February 3, 2012

20. *Ibid*, See Hachigan, 2004 - 2005

21. Choy. D & Cullen.R " China's Media; The Impact of the Internet" *HeinOnline*, *Sandiego Int'L.J* 2004-2005 (323

22. Schramm, W (1964) *Mass Media and National Development*, CA: Stanford University Press

23. Rogers, E.M (1976) " Communication and Development: The Passing of a Paradigm," *Communication Research* 3(2): 213-40



global economic landscape, this fundamental question has become the most contentious debates for scholars of modern international political economy. Responding to this question requires an in-depth analysis of China's regime commitment and compliance under obligations of the World Trade Organization.

Part II: China and the World Trade Organization – Regime Commitment and Compliance

China's membership of the World Trade Organization is one of the most interesting paradigm shifts in the study of contemporary economic philosophy. Its membership of the World Trade Organization (WTO) dates back to 2001, after 15 years of prolonged hard negotiations, and a complex ambitious commitment made over the years.²⁵ These commitments were obtained largely in part, due to its growing prominent role in the global economic stage. The membership indeed poses several challenges and opportunities in reshaping its domestic economy and remodeling national commercial institutions with those of the international community.

Whilst challenges such as tariff reductions, non tariff barriers and tariff exemptions constitute major hurdles for WTO membership efforts, China's commitment to trade related services was the vanguard for the opening of key service sectors propelling foreign participation in telecommunications, financial services and insurance that was non-existence.²⁶ All these changes were seen under the lenses of a compromise to Chinese Sovereignty. Arguably, such economic developments were attained largely as a result of China's membership of the World Trade Organization (WTO).

For example, trade policies over the years complemented the promotion of indigenous technologies through a sectoral reform of the information technology infrastructure. With these reforms, the Chinese Communist Party shifted from the previous system of monopoly with a duopoly between China Telecom and China Unicom. These reforms became the vanguard to Chinese government strategy easing restrictions on Foreign Direct Investment (FDI) and the importation of foreign products in the Information and Communications Technology industry, for the transfer of technology from foreign firms to Chinese firms.²⁷ Such policy moves further increased competition as more carriers entered the market.

Nonetheless, by the dawn of the millennium, China began to increase and deepen its engagement with other nations, as the Chinese government gained a deeper understanding of the impact of globalization to be a framework of the progressive impact on its economy. The Chinese Communist Party (CCP) now concedes that economic globalization and interdependence is an irreversible historical trend that will continue to bring more nations to be involved in the global economic system.²⁸

In hindsight, China's "Open -Door Policy, adopted following the failure of the Cultural Revolution was not only aimed at economic growth and strengthening the Chinese Communist

24. Lerner. D (1958) "The Passing of Traditional Society," New York: Free Press

25. T.P. Bhat, Assessing China's Compliance with WTO Commitments, *India Quarterly: A Journal of International Affairs* 2009 65: 215, pp 218

26. Ibid, See T.P. Bhat, pp216

27. Dai. X (2002c) "The Digital Revolution and Governance. Aldershot: Ashgate

28. Bin Liang and Pat Lauderdale, China and Globalization: Economic and Legal Changes in the World System, *Journal of Developing Societies* 2006 22: 197 pp200



Party (CCP), but was also geared towards bolstering national Sovereignty. This is evident with China's membership of the World Trade Organization in 2001, and its "ambitious efforts in national economic development along with the expansion of the World Economy."²⁹ Amidst several challenges to her national economic policies, China constitutes a prominent player of the global trading institution.

Since its membership of the organization, it has come under increasing pressure to address key issues such as the value of her currency, unfair tariffs and trading policies, argued largely to boost China as a leading exporter of the developing world. "Critics say China's rise as a trade juggernaut has been aided by unfair policies that boost sales of Chinese goods abroad while limiting the amount of foreign products entering its own market."³⁰ When China committed itself to WTO membership, it did so around a policy of openness to the world economy with the ultimate goal of enhancing economic growth – it compromised national economic policies to be a member of the international economic community of nations.

In view of WTO membership, China's commitments span eight areas that range from reforms of trade regimes in accordance with the WTO's principles and rules, to specific market access commitments for goods and services.³¹ Table I of the paper shows China's eight areas of regime commitments under obligations of the World Trade Organization (WTO).

Since becoming a member of the WTO, China adopted an instrumental role in the global organization. This is evident with its manifested leadership in contentious decision making processes on delicate trading policy matters. In the midst of the growing agony, several accusations and counter accusations have since then been brought against China for twisting rules of the World Trade Organization to its own national interest.

With China's exports soaring, even as other economies struggle to recover from the recession, evidence is mounting that Beijing is skillfully using inconsistencies in international trade rules to spur its own economy at the expense of others, including the United States.³² This goes far in bringing to light China's commitment to her traditional national policy of liberalization alongside the protection of national sovereignty. The proliferation of Chinese investments in developing nations of Africa and Latin America, the opening of doors for Foreign Development Investment, the aggressive pursuit of mineral resources coupled with media censorship is a living testament to that validity. Retrospectively, China's compliance and commitment concern in the WTO explains the Asian "flying goose" quest to protect its national sovereignty.

Part III: Major China Compliance and Commitment Concerns in the World Trade Organization

China's commitment and compliance concerns under obligations of the WTO emerged to be one of the most contentious issues of contemporary global economic philosophy. With an understanding of the Asian nation's pursuit of agendas under the organization to be evolving around a "need to use basis" on a fundamental parameter of not compromising national sovereignty, prominent members of the organization raise the alarm on the need for China

29. Ibid

30. The Associated Press, W.T.O to Review U.S. Tariff on Chinese Tires, New York Times, January 12, 2010

31. Ibid

32. Keith Brasher, China Uses Rules on Global Trade to Its Advantage, The New York Times, March 14, 2010



to meet is obligation. Notably among those countries includes the United States of America (USA), the European Union (EU), Canada and Mexico

Some of the commitment and compliance concerns brought before the World Trade Organization over the years includes, intellectual property rights, industrial policies, trading and distribution, agriculture and services, transparency and currency evaluation, and concerns of industry and export subsidies. Nonetheless China continues to provide several technicalities in defending its policies. Analytically, it could be argued that China's WTO policies goes far back to the late 1970's economic reform policy defined by a "need to use bases," adopted shortly after the devastating effects of the Cultural Revolution.

Whilst many theorized such polices as an explanation of China's rise to the forefront of the Global economic stage, several others argued that the policies are calculated strategic technical policies designed to be progressively integrate into the global economy and sustainably coop with the neo liberal market forces of the single global capitalist economic system, whilst protecting national interest and sovereignty.

Today China is one of the world's largest economies, second to the United States of America (US). Its sovereign influence in the World Trade Organization has become no hidden agenda over the years. It persistently continues to pursue its global interest around traditional principles of protecting national sovereignty in a rapidly globalizing an interdependent world. This was evident in the 2009 G20 summits when China's global economic influence was felt around international horizons. In an April, 7th 2009 New York Times OPED, Michael Wines and Edward WO put it this way:

"China arrives at the meeting with a sense of momentum, riding a wave of nationalism and boasting an economy that, more than any other, is surfing the trough of a crippling recession. While other major economies shrink this year, China's is expected by some economists to pass Japan's as the world's second largest, if it has not already."³³

The New York Times editors were justified as China has indeed passed Japan to become the second largest global economy. Today, in the contemporary literature of modern international relations it is characterized by doctrines such as the "flying goose", the "Asian Tiger" and the global "emerging economic lion". Along those parallels, China's emergence as an economic power brought to light those compelling realities of the global economic architecture. The pursuit of legal mechanisms in confronting China's compliance and commitment concerns under obligations of the World Trade Organization is therefore no historical accident.

