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Foreword/Avant-propos

I am happy to introduce the Fall 2015 edition of *Potentia*, which is the 6th publication of the Centre for International Policy Studies' (CIPS/CEPI) graduate studies journal.

Potentia seeks to publish high quality scholarly work by MA and PhD students of public and international affairs. Our editorial team is a dedicated group of volunteers from the Graduate School of Public and International Affairs at the University of Ottawa and our authors are graduate students from Canada, the United States, the United Kingdom, and Ireland. We had an incredible pool of submissions from around the world and I am very impressed with the quality of research that we were able to publish.

This year, I am proud to present a collection of papers on the theme of "disruption". As students of public and international affairs, we often learn about the systems, structures, institutions, and processes of global politics and policy making. Fascinating research questions arise at the limits and flaws of these and when the problems that we face in global politics disrupt them. This theme of disruption allowed for a diverse array of submissions from which to choose. Our editorial team has selected five excellent, comprehensive research papers that, through a variety of scholarly lenses, highlight the deficiencies of our global politics and disruptions to our expected global order. These articles connect the ideas of shifts, changes, and disruption in a changing world, and include: peacebuilding in South Sudan; cultural heritage and conflict in Mali; the Treaty of Lisbon and international intervention; the philosophical and sociological "right to the city"; and NATO involvement in Kosovo. Each paper is thoughtful, well-researched, articulate, and engaging and are great examples of strong graduate-level writing. The selection and editorial process proved to be a rewarding learning opportunity for graduate student editors and authors alike.

Il s'agit de ma seconde édition en tant qu'éditrice-en-chef de *Potentia*. Je suis tellement fière du travail accompli et d'avoir eu la chance de travailler avec une équipe aussi fantastique. Merci beaucoup! Ma bonne étoile ne s'arrête pas là et il me faut souligner l'assistance et le soutien d'Isabelle Kirsch et Dr. Roland Paris du CÉPI. Merci encore pour l'opportunité d'avoir été éditrice-en-chef et pour votre soutien dans ce projet. C'est toujours un privilège de travailler avec vous. L'expérience de créer *Potentia* était dynamique, enrichissante, et intéressante et je suis reconnaissante d'avoir eu cette occasion durant mes deux années à l'Université d'Ottawa. J'ai énormément appris à propos de la procédure éditoriale et de la collection d'articles de recherche que j'ai lue. J'espère que les lecteurs de *Potentia* apprécieront les articles retenus autant que j'ai aimé travailler sur ce projet. Ce sont des articles fascinants et des auteurs perspicaces. Je suis heureuse de partager notre journal et j'ai hâte de voir l'avenir de *Potentia* dans les années prochaines.

Thank you again to everyone who assisted with this year's publication and best of luck to those taking over in the coming few years. It is a wonderful endeavor. Thank you to those who are reading *Potentia*. I hope that the work we have published will inspire further scholarly inquiry from graduate students and provide thought-provoking reading for all those who pick up a copy.

Bien sincèrement,

Caroline Dunton
Editor-in-Chief/Éditrice-en-Chef
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Research Papers

The Destruction of Mali's Cultural Heritage: Unveiling 'Shadow Powers' in the Analysis of Looting During Modern Warfare

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Abstract

In Mali, and throughout West Africa, ongoing illicit trafficking movements and violent conflicts have necessitated a call for new protective measures and policies to protect cultural heritage. Traditional strategies of customs regulation and restriction on the antiquities market have been previously based on economic and legal issues enmeshed in trafficking networks and transnational crime processes. However, these do not reflect the realities of Malian daily life, nor do they go beyond the one-dimensional stance framing the actions of looters and traffickers as a facet of these processes. What is ignored are the underlying motivations for looting and illicit antiquities trafficking and how these motivations are affected by, and enacted through, the ever shifting socio-political climate that has been Mali's system of government since its independence from the French Sudan in 1960. This paper explores the realities of looting throughout Mali, ongoing debates concerning the representation of Malian antiquities in the transnational art trade, and the ways in which both national and international bodies have attempted to thwart ongoing heritage destruction.

Introduction

In the mid 1980s, a group of archaeologists published a series of articles concerning the illegal excavation of Terra Cotta statuettes from the Dogon area of Djenné in Southern Mali (Kouroupas 1995). For many, this was the first time they had been made aware of the problem of archaeological looting within Mali, despite the popularization and ever increasing presence of imported African art pieces to Western auction houses. With new forms of globalization taking hold, this issue was sensationalized in both academic and social spheres as part of pre-existing international crime networks, only made more plausible because of Mali's tenuous political circumstances. Roughly thirty years later, it is now widely recognized that the illicit trafficking of African antiquities is a major issue – one so disturbing that it has come to be termed as a type of 'cultural genocide' (Bedaux and Rowlands 2001; Panella 2014). Not only does the removal of these artifacts from their context have negative ramifications for the archaeological record, but also the active annihilation of these cultural relics equates to the eradication of unifying historical narratives that govern post-colonial social identities (Campbell 2013).

The role of globalization on the illicit antiquities trade seems to always be framed in terms of organized criminal networks, despite the fact that any connections between international criminal matrixes and illicit looting have never been substantiated (Campbell 2013; Passas and Bowman-Proulx 2011; Alderman 2012). Meanwhile, those undertaking research into Malian culture and political movements place the destruction of archaeological sites and the looting of the antiquities therein as a natural

result of the conflicts which have been occurring throughout the Sub-Saharan region (Solomon 2013; MacGinty 2004). This duality of assumptions is so embedded in legal and political conversations that alternatives often remain unacknowledged by both academics and the media.

While there are attempts to delve deeper into the relationship between trafficking of antiquities and internal conflict regimes through investigations of border de-stabilization and structural crises (Cristiani and Fabiani 2013; Gearon 2013), these attempts do not fully explicate the complex and subtle intricacies of the different socio-cultural realities that occur in conflict regions. In fact, despite a proliferation of work on the subject of Mali, whether of its politics, archaeological heritage, or involvement in trade networks, there is a distinct lack of synthesis between the many individual factors that contribute to the problems of illicit looting within the area. What occurs instead is the production of two separate analyses – the systematic looting of artifacts for the art trade (Bedaux and Rowlands 2001), and the so-called 'inevitable' destruction of archaeological heritage during conflict – as if the two are both bounded and discrete situations.

Escalations in the looting and trafficking of Malian antiquities in recent years exemplifies the ineffectiveness of current legislation and protective measures, as well as the confinements that have historically structured research within this field – renewing the impetus for a more thorough examination of this contentious issue. Before there is any hope of a solution, there must be a greater understanding of the factors that are contributing to the problem. While economists, art historians, and political scientists often dominate debates over antiquities trafficking, these studies also ignore cultural, historical and contextual elements that produce the very complexities that impede their progress (Campbell 2013). These complexities, or 'shadow powers,' not only affect the efficacy of current legislative policies, but also the way in which acts of illicit looting and antiquities are framed in larger political discourses. Just as there is no single history to unravel, there can be no single objective understanding of this situation (Pollock 2008). Instead, what must be encouraged is a plurality of viewpoints and interpretations, even if they challenge traditional ontologies and epistemologies of archaeological fieldwork and theory.

Through the use of an interdisciplinary approach, the latent tensions that encompass this controversial issue can be brought to light, and several unresolved questions can be addressed. Namely, the types of socio-economic and cultural factors that are neglected in traditional schemas of antiquities trafficking, the applicability of current legislation in the face of these factors, and how new strategies for the protection of cultural heritage can better reflect the realities of looting in the Malian context. Furthermore, by applying an ethnographic approach to this highly controversial issue, I can move beyond a simple catalogue of archaeological materials or legislative repercussions – leading to a greater understanding of not only local realities of Malian looting and the networks implicated and employed in these systems of trafficking, but also the effects that economic and political shifts have on the trading, looting, and destruction of art and artifacts within a larger context. This article addresses these issues through a detailed analysis of the current looting problems within Mali and their socio-economic implications, followed by an exploration of proposed national and international cultural heritage protection strategies.

The Extent of the Problem

Archaeological surveys undertaken in 1991 found that out of 830 recognized *in situ*¹ archaeology sites, 45% had been illegally excavated (Bedaux and Rowlands 2001).² These sites, the majority of which are part of the Inner Niger Delta and Djenné/Dogon regions, epitomize the cultural heritage and legacy of ancient trans-Saharan trade, origins of several world religions, and unique 15th century Sudanic architecture (Bedaux and Rowlands 2001). Djenné in particular is comprised of literally hundreds of individual archaeological sites and thus the extent of its corresponding artifacts, whether excavated or *in situ*, is quite prolific. Having the second highest concentration of antiquities in all of Africa,³ this region is home to countless irreplaceable artifacts from medieval terracotta statues, funerary jars, and scoria containing various precious metals. Unfortunately, these regions have also been sites for the bulk of looting historically – the demand for terra cottas and other antiquities being higher than ever in both European and American art markets.

Since the colonial and imperialist beginnings of globalization, foreign antiquities, particularly those coming out of the African 'motherland', have been coveted by Western collectors due to their exotic and eye-catching features. While many of these colonial tendencies have diminished, tendencies towards the demand for unconventional antiquities have remained and continue to be sustained through the acts of art dealers and smugglers who actively cultivate this desire (Hollowell 2006). This is only made easier by the focus on African art in museums, archaeological studies, and media outlets (Hollowell 2006). It is widely acknowledged that out of the hundreds of examples of terracotta figurines found in museums and private collections around the world, only 30 have been demonstrated to have come from documented archaeological excavations – establishing just how common and normalized these looting practices are (Brodie, Doole, and Watson 2000). In fact, demand for these artifacts was so high that throughout the 1960s and 1970s it is estimated that thousands of terracotta statues may have been removed from Djenné before archaeological excavation even began (Brodie, Doole, and Watson 2000).

In some ways, however, the decades of pillaging that has occurred in areas such as Djenné/Dogon, and the Inner Niger Delta region, is less of an issue than the smaller-scale looting which is taking place currently as part of cultural and religious appropriation. While these complex issues can certainly not

1 These *in situ* sites can refer to both partially excavated sites documented in the archaeological record or those sites whose corresponding artifacts are preserved in their original surroundings and context. This practice, while imperative for future research, makes these sites more susceptible to looting practices because of the high probability that valuable artifacts will still be present within them (Martens 2012).

2 It is important to note that these statistics may not reflect the extent of the current problem. The inherent clandestine nature of illicit trade makes it enormously difficult to quantify the degree of damage carried out at these sites, particularly because of the distance intermediaries maintain between themselves and the excavation process to obscure the illicit nature of their positions (Brodie, Doole, and Watson 2000).

3 Mali's rich archaeological history is only rivaled by the famous Valley of the Kings in Egypt – also the setting for rampant looting and plundering by both locals and imperial forces. Centuries of this practice have robbed the area of its history; forever destroyed contextual knowledge of ancient Egyptian practices, and filled the coffers of European museums and galleries (Brodie, Doole, and Watson 2000).

be fully withdrawn from the equation in the analysis of previous looting motivations, they were much further removed from the immediate discourse than they are now. And, while complex, the illicit trafficking supply chains adhered to an underlying structure of looters, intermediaries, foreign dealers, and collectors (Campbell 2013). This is not true, however, of recent looting which has occurred in northern regions of Mali in the cities of Kidal and Timbuktu.

Kidal is located in the northern Saharan desert region of Mali, and boasts several ancient Islamic centres. Traditionally home to Tuareg populations, recent uprisings have transformed this once thriving city to a liminal space constantly under contested claims by various troop movements in the area. As such, residents of the town have been uprooted from their homes, either to find temporary shelter elsewhere, or to subsist in a nomadic lifestyle. Opportunistic digging of portable antiquities carried out by residents before their relocation left the city a husk of what it once was (Hollowell 2006). Yet still, the religious centres, Sudanic clay architecture, collections of scriptures and teachings, and even petroglyphs that remain have been the target of intentional destruction by various groups in the claiming and reclaiming of the historical landscape. Furthermore, the organized expulsion of citizens or troops from the city not only prioritizes the past over the present, creating a situation in which Malian locals are further hostile to their government, but also emphasizes the value of artifacts that might possibly be within these areas (Bauer 2007-2008). While many citizens protested the destruction of religious architecture in both Kidal and Timbuktu, this was met with violent counteraction, ensuring that such actions were not repeated (Solomon 2013).