It is the culmination of the divergent market economic forces with the changing realities of the global economic infrastructure that has propelled an economic friction along those parables. Structural imbalances as a result of the shifting dynamics of global trade along with technological innovations, the devaluation of the US Dollar as the major global reserve currency, restrictions on foreign companies to access Information services of the Chinese Financial sector, and major trading tariff issues posed daunting challenges to the economies of the developed world. This was evident at the November, 2010 meeting of G20 Finance Ministers characterized by global economic issues such as currency values and the global structural imbalance offset by trading deficits.

33. Michael Wines and Edward WO, OP-ED, The New York Times, April 7th, 2009

Amidst intense diplomatic debates and tussling, the group finally agreed to restructure the International Monetary Fund (IMF) to give more voice to the developing world of Brazil, Russia, India, and China. Seeking to find common grounds on currency valuation, and trading issues, the most important official agreements includes, "moving towards a more market – determined exchange rate systems reflecting underlying economic fundamentals," and a framework for curbing excessive trading imbalances in the future.³⁴ "China will become the fund's third-largest shareholder, behind the United States and Japan but ahead of Germany, France and Britain. Europe has also agreed to surrender two seats on the 24-member executive board."³⁵ These are indeed important developments in the global economic landscape.

Nonetheless, China's compliance and commitments obligations under the World Trade Organization remain to be in the limelight. Even though it has demonstrated willingness to do so through the fulfillment of some of its commitments, it remains to be seen when the world's second largest economy will make a complete paradigmatic shift of policy from traditional national ones to the contemporary defined standards codified under the world Trade Organization (WTO). Analytically, China's policy towards the WTO revolves around the 1978 economic reform policies geared towards enhancing economic prosperity whilst protecting national sovereignty - a deeply rooted historical embodiment of Chinese domestic and foreign policy.

The theory around global economic evolutions could be analyzed from two main perspectives. Firstly, national interest is the major driving mechanism around policy formulations for both developing and developed nations. This is evident with the tense diplomatic juggling over key economic issues such as currency, transparency, agriculture, trading tariff and foreign development investment (FDI). Secondly, questions of sovereignty further brought to light compelling realities of the global governance landscape.

In a world characterized by globalization and interdependency, there is a growing literature that states are not only losing power, but they are also sharing with non-state actors such as NGOs and Multinational Corporations (MNC). Along those reasoning, governments are finding it difficult to meet major commitments under international organizations, largely as a result of the concerns of national sovereignty. The case of China and the World Trade Organization provides explanations along those parables.

Given China's sustained economic growth and the ongoing 'go global' policy, it is evident that China's economy will continue to expand in the years ahead.³⁶ Chinese initiatives in communications and information are best apprehended neither as a developing country's attempt to redress global imbalances in the global communications system, nor as a current threat to the global dominance of the United States. China is rather seen here as contributing to the ongoing structural reconfiguration in the political economy of transnational capitalism.³⁷ Table II provides an analysis of the major commitment and compliance concerns of China as a member of the World Trade Organization.

34. Chan Swell, "G-20 Vows to Avoid a Currency War" *The New York Times*, October, 20, 2010

35. Ibid, See Chan Swell, "G20 Vows to Avoid Currency War"

36. Ku. S (2008) "China's Changing Political Economy with Malaysia and Southeast Asia: A Comparative Perspective," *Journal of Asian and African Studies* 43; 155

37. Schiller.D (2005) "Poles of Market Growth: Open Questions about China, Information and the World Economy," *Global Media Communication* 1(79)



Part IV: Theoretical and Empirical Implications

This paper attempted to discuss China's membership of the World Trade Organization, its regime commitments and compliance, and concerns raised by other member states about failure to meet some of its obligations under the organization. Using the literature of contemporary International Affairs, the paper provided historical background information of China's economic policy and how it has evolved overtime to be the world's second largest economy next to the United States.

Using several theoretical analysis and the realities in the changing nature of the global economic landscape, the paper made two very important findings on China's compliance and commitments under the WTO, and the subsequent reason for its slow fulfillment of obligations under the organization. Firstly the paper found the protection of sovereignty as a fundamental tenet to China's slow progress in meeting obligations under the WTO. Conceptually, it came to light that the evolution of Chinese domestic and foreign policy around a "need to use bases," largely explains why the Asian nation's progress in meeting commitment and compliance obligations has followed an inconsistent pattern since becoming a member of the WTO. Secondly, it came to light that China's fulfillment of commitments and obligations under the World Trade Organization evolves around the premises of national interest. This was evident with China's usage of three of its provinces as a litmus test to the forces of neoliberal market economy, in a modern era epitomized by globalization and inter-dependency. The paper found that China's understanding of the progressive impacts of globalization caused by technological innovation is largely a driving mechanism for its technical and tactical integration of traditional Chinese economy into the modern single global economic system.

Apart from national interest and sovereignty, the paper found reforms and deregulations in China to be imbued with national traits that are difficult to compromise. For example China ensured that all reforms in terms of policy regulations, deregulations, trading tariffs and services are in touch with the realities of the local and national market structure. Although some of its policy initiatives were not consistent with obligations under the WTO, arguably it did so in the quest of safeguarding the interest of the people. Its failure to lift all the impending restrictions along those parables provides one with an understanding of the Asian economic giant's quest of revolutionizing the global economic landscape.

Citing key areas of concerns on China's WTO membership, the paper noted that although China has made some positive strides integrating into the international economic system, it has not fulfilled all its obligations as a member of the Organization. Its integration process is characterized as a strategic defensive posture adopted in protecting the interest of the people. As Bates Gill and Michael Schiffer wrote:

"And although there is no denying that China has made great strides in joining the international economic order since the late-1970s, full commitment to free market principles would require a proactive, rather than defensive, leadership posture within the World Trade Organization that leverages the WTO for further liberalization of both international and domestic markets."³⁸

This is evident with the restrictions on services, trading tariffs, transparency, agricultural subsidies, and foreign development investment. It has also failed to introduce legislation that

38. Bates Gill and Michael Schiffer, A Rising China's Rising Responsibilities, The Stanley Foundation, Working Paper, Power and Principles : International Leadership in a Shrinking World, November 2008, pp. 7

will criminalize violations of Intellectual Property Rights. Thus China is technically and strategically employing a “need to use bases” as a result of its growing influence in the global economy.

Another interesting variable brought to light is the contentious concerns of the value of the Chinese Currency. The paper provided some well founded arguments that China’s failure to evaluate its currency in accordance with international standards is attributed to growth rates attained over the past few years. China realized that the low value of its currency will be a booster to the trading in Chinese goods and services. Today global trade is epitomized by a strengthening South-South relation posing major obstacles to economies of the North. This is evident with the proliferation of China’s large trading partners in Brazil, Africa, India and Asia. In both Latin America and Africa, China has invested multimillion dollar investment projects in its pursuit of a progressive global trade and vast mineral resources driven by the forces of neo-liberalism.

Additionally, “while neo-liberal market forces challenges orthodoxy of the Communist Party by initiating a redistribution of power and interests, the western model of market economy is hardly a possibility. Rather, there appears to be a convulsion of the Party line.”³⁹ The bottom line is that the Chinese economic system is moving from totalitarianism to market authoritarianism. In practical terms, China’s internet censorship, economic restrictions open door policy, and gradual integration into the global economy under regulations of the World Trade Organization, is a deliberate state policy, designed and controlled to enhance economic prosperity and protect national sovereignty.⁴⁰ This is evident with China’s technical and strategic evolution as a fully fledged member of the World Trade Organization.

Part V: Conclusion

While China’s attitude towards the World Trade Organization has been one of a “need to use basis,” its strategy for economic development has proven to be a unique experience of modern times. At the very least it provides an analytical framework of China’s open door policy embedded around national control mechanisms, with a principal goal of safeguarding the interest of the people.

Taking a backdrop to the question; Have China’s obligations under commitment and compliance of the World Trade Organization eroded Chinese sovereignty, it is important to understand that China adopted a technical and strategic policy in its global economic integration process.

Paradoxically, China’s regime commitments and compliance under WTO obligations evolves around trade policies promoting indigenous technologies and services, competition both at the local and national level, and controlled Foreign Direct Investment (FDI), around the parameters of an Open-Door Policy,” aimed at economic growth, whilst strengthening the Chinese Communist Party (CCP) and not compromising national sovereignty.

39. Peng. Z. and Winfield. B (2005), “Market or Party Controls?: Chinese Media in Transition” The Gazette 2005 (67) 255

40. Castells. M. (1996), The Rise of the Network Society, (Oxford: Blackwell).



Despite being a fast growing economy, China is vigorously reviving towards a capitalist economy whilst continuing a communist political system.⁴¹ Thus, it is faced with a dilemma of maintaining economic prosperity without compromising sovereignty. The evidences provided are real, suggestive and comprehensive. It also provides an analytical framework of China's compliance, commitments, and obligations under the World Trade Organization, and challenges to Chinese national sovereignty.

41. Ibid, See Peng. Z. and Winfield. B (2005)



Table 1: Type and Number of China's Trade Regime Commitments, by Area - showing China's respective regime commitments as a member of the World Trade Organization

Area	In Area	Definitional	Reporting
Trade Framework	82	4	10
Import Regulation	227	16	37
Export Regulation	9	0	3
Trading Rights and Industrial Policies	117	6	22
Agriculture	101	9	22
Services	45	9	6
Intellectual Property Rights	34	9	2
Safe Guards and Trade Remedies	70	3	8
Total	685	56	99

Table Source: United States Government Accountability Office, 2002



Table II: China's Compliance and Commitment Concerns at The World Trade Organization

Intellectual Property Rights (IPR)	China's enforcement of IPR laws remained grossly inadequate, with some industry observers indicating that IPR infringement may have worsened in 2005 and 2006- Demonstrated an unwillingness to reform its criminal code to provide for enhanced protection of IPR ¹
Industrial Policies	China maintained industrial policies that erect market access barriers to foreign industry while adopting policies that provide considerable assistance to domestic Industry. Some of the policies include regulations on auto part tariffs, national policies deterring foreign technology transfer, policy ion state management of steel industry, export restrictions on raw materials, continued regulatory interventions in commercial negotiations, and unwarranted subsidization of an extensive array of Chinese domestic industries. ²
Trading and distribution	Violation of trading rights through its restricted market access on several kinds of products, including foreign publications such as books, periodicals and audio and video product ³
Agriculture	Selective intervention in the market by China's regulatory authorities which caused delays and stoppages of shipments; SPS standards with dubious scientific rationales; and lack of transparency and predictability in its regulatory regime. ⁴
Services	China failed to implement its commitments to enhance market access and lift restrictions affecting a variety of services sectors, including, financial services, telecommunications, construction, express delivery and financial information system. ⁵
Transparency	Concerns including the participation of government bodies in the national journal; and the continued lack of a mandatory notice-and-comment practice; continue to question China's transparency commitments.
Currency Evaluation	China has also failed to evaluate its currency in accordance with standards codified under the World Trade Organization

1. Ammons, A, A, Stewart, T, Stewart, Natalie McDonough, "China's Compliance with WTO Commitments and Obligations: 2005-2007 Update, Trade Lawyers Advisory Group, September, 2007
2. Ibid, See Ammons, A, A, Stewart, T, Stewart, Natalie McDonough
3. Ibid, See Ammons, A, A, Stewart, T, Stewart, Natalie McDonough
4. Ibid, See Ammons, A, A, Stewart, T, Stewart, Natalie McDonough
5. Ibid, See Ammons, A, A, Stewart, T, Stewart, Natalie McDonough



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Journal of Global Analysis

Terrorism as Genocide: Killing with "Intent"

By Ashlie Perry*

It is plausible that terrorism can manifest itself as a form of genocide. Using Raphael Lemkin's definition of genocide and the UN Genocide Convention's definition of genocide, non-state and state terrorism are assessed as a form of genocide. Commonalities found in the definitions of both genocide and terrorism supports the argument. The psychology of terrorism and Lemkin's psychology of genocide describe similar motivations of perpetrators. The September 11th attacks and the U.S. invasion of Iraq are used as case studies to illustrate that terrorism can result in genocide or genocidal acts. Framing acts of terrorism as genocide allows for prosecution in international courts and brings a new perspective to the concept of killing with intent.

Key words: terrorism, genocide, psychology, international law

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Terrorism as Genocide: Killing with “Intent”

“Genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups, with the aim of annihilating the group themselves.”

Raphael Lemkin

Political violence is a broad term that encompasses different types of political action. Political violence can include intra-state or inter-state actions. Flanigan and Fogelman described domestic political violence as coups, rebellions, civil wars, political assassinations, major rioting, etc.¹ However, political violence also encompasses genocide, mass killings, protests, terrorism and other forms of direct action. Violence is a form of direct political action used by individuals and governments in an attempt to achieve a political goal; both genocide and terrorism fall under this category.

Etzioni (2004) becks the question “Under what conditions is democracy undermined?” in order to effectively wage war on terrorism. International relations have defined actors as both state and non-governmental organizations at the international level. Forms of violent acts, like terrorism, have changed the previous definition of “actors”. Terrorism, as well as other acts of political violence, has shifted the focus from large scale conflicts between nation states to small arm battles. It is defined many ways by different institutions, depending on the institutions’ agenda. The varying views of terrorism ultimately affect the way that each institution, state or government responds to terrorist acts. Despite the plethora of definitions, there are some commonalities. Terrorism is a form of direct political action used by individuals and governments in an attempt to achieve a political goal. For terrorist, the belief in major transformation of society, or millenarianism, allows for personal redemption even though violence is used (Crenshaw M. , "Has the Motivation of Terrorists Changed?", 2006).

There are more than 86, 000 documented terrorist attacks from 1970- 2008 alone (START Database). The prevalence of genocide has also increased in recent history. This brings forth the current research questions; can terrorism be a form of genocide? Can terrorism result in genocide or genocidal acts? Have there been instances of genocidal terrorism since the term was coined in 1945?

The argument put forth that terrorism, when using definitions previsouly established in genocide studies, certain condition of terrorism can be classified as a form of genocide.

1. Flanigan, Folgelman, Patterns of Political Violence in Historical Comparative Perspective. *Comparative Politics*, 3:1, 1970, p. 1-20



Terrorism, according to Raphael Lemkin's definition, can be used as a form of genocide. This does not evoke the argument that all cases of terrorism are genocide nor that all genocides are acts of terrorism. However, the argument is put forth that non- state and state terrorism can be used as a form of genocide.

Drawing upon the New York Public Library's Raphael Lemkin Archives (1947-1959), Lemkin's definition of genocide, in contrast to the 1948 UN Convention definition, is used to draw comparisons between the concepts of genocide and terrorism. Would terrorism be considered a form of genocide under both Raphael Lemkin and the UN Genocide Convention's definitions of genocide?