Conducting Illicit Excavation in a Fragile and Dynamic Socio-Economic Landscape

The looting of these sites cannot be understood in simple terms of art, economy, or conflict. And, while this growing issue requires research within a variety of fields, including law, cultural heritage management, archaeology, political science and economics, these fields are all largely based on statistical data. Thus, examinations of the patterns and networks of looting and illicit trafficking are made through the use of traditional economic and structural models in hopes of ascertaining the extent of the trade's financial impacts. What is ignored by this approach are the underlying motivations for looting by persons actually on the ground, who are often utterly removed from the art trade – and how they see their actions in the context of both global and local circumstances (Passas and Bowman-Proulx 2011). As Campbell writes, “the exodus of cultural heritage from conflict areas and impoverished countries to wealthy countries is as much a cultural consideration as a financial or criminal one” (2013, 115). Despite emphasis on financial networks, art trade, and cultural terrorism, almost all looted archaeological sites at present are not the result of clandestine plundering, but rather excavated as part of local Malian subsistence strategies.

Hollowell defines subsistence digging as the undocumented excavation of materials for profit in order to support a subsistence lifestyle (2006). A small percentage of these finds are due to accidental discovery during shifting farming patterns in times of drought, and simply taken advantage of by those who come across them as a supplement to their agriculturally based income. More often,

however, this is a purposeful excavation to counter widespread economic insecurity, hunger, and disease (Alderman 2012). While the effects of such action are much the same as illegal looting, the nuances and complexities that come into play in the analysis of such actions affects its framing as licit vs. illicit, and has larger implications for how it is dealt with. Its very definition complicates ethical positions for those tasked with the protection of artifacts, and negates the negative connotations normally associated with acts of illicit trafficking of cultural materials, invoking a "discourse of self-determination and economic justice" (Hollowell 2006, 72).

Mali has an extremely high poverty rate, ranging from 64% as an average, to 92% in the town of Kidal (Solomon 2013). In light of these circumstances, as well as the increasingly violent conflicts that are affecting many Malian regions, citizens have taken up subsistence digging as a last resort. A lack of alternative economic opportunities coupled with the unstable nature of the nation at present does not afford Malian citizens legitimate avenues in which to conduct business. In fact, many see their looting as perfectly acceptable and legitimate due to the government's inability to provide them with social and political security (Hollowell 2006). In reaction, small percentages of the proceeds from looting are often funneled into community projects, glorifying the actions of individual looters and community leaders, and making their actions not only permissible, but fully licit by many local officials who themselves benefit from these projects (Bauer 2007-2008).

However, the disparities between source and market nations in this case are too great. The same economic disparities that motivate locals to excavate archaeological resources also allows for the trade in illicit cultural materials to flourish. Collectors of antiquities from market nations are often affluent members of society, allowing them to pay high premiums for looted artifacts – typically 100 times more than what the actual looter would have received (Alderman 2012). These profits are instead given to smugglers or intermediaries whose job is made increasingly easy due to Mali's ongoing conflict and lack of border control (Campbell 2013). Many of these disparities tend to be highlighted in economic analyses, placing what is in this case the Malian citizen into a position where they are simply thought of as a "victim of the global market" – exploited by larger markets, and devoid of any inherent agency they may have to influence these markets in their own way (Hollowell 2006, 78). This also shifts any blame to those on the market side of the system, in accordance with ethical and moral stances toward third and fourth world poverty struggles.

As artifacts are trafficked out of Mali, they are reconceptualized as either licit or illicit. This shift can be attributed to anything from shifting borders to evolving perspectives on economic justice (Layton and Wallace 2006; Passas and Bowman-Proulx 2011). The idea of border control in Africa is almost impossible. Compared to other nations surrounding it, Mali's unstable government is actually an example of effective democracy – and there are no uniform policies or guidelines that govern movement between these nations. There is also nothing to suggest that stricter border regulations would help. Smugglers can simply claim artifacts as reproductions, and tourists bringing illicit antiquities back from vacation are often told by dealers to simply undervalue the merchandise. A general lack of education of the part of border police means that they often cannot tell a fake from the real thing, and a combination of corruption and lack of attentiveness means that while they may be perfectly aware of the rampant looting problem, they may not even open a crate of antiquities to

check what's inside, even if it is in clear sight (Passas and Bowman Proulx 2011; Campbell 2013). It is highly probable that smugglers, traffickers, and dealers are fully aware of the corruption of many border officials, as they have been previously linked to narco-trafficking networks, the region of Gao being a popular axis between Venezuelan smugglers and their European buyers (Solomon 2013; Bøås and Torheim 2013).

Whether licit or illicit, formally excavated or looted, fake or authentic, the way in which these objects are framed is equally as contentious as their provenance— the treatment of antiquities as cultural property results in a far different discourse than when they are framed as cultural commodities (Layton and Wallace 2006). The commodification of these materials is a familiar factor in their trade, determined by global markets and competition (Bauer 2007–2008). Once an artifact has been placed in a gallery, museum, or collector's shelf, it is no longer representative of its cultural associations, and no longer reflects the illegal process through which it was obtained, but rather is displayed as cultural capital (Campbell 2013). As an object of cultural capital these artifacts can continue to circulate in the art market for centuries, accumulating exchange value with each transaction – that never yields any further profit for Malian locals. Not only has their cultural heritage been eternally affected, but also the colonial and economic disparities that forced them into these situations are only increased (Brodie, Doole, and Watson 2000).

Looting Practices during Internecine Conflict: Global Impacts on Localized Discourses

The looting and trafficking in cultural materials is typically covered under an assortment of international legislations. As such, since the revelation that illicit antiquities trafficking was and would continue to be an ongoing problem in Mali, arguments have turned to traditional legislative strategies to narrow the field for the moment of illicit African art. Through either customs regulations monitoring the importation of illicit goods into new countries, or by placing heavier restrictions and penalties on the looting of cultural heritage sites (Bedaux and Rowlands 2001; Kila 2013). This section details the multi-variate approach towards cultural heritage protection within international and national communities, and the pitfalls that impede their implementation.

Some of the most recognizable legislative policies are those set out by international bodies such as the United Nations. These include the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and the 1954 Convention of the Protection of Cultural Property in the Event of Armed Conflict, or Hague Convention.⁴ Addressing similar concerns, these international decrees protect cultural heritage, especially during times of conflict, and provides for the “protection of monuments, cultural institutions and repositories...forbidding the export of

⁴ The Hague convention is often negated during internecine conflict. Originally created followed the historical war looting of colonial movements and World Wars, particularly the mass looting and art confiscation carried out by Hitler's Nazi Party, the articles throughout the convention do not fully extend to the different types of looting which occur when the problem is an internal one (Passas and Bowman Proulx 2011)

cultural material from occupied territories” (Brodie, Doole, Watson 2000, 56). Reflecting these initiatives, the majority of research consistently produced in terms of the antiquities market is concerned with the economic and legal issues that are enmeshed in their illicit art trade.

In recent years Mali has enacted its own national policies in light of increased archaeological destruction, including cultural missions in several historic cities such as Djenné, work on local museums, import and export restrictions on cultural materials, and cultural change programs (Brodie, Doole, and Watson 2000). For the most part, these policies started out as very successful – by focusing on locals and cultivating connections between the Malian populace and their history, archaeological sites gained new respect. Despite their best efforts, however, these methods of protection are completely ill equipped to deal with the problem at hand, and are often disregarded altogether as a consequence of political and social unrest, and a disengagement with global phenomenon. Several long-standing tensions, including Tuareg nationalism, the rise of Islamic practices, and post-colonial identities have coalesced in the past several years as an eruption of conflict and hostility (Solomon 2013; Cristiani and Fabiani 2013). Internecine conflicts, such as those that are occurring in Mali, also act as catalysts for social disintegration and the amplification of economic instabilities (Hollowell 2006; Bøås and Torheim 2013).

For a nation that only gained independence from the French Sudan in 1960, the inequalities and prejudice that often accompany colonial rule are still affecting collective attitudes – accentuated by recent occupations of French forces in an attempt to resolve the current internecine strife (Bøås and Torheim 2013). Starzmann, Pollock and Bernbeck address similar issues in their analysis of conflict looting, arguing that these situations are entrenched in a “nexus of archaeology, war, politics, and imperialism,” following that:

Past experiences teach us that these problems are embedded in structures that outlast specific historical conflicts. Recent political developments result in a proliferation of antagonisms on a global scale, so that both specific examples and general reflections maybe of value as reminders of ethical-political struggles in present and potential future conflicts. (Starzmann, Pollock, and Bernbeck 2008, 354)

It is clear here that neo-colonial tendencies of archaeologists and cultural heritage groups may exacerbate ongoing conflict in non-western territories (Pollock 2008). For instance, while the United States remains stalwart in the fight against illicit trafficking, histories of colonial thought continue to circulate within US/Malian relations and trade policy. These pitfalls reflect a disconnect between country-level governance and the realities of internal national systems and international cooperation—effectively paralyzing US policy, and indirectly contributing to continued structural violence in the area (Biel 2003; Pollock 2008; Passas and Bowman-Proulx 2011)

Assumptions about the abilities of African and Near-East Asian populations to protect and conserve their own cultural heritage have been long debated, particularly when there is conflict occurring, or

may occur in the future. And, while unfounded, these assumptions are legitimized by each new act of looting which occurs during social or political upheaval. Ignoring the Anglo-European roots of war plundering, and the use of usurped treasures for colonial era commodity chains, scholars focus their attention upon the role of Malian politics and power dynamics in the context of cultural heritage destruction (Brodie, Doole, and Watson 2000). In doing so, long-running hostilities within Mali, largely based along ethnic and religious divides, can be cited as proof of an inability to properly govern and track their own cultural heritage. And, even after decades, internal conflict continues to plague Mali's landscape, and has dramatically escalated since 2012.⁵ In the context of such violence, the burden of cultural heritage protection no longer falls solely on those enacting or enforcing legislation, but on the various groups involved in the conflict, and their ability to reconcile – both with each other and their histories (Pollock 2008; Solomon 2013).

The Right to History: But for Whom?

One important issue to raise is how socio-political and cultural factors impact the ethics of looting, and subsequently how these acts are framed as licit and not subject to international policy. As long as there is a desire for these artifacts, those selling them have no incentive to interrupt their business, regardless of whether it is licit/illicit/ or even legal (Bauer 2007-2008). The formal designation of many of these artifacts as 'world heritage' makes no difference once they are removed from their context and enter the grey market (Alderman 2012; Passas and Bowman-Proulx 2011). As such, debates over ownership of the past, or the contextual artifacts that reflect that past, has been the topic of debate for centuries. In the past, the removal of these artifacts was a common practice, particularly during times of war, and as such looters gained a certain semblance of power over source nations. By removing ethnographic objects from their sites and original context, they were vulnerable to manipulation and misinterpretation by those unfamiliar with the culture (Brodie, Doole, and Watson 2000). This is one of the many reasons why archaeologists now will preserve archaeological relics *in situ*, despite the increased chance of vandalism to the site itself. More importantly, this possibility of misconception, and the inability for these source nations to materially trace their own traditions, accomplishments and cultural identity, has resulted in a universal understanding that the possession and inheritance of these artifacts is a fundamental human right (Brodie, Doole, Watson 2000; Bauer 2007-2008).

Such is the way that the problem of looting is typically argued in the archaeological sphere. This perspective has untold ramifications for the way that looting of these materials is termed as a licit activity. As discussed previously, the classification of an activity as licit or illicit is entirely dependent on spatial and temporal factors. It is also dependent on who is responsible, and the motivations behind their actions. The active destruction of archaeological sites for instance is thought of as exceedingly immoral, while the trafficking of materials from those same sites by either foreigners or locals is seen

⁵ On March 2012 the Malian military staged a political coup, and Touré was forced from office. Since then, internal conflict between the armed forces and Islamist Tuareg rebels has heightened, resulting in increased ethnic exclusion, poverty, and the elimination of central government control (Boås and Torheim 2013; Cristiani and Fabiani 2013). Despite French occupation in 2013, fighting continues, and new acts of archaeological destruction and looting are undertaken every day.

as either illicit or licit based on situational conditions of each act (Passas and Bowman-Proulx 2011). If the ownership of cultural heritage is a right, and not a privilege, is it then possible for subsistence looters, often excavating artifacts symbolizing their *own* cultural heritage, to argue for the legality of this practice? And who has the power to decide for or against these appropriations of culture?