Lemkin also addresses the motivations to use genocide and the psychological scars that are evoked during and after genocides occur. The intent to evoke "fear, sorrow, pain, etc", mass movement, crowd behavior of actions against others, and the linkage between nationalism and genocide were used to describe genocide. Similarly some of the scars and motivations described by Lemkin are used in the psychological studies of terrorism. The research question emerges, what is the difference between terrorism and genocide? Using current literature, the Raphael Lemkin archive and case studies, the argument will be put forth that terrorism can result in genocide or acts of genocide. **Hypothesis 1:** *There are definitional similarities between the terms genocide and terrorism.* **Hypothesis 2:** *Terrorism can exhibit acts of genocide, per the established definition of genocide by Raphael Lemkin and the Genocide Convention.*

The current study highlights the affects of globalization and the fluidity of the terms genocide and terrorism. While academic literature has briefly addresses terrorism as a form of genocide, little has been done to bridge the gap between the concepts. An illustration will be made between the similarities of the terms, when genocidal terrorism has occurred and some of the usefulness of framing terrorism as a form of genocide. The paper also addresses the terms, and the definitional challenges of both genocide and terrorism. The September 11th attacks and the U.S. invasion of Iraq will be used as case studies to illustrate these points.

As a caveat, it should be noted that while there are some differences between Raphael Lemkin and the Genocide Convention's definition of genocide, both definitions are used to illustrate that either definition suffice in showing the similarities between conditional cases of terrorism and genocide. It is not the purpose of the paper to conflate the term genocide by stating that all incidents of terrorism are acts of genocide. Instead, the paper attempts to operationalize the term genocide, under the current established guidelines in the field of genocide studies, with conditional cases of terrorism. It is also the goal of the paper to facilitate dialogue about the usefulness of framing the act of terrorism beyond its initial scope.

September 11th Attacks

The attack of September 11th, 2001, also known as 9/11, was a series of coordinated attacks against American civilians that resulted in the death of an estimated 2000-3000 people. The suicidal attacks, carried out by 19 militants, were linked to the Islamic extremist organization, the al-Qaeda (Pyszczynski, 2003). However, it is important to highlight the events that preceded the attacks to better grasp the ideology and reasoning behind the event and to illustrate its use as a case study.



The origin of Islamic fundamentalism has been traced to the creation of The Muslim Brotherhood in Egypt in 1928 (Laquer, 2003). The main agenda of the organization was ending political propaganda and building economic enterprise using nonviolent approaches. The organization built mosques, tried to stimulate economic reform and emphasized the importance of church and state being one. Influenced by individuals such as Sayed Qutb and al Zawahiri, the dynamics of "missions" began to morph over the decades. The word terrorist became a term that was loosely used to describe the Islamic groups with an extremist, jihad mission. The focus of "holy missions" shifted from the British occupancy in Egypt to the communist invasion of Afghanistan.

Although the Al-Qaeda is not often thought of as a genocidal organization, it has been suggested that "global jihad", as we now know it, began with an invasion of Afghanistan in 1979 (Keirnan, 2008). Current religious fundamentalist terrorist organizations in Pakistan and Afghanistan are marked as the result of the 1979 Soviet invasion of Afghanistan. The Soviet – Afghan War (1979-1989) began with the Soviet Union invading Afghanistan. The United States supported the Afghan resistant groups, self proclaimed Holy Warriors, with guns, training and resources (White, 2002, pp. 162-164). Osama bin Laden founded the al Qaeda in 1989 and joined forces with the mujahideen (Keirnan, 2008). The al- Qaeda called the Soviets the "foreign devils", a term that Osama bin Laden would later use to describe Americans.

The Soviet withdrew troops from Afghanistan in 1988, due to its collapsing system. The mujahideen felt that it was a personal victory (White, 2002). The withdrawal of troops and collapse of the Soviet system was viewed as a victory by God. In 1990 the United States involved itself in a conflict between two Arab nations; which was viewed as the United States pitting Arabs against one another. (White, 2002) Thus began the al-Qaeda's declaration of war against the United States. The plotting for the 2001 attacks began as early as 1992 with members of the group strategically placing themselves in jobs and institutions around the world (White, 2002). In 1998, Bin Laden stated that the duty of the Al-Qaeda is to kill Americans, whenever encountered and that all Muslims are required to fight the jihad (Keirnan, 2008).

On the morning of September 11th 2001 the world woke to the "102 minutes" that changed America and the face terrorism. At 8:46 a.m. it became breaking news that an American Airlines flight with 92 passengers was flown into the Tower One of the World Trade Center. By 10: 30 a.m. three other planes crashed as a part of the systematic attack (Pyszczynski, 2003). . A fourth plane was deterred by the 45 passengers on board and crashed in Pennsylvania. The flight was presumably headed towards Washington D.C. with the intention of striking the White House. In all, an estimated 3000 people lost their lives during the September 11th attacks, majority of which were in the attacks of the North and South Towers of the World Trade Center in New York City.

The attacks of 9/11 were an attempt by an extremist organization to destroy, and at the least disrupt, the everyday functions of a particular group of people. The planes that destroyed the WTC (World Trade Center) were a symbol of all financial institutions within the United States. The Pentagon was symbolic of US military operations. The Pentagon is known worldwide for being the institution that makes American military decisions. Destruction of the Pentagon would render the US militarily weak and incapable of defending itself. The fourth plane, thwarted by the passengers on board the aircraft was destined for the White House, the symbol of US government.

Can terrorism be genocidal?

“We calculated in advance the number of casualties from the enemy who would be killed... I was the most optimistic of them all... due to my experience in the field... They were overjoyed when the first plane hit the building, I said to them: be patient.” - Osama bin Laden (Pyszczynski, 2003)

It is more than plausible to think of terrorism as encompassing genocidal acts. The U.S. Department of State, prior to 2001, defined terrorism as “*premeditated*, politically motivated *violence perpetrated against noncombatant targets* by sub-national groups or clandestine agents, usually intended to influence an audience (Hudson, 1999).” A common theme amongst the various definitions of terrorism is the concept of *killing with intent*.

Genocide is defined as , "any of the following acts committed with *intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such*:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group." (1948 United Nations Genocide Convention)

Additionally, ethnic cleansing is legally treated like genocide by the UN and the International Criminal Tribunals. Ethnic cleansing, according to the UN, includes mass intimidation of a group, by threat or use of violence, to leave their homeland. More than 72,000 New Yorkers were displaced from their homes after 9/11 (Travis, 2010). The UN Convention on the Prevention and Punishment of the Crime of Genocide indicates that genocidal acts do not have to involve the intentional killing (physical) of all members of a group. The intention to harm or render a group incapacitated is sufficient grounds for the crime of genocide; therefore, the use of terror can be acts of genocide (Wilshire, 2005). The acts of genocidal terrorism not only included the attacks of September 11th but the subsequent anthrax packages that killed several more Americans and continued to scare and disrupt the lives of Americans beyond the boroughs of New York City.

The debate over whether terrorism could be considered genocide began before the term genocide was coined and before terrorism was a legal concept. In 1930 the 3rd Conference for the Unification of Penal Law listed the offense of an “instrument capable of producing a public danger” as terrorism.

Lemkin stated that the term “public danger” was too limited and should be broadened further. He urged that “danger” should include a more generalized concept named transnational danger (Lemkin, Acts Constituting a General (Transnational) Danger Considered as Offenses Against the Law of Nations, 1933). Terrorism, as he knew it, was not a legal concept and was too confounded to include as a type of genocide. Lemkin introduced his concept of “Barbarity and Vandalism as transnational danger”, terms that would later be replaced with the word genocide. Lemkin did agree that terrorism, as with other forms of violence, was a transnational danger.



It has been purported that if the generation of a group, in and through world experiences, is disrupted their reality dissolves and their identity becomes less salient (Wilshire, 2005). The prolong condition of disenchantment and wearing a way of "self" makes genocide more likely. Subsequently, the individual's home group, or self, way of doing things are threatened by the outside, or "other", group's way (Wilshire, 2005). The constant menace of external forces threatens the illusion of group immortality. This gives way to terror and retaliation.

In the current study we addressed the invasion of Britain in Egypt, the invasion of the Soviet Union in Afghanistan and the US occupation in Saudi Arabia. The prolong threat to the "sense of self", arguably, has excited a sense of terror in certain populations. The threat is met with retaliation, or self "corruption, in a backlash of the West. Genocidal acts of terrorism resulted from the constant threat from "others", out-group, aimed at the in-group, the Arab world. Using the theory posited by Wilshire, a linkage is made between the "self", others", and the manifestation of genocide and terrorism.

Terrorism

Crenshaw (2006) argues that the motivation and objectives that explain the choice of methods, for terrorist have not changed over the years. Radical organizations unite people of various backgrounds and temperaments. It is the membership in the extremist group and collective belief system that binds members together, not the violence. Whether it is identity as a group member, a national or ethnic group, or the belief system of the group, they are the dynamics that propel various forms of political violence. Their belief in the enemy overpowers the fact that people will die and generally places the group in the role of victims. In most terrorist groups there is a perceived injustice, a need for belong and identity.

Similarly, the same occurs in genocidal groups. Lemkin notes that in each case of genocide there is a group that is "aware of injustice and insults heaped upon it by the other [group]". Using the current case study, hijackers came from various backgrounds but were bound together on a jihadist mission because they had adopted a similar belief system. Identity with a group, whether religious, cultural or national, plays a large role in the formation of terrorists. Similarly, group identity is a cornerstone of Raphael Lemkin's concept of genocide.

Genocide

Genocide, as it is most commonly used, is based on the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. However, the term genocide was coined by Raphael Lemkin, an advocate that pushed for the term genocide to become a part of international law and as a Crime Against Humanity.

Lemkin's definition included the "disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups..." (Lemkin, 1945). The attacks of September of 11th were aimed at the disintegration of both political and economic institutions.

A common misconception about genocide lies in the semantics of its definition. It should be noted that genocide does not necessarily mean the murder of "indelible group members" (Rummel, 2002). Sections (a) and (e) of Article 6 of the ICC Statute makes it clear that perpetrators can use tactics other than killing one or all members of a particular group. Acts of terrorism and genocide do not always include one act that involves the murder of an

entire group. Genocide includes the intent to destroy and encompasses a multitude of acts that attempt to carry out the genocidal plan. It is noted that the *intention* to destroy a particular group of people, institutions and livelihood using terrorist attacks is a genocidal form of action.

It has become apparent that the "intent" part of the genocide definition is an misunderstood criterion. The term intent, identified as the perpetrator's aim or goal, can be conduct or "the initial acts in an emerging pattern" (Rummel, 2002). The al Qaeda's campaign against American can be viewed as acts of as "emerging pattern". In 1993 the al Qaeda bombed the WTC and had a firefight with Army Rangers in Somalia. In 1995 car bombs were planted in military personnel vehicles in Saudi Arabia, bombed trucks at the US Air Force base in Saudi Arabia in 1996, bombed the US embassies in Tanzania and Kenya in 1996 and continued to be active up until the September 11th attacks (White, 2002).

The most common interpretations of genocide are more domestic in nature, such as atrocities that occur within a single state. The framing of genocide as a single nation event has omitted terrorism from being considered a form of genocide. Terrorism, specifically, was included as a transnational danger that should be punishable under international law (Lemkin, 1933).

Lastly, the definitional challenge of defining genocide should be noted. As with the definitional woes of civil wars, scholars deliberate on the number of deaths that are need to constitute a genocide, civil war, etc. The Genocide Convention, as well as Raphael Lemkin, purposefully omits assessing a numerical cut-off on what should be considered an atrocity. Lemkin, and the Convention, uses the generic term "a group". Upon this premise, the definition of genocide is applicable for the purposes of this study.

Terrorism and genocidal acts

"Well, you know, what happened on the 11th of September was not just an average crime. It is a crime against the United States, but a crime against humanity. Some 4,000 people lost their lives; this wasn't routine."

Former Secretary General Colin Powell

Raphael Lemkin's definition of genocide explicitly states that the intentional killing or attempt to destroy a group is genocide. Conversely, terrorism is the premeditated, or intentional, killing of non-combatants with the hopes of influencing an audience. Terrorism, nor genocide, occurs in a vacuum. There are steps that lead to the culminating events, with a history between the two main groups involved. There are eight identified stages of genocide; classification, symbolization, dehumanization, organization, polarization, preparation, extinction and denial (Stanton, n.d.). The eight stages of genocide are applied to the case studies of the September 11th attacks. The eight stages are not mandatory to recognize cases of genocidal terrorism but to illustrate the linkage between the abstract concepts.

The classification stage can be as simple as making the identifications of "us" and "them". Classifications can be made on the grounds of religion, ethnicity, race or nationality. As it is argued, the September 11th attacks were a form of genocidal terrorism. There was a classification of "us", Wahhabi jihadist, versus "them, the Americans or Westerners. Symbolization, the next stage, is giving names to the created categories or distinguishing



individuals by the way they dress or a particular color. Identifying a group as “Westerners” or “Jews” gives a name to the classified group. Symbolization does not mean that genocide will occur unless the next step occurs.

During the next stage of genocide, dehumanization, a particular group is denied their humanity. The aim is to help individuals overcome the aversion of murdering another human being (Stanton, 1987). During this stage hate propaganda are spread to individuals to entice involvement with the movement. Rhetoric against Americans and Western societies began to surface in the early 1980s. In preparation of the September 11th attacks against Americans, cassettes were circulated in the region where the hijackers came from, stating that “blood was inevitable” (Gold, 2003) .

Organization is the stage of genocide where killing is planned by either a state or terrorist organizations (Stanton, n.d.). Members of the group are trained, armed or strategically placed in different areas. During the fifth stage of genocide, polarization occurs. Osama bin Laden repeatedly stated that it was the mission of all Muslim to take down the enemy of Islam. Polarization forces one to completely support the cause or to act as a standby, no room is left for the middle ground opinion.

During the preparation phase of genocide victims are separated out because of their religious or ethnic identity. Preparation for extinction, the next phase, has begun. In the current case study, specific locations were target for the attacks. Extermination can include revenge killing of another group. Political leaders (the White House), military officials (the Pentagon), and the heart of US economy (the WTC) was chosen due to what they symbolized in America. Extinction occurred on the day of September 11th when all other stages culminated in the act of genocidal terrorism.

The final stage of genocide is denial. Denial occurs after extermination and is an indicator of future genocidal behaviors. There is an attempt to hide evidence that genocide occurred. Leaders of the genocidal group cling to power until they flee into exile. The hijackers of the 9/11 attacks were part of a suicide mission that eradicated all members and the opportunity for them to speak about or be tried for the acts committed. Soon after the terrorist attacks the al Qaeda began closing cells that were associated with the events. The organization stated that it was the “foreign devils” that brought such actions upon themselves and they were simply completing a holy mission, not committing murder.

September 12th and the US invasion of Iraq²

The U.S. invasion of Iraq is used as a case study exhibit when acts of terrorism can become genocidal. Undoubtedly, the concept of state terrorism is a contested concept. However, the academic literature on state terrorism has increased. A recent argument of state terrorism is the U.S. invasion of Iraq (Baylis, 2002).

The United States’ “war on terror” did not begin with the George W. Bush’s foreign policy. The United States’ global war on terror began with George H.W. Bush’s mission in Somalia. The Clinton administration continued the mission. The attack on perpetrators and civilians alike was a tactic continued by the Bush Administration (Bacevich, 2002).

2. The state terrorism case study of the US invasion of Iraq can be removed.



Undeniably, the scope of homeland security has changed post September 11th attacks, in both the United States and in the European Union. On September 12th, President Bush announced that the attacks were “acts of war” and solicited aid from allies in the “war on terrorism”. The United States was not going into combat with another nation but with a group of individuals that were at a tier lower than the state level. The US was waging a war against a group of people, or non-state actors. The Bush Administration’s “war on terror” became one of the first post- Westphalian wars that included a borderless and global scope. The amount of American lives that have been lost in the “War on Global Terrorism” has surpassed the amount of lives lost during the 9/11 attacks (Baylis, 2007).