In the past, this has fallen to the archaeologist. The privileged positions achieved during colonialism return in the way that Western powers seem above reproach, acting as some sort of 'world police'.⁶ And, through the mandates of several archaeological bodies, notably the European Association of Archaeologists (EAA) and the Society for American Archaeology (SAA), the roles of archaeologists as caretakers and preservers of the archaeological record has been legitimized (Pollock 2008; Bauer 2007-2008). Following in this vein, arguments of the 'common good' are consistently coopted by those in the art world to sanction illegal acquisitions. Collectors aren't taking advantage of local populations or desecrating another culture's material record, they're rescuing these objects from a situation that would certainly lead to their destruction (Bauer 2007-2008). They are not exploiting individual looters, only providing them valuable income that they would have been denied by their unsupportive national governments (Bauer 2007-2008; Cristiani and Fabiani 2013).

If Western powers can argue that it is their right and responsibility to determine the legality of antiquities looting on the basis of world heritage management, can the same argument not be made by those taking part in subsistence digging strategies – it is their right to sell pieces of their own material culture as a means of livelihood (Hollowell 2006). This is an example of the 'economic justice argument' put forth by many activist archaeologists when confronted with debates over the licitness of subsistence digging. They argue that the ethic of economic justice "allows that under certain conditions of poverty or lack of other means of livelihood, people are justified in using archaeological goods as an economic resource," and that no artefacts or archaeological site should "come before concern for human life" (Hollowell 2006, 74)

Conclusion

The disparities and inequities present between source and market nations is a critical issue in the understanding of how looting is seen in local perspectives. In terms of economics, the percentage of profit gained by the actual looters is irrelevant in comparison to the multi-billion industry of illicit art trade that they are then bound up in (Brodie, Doole, and Watson 2000). Where economists and anthropologists seem to agree is that any possible solution will have to address the financial benefits of looting for Malian locals, and somehow propose alternative subsistence opportunities that are persuasive enough to convince locals to discontinue these illicit practices. What form these solutions might take is yet unknown, however the looting of these antiquities will inevitably come to a halt, if only because of the finite nature of cultural heritage as a resource (Brodie, Doole, and Watson 2000; Passas and Bowman-Proulx 2011).

⁶ While reflexivity and self-critique are main tenets of modern anthropological disciplines, the identification of ambiguous positioning in terms of archaeological research and the analyses of illicit antiquities is not easily expressed in policy mandates or ethical excavation procedures (Startzmann, Pollock, and Bernbeck 2008).

While traditional perspectives of looting and illicit trafficking have been based on dual assumptions of crime networks and cultural terrorism, there is little in the way of evidence that supports these views. Often this has been done through the use of network paradigms which track the movements of illicit antiquities in terms of the larger transnational crime processes that they may become involved in (Felhab-Brown and Forest 2012; Campbell 2013). However, any instances of these connections are due to globalization processes and new integrated market systems, rather than the nature of the illicit trade itself – again, not fully proven beyond circumstantial and anecdotal data (Passas and Bowman-Proulx 2011). What is more palpable are the underlying socio-economic and political factors that motivate Malian locals to loot their own cultural heritage sites, from economic disparities, to internecine conflict, and post-colonial discourses.

In reality, the only networks that are implicated in the looting of Malian artifacts are the movements of Tuareg⁷ fighters that underpinned the recent dispute. International spotlight and the movement of Tuareg rebels across borders have framed the current conflict as global, making allusions to the 'global jihad' (Bøås and Torheim 2013). Not only have the Tuareg minority long been supported by Gaddafi, the recently ousted Libyan leader but many Tuareg citizens worked within the Libyan government or as a part of Qadhafi's military guard (Solomon 2013). For these men, the fall of Gaddafi during the Arab spring movement propelled the return to traditional Tuareg initiatives and partnership with the Mouvement National pour la Libération de l'Azawad (MNLA) (Cristiani and Fabiani 2013). Not only did this result in an almost instantaneous toppling of the Malian government, and violent annihilation of a large percentage of the presidential military, but in financial backing for the continuation of these atrocities (Solomon 2013). When Tuareg rebels returned to Mali, they brought with them large amounts of ammunition, and the profits from looted Libyan sites – enough that they could finance their previously impossible coup (Bøås and Torheim 2013).

It is clear that any possible solution to the archaeological destruction that is occurring must fully take into account both the socio-economic realities of Mali, as well as the current internecine conflict. Economic alternatives for Malian locals must be persuasive enough that they will cease subsistence digging altogether, and must be flexible enough to function during increased violent outbreaks and population movements. And, while not much can be done about the disparities occurring between Mali and a source nation and the Western art world, the one-way trade of both artifacts and monetary flow must be addressed.

Non-economically based solutions, such as the culture change models previously discussed, are at the mercy of these same socio-economic and political drawbacks, and thus must be amended in many of the same ways as government legislations. These policies, as well as any others put forth by Mali in the future may still be difficult to uphold in the context of a fragile social structure, leaving not much hope for a speedy improvement (Cristiani and Fabiani 2013). Attempts toward reconciliation

⁷ French colonialism diminished the Tuareg population almost entirely – at present, they make up just over 3% of the Malian population, entirely overshadowed by the other religious groups within Mali who were once their subjects (Bøås and Torheim 2013). With Malian President Amadou Toumani Touré in control of an increasingly autocratic government, Tuareg nationalists argued for the creation of the independent state Asawad, which, while being confined within Mali's national borders, would be governed by Tuareg militia leaders (Cristiani and Fabiani 2013:78; Solomon 2013).

must be made between both the different factions throughout Mali, and their history, so that these culture change models can make ground. While it may be easier, it should not be ignored that Tuareg rebels, despite their recent violent dealings, are a part of the Malian populace and have their own stake in its recovery (Bøås and Torheim 2013). What is most important at this point is that the Malian government and world leaders not attempt to solve this problem overnight, but rather address the underlying causes of the problem through realistic and legitimate goals that will improve local discourses on the issue (Passas and Bowman-Proulx 2011; Felhab-Brown and Forest 2012).

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The Treaty of Lisbon and International Intervention: Crises in Libya and Mali

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Abstract

The Treaty of Lisbon was designed to significantly strengthen the Common Foreign and Security Policy of the European Union (EU). This paper assesses the impact of the Treaty's innovations on the conduct of European foreign policy with respect to international intervention. It seeks to do so through case study analysis of two international crises where the Treaty's effects in this regard could be seen: the civil wars in Libya and Mali. This study focuses on the coordination of European states within the United Nations Security Council (UNSC). It looks primarily at three major factors affecting the conduct of an effective EU foreign policy: the formation of a cohesive policy; effective institutional implementation; and the tensions between national and collective interests within the EU.

Introduction

The process of European integration has underpinned remarkable successes for the continent. Proponents of the EU can point to the social and economic progress made since the ending of the Second World War. Attempts to develop Europe's international role through integration have, however, met with less success.

The Treaty of Amsterdam (1999) established the EU's Common Foreign and Security Policy. This sought to bring the various facets of the EU's external action under a single institutional framework, thereby fostering a more influential role internationally. In this respect, neither external nor internal expectations have been met. Conflicts in the Balkans in the 1990s and the Iraq War in the mid 2000s revealed a consistent failure to come to a common position and act decisively on the international stage, particularly with regards the Common Security and Defence Policy aspects of this foreign policy framework.

In 2009, the EU enacted the Treaty of Lisbon. A significant goal of this document, a somewhat diluted version of the aborted European Constitution, was to address the deficits apparent in the EU's Common Foreign and Security Policy Framework. This study seeks to analyze whether or not this goal has been met, particularly with regards international intervention.

Definition & Justification of Question

The EU's external influence has been far from negligible. Through the enlargement process, European Neighbourhood Policies and the Common Agricultural policies, the EU has had success in exporting its democratic and human rights norms. It has also had a sizeable role in terms of disaster relief and

post-conflict humanitarian assistance. However, in terms of projecting power globally and significantly impacting international events, particularly involving issues of security, the EU has been largely unsuccessful.

European cooperation on security policy has been notably weak despite the development of a specific Common Security and Defence Policy under the Common Foreign and Security Policy framework. On no issue, save for decolonisation, has European cooperation been weaker in the United Nations General Assembly than on security matters (Radeve 2009). And yet, security issues remain central to perceptions of global power. For the EU to emerge as a major international actor, a cohesive stance on security issues is essential.

Measuring the EU's strength as an international actor is a complex task. However, cooperation within international organizations is one aspect of the EU's Common Security and Defence Policy that is readily observable. If the Lisbon Treaty has achieved its goal of strengthening the EU's ability to act on the international stage, we should see more cooperation and coordination amongst member states within international organizations. Such cooperation will be the focus of this study.

The UNSC is the premier international institution served with maintaining international peace and security (Blavankos & Bourantonis 2002). It is the body internationally recognized as capable of legitimizing international intervention and the use of force through Chapters VI and VII of the United Nations Charter. It wields considerable international influence, arguably far beyond that possessed by any other international body. It therefore seems appropriate to analyze the behaviour of EU member states within the UNSC in order to gain some insight into the effects of the Treaty of Lisbon on developing a European Common Foreign and Security Policy, particularly regarding aspects covered under Common Security and Defence Policy provisions.

The importance of the UNSC as an avenue through which European foreign policy can be expressed is explicitly recognized within the provisions of the Treaty of European Union (TEU pre-Lisbon, art.19). As discussed below in more detail, the Treaty of Lisbon included provisions particularly relating to improving European cohesion and cooperation on the UNSC (TEU post-Lisbon, art. 33). Therefore, we can specifically derive from the Treaty of Lisbon expectations that the EU will more effectively impact international affairs through the UNSC.

Methodology

This study will attempt to analyze the effectiveness of the EU, after the implementation of the Treaty of Lisbon, to engage as a foreign policy actor in its own right. It will focus on matters of security through analysis of the behaviour of EU member states within the UNSC. It will take a qualitative approach, assessing a selection of case studies to analyze and explain observed levels of cooperation. Cases involving the invocation of Chapter VII intervention have been chosen as representative of security issues of high significance and salience where foreign policy credibility is most at stake.

As the Treaty of Lisbon was implemented in 2009, a short timeframe limits the availability of relevant cases. The Libyan Civil War in 2011 and the rebellion in Northern Mali that began in 2012 are two cases significant enough to receive widespread media attention; both crises were highly salient in Europe. Both Mali and Libya are former European colonies, of France and Italy respectively. Furthermore, Libya is a member of the European Neighbourhood policy, while Mali is a significant recipient of European donor aid.

The suitability of both cases is further strengthened by the presence of Germany on the UNSC as a non-permanent member for the entirety of the Libyan crisis and for the majority of the crisis in Mali. With France and the United Kingdom (UK) also sitting on the Council, as permanent members, this allows for the analysis of Europe's major powers. Considering that all three powers have significant foreign policy interests of their own, representative conclusions can be drawn concerning the interplay of domestic foreign policy interests and their possible submission to European interests.

Intervention in Libya represented a landmark invocation of the Responsibility to Protect (R2P) doctrine, while Mali represented a more traditional mission to protect international peace and stability. Therefore, both selected cases represent contrasting justifications for intervention.

It has often been suggested that it is American leadership that is most effective at uniting European states on foreign policy matters (Peterson 1998). The UK, and France to a lesser extent, has on occasion taken positions in line with the US, but against other European states. The impact of the relationship between these permanent members of the UNSC must be taken into account. The impact of other powers, such as Russia and China, as well as relevant international/regional actors, such as the Arab League, African Union and the United Nations General Secretariat must be further considered.

This study seeks to analyze and explain observed levels of cooperation among EU member states in both selected cases. In order to do so, one must establish the extent to which observed levels of cooperation can be explained from factors arising from the European Common Foreign and Security Policy framework itself, as well as the extent to which exogenous factors had significant impact.

To analyze the cooperation of European states in our selected cases we must I: Determine whether a concrete position was established by the EU; II: Analyze the effectiveness of the EU's institutional frameworks in expounding the determined position; and III: Assess the extent to which national interests were subordinated to the European interest. To achieve this will require discussion of the approach of the EU to each case as well as analysis of the relevant domestic politics of member states and the impact of international factors.

Considering the qualitative, case based nature of this study, analysis will be based on public records of EU and UNSC meetings, public statements from relevant officials and news clippings.

The Treaty of Lisbon

The Lisbon Treaty (2009) sought to address the perceived deficits in the EU's ability to expound a cohesive foreign policy. The intended effect will first be reviewed, that of better institutionalizing the EU's external actions, directly addressing barrier II to cooperation identified above (Verola 2010).

The principle foreign policy innovation implemented through the Treaty of Lisbon was the development of the position of the High Representative of the Union for Foreign Affairs and Security Policy. This position merged the existing Commission Directorate General on External Relations and the European Council High Representative for Foreign and Security Policy and was envisaged to unify the EU's external voice.