The US began preparing its invasion of Iraq in 2002. The formal invasion of the country began with a series of air strikes throughout the region (Baylis, 2007). Estimations of civilian, or “insurgency”, casualties have rarely been reported beyond the confidential status. An Iraqi General, and other detainees, died under US custody. Deaths were listed as “massive blows to the head” and death by suffocation with an electrical cord while in a sleeping bag (Travis, 2010). The Red Cross began reporting incidents of mistreatment of prisoners by military intelligence at Abu Ghraib prison. Prisoners complained of beatings, food deprivation, etc.

At Camp Cropper in Baghdad, the Red Cross noted incidences where military personnel fired on unarmed civilians after they protested or attempting to leave the conditions of the camp. At the camp 3,000 prisoners lived 80 per tent with only trenches for latrines (Travis, 2010). The US government denied the Red Cross’ claim and revoked their access to camps that were suspected of violating human rights.

The GDP of the country shrunk to a 5th of what it was prior to the “war on terror” invasion. By 2004 thousands of Iraqis were homeless and over 5 million were displaced by the continuing war (Travis, 2010). Electricity production deteriorated after the onset of war. Testimonies showcase instances where individuals were taken from their home, beaten, money taken from them and released with no explanation or charges rendered. Individuals subject to the treatment included possible perpetrators, men and women civilians. The term “insurgency” was used frequently by the Bush Administration to give a title to the individuals that they were pursuing. Regardless of status as a civilian or insurgent, the United States entered Iraq with the intention of eradicating a group of people.

The United States began classifying terrorist as Muslim or Islamic extremists, creating an “us” and “them” dynamic. Most can agree that not all terrorists are Muslim, and we can also summate that not Muslims are terrorist. However, the Bush Administration successfully labeled terrorist as Middle Easterners and/or Muslim.

It is estimated that the documented civilian deaths in Iraq is 100, 000 to 110, 000 people (Unkown, 2011) since the US invasion. This estimation is on the documented reports; this excludes missing persons or undocumented deaths.

The Psychology of Terrorism and Genocide

Raphael Lemkin explained genocide from a psychological, sociological and political science perspective (Lemkin, 1947). Psychological reactions can occur on three levels; the victimized group, the genocidist and the outside world. The victimized group and the genocidist levels of psychological reaction will be addressed using both the psychology of terrorism and genocide.



The genocidist

There are paralleling similarities between the psychology of terrorism and the psychology of genocide. It is the case of both genocide and terrorism that there is the sense of the "other". The idea of "self" was replaced with the group ideologies and the individual takes on the enemy of the group.

Some individuals may join a movement for solidarity with the group that they identify with. A common motivational factor that appears in the literature is identity. Membership into a group is a positive attraction for terrorist (Horgan, 2005). This notion suggests that individuals who feel isolated from the broader society are drawn to membership with a group that they feel gives them an "identity".

Staub and Bar-Tal (2003) investigated origin factors to acts such as mass killing and genocide. Social conditions, psychological processes and cultural elements are thought to be contributing factors. Ongoing difficult social conditions limits the fulfillment of basic human needs. Psychological reactions result as the response to prolonged difficult conditions. Psychological responses include a strong identification with a group, creating ideologies and social beliefs, and devaluating others.

For terrorist, a motivational factor is the perceived injustice that their "group" is experiencing. Motivational factors include identity, perceived injustice and a need for belonging. Insiders are trusted while individuals "outside" of the group are distrusted. Similarly, Lemkin notes that cases of genocide include an awareness of "injustices and insults heaped upon it by the other (New York Public Library)."

The victimized group

The victims of the attacks were not just those who died in the Towers but witnesses, family members of the deceased and the overall US population. Gallup polls indicated that 20% of the American population knew someone, or knew someone who knew someone, that was missing, killed or hurt by the terrorist attacks. The psychological scars of mass death caused by the genocidal act of terrorism were felt months after the event.

The initial reaction to terrorism was shock, followed by denial, sorrow, fear and then hostility (from the previously mention sense of injustice). Lemkin postulates that there is a feeling of pain, sorrow, reception of injustice, and the frustration from the loss of lives that occur with genocides. He notes that the term "Lest we forget" is often used by genocide victims. The term has been frequently used when describing the terrorist attacks of 9/11.

Policy Implications

There is limited information pertaining to terrorism as a form of genocide. Even more marginal is the selection of literature that addresses the usefulness of framing the act of terrorism beyond its initial scope. Frye (2002: 169) argues that there are two benefits or framing terrorism as a crime against humanity or as genocide. First, it allows large scale acts of terrorism to be legally tried as a crime against humanity or as genocide. It broadens the legal capacity to try terrorism as more than an act of terrorism but would allow prosecution in two other categories. Secondly, if terrorism is framed as genocide it allow for universal jurisdiction.

Allowing terrorism to have universal jurisdiction, via trying terrorism as genocide or as a crime against humanity, allows cohesiveness amongst nations by using a common approach. The European Union defines terrorism in a manner that is structurally different than the US. Despite operational differences a universal jurisdiction would allow the same course of action and higher success rate of prosecution for acts of terrorism.

The ICC currently cannot hear crimes of terrorism because their jurisdiction is limited to war crimes and crimes against humanity. Framing terrorism as genocide would allow the crimes to be heard by tribunals. Framing terrorism as a crime against humanity would allow offenses to be heard by the International Criminal Court. Each individual country not has to be responsible for prosecuting perpetrators. This is especially important in countries weak or fragile states are not able to try perpetrators.

Terrorism as genocide

The argument was put forth that non- state and state terrorism can manifest itself in genocidal acts. Three research questions emerged; can terrorism be a form of genocide? Can terrorism result in genocide or genocidal acts? Have there been instances of genocidal terrorism since the term was coined in 1945? Would terrorism be considered a form of genocide under both Raphael Lemkin and the UN Genocide Convention's definitions of genocide?

Using the attacks of September 11th, it was concluded that terrorism can be a form of genocide and exhibit genocidal acts. The case also serves as an example of a genocidal terrorism since Lemkin's inception of the term genocide in 1945. Further drawing up Stanton's *Eight Stages of Genocide* specific examples of genocidal terrorism are described. The attacks of September 11th were the result of an "in" group, attempting to destroy in part or whole an "out" group. The al-Qaeda worked for a decade planning the attacks of 9/11, purposefully targeted the political, military and economic institutions. Lemkin's definition of genocide included the "disintegration of the political and social institutions, of culture, language, national feelings, religion, and the economic existence of national groups..."; an objective of the terrorist organization.

There are commonality between the definition of genocide and terrorism. Using both the 1948 UN Convention and Lemkin's definition of genocide, it is concluded that terrorism can be considered a form of genocide. The U.S. Department of State, prior to 2001, defined terrorism as "**premeditated**, politically motivated *violence perpetrated against noncombatant targets* by sub-national groups or clandestine agents, usually intended to influence an audience." The 5 part US legal definition of terrorism includes "violent and illegal activity that is intended to intimidate or coerce a civilian population or government". A common theme amongst the various definitions of terrorism is the concept of *killing with intent*. The same "intent" stipulation is found in the definition of genocide. Genocide is defined as , "any of the following acts committed with **intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such...**" The operational similarities support the theory that terrorism could be considered a form of genocide.

The term state terrorism has not "officially" been used in the past international conventions due to some arguments that terrorism can only apply to non-state actors. However, a case study was provided to illustrate when state terrorism can become genocidal; assuming that the US invasion of Iraq is a plausible case for state terrorism.