The office of the High Representative was to be backed by a newly formed European External Action Service. This would serve as an EU foreign policy bureaucratic apparatus with diplomatic missions and foreign representative delegations. It would also consist of numerous external policy development units in Brussels. By developing a European body to examine and analyze international affairs, a European position could be more readily streamlining cohesion and cooperation. By better institutionalizing external policy development, the European External Action Service could be expected to address cooperation problems identified in both I. position development and II. institutionalization.

The Treaty of Lisbon directly attempted to address problems identified with I. the EU's identity as an international actor. Article 21.2 of the post-Lisbon Treaty of European Union gave a significantly more detailed list of the EU's external action objectives than the pre-Lisbon Article 11.1 articulating a more active vision of the EU's international role.

Expectations arising from provisions contained within the Treaty of Lisbon dealt directly with barriers to European foreign policy cooperation in terms of I. defining its international role and II. improving institutionalization of the European Common Foreign & Security Policy. It could further be expected that improvements in both respects would indirectly help overcome III. the supremacy of domestic interests in European foreign policy making.

Furthermore, the Treaty of Lisbon contained specific provisions to provide for more cohesive EU action within the UNSC: notably Article 32, paragraph 3 of the Treaty of European Union which now explicitly mandates cooperation of EU member states in international organizations once a decision is taken by the European Council. No such stipulation was contained in Article 16 of the pre-Lisbon Treaty of European Union that this article replaced. Article 34 of the Treaty of European Union after the amendments under the Treaty of Lisbon goes even further, emphasizing the recognized importance of cooperation in international organizations as an expression of EU CFSP. This article was largely designed to deal with the UNSC where only two to four out of the now twenty-eight EU member states have membership, depending on the current make-up of the body. It further aimed to deal with the high comparative level of influence held by the UK and France as two of the five permanent members of this body. This is a major change with the Treaty of Lisbon as it explicitly mandates

members of the UNSC to follow European policy when a stance has been taken by the EU. Furthermore, it stipulates that EU members on the UNSC must request that the High Representative be allowed to present the Union's position when such a position exists.

The expectations arising from the Treaty of Lisbon were to strengthen the EU as an international actor, particularly the coordination of its member states on the UNSC. To test whether or not these expectations were met will be examined through the analysis of the UNSC decisions to enact Chapter VII provisions of the United Nations Charter to authorize international intervention in Libya and Mali in 2011 and 2012, respectively.

Libya

UNSC Resolution 1973 (S/RES/1973), authorizing the use of force to resolve Libya's internal conflict in March 2011, is a landmark document in international diplomacy. It marks the first actualization of the principles contained in the R2P doctrine adopted by the United Nations General Assembly in 2005. The vote on S/RES/1973 marks a significant failure in European cooperation. Germany abstained in supporting the resolution spearheaded by the UK and France (and supported by non-permanent member Portugal).

While Portugal was mired in economic turmoil, having to contend with an IMF bailout and governmental collapse, the other European UNSC members, France, Germany and the UK, were on the forefront of the initial condemnation of Gaddafi's brutal repression of protests in Libya and later in pushing for sanctions against the Gaddafi regime as it attempted to suppress rebellion through the murder and terrorizing of its citizenry. This reflected the statements of the EU as articulated through Baroness Catherine Ashton in her role as High Representative for European Foreign and Security Policy. In one of her first official statements on the unfolding crisis in Libya, made on behalf of the EU, High Representative Catherine Ashton stated:

We strongly condemn the violence and use of force against civilians and deplore the repression against peaceful demonstrators which has resulted in the deaths of hundreds of civilians. These brutal mass violations of human rights are unacceptable. (Ashton 2011a)

Similar strong language was used by the High Representative throughout the crisis (Ashton 2011b; Ashton 2011c; Ashton 2011d; Ashton 2011e; Ashton 2012).

However, as the violence in Libya escalated and the debate moved beyond sanctions and began to focus on the imposition of a "no fly zone" to protect Libyan citizens from aerial assault, limits in European cooperation began to emerge (BBC 2011). Both France and the UK attempted to lead attempts to form a coalition to endorse the creation of a "no fly zone", while Germany could not be convinced (Erlanger 2011; Wittig 2011).

Germany's vote of abstention marked a significant failure in European foreign policy cooperation and caused significant tension between Europe's major powers (Spiegel 2011). Nonetheless, it is worth noting that in a telephone exchange between German Chancellor Angela Merkel and French President Nicolas Sarkozy it was made clear that Germany would not block the efforts of the UK and France to establish a "no-fly zone" (Brockmeier 2012). While Berlin would not vote in support of the resolution, it did not attempt to obstruct the passage of the resolution or encourage international opposition and actually contributed substantively to the resolution's sanctioning elements (Brockmeier 2012).

Further lack of cooperation was observed when France unilaterally recognized the Libyan Transitional National Council as the sole representatives of the Libyan people. London and Berlin both distanced themselves from this decision which was largely credited with disrupting European unity on the issue (Castle 2011; Sanger 2011); France again caused consternation after intervention when it emerged that it was supplying rebels in Libya with arms and ammunition without the knowledge of the EU. This prompted further controversy as such actions violated the terms of S/RES/1970 and although the French action could be justified under provisions within S/RES/1973, the unity and legitimacy of the intervention in Libya was damaged in the international community (Pineau & Irish 2011; New York Times 2011; Al Jazeera 2011). While the EU was unable to formulate a common position when it came to the authorization of the "use of force" it was reasonably prominent, offering a coherent message, in the initial stages of the Libyan crisis.

The EU was forceful in its condemnation of the excessive violence exhibited by the Gaddafi regime. It articulated, through Baroness Catherine Ashton, a strong stance that called for an end to the violence and then for the removal of Gaddafi from power (Ashton 2011a; Ashton 2011c). The EU also collectively imposed sanctions upon the Libyan Government that went significantly beyond the restrictions imposed by the UNSC S/RES/1970 (Ashton 2011c).

Many in the international community shared Germany's discomfort at the idea of military engagement in Libya. Many European countries voiced similar concerns at EU (and North Atlantic Treaty Organization) meetings, Italy in particular (Dombey 2011). As such, while the EU was strong in its condemnation of Gaddafi's actions and imposed sanctions that went far beyond S/RES/1970, when it came to the utilization of force the EU found itself without a collective stance. As the international community moved towards intervention, the EU remained reliant on sanctions that had proved insufficient and on empty rhetoric of condemnation.

The credibility of the EU as an international actor in Libya was undermined by its lack of a stance on intervention when the crisis came to a climax. However, after the initial military intervention took place, the EU again began to take a major role in Libya. With Libya's participation in the European Neighbourhood Policy, its close proximity to Europe's border, and colonial ties with Italy, it was evident that Europe would be required to take a major role in the eventual reconstruction of the Libyan state.

Numerous European states indicated their willingness to contribute to any post conflict reconstruction mission in Libya, including Germany (Cooper 2011). The EU played a leading role in fundraising for aid

relief for Libya and even established a post-conflict reconstruction force known as EUFOR Libya (Ashton 2011e). It was expected to perform post-conflict reconstruction duties. Due to an international preference for the utilization of non-Western troops EUFOR Libya never actually saw field deployment. However, the intention behind EUFOR Libya evidences a high level of cooperation in the post conflict reconstruction of Libya.

Both before intervention and in terms of post intervention state reconstruction the EU developed a cohesive position that they were able to effect with reasonable success. However, no coordinated position could be developed when it came to the ultimate issue: the use of military force.

The German government was adamant that they would not be part of any military intervention in Libya. Foreign Minister Guido Westerwelle, leader of the junior government FDP party, was particularly forceful in his pacifism (Spiegel 2011). Germany has long been highly reluctant to put its troops on the ground. Additionally, support for Westerwelle's FDP had been dwindling since it entered government and pacifism was particularly appealing to their voter base (Brockmeier 2012). A reluctance to engage in any overt military operation appears the decisive factor in the German reluctance to back S/RES/1973.

If Germany represented the non-interventionist pole within the UNSC, then France was the most vocal proponent of intervention. Of the five permanent members of the UNSC, France is, by a sizeable margin, the least significant in terms of international clout. This has left the French state rather protective of its privileged position within the international community. Prestige through international endeavours is thereby of high importance in French statesmanship. Libya offered a chance for France to take a position of global leadership. The lack of strong US leadership afforded France an opportunity to take a leading role. The domestic support for French intervention stood in stark contrast to public attitudes in Germany, the US or the rest of the EU. Whereas other Western publics in general were highly wary of being embroiled in any more thankless conflicts abroad, the French parliament strongly endorsed President Nicolas Sarkozy's stance on Libya (Irish & Picy 2011).

The UK was also enthusiastic about military intervention in Libya, albeit to a lesser extent than France. In meetings of the Council of the European Union, British Prime Minister Cameron and French President Sarkozy were jointly seen as the prime proponents of intervention (Bumiller 2011). British attitudes to intervention were sullied with the Iraq War and in the aftermath of the Chilcot inquiry. However, Libya offered a chance to redeem international perceptions of the utilization of UK military power with the backing of the international community.

The final European member of the UNSC during the Libyan conflict was non-permanent member Portugal. Suffering from economic meltdown, the crisis in Libya was overshadowed in Portugal by the imposition of an International Monetary Fund bailout and the collapse of the government. The national interest of Portugal necessitated its taking a rather limited role in foreign policy. While Portugal voted in favour of the intervention, its contributions to the debate developed little beyond

the general consensus views previously stated by international organizations and fellow UNSC members.

Outside of the UNSC, national interests also played a role in stymieing European cooperation with regards to Libya. Italy was quite obstructive in attempts to rally support for intervention. Berlusconi had been particularly active in trying to attract Libyan trade, even allowing a major Roman park be appropriated to accommodate Gaddafi's sizeable tents when the Libyan leader visited in June 2009 (Krause-Jackson 2011). Italy was the most vocal critic of European action on Libya being both slow to break ties with the Gaddafi regime then criticizing the NATO intervention by June 2011 (RTENews 2011; Ide 2011). These differences in national interests were highly detrimental to attempts to formulate a common European position.

One of the primary factors facilitating international intervention in Libya was the remarkably high level of international support for such action. Gaddafi's actions and threats were so extreme that inaction was seen by many as unconscionable. The UNSC's moves to impose sanctions (S/RES/1970) and later to endorse military intervention (S/RES/1973) came after calls for such action from the United Nations Secretary General Ban Ki Moon, the Arab League, the Organization of Islamic Conference and numerous high level defectors from Gaddafi's government. The high levels of international consensus on intervention in Libya are evidenced by the support of China and Russia for S/RES/1970 and their unwillingness to veto S/RES/1973. Despite the undermining of Libyan sovereignty that S/RES/1970 and S/RES/1973 involved, China and Russia supported the former and did not exercise their vetoes on the latter. Considering the prominence placed on this principle by these two permanent UNSC members, this evidences the high levels of international consensus towards intervention in Libya.

The African Union, and to a lesser extent Turkey, were the sole regional players who vocalized strong opposition to outside intervention in Libya's affairs (Sanger 2011; Cook 2011). The Treaties of the European Union and statements by European leaders and European institutions during the Libyan crisis show a high degree of deference to international organizations. Furthermore, much of the wording used in EU statements borrows heavily from that used in UN statements. It is also notable that EU reaction to events in Libya typically lagged behind that of the UN and tended to reaffirm it. This does not support arguments that the EU was able to form a strong stance of its own on unfolding events in Libya.

The influence of the policies pursued by the United States of America is also significant in analyzing European action on Libya. The Obama administration was at pains to avoid taking the lead in international efforts at addressing the brutality of the Gaddafi regime. It was apparent that the US was unwilling to be drawn into yet another protracted war in the Middle East and had no vital interests at stake in Libya (Bumiller 2011).

US prevarication likely influenced the German decision to abstain. During the Iraq War, Angela Merkel, as leader of the opposition, was forceful in condemning the policy of Prime Minister Schroder to oppose military intervention for undermining relations with the Bush administration. In an article she wrote for Der Spiegel, Merkel emphasized the importance of the US-German relationship in foreign

affairs (Merkel 2003). It is likely that German diplomats were under the impression that the US were going to follow their position and not support the resolution (Hastings 2011).

It should be noted that as the conflict progressed and the coalition became more dependent on US military and logistical support, the US was able to dictate the agenda. However, it did not take the leadership role in the diplomatic, formative stages of the intervention effort that is the focus of this study. The requirement of US capabilities to supplement the French & British led coalition's military capabilities (including Sweden, Denmark and Qatar initially), points to a significant limitation in European influence on security matters. Simply put, Europe no longer has the military capacity to intervene militarily without US backing. This severely constrains the EU's ability to expound a fully independent policy on security matters.

Mali

UNSC Resolutions 2056 and 2071 (S/RES/2056 & S/RES/2071) invoked Chapter VII of the United Nations Charter to legitimate international intervention in the civil war in that erupted in early 2012 when Tuareg fighters, recently returned from Libya, took control of much of northern Mali and declared an independent Tuareg homeland of Azawad. Whereas S/RES/1973, invoking Chapter VII intervention in Libya, was a landmark resolution basing legitimation for international intervention on the R2P doctrine for the first time, S/RES/2056 and S/RES/2071 based their calls for action on the more traditional grounds of reacting to a "threat to international peace and security" and respecting the "territorial integrity of Mali". These efforts were unanimously supported by the UNSC with full backing from the EU.

The international consensus towards intervention was far from immediate. The international community struggled to comprehend the conflict initially, in light of the ever-shifting status of the belligerents. The UNSC resolutions thereby endorsed international intervention in support of a military backed government, of dubious legitimacy, and in defence of the territorial integrity of the Malian state with support from the very MNLA that had originally brought the integrity of the state into question.

December 20, 2012 saw S/RES/2085, acting upon the decisions of S/RES/2071, approve the deployment of the African-led International Support Mission to Mali (AFISMA). While the international community had been particularly keen on the international intervention being African-led, it soon became apparent that AFISMA's deployment would be slow and filled with logistical difficulties. A succession of rebel victories prompted France to intervene on its own with Operation Serval, with tacit approval from the EU, the UN and the International Community at large, in the interim before AFISMA could be deployed on the ground. Thus far this intervention has been viewed as largely successful.

For most of the conflict, France and the UK were joined by Germany and Portugal on the UNSC, while the elections for the 2013 non-permanent members would see EU representation on the body reduced to three spots with only Luxembourg elected to a seat. It is notable that no clear shift in

stance or rhetoric on the conflict took place with the changeover of UNSC members. Throughout the conflict the EU representatives on the UNSC remained on message and well coordinated with the High Representative and the European institutions. The intervention in Mali therefore marks a significant level of cooperation between EU member states on the UNSC.

A year before the crisis erupted, the European External Action Service, established under the Treaty of Lisbon, had presented a policy document on a "Strategy for Security and Development in the Sahel" (EEAS 2011). It identified that "security and development in the Sahel cannot be separated" (EEAS 2011). Furthermore it identified the region, stretching across northern Africa from Mauritania to Sudan, as a key strategic interest to the EU. It specifically called for more European involvement in the region particularly with regard to the development of the capacity of the generally weak state structures present. Moreover, The EU had long been engaged in the Sahel. The tenth European Development Fund covering the years 2007-13 earmarked over €1.5 billion in development aid to countries within the region (EU 2011). The EU stood out as the largest single development aid contributor to Mali, raising over €3.2 billion at a donors' conference in Brussels in May 2013 (EU 2012).

Therefore, when the EU's Foreign Ministers met on March 22, 2012 in Brussels to discuss the then unfolding crisis in Mali, they had a blueprint policy document to work from. It identified the crisis in Mali as part of the larger security question in the Sahel region that was destabilized by the conflict in Libya and focused on restoring stability to the state. While condemning the military coup in Bamako it underlined the "importance of respect for the territorial integrity of Mali" and called for an "immediate ceasefire" (EU 2012). The EU would stick to this policy throughout the conflict, portraying a coherent policy stance.

This first European Council meeting on the Malian conflict also approved the development of a possible Common Security and Defence Policy training mission "to fight terrorism and organized crime in the Sahel region" (EU 2012b). While at that stage the conception of this mission was to be a civilian one focused on Niger, the end result of a military mission in Mali with an almost identical mandate was conceptually consistent.

The European External Action Service appeared to have a significant impact placing the Malian conflict within a broader strategic framework and providing a blueprint for action that the EU could follow throughout the conflict. This suggests a positive institutionalizing effect from the development of this body with the Treaty of Lisbon.

The European Union Training Mission in Mali was another significant example of European cooperation in Mali. It evolved naturally out of the policy prescriptions of the European External Action Service's document on "Security and Development in the Sahel". It was approved by the European Council at a meeting on January 17, 2013 after a request by the President of the Republic of Mali sent in late December 2012. The European Union Training Mission in Mali was significant in seeing 560 personnel deployed from twenty-three EU member states.

It is notable, however, that these personnel were to perform purely instructional functions and have

no combat mandate. While France led the way in military intervention in Mali, the EU's involvement was strictly non-combative. When the utilization of military force became the focus of international discussion on Mali, Paris and London became significantly more important diplomatic foci than Brussels. The EU found itself following the positions established by EU member state governments rather than the other way around.

The EU had previously mobilized combat operations, most recently EUFOR Chad/CAR, authorized in late 2007. This operation was largely seen as unsuccessful and incurred high, unwanted costs on mainly disinterested European states (Haine 2011). Rather than suggesting that the Treaty of Lisbon has cemented the Common Security and Defence Policy framework for EU operations, European action in Mali suggests that the shortcomings apparent with EUFOR Chad/CAR remained extant during the Mali crisis.

During UNSC meetings themselves, the effects of a cohesive European policy were quite visible. At the UNSC meeting of December 10, 2012, both the German and French representatives specifically aligned their comments and stances with those of the EU. In fact, Messrs. Wittel and Arnaud both used the same wording that their country "aligns itself with the EU statement" (UNSC 2012). Furthermore, due to the establishment of a common European policy on the Malian conflict, representatives of the High Representative were invited to speak at meetings of the UNSC as anticipated by the Treaty of Lisbon (O'Sullivan 2012). Between member states on the UNSC propounding EU policy and the representatives of the EU itself being given ample opportunity to address the body, the EU was able to significantly impact the Council decisions. It is notable that the outcomes of the UNSC meetings on the Malian crisis were almost entirely in line with EU policy.

International development was targeted in the Treaty of Lisbon as a major aspect of European foreign policy, heavily interlinked with its security. Mali is one of the world's poorest states and represented a prime example of the interplay between poverty and war. The conflict in Mali also resulted in widespread horrific human rights abuses, on both sides, another issue of significant interest to European foreign policy as proposed in the Treaty of Lisbon. Therefore the nature of the conflict in Mali was conducive to European involvement. Furthermore Mali borders Mauritania and Algeria, which are both part of European Neighbourhood Policies making the conflict geographically proximate to the European neighbourhood and potentially of adverse consequence for these policies in Northern Africa. This provided a further impetus for involvement.

The most significant aspect to ensuring European involvement and the broad consensus of the international community was the framing of the conflict in Mali as a struggle between a secular government in Bamako and Islamist extremists in the North. After initial victories against the Bamako government, the MNLA had been disbanded by a loose coalition of Islamist military groups that included Ansar Dine, which was suspected of ties to Al Qaeda, and the Movement for Oneness and Jihad in West Africa, a splinter group of Al Qaeda in Maghreb. The association of these groups with Al Qaeda framed the conflict as part of the conflict against Islamist terror. The need to "fight terror"

through intervention in Mali was prominent in UN rhetoric in support of intervention. The fear of the spread of extremist Islam in Northern and Western Africa was of significant security concern for the EU.

US reluctance to involve itself militarily in Mali meant that intervention would require another Western leader. French President Francois Hollande was prepared to provide just that leadership. Successive French governments have placed high importance on their nation's role as a permanent member of the UNSC and French foreign policy has thereby been noticeably interventionist in comparison to its European neighbours.

Mali's status as a former French colony also influenced French policy during the conflict. France maintains significant economic and cultural links with Mali. Most significant of these links is Mali's status as a Francophone state. French protection of francophone governments has been a longstanding feature of French foreign policy. The significant domestic influences towards French intervention is evidenced by the widespread support for Hollande's action amongst France's political classes. With the strong backing of the center-right Union pour un Mouvement Populaire (despite criticism from former President Nicolas Sarkozy) saw a broad consensus develop behind French intervention (Rice & Carnegy 2011).

UK Prime Minister David Cameron declared the UK and its Western allies to be in a "generational struggle" against Islamist extremism and former Prime Minister Tony Blair called for strong backing of French efforts (BBC 2013; Lister 2013). Nonetheless, Westminster was quick to assert that British troops would not be setting foot on Malian soil and embroil themselves in yet another conflict (BBC 2013). The UK also did not display the same regard for EU policy displayed by France and Germany in public statements on the Malian conflict nor was the UK a major contributor of troops to the European Union Training Mission to Mali. However, the UK did play a significant diplomatic role, which was noted by regional actors and did not diverge from EU policy either in statements or actions.

As seen with Libya, the German Christian Democrat/Free Democrat coalition was of a heavily anti-interventionist bent. Since the responsibility for putting combat troops on the ground in Mali was to fall on African states (and France) Germany was happy to support intervention. Berlin's concern was to avoid an overtly combative role for her own troops. However, German foreign policy under Merkel and Westerwelle was focused heavily on propounding a positive image of German power. Therefore, taking a leading role in aid contributions and in troop contribution to the European Union Training Mission in Mali fit in quite well with German domestic interests. It showed German commitment to development underlining a positive role in the global community.

Portugal remained largely concerned with domestic economic matters and had little impact on the crisis in Mali. Luxembourg was similarly irrelevant to proceedings. Neither non-permanent UNSC Member had major domestic impetus to take and toed the European line on the UNSC. This is, in itself, significant. While the UK, France and Germany are major powers with significant foreign policy interests many of the EU Member States are smaller and lack major concern for foreign policy. That

both Portugal and Luxembourg complied with EU policy throughout the Mali crisis gives some weight to the hypothesis that such states are willing to follow the European line in international organizations.

Analysis of Findings

At the beginning of this study we asked three questions of European foreign policy in the cases of intervention in Libya and Mali. I: Did the EU establish a concrete position? II: Did the EU's institutional framework effectively expound established positions? III: To what extent were national interests subordinated to the European interest?

A consistent European position was apparent throughout both cases. Europe was a prominent voice in calling for international diplomatic intervention to mediate an end to the violence. In the Libyan case, the EU was quick to condemn the excessive violence of the Gaddafi regime and its attacks on civilians. It also pushed significant economic and travel sanctions on prominent members of the regime implicated in violence against civilians. It was also a major voice in the reconstruction efforts in Libya, authorizing the mobilization of EUFOR Libya for just that purpose. The EU followed a similar position with regards the case of Mali. It pushed mediation efforts and raised monies to assist in the development of Malian state capacity. It also mobilized the European Union Training Mission in Mali, which sent European troops to Bamako to train Malian security forces.

Both in diplomatic efforts and in post conflict reconstruction, the EU was a significant actor. It took a leading role in these efforts that exceeded pre-Lisbon perceptions of European foreign policy cohesiveness. Crucially, however, the European position floundered when it came to the direct use of force. For most European member states, involvement in military operations is almost inconceivable. German reluctance to contribute to military operations in Libya seems to have been the pivotal factor in preventing the formulation of a European position on S/RES/1973. Furthermore, the general European reluctance to contribute to military operations meant that France felt better off acting alone in Mali rather than acting within the European Union Common Security and Defence Policy framework.

Both the cases of Libya and Mali bear evidence of the successful institutionalization of European foreign policy positions, once established. In Libya, the High Representative Catherine Ashton was able to articulate a cohesive position during the early stages of the conflict and the EU was able to take decisive action with regards to economic sanctions. Mali offers even stronger evidence of the effective institutionalization of European foreign policy. The High Representative was able to articulate a cohesive position, her representatives were invited to UNSC meetings and European members of the UNSC explicitly followed the European position at meetings. The establishment of the European External Action Service with the Treaty of Lisbon appears to have had a significant effect, offering a template for actions and underpinning cooperation of the EU in Mali.

The evidence from both cases suggests that the European Union's Common Foreign and Security Policy has generally been somewhat strengthened in terms of both position development and institutionalization. However, cooperation within the Common Security and Defence Policy framework

remains problematic with no improved cooperation apparent where the utilization of military force is considered. The establishment of the position of High Representative of the Union for Foreign Affairs and Security Policy, the European External Action Service and provisions for EU representatives to address the UNSC all appear to have had a positive effect on expounding European foreign policy positions once established. However, better institutionalization of the Common Foreign and Security Policy does not appear to have been able to overcome cooperation issues over the utilization of military force.

The two selected cases offer interesting perspectives on the dynamic between national and European foreign policy interests. In the case of Mali it was very evident that the European member states were following a common European line.