There is limited literature that addresses terrorism as a form of genocide. Little has been done to bridge the gap between the concepts. Illustrating the similarities of the terms and when genocidal terrorism has occurred adds to the usefulness of framing terrorism as a form of genocide. The benefits of viewing terrorism as genocide, or a crime against humanity is twofold. First, it allows large scale acts of terrorism to be tried as a crime against humanity or as genocide. Secondly, if terrorism is framed as genocide it allow for universal jurisdiction. The broadening of terrorism's legal capacity would allow greater success for prosecution.

The rational for reframing terrorism is not to revamp the current international criminal court but to allow certain cases of terrorism to go on trial in the ICC. The argument of the current study is to reframe the concept of terrorism for more breadth in legal prosecution and less of a moral judgment on the individuals that should be on trial for terrorism. If an individual is a citizen in Country A and is guilty of a crime of terrorism in Country A, he/she could be tried in the ICC or domestically. The case would not be limited to the jurisdiction of Country A. More importantly, if an individual is a citizen of Country A but commits a crime in Country B, the case could then be heard in the ICC. This would address some the legal concerns that current surround international terrorism.

A limitation of the study is that it relies heavily on literature from the fields of political science and sociology. The current study would benefit from the addition of information of the legal perspective of prosecuting terrorism as genocide. It is also understood that using the term genocide too broadly can conflate the term. The current paper focuses on the benefits of reframing the concept of terrorism, not broadening the term genocide. It also draws upon Raphael Lemkin archival documents, using information not generally addressed in academic literature regarding genocide and includes the perspective of genocide from the term's creator. While Raphael Lemkin's definition of genocide is more applicable to the case of reframing terrorism, both Lemkin's and the Genocide Convention are applicable in supporting the current argument.



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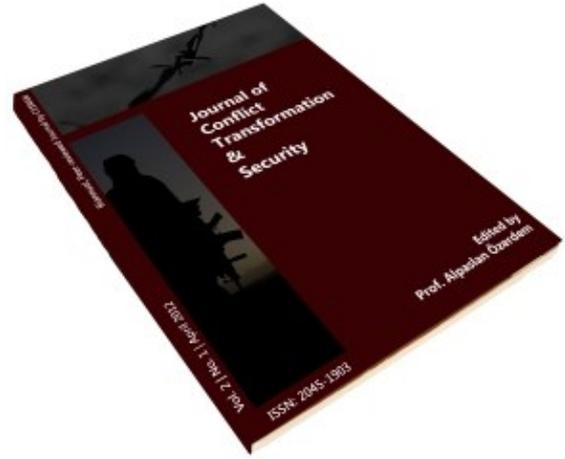
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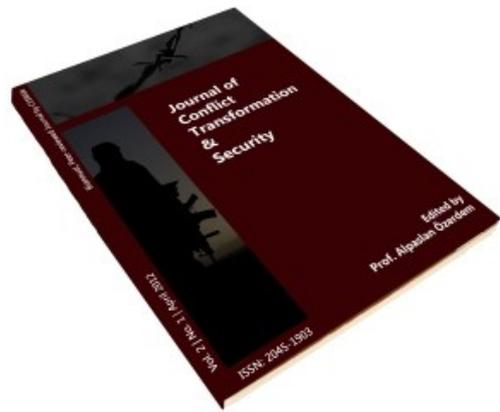
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BOOK REVIEW

Walter Mattli and Ngaire Woods (eds)

The Politics of Global Regulation

(Princeton, NJ: Princeton University Press, 2009, ISBN: 978 0691139616, 312 pp., £16.95 pb.)

The process of neoliberal globalization underway since the 1980s has had destabilizing impacts on nation-states and their institutions. State capacity and national policy-making have been substantially transformed, with many scholars characterizing this process as the rescaling-up (and down) of the Westphalian nation state. Manifestations of this process have been complex, and have engendered new power relations and new domains of supranational policy venues indicative of an increasingly global system of governance. In fact, the national scale of analysis still remains a crucial site of contestation and negotiation, but with less autonomy and domination in terms of certain ideas, institutions and interests. These transformations have spurred scholars to increasingly study regulation at a global, rather than at a national level of analysis.

The Politics of Global Regulation, an edited volume by Walter Mattli and Ngaire Woods, by showcases a versatile, analytical perspective to understanding global regulation which takes into account multi-faceted interactions between nation-states, international organizations and civil actors and the nature of political mediation across multiple scales of political economic activity. The 2008-2009 financial meltdown and the resulting changes to global governance following the crisis highlighted the increasing need for such a global perspective.

Mattli and Woods's introductory chapter evaluates the potential to translate intentions to establish an effective global regulatory regime into reality, not only in the realm of finance, but in other sectors as well. The introduction provides the theoretical framework for the analysis in the following chapters. It sets out to explain which interests have a higher tendency to be represented in global regulation and why others are excluded. According to the editors, the answer depends on the nature and dynamics of political construction in each stage of the regulatory process. This theoretical underpinning posits that there are two factors at work that determine regulatory outcomes. On the one hand, policy formulation at the national level is based on domestic institutional assets and the collective capacity of domestic actors, and on the other hand, is based on the emergence of regulatory networks operating at the global level. In this context, Mattli and Woods argue that variations of regulatory outcomes can be explained by the forces of demand and supply. The institutional setting within which global regulation occurs is intrinsically exclusionary and favours narrow interests. The editors contend that regulation for the common interest requires broad based demand for change, the absence of which will make formally open institutional contexts inaccessible. More specifically, the likelihood that change in regulation will benefit more broad interests are determined by three factors: sufficient information about the impact on diverse actors, and the convergence of



interests among the various actors and ideas that bind together actors within existing institutions. In this theoretical architecture, sustainable institutional change is predicated on the ability of groups to forge new ideas that generate widespread support allowing interest groups to press for change, but at the same time these dynamics play out within credible existing institutional frameworks.

The remaining chapters bring together a range of experts to examine global regulatory changes in different policy areas: debt structuring (Eric Helleiner), human rights violations (Kathryn Sikkink), global corporate conduct (David Vogel), safety in shipping (Samuel Barrows), judicial liberalization at the WTO (Judith Goldstein and Richard Steinberg) and economic integration (Miles Kahler and David Lake).

The Politics of Global Regulation enhances our understanding of how ideas and interests in the new domain of supranational policy-making produce new constraints as well as provide opportunities for actors in both the public and private spheres, from the local to the global level. The chapters discuss the emergence of these new interests, their institutional forms as well as their ideational basis by encapsulating both state and non-state actors. Thus, the volume generates critical analysis on the nature of institutional continuity and change and reflects on the political nature of global regulation in the aftermath of the financial crisis.

Overall, the case studies do not articulate the theoretical underpinnings outlined in the first chapter very thoroughly. The contributors, however, do provide a timely examination of the conditions that trigger global regulatory capture and how it can be averted. For scholars and practitioners of global governance, *The Politics of Global Regulation* offers fresh analytical insights on the dynamics of international regulation.

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Tamar Ashuri

The Arab-Israeli Conflict in the Media: Producing Shared Memory and National Identity in the Global Television Era

(New York: I. B. Tauris Publishers, 2010, ISBN: 978-1-84885-243-3, 224 pp., \$73.98hb)

In *The Arab-Israeli Conflict in the Media: Producing Shared Memory and National Identity in the Global Television Era*, Tamar Ashuri discusses the tensions between several forces such as nationalism and globalization; economic interests and cultural constraints; shared and cosmopolitan memory. To do so, she firstly justifies her choice of television as being the central instrument of creating common memories and identity. Then, she identifies two recent challenges to this dominance caused by cable and satellite distribution and digital technology; and the transition from a national to a transnational system of production. These two forces together challenge the authority of the nation-state over the broadcasting sector and leading away to a transnational one which is more concerned with the market value.