Both Germany and France explicitly remarked that their position endorsed the common position of the EU, made previously when speaking at UNSC meetings. However, in the case of Libya it was quite evident that the European members of the UNSC were following their own national interests rather than sticking to the common European line. The case of Mali suggests that where the EU is able to agree to a common line its member states are willing to follow it. The case of Libya suggests that where the EU does not develop a common line its members are content to pursue divergent positions. It is noticeable that a degree of cooperation was apparent between the UK, France and Germany on the Libyan vote even if they did not vote in tandem. This suggests a degree of cooperation that had not been apparent in some pre Lisbon conflicts such as the Iraq case. It suggests that the EU has developed a reasonable level of improved cooperation in foreign policy matters.

However, it is also apparent that in neither case was Brussels the center of decision-making. Only in pre-intervention Mali (and arguably post-intervention in both cases) could the EU reasonably claim to have taken the lead in establishing a foreign policy for its member states. Rather, London, Paris, Berlin and Washington appear as the significant decision makers in both cases. Where an EU position was established, it largely followed those made by its larger member states. This suggests that Europe's Common Foreign and Security policy remains largely in the sphere of intergovernmentalism. Especially regarding Common Security and Defence Policy aspects, there is little evidence in either case of significant supranational institutional effects.

Both cases studied showed remarkable international consensus behind the decision to intervene. Aside from the African Union and Turkish opposition in the case of Libya, both S/RES/1973 and S/RES/2072 were proposed in light of calls for action from regional actors and the United Nations General Secretariat itself. The unusual levels of international consensus for intervention in both cases is evidenced by Chinese and Russian support for intervention in Mali and the unwillingness of either power to veto intervention in Libya. As such, the impact of varying levels of international support could not be analyzed in this study, suggesting grounds for future research. In both cases, international consensus existed that promoted an interventionist stance.

Action on neither Mali nor Libya was likely to affect significant European economic interests (excepting perhaps for Italy in Libya). Further study of European foreign policy where major economic interests are at stake would be required to gain a fuller understanding of European foreign policy coordination

after the Treaty of Lisbon.

It is also notable that in both cases the US was unwilling to take a position of leadership. In both cases France, along with the UK in Libya, were the international leaders for intervention. It is conceivable that US retreat from leadership in international intervention is to become a feature of international relations, in which case the cases of Libya and Mali give an indication of what can be expected as multipolarity is established in the international arena. What is significant is that previously US leadership has been significant in coordinating European foreign policy therefore the lack of US leadership was likely a factor against coordination in both cases studied.

Though European foreign policy in the case of Libya was far from coordinated when it came to the discussion of military intervention, neither was that of the US, a single, sovereign state. As discussed above the Obama administration was divided and prevaricated widely on the issue of intervention in Libya. The EU lacks a strong executive power akin to the US presidency capable of enforcing a decision without consensus within. European non-coordination on the issue of Libyan intervention may well reflect the high complexity of the Libyan conflict and the consensus nature of the EU's foreign policy making apparatus. Unless national interests are to be subsumed by the EU's institutions, and the European Common Foreign and Security Policy is adapted to supranational governance, then such non-coordination seems likely to continue. With the use of force so central to security issues this severely hampers European cohesion on security matters.

Conclusion

This study has analyzed the cases of intervention in Libya and Mali surrounding UNSC Resolutions 1973 and 2072 seeking to assess the impact of the Treaty of Lisbon on European foreign policy coordination and cohesion. It has found the institutional innovations of the Treaty of Lisbon have had a significant effect in institutionalizing European foreign policy positions once decided. It has also found a consistency in the European position across both cases. However, it has also found that foreign policy is largely conducted at a national level, with Europe taking the role of effective coordination where European interests coincide rather than a driver of positions based on common European interests. This suggests limits as to the ability of the EU to develop as a significant international power though both in both studied cases shared European interests and values were enough to underpin cohesive foreign policy coordination during most of the diplomatic efforts.

More significant, in terms of the limitations of the Treaty of Lisbon's effects on the European Common Foreign and Security Policy is with regards its Common Security and Defence aspects. A shared conception as to the role of the utilization of military force is far from apparent within the EU. Furthermore, with many European states unwilling to contribute to military efforts development of EU led security missions seems unlikely. The Treaty of Lisbon does not appear to have significantly reduced limitations on cooperation regarding the utilization of military force that are so central to the development of the European Union as a significant international player on security issues.

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NATO Crisis Response: Using NATO Kosovo Force as a Model for Peacekeeping

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Abstract

The ethno-territorial conflicts precipitated by the breakup of the Soviet Union and dissolution of Yugoslavia had major implications for European security and substantially altered the strategic priorities of the North Atlantic Treaty Organization (NATO) in the post-Cold War period. In order to preserve regional stability, NATO expanded beyond collective defense into crisis management and peacekeeping to address destabilizing ethnic conflicts, particularly in the Balkans region. This paper proposes that the NATO peacekeeping operation succeeded as a whole in stabilizing the Kosovo crisis and enabled the creation of a functioning, multiethnic state in Kosovo, which became independent in 2008. Using Kosovo as a case study, this paper outlines a conceptual framework for use in examining the success of the NATO peacekeeping force in Kosovo, known as KFOR, in stabilizing the Kosovo crisis and enhancing regional stability. This framework consists of five core security tasks – diffusing the crisis; ensuring security; enabling humanitarian relief operations; facilitating a political solution; and fostering long-term regional stability – organized around an end state of establishing a stable, independent Kosovo. The paper concludes with comments on the usefulness of KFOR as a model for peacekeeping and the long-term use of NATO forces in such peacekeeping operations going forward.

Introduction

The ethno-territorial conflicts precipitated by the breakup of the Soviet Union and dissolution of Yugoslavia had major implications for European security and substantially altered the strategic priorities of the North Atlantic Treaty Organization (NATO) in the post-Cold War period. In order to preserve regional stability, NATO expanded beyond collective defense into crisis management and peacekeeping in order to address destabilizing ethnic conflicts, particularly in the Balkan region. This paper proposes that the NATO peacekeeping operation succeeded as a whole in stabilizing the Kosovo crisis and enabled the eventual creation of a functioning multiethnic state in Kosovo, which became independent in 2008. Using Kosovo as a case study, this paper examines the success of the NATO peacekeeping force in Kosovo, known as the Kosovo Force (KFOR). KFOR was established in 1999 under the provisions of United Nations Security Council Resolution (UNSCR) 1244 regarding the deployment of an international security presence in Kosovo.

Since 1999, KFOR has continued to enhance peacekeeping operations and work in conjunction with the United Nations (UN), the European Union (EU), and other international entities to enable state building in Kosovo. The paper outlines a conceptual framework to use in evaluating the success of the NATO peacekeeping operation to enhance state stability in Kosovo, which consists of five core security tasks: diffusing the crisis; ensuring security; enabling humanitarian relief operations; facilitating a political solution; and fostering long-term regional stability – organized around an end state of establishing a stable, independent and multiethnic Kosovo. The questions addressed in this paper include: What factors shaped the structure of NATO crisis response mechanisms, including the NATO

peacekeeping operation in Kosovo; and what are the broad implications of KFOR's success in formulating state-building strategies in fragile multiethnic states? In answering these questions, the paper outlines the strategic rationale underlying NATO's expanded role in crisis management and peacekeeping, as articulated in NATO strategic documents and international security policy discourse. This paper also examines the success of the NATO peacekeeping operation in Kosovo using the framework outlined above. It concludes with final comments on the usefulness of KFOR as a model for peacekeeping in crisis and post-conflict multiethnic states, as well as the long-term use of NATO forces in such peacekeeping operations in the post-Cold War era.

Strategic Context

NATO adaptation to changing strategic circumstances and expansion beyond its original purpose of collective defense into crisis management and peacekeeping reflect historical developments in the region – the breakup of Yugoslavia; the rise of ethnic nationalism in the post-communist states in Central and Eastern Europe, including ethnic cleansing in the Balkans region; and the increasing reliance on international peace interventions in response to humanitarian crisis, ethnic conflict and state fragility in the post-Cold War period. Regarding the spread of nationalism across Central and Eastern Europe, the nationalist principle (the idea of states on the basis of national identity, or the fact that most newly independent states pursued political-cultural congruence using the nation-state model) became the greatest common denominator of post-communist transitions (Zsuzsa and Goldgeier 2004). Although alternative forms of sociopolitical organization were part of the “repertoire of transformation,” traditional nationalism emerged as the preferred option (Zsuzsa, and Goldgeier 2004, 21). The three communist federations at that time were Czechoslovakia, the Soviet Union, and Yugoslavia, each split along nationalist boundaries, and “most unitary states began asserting national sovereignties in various forms,” especially as European integration became a real possibility (Zsuzsa and Goldgeier 2004, 21). Although the principles of nationalism and territoriality played an important role in post-communist transformation in Europe, many Western scholars and policy makers thought that democratization and European integration would “eventually render nationalism obsolete” (Zsuzsa, and Goldgeier 2004, 21). This eventuality prompted both the EU and NATO to pursue enlargement policies, the process of adding new member states, to help stabilize an unpredictable situation by encouraging peaceful transformation and regional integration (Zsuzsa and Goldgeier 2004). Unquestionably, incorporating new nation-states into European structures became a necessary basis for stability and consolidating security in Europe, and possibly set the conditions for an independent Kosovo. The factors outlined above may have also reshaped NATO policy, including the NATO model of crisis management for assessing regional crises like the Kosovo crisis and developing crisis response options (NATO 2011).

In response to these developments such as nationalism, NATO remade itself for the evolving security environment in Europe by adopting a new Strategic Concept. This was an official document issued by NATO that outlines its policies, objectives, and fundamental security tasks, advancing a “broader approach to security than before” (NATO 2010a). This revised concept emphasized extending security eastward through NATO enlargement, building new partnerships with former adversaries in the

Warsaw Pact, and conducting crisis management operations outside of NATO's traditional area of operations in Europe to manage crisis affecting European security, such as ethnic conflict in the Balkans region. In order to preserve regional stability, NATO shifted its long-term policy toward crisis management and peacekeeping to deal with emerging regional crises and instability beyond NATO territory, including intervening in Bosnia and Kosovo. Indeed, NATO issued three new Strategic Concepts in 1991, 1999, and 2010 with increasing emphasis on crisis management and peacekeeping in the post-Cold War era. This included improving front-line tools, such as NATO crisis planning, regionally-based organizational constructs, new operating concepts, deployable command and control structures, and task-organized units, forces, and military capabilities. Accordingly, crisis management has been included with collective defense (defending NATO countries against attack) and cooperative security (promoting international security through cooperation with other countries and international organizations) as one of NATO's three core security tasks.

The 1991 NATO Strategic Concept acknowledged the dramatic political changes occurring in Central and Eastern Europe, as well as the negative consequences from "instabilities" associated with ethnic conflict and territorial disputes, among other regional issues (NATO 1991). The new concept also underscored the importance of NATO managing such crises, especially given its unique ability to plan, organize and implement effective crisis management operations. The 1991 Strategic Concept highlighted successful "crisis response operations" in the Balkans, and NATO's potential support for UN peacekeeping operations, among other UN or Organization for Security and Co-operation in Europe (OSCE) authorized operations, thus broadening the scope of NATO crisis management and peacekeeping (NATO 1991). Increased cooperation with the OSCE, which has missions in fifteen countries, including Kosovo, also highlights the expanding scope of NATO crisis management (NATO 2014b). The 2010 Strategic Concept further expanded NATO policy on crisis management, conceptualizing NATO involvement in all stages of a crisis: "NATO will therefore engage, where possible and when necessary, to prevent crises, manage crises, stabilize post-conflict situations and support reconstruction" (NATO 2010a). Generally, a policy like this includes a comprehensive, all-encompassing approach to crisis management by emphasizing support for wider international efforts to build peace and stability, including closer cooperation with the UN, EU, and other international actors. The 2010 NATO strategic concept also considered "a broader range of tools to be used" for crisis management and post-conflict stabilization:

NATO has a unique and robust set of political and military capabilities to address the full spectrum of crises – before, during and after conflicts. NATO will actively employ an appropriate mix of those political and military tools to help manage developing crises that have the potential to affect Alliance security, before they escalate into conflicts; to stop ongoing conflicts where they affect Alliance security; and to help consolidate stability in post-conflict situations where that contributes to Euro-Atlantic security. (2010a)

Certainly, regional crises outside NATO territorial boundaries could jeopardize wider Euro-Atlantic security, which originally necessitated NATO's expanded role in crisis management and peacekeeping. Invariably, the Kosovo crises threatened to spillover into fragile states such as Albania, Macedonia and

Montenegro and destabilize the entire region. The ethnic conflict, in which both ethnic Albanians and Serbs living in northern Kosovo had been attacked “solely on the basis of ethnicity,” also undermined NATO credibility as the guarantor of security and stability in the core geographic area of southeastern Europe (Brookings Institution 1998). Consequently, NATO intervened in Kosovo to de-escalate the crisis; to protect thousands of innocent civilians from a mounting Yugoslavia and Serb military offensive; and to prevent a wider war, thus ensuring stability in southeastern Europe. The NATO peacekeeping operation in Kosovo also strengthened the relevance of the alliance and preserved NATO credibility as an important regional security structure in the post-Cold War period.

NATO Crisis Response in Kosovo

The NATO Kosovo Force (KFOR) was established in June 1999, under the auspices of the UN to resolve the Kosovo crisis, in the aftermath of a 78-day NATO air campaign, which led to the withdrawal of Yugoslav forces from Kosovo (NATO 2014c). Originally, the 50,000-strong KFOR, comparable in size to the NATO peacekeeping force that entered Bosnia in 1995, divided Kosovo into five regional sectors, each overseen by a multinational brigade led by “one of NATO’s five largest members: the United States, Britain, France, Germany and Italy” to ensure unified military action throughout the Kosovo province (Myers and Craig 1999). UNSCR 1244 stated that the crisis situation in the region constituted a threat to international peace and security, and underscored the urgent need for the “rapid early deployment of effective international civil and security presences to Kosovo,” that is – the UN Interim Administration Mission in Kosovo (UNMIK) and KFOR were needed (UNSCR 1244 1999). UNSCR 1244 authorized a civil and military presence in Kosovo to bring stability that formed the basis of the mandate for KFOR, which operated under Chapter VII of the UN Charter, generally referred to as peace enforcement or peacekeeping operations. According to UNSCR 1244, KFOR’s mandate included the following security objectives:

1. Deterring renewed hostility and threats against Kosovo by Yugoslav and Serb forces;
2. Demilitarizing the Kosovo Liberation Army;
3. Establishing a secure environment in which refugees and displaced persons could return home in safety, the international civil presence could operate, a transitional administration could be established, and humanitarian aid could be delivered; and
4. Supporting the work of the international civil presence; and ensuring the protection and freedom of movement of itself, the international civil presence, and other international organizations. (1999)

UNSCR 1244 also included provisions for the establishment, pending a final settlement, of substantial regional autonomy for Kosovo on the basis of the Rambouillet Accords. Although such regional autonomy may function as a “conflict-resolving mechanism,” Svante E. Cornell argues that institutions at the sub-state (or regional) level actually foster regional secessionism (Cornell 2002). Ethnic separatist movements in multiethnic states may have contributed toward increasing territorial autonomy or

achieving de facto independence in post-Soviet political space, such as in the Caucasus and Black Sea region. Cornell also theorizes that state institutions improve the cohesion and sustainability of ethnic nationalism in the move toward sovereignty, particularly in regions where the titular ethnic group comprises the demographic majority (Cornell 2002).

This argument also reflects Roeder's segmental institutional thesis on the causal relationship between segment states and the increased probability of sovereignty (Roeder 2015). Kosovo, for example, initially leveraged increased regional autonomy under UNSCR 1244, including the development of necessary political institutions, as a bridge to eventual state sovereignty. According to Rogers Brubaker in his book, *Nationalism Reframed*, institutions of personal and territorial ethnicity, rather than constraining nationalism, have constitutive effects on people's ethnic identities and interests. Brubaker states that the institutions of ethnic nationality and territoriality eventually converge to form ethno territorial claims to sovereignty (Brubaker 1996). Indeed, Brubaker's concepts of personal and territorial ethnicity are useful in examining ethnic nationalism in the successor states to the former Soviet Union and former Yugoslavia, including regional autonomy, secession and self-determination on the basis of ethnic nationalism in Kosovo.

The Western intervention in Kosovo is often called the "Kosovo precedent," whereby NATO intervened in support of "the secessionist aims of a minority population, principally ethnic Albanians, within a larger state," rather than preserve the status quo (King 2010, 126). Notwithstanding, Canadian Prime Minister Stephen Harper defended Canada's recognition of Kosovo's independence in 2008 as a "unique" case that warranted an international peace intervention for humanitarian purposes, which eventually created a separate state but did not necessarily establish a new precedent (CBC News 2008). Therefore, intervening in a separatist crisis, such as Kosovo, can be seen as the exception and not the rule by Western standards.

Since 1999, NATO has been leading a "sustained international security presence" in Kosovo, and enabling wider international efforts to stabilize the region (NATO 2014c). Following Kosovo's declaration of independence in February 2008, NATO agreed to continue its presence on the basis of UNSCR 1244 (NATO 2014c). In June 2008, NATO agreed to take on new tasks in Kosovo, including the establishment of a multiethnic, professional Kosovo Security Force, a lightly armed force responsible for security tasks inappropriate for the police "encompassing crisis response, assistance to civil authorities in responding to natural and other disasters and emergencies, explosive ordinance disposal and civil protection" (NATO 2014c). In April 2013, Kosovo and Serbia reached an agreement on the normalization of relations in the EU-facilitated dialogue, which will help improve relations between Kosovo and Serbia; possibly resolve issues regarding the Serbs in northern Kosovo, who do not necessarily want to be part of an independent Kosovo; and facilitate the European integration of both countries (U.S. Department of State 2013). Accordingly, KFOR has continued to support Dialogue agreements, including this agreement on Kosovo-Serbia relations (EU 2013). Periodically NATO reviews its peacekeeping operation in Kosovo, and adjusts its troop strengths as warranted by the security situation (NATO 2014c). KFOR recently began moving incrementally toward a deterrent posture characterized by lighter, more mobile and flexible forces, as security has improved in Kosovo (NATO 2014c).

Framework for Evaluating NATO Success in Kosovo

Generally, the establishment of KFOR has been successful in implementing UNSCR 1244 and supporting an independent, sovereign, and multiethnic Kosovo. The conceptual framework proposed here consists of five core security tasks:

1. Diffusing the crisis;
2. Ensuring security;
3. Enabling humanitarian relief operations;
4. Facilitating a political solution; and
5. Fostering long-term regional stability. (1999)

The five core security tasks outlined above are based on an end state of establishing a stable, independent Kosovo, which can be used to substantiate the success of the NATO peacekeeping operation in Kosovo. The framework also reflects the mandate for the international security presence in Kosovo under UNSCR 1244. Additionally, the political solutions adopted in order to address ethnopolitical issues in Kosovo supported by KFOR can be seen in this framework used to evaluate NATO success in Kosovo.

Diffusing the crisis

The rapid deployment of KFOR initially de-escalated the crisis by halting the violence and protecting ethnic Albanians in Kosovo from further attack, in accordance with UNSCR 1244, which “condemned all acts of violence against the Kosovo population” (1999). KFOR also succeeded in the implementation and enforcement of the Military-Technical Agreement (MTA) between NATO and the Federal Republic of Yugoslavia and Serbia on the deployment of the international civil and security presence in Kosovo under UN authority, “including the use of necessary force” to ensure compliance with the agreement (NATO 2014c). Accordingly, KFOR enforced the complete withdrawal of Yugoslav and Serb forces from Kosovo, including the establishment of a buffer zone separating Serbia and Kosovo beyond which such forces would be withdrawn; demilitarized the KLA and other armed ethnic Albanian groups; ensured the protection of ethnic minorities, including the safe and unimpeded return of Kosovo refugees; and implemented appropriate border security measures; among other security tasks, to help stabilize the crisis situation (UNSCR 1244 1999).

Ensuring security

KFOR established a safe and secure environment and enforced a durable cessation of hostilities on the basis of UNSCR 1224, the MTA, and various other agreements. In establishing a secure environment, KFOR also ensured the protection and freedom of movement of UN organizations and non-

governmental organizations in Kosovo. Additionally, KFOR presence provided security for ethnic minorities and communities in Kosovo, including the safe return of refugees and displaced persons, although tensions occasionally flared up in ethnically-divided northern Kosovo (Human Rights Watch 2014). Further, NATO helped establish the multi-ethnic Kosovo Security Force (KSF), a lightly armed security force responsible for protecting civilians and assisting civil organizations for humanitarian assistance, among other tasks, in Kosovo under NATO supervision (NATO 2014c) The KSF reached full operational capability in July 2013, and became “fully capable of performing the tasks assigned to it within its mandate, to standards designated by NATO” (NATO 2013). Notwithstanding, NATO guaranteed Serbia that KSF personnel “would not enter Serb enclaves in the north,” attesting to the persistence of ethnic cleavages in the newly-independent Kosovo (Radio Free Europe/Radio Liberty 2014).

Enabling humanitarian relief operations

NATO enabled the international community’s humanitarian efforts and delivered significant humanitarian aid to the region. The U.S. Department of State estimated that 90% of Kosovo Albanians were displaced by Yugoslav forces in 1998-99, including over 780,000 in camps in the region, primarily in Albania and Macedonia, “two countries with little capacity to provide humanitarian assistance” (U.S. Congressional Research Service 1999). KFOR proved indispensable in providing the necessary security for the delivery of humanitarian aid. KFOR also enabled immediate and unfettered access for UN humanitarian agencies, especially for emergency relief provided by UNMIK and the Office of the UN High Commissioner for Refugees (UNHCR). NATO forces provided humanitarian assistance to improve the refugee situation, including transport of food, water and shelter materials for refugees in Albania and Macedonia (NATO 2015). KFOR worked closely with the UN administration on humanitarian and reconstruction efforts. For example, KFOR built or repaired “200 kilometers of roads, six bridges and several bypasses” as part of the reconstruction effort to better enable the flow of humanitarian aid throughout Kosovo (NATO 2000) This case illustrates the importance of KFOR support for UN and international organizations’ humanitarian relief operations as part of its international mandate. NATO humanitarian airlift operations also delivered large amounts of humanitarian aid to the region (NATO 2000).

Facilitating a political solution

By providing security and enabling UNMIK to operate, KFOR facilitated the civil implementation of the UN resolution, including a comprehensive, inclusive political dialogue and constitutional process that eventually led to the establishment of a multiethnic Kosovo. Following Kosovo’s independence and a new constitution in 2008, UNMIK refocused on “the promotion of security, stability and respect for human rights in Kosovo,” in conjunction with KFOR (UN News Center 2014). According to Freedom House in 2012, Kosovo had “substantially implemented its independence framework, which stipulates the establishment of a functional state and focuses on minority rights and the decentralization of power” (Freedom House 2013). KFOR also worked closely with the European Union Rule of Law Mission (EULEX) in Kosovo in order to strengthen Kosovo institutions and the rule of law situation in

Kosovo, including an adequate court system and “multi-ethnic police and customs service (NATO 2014c). In 2011, for example, EULEX Kosovo and KFOR initiated a joint operation to re-establish freedom of movement in the disputed territory of northern Kosovo typical of their cooperation in Kosovo. Generally, KFOR provided the necessary security and freedom of movement for international organizations, agencies and non-governmental organizations operating across Kosovo.

Fostering long-term regional stability

KFOR continued to provide the prerequisite security necessary to support Kosovo’s path toward European integration, including EU candidacy, as well as the Kosovo-Serbia agreement on the normalization of relations and progress within the context of the EU-facilitated Dialogue, all of which foster long-term regional stability. Indeed, potential EU accession has great influence on promoting the observance of minority rights and more inclusive citizenship in Kosovo. KFOR also worked together with the OSCE mission in Kosovo, the OSCE’s largest field mission, on a wide range of issues from building an inclusive Kosovo and the protection of community rights to post-conflict stabilization (OSCE 2014). Additionally, KFOR enabled continued integration of Kosovo into Western security structures, such as the EU Common Security and Defense Policy and NATO. Having signed a Status of Forces Agreement with the U.S. on increased bilateral security cooperation, Kosovo may be on the cusp of moving toward NATO Partnership for Peace membership; however, non-recognition by some NATO member states would be problematic, given NATO consensus decision making (U.S. Department of State 2012).

The application of this framework substantiates the overall success of the NATO peacekeeping operation in Kosovo, according to its mandate under UNSCR 1244. This broad analysis also underscores the importance of KFOR security assistance and cooperation with international organizations, agencies and non-governmental organizations. Additionally, this analysis clearly shows the importance of refining and refocusing KFOR operations, including the ability to modify the security posture as necessary, in response to changing circumstances in Kosovo. The framework can also be applied to emerging country-specific and regional contexts, and used to establish benchmarks as a reference for monitoring progress and evaluating strategy effectiveness. By all accounts, this framework shows that KFOR has proven quite successful in carrying out its UN mandate from establishing security and protecting ethnic minorities in Kosovo to supporting democratic governance and Kosovo’s path toward European integration.