Among the two approaches of "hegemony" and "heterogeneity", that tries to explain the relations between nationalism and globalization; the former suggests a more prominent role for globalization while the latter claims the ongoing supremacy of national feelings in the media productions. Ashuri, on the other hand, claims these two approaches are not necessarily excluding each other, actually they are interwoven. Her main concern is to prove this claim by analyzing television programming particularly. To realize this aim she chooses a documentary, which had been produced by an international co-production. Since the international co-productions are consisted of broadcasters from different countries, this is an excellent choice by the author to test the tensions between globalization and nationalism. The international co-productions are crucial for sharing the financial burden thus contributing to the globalization dimension to the media productions, but since they retain their rights to make changes in the end-product it is very enlightening to observe how they used these rights.

The Fifty Years War: Israel and the Arabs, is a perfect choice for analyzing this issue since it is an international co-production financed by the BBC, the programme's initiator; WGBH Boston (PBS); and MBC Abu-Dhabi/London. The documentary aims to cover the conflict between Israel and the Arabs in a six part documentary series. These three broadcasting organizations are not only the financiers but they also had the right to edit the final product according to their own choices. So, by looking at the final products of these broadcasters the author aims to find the answers of the questions of: what kind of influences these joint ventures have on the productions? How can the recent developments in broadcasting industry affect the content of programmes, namely do the economic constraints lead to the demise of the national interests?

In order to answer these questions, she takes a holistic approach and refrains from the methodological flaws of media economists and cultural theorists by examining the entire production process; the pre-production, production and post-productions decisions, adjustments, conflicts and processes. She investigates the interactions between three broadcasting organizations and she also analyses the "master-text" and three distinct texts produced by these organizations.

She argues that although this project started as a joint venture, as a product of global dynamics, the end-products of each broadcasting organization is differed from each other because of the nationalistic pressures. Each organization altered the master-text in a way that



they think their national audiences find more acceptable. Thus, they took under consideration the national sensitivities. As she claims at the beginning of the book she successfully proves that the hegemony and heterogeneity approaches are interwoven. Even when the global factors are relevant for the productions, the national identity still plays a prominent role.

Ashuri, picks an interesting subject and elaborates it with the most suitable case with clear and sound arguments. Her research questions are relevant and her methodology to reach the answers is far-reaching. She successfully verifies her arguments to her research questions by the methodology employed. Her theoretical discussions about national identity and the role of television programming in creating it are solid. She employs a sophisticated style in all six chapters of the book and leaves a great resource for both media studies and nationalism studies scholars and students, who want to understand the dynamics between globalization and nationalism.

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Tarik Sabry

Cultural Encounters in the Arab World: On Media, the Modern and the Everyday

(New York: I. B. Tauris Publishers, 2010, ISBN: 9781848853607, 240 pp., £15.99 pb.)

Tarik Sabry's *Cultural Encounters in the Arab World: On Media, the Modern and the Everyday* is, first and foremost, a fervent case made for the establishment of Arab cultural studies as a discipline. In the wake of the Arab spring, his prescient book will be leafed by many who have hitherto seen the Arab world through exposés on radicalism and terrorism. The case Sabry makes for the quotidian, for everyday encounters, is a welcome one, though one with many methodological shortcomings. While the book seems to be an exercise in de-essentialization, Sabry often falls back on rigid categories that he aims to deconstruct. His effort isn't helped by the fact that the starting premise is an unnecessary fragmentation of the process of 'encounter' into several parts including 'the encountered' and the 'the side that does the encountering', while his argument would have been better served by seeing 'both sides' as agents equally transformed by the process.

In the first chapter Sabry makes it clear that the encounter he is interested in is that between Arab cultures and modernity, and takes a long tour of the genealogy of modernity, which he only very loosely connects to his arguments. The real gist of the book comes in the second chapter when Sabry tackles the issues that govern the cultural and political discourses in the Arab world. Making several references to the pan-Arabist Al-Jabri's work he exposes the tension between the discourses that favour *turath* (heritage) and that favour *hadatha* (modernity). He identifies four different positions vis-à-vis these discourses: the historicist, the rationalist, the salafist and the anti-essentialist. What he unravels in the first three positions is the way authenticity is used as a tool of legitimation, particularly by the salafists: "authentication as Islamisation often takes place within a discourse that largely serves the telos of the authenticator rather than Islam" (p. 36) As a proponent of cultural studies, and the study of the everyday, for him the way forward is the anti-essentialist position which allows for different interpretations for everyday events. The most interesting advocate of this position is, Sabry tells us, Khatibi, who among others aims to transcend the tension between heritage and modernity (*tajawuz*) and calls for a reconnection between Arab philosophy and the *event*. The exposition of these positions is Sabry at his best, as he names and describes the categories- a method he seems to abandon elsewhere in the book. He introduces many interesting concepts in passing and leaves them unexplored, such as 'de-de-Westernization'. Though quite a mouthful, it promises to be a useful concept if only Sabry took time to elaborate on it. It is time, Sabry seems to be saying, to look at cultural phenomena on their own terms, rather than take an ideological position to condemn their possible 'Western' character. This coincides with Khatibi's call that the hermeneutics we use to understand Arab culture needs to have a category that precedes both the cultural and the social, the latter pretty much a dirty word also in salafist circles.

Sabry continues to take issue with authenticity in the chapter in which he develops his analytical tools, saying that using authenticity as the yardstick fails to recognize popular culture and the everyday as sites of production of political meaning- a warning that obviously was not heeded by those whom the Arab spring took by surprise. Political protest as the everyday, as the culture of the street, calls to mind the carnivalesque, which Sabry mentions, again in passing but rather annoyingly does not develop. His championing of popular culture is articulated through his call for a new language of critique that can recognize narratives and

cultural products other than the privileged, normative *nassaq* and this, he says, requires a shift from literary criticism to cultural criticism.

After sketching his methodology Sabry moves onto his fieldwork. The first chapter on his fieldwork focuses on behavioural and linguistic modes that are generated at Qasr al Nil bridge in Cairo and the visa queues in Casablanca. The action in these seemingly disparate spaces are connected by the thinnest of conceptual narrative; Sabry could easily have spent twice as much time developing his ideas of self-reflexivity, performativity and the production of localized discourse as connected these 'spaces of encountering' as he calls them. As a self-fulfilling prophecy Sabry suggests that Arabs do not have a common historical moment, which is then reflected in the second chapter of fieldwork in which he investigates how Moroccan youth - from different social milieu- conceive of the 'West'. As any scholar worth his salt would, Sabry warns against exoticising the Arab world and yet he proffers one set-up after another of anthropological frisson, from unexpectedly articulate Islamist youth, to mountain village young men who are asked about Pamela Anderson's appeal, to Moroccan boys who sing 'Losing My Religion', to hijabi girls who live double lives. The interviews do include interesting material but the reader will have to draw his/her own conclusions as Sabry prefers to juxtapose the fieldwork material with cultural studies theories rather than interpreting his own material.

The conclusion returns back to the starting premise of the need for Arab cultural studies and side stepping the discussion of its relevance to the Arab world turns into a discussion of the discipline in general. Sabry continues to introduce new concepts well into the concluding chapter, which, in its present state, would have functioned better as part of the introduction and would have given better direction to the text. As it stands, very interesting ideas that need to be developed fizzle out into intellectual solecisms. And yet due to his plea for Arabic cultural studies the volume remains an interesting read, leaving you wishing that it had had a stricter editor who could have cut out the lugubrious literature reviews that seem to come mid-argument and who could have help flesh out the connections between the results of the interesting field work Sabry has conducted.

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