KFOR as a Model for Peacekeeping

The evaluation of the NATO peacekeeping operation in Kosovo demonstrates the importance of NATO crisis management and peacekeeping in resolving ethnic conflicts in the Balkans region. The framework analysis also illustrates not only the success of NATO peacekeeping in Kosovo but also the usefulness of KFOR as a model for crisis management operations in crisis and post-conflict multiethnic states. The NATO peacekeeping operation in Kosovo reflects a “comprehensive approach” to crisis

management, whereas KFOR provides holistic support, including the necessary security, to state building efforts of the UN, EU and OSCE presence in Kosovo (NATO 2012). According to NATO Secretary General Anders Fogh Rasmussen, “the comprehensive approach not only makes sense – it is necessary” (NATO 2012). According to the current strategic concept, NATO also maintains the flexibility to refine and refocus the operations of KFOR in proportion to security conditions in Kosovo in order to ensure an appropriate security presence in Kosovo over time:

Reflecting the improving security situation, KFOR is moving towards a smaller, more flexible, deterrent presence. We expect this process of transition to a deterrent posture, implying further troop reductions, to continue as fast as conditions allow, and will keep it under political review. KFOR's capability to carry out its mission throughout the transition process will be maintained.

(NATO 2012)

NATO also has the flexibility to respond to changes in context-specific and regional strategies employed by the international civil presence in Kosovo, such as the increased monitoring of human rights violations to support UNMIK's renewed focus on the protection of human rights after Kosovo independence. The UN and other international actors benefit greatly from such flexibility and NATO's operational capability for complicated peacekeeping operations in Kosovo. Third, structured cooperation between NATO and non-NATO troop contributing nations for coalition building can readily be accomplished through cooperative mechanisms, such as the Partnership for Peace program for increased military cooperation between NATO and non-NATO countries, which help generate peacekeeping forces that operate in accordance with NATO standards. Finally, NATO has continued to improve “coherent application” of its own crisis management tools as well as cooperation with partner countries and international organizations (NATO 2006).

Strategically, the KFOR model is generalizable to other international institutions, especially the NATO emphasis on fulfilling an international mandate as the deciding factor in evaluating the overall success of peacekeeping operations. Institutionally, NATO's planning capability, including the flexibility to hone KFOR operations as warranted by the security situation is also broadly applicable to institutions, such as the African Union, EU and the UN, especially regarding humanitarian assistance, disaster relief and peacekeeping operations. Operationally, the KFOR model underscores the importance of formulating a coherent strategy to fulfill an international mandate, among other security tasks, and develop the applicable crisis management structures and capabilities for strategy implementation.

The KFOR model could also be used as a mechanism to support emerging countries, such as Kosovo, in building their respective security capacity. The international community could also leverage this model in conjunction with NATO to support regional initiatives for security capacity building in the areas of humanitarian and disaster relief as well as peacekeeping operations. Regional and global security – managing ethnic crisis and building stable multiethnic states – increasingly may be achieved by responding to such crises using the KFOR model for crisis management operations in accordance with NATO decision-making and agreed-to procedures.

Conclusion

As shown by the framework analysis, the NATO peacekeeping operation in Kosovo was successful in establishing and sustaining the international security presence necessary to stabilize the crisis situation and support post-conflict reconstruction in Kosovo under UNSCR 1244. By carrying out its UN mandate, KFOR supported civil administration in Kosovo, led by UNMIK, and facilitated the establishment of substantial regional autonomy as well as a political process to determine Kosovo's future status, which eventually resulted in the formation of an independent, sovereign and multiethnic Kosovo. KFOR also worked in conjunction with the OSCE and EU, respectively, on state building and civil law and order in Kosovo, including the disputed territory of northern Kosovo. Additionally, KFOR ensured the cessation of hostilities; the protection of ethnic minorities, including the safe return of Kosovo refugees; and the delivery of humanitarian aid across Kosovo by ensuring the protection and freedom of movement of all international agencies, especially UNHCR.

What can be seen in Kosovo is that NATO has become a capable, effective and coherent security organization not only in collective security but also in terms of crisis management and peacekeeping. What can also be seen in the KFOR model is the importance of effective crisis management operations to stabilize a regional crisis, resolve the conflict and enable a long term sustainable solution. Indeed, NATO possesses the necessary crisis management organization, tools and capabilities to fully implement UNSCR 1244, thus effectively managing the Kosovo crisis, including the political solutions adopted to address ethno-political issues. The continued success of NATO crisis management and peacekeeping in the post-Cold War era will depend on crafting coherent NATO policy, enhancing crisis management tools, and strengthening cooperation with international organizations, agencies and non-governmental organizations. NATO will also depend on the appropriateness of crisis response mechanisms and crisis management operations, such as KFOR in Kosovo – and applying the conceptual framework outlined above to determine the success of NATO crisis management and peacekeeping in any given situation.

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Building Peace in South Sudan: An Assessment of Peacebuilding Efforts & a Strategy for the Realization of the Independence Promise

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Abstract

The outbreak of violence in South Sudan in December 2013 has enlarged ethnic divides and reversed the development advances the young nation has struggled to achieve since independence; while the continued deadlock in the IGAD-led negotiation process provides little hope of a negotiated peace settlement. A peacebuilding strategy that takes into account the context-specific circumstances of this intra-state conflict enhances the opportunity for peace and development in South Sudan, and provides the international community an opportunity to contribute to peace in a meaningful way. Limited capacity, deep and persistent ethnic divisions, corruption and a long memory of brutality within the civilian population complicate prospects for peace in the country. An examination of recent peacebuilding efforts in South Sudan reveals a fragmented and provisional approach. Using the framework of Ali and Matthews, this paper outlines a peacebuilding strategy for South Sudan that addresses root causes, consequences and legacies of the conflict, while taking into consideration the unique country specific circumstances. Recognizing the need to move from negative to positive peace, this paper prioritizes security and political arrangements as essential prerequisites for success in economic development and justice and reconciliation. The role of the international community, regional/sub-regional organizations and global civil society.

The boundaries of preventive diplomacy, peacekeeping, and peace making efforts in consolidating peace and restoring confidence and well-being to those in post-conflict zones are vast. In recognition of these limitations, former UN Secretary-General Boutros Boutros-Ghali identified peacebuilding as a tool to consolidate these functions (Boutros-Ghali 1992). Recurring conflict in countries that have suffered civil war demonstrate the need for moving society from negative peace, defined as the mere absence of violence, to positive peace, a condition of stable and widening shared values whereby actors do not resort to violence to resolve differences (Ali & Matthews 2004). To achieve positive peace, activities focused on improving security, political arrangements, economic development, and justice and reconciliation became the means to do so (Ali & Matthews 2004). Identifying the priorities and the right combination of peacebuilding activities has emerged as the real challenge since root causes vary from country to country; however, doing so is essential to an effective peacebuilding strategy. Nowhere is this more evident than South Sudan. The country has been plagued by civil war spanning 1955-1972 and again from 1983-2005, which saw internal strife during both, and following independence in 2011 saw the outbreak of political and ethnic violence.

Despite peacebuilding efforts following independence, the political fighting between President Salva Kiir and former Vice-President Riek Machar transitioned to hostilities along ethnic lines, predominantly between Kiir's Dinka and Machar's Nuer, engulfing the struggling country in a civil war with no end in sight. Using the framework of peacebuilding scholars Taisar Ali and Robert Matthews, this paper outlines a peacebuilding strategy for South Sudan that addresses the root causes, consequences, and legacies of the conflict, while taking into consideration the unique country-specific circumstances. This paper will first discuss the sequencing of priorities by examining some of the literature and the circumstances in South Sudan and elaborating on Ali & Matthews' framework, making the case that security is the first priority and is linked to a political arrangement, with economic development as the next priority, and justice and reconciliation as the fourth priority. This will be followed by a discussion of the consequences of hostilities, highlighting ethnic diversity, the humanitarian crisis, low development indicators, the Intergovernmental Authority on Development (IGAD)-led negotiation process, and the outstanding issues with Sudan. Next, an in-depth examination of how to address the root causes in the security, political, economic development and justice and reconciliation spheres will be provided, including a discussion of the role of the international community, regional/sub-regional organizations and global civil society. Ensuring the right balance of participation by these actors is as important as determining the priority of the pillars and certainly worthy of further research. However, this paper will address the need for their participation in broad strokes, noting the importance of these actors to building lasting peace. Finally, lessons from other countries will be applied where relevant, as in the case of Zimbabwe's unravelling 2008 power-sharing arrangement, and how this experience can be used to strengthen political arrangements in South Sudan. This paper concludes with a word of caution on realistic expectations.

The Case for Sequencing & The Framework

There is significant variation within the peacebuilding literature regarding the importance of each of the pillars previously mentioned, especially whether security, political arrangements or the economy are a prerequisite to achieving success in the other spheres. While scholar Elizabeth Cousens asserts that the most effective self-enforcing peace begins with cultivating political processes and institutions that manage conflict with authority and legitimacy (Cousens & Kumar 2001), Paul Collier's statistical analysis yields results indicating that economic underdevelopment is the most salient factor in returning to civil war (Collier 2007). Scholars focusing on justice and reconciliation acknowledge its presence as paramount to achieving positive peace, but the means by which this is achieved are up for debate. Each account in favour of a pillar makes a sound argument, but the sequencing method applied by Ali and Matthews is the most persuasive.

In their 2004 publication *Durable Peace: Challenges for Peacebuilding in Africa*, Peacebuilding Scholars Ali and Matthews provide the concluding chapter to the empirical case studies set out in the collection of scholarly essays of the publication.⁸ Analyzing the contributions of their peers on peacebuilding efforts in ten African countries,⁹ Ali & Matthews recommend sequencing that prioritizes security in order to achieve a negative peace, since ending violence is often a prerequisite to success in the political, economic, and justice & reconciliation spheres (Ali & Matthews 2004). Acknowledging the necessity of achieving negative peace before positive peace can be secured, they posit that disarming, demobilizing and rehabilitating (DDR) large numbers of ex-combatants create the stability required for the other peacebuilding pillars to flourish (Ali & Matthews 2004). This is based on evidence that DDR allows for the reduction of military expenditures, thus allowing scarce resources to be reallocated to social and economic development, but also the movement of ex-combatants into peaceful and productive activities reduces the likelihood of spoilers recruiting them to derail the peace process (Ali & Matthews 2004). They further assert that reconstitution of the state with suitable political arrangements that provide all groups an effective voice can alleviate tension (Ali & Matthews 2004). They support providing an effective voice for all groups that “encourages ethnic accommodation, facilitates political stability and enhances prosperity,” (Ali & Matthews 2004, 413). Further, commanding the loyalty of the majority provides the state with the authority necessary to manage the peace process and address underlying grievances (Ali & Matthews 2004). This is reasonable since without some degree of stability and predictability, the investments required for economic development will remain out of reach. Additionally, a justice and reconciliation process is also unlikely to be productive so long as hostilities continue and atrocities committed.

This does not mean that the lower priority pillars of economic development and justice & reconciliation are neglected altogether, since it is evident that these pillars have a role in the DDR process; merely it means that greater attention and focus in the transitional and early phases should begin with the prioritized pillars. This framework will be applied to South Sudan, with the caveat that given the ethnic

⁸ Ali & Matthews also provide the introduction and a comparative chapter on Sudan and Angola.

⁹ The countries examined include: Uganda, Ethiopia, Mozambique, South Africa, Zimbabwe, Angola, Sudan, Somalia, Rwanda and Liberia.

divisions and mistrust among the political leadership, sorting out lasting political arrangements is as important as security matters to ending the fratricide that broke out in December 2013; in effect, the two are closely interconnected. While security and political arrangements are necessary for the emergence of positive peace, they are not alone sufficient and will require efforts in the spheres of economic development and justice and reconciliation.

The Consequences of Hostilities

The December 2013 outbreak of violence can be traced back to the failure of the political elites to fulfil their obligations under a unity government arrangement. In July 2013, President Kiir of the largest ethnic group the Dinka, ousted Vice-President, Dr. Riek Machar, of the second largest ethnic group, the Nuer. Kiir insists that Machar's refusal to dismiss his Nuer-only protection detail in Juba were grounds for dismissal (Anonymous UN Source 2014), while Machar remains adamant that his efforts to uncover government corruption and Kiir's fear of Machar's increasing popularity were the reasons for his dismissal (Pelton 2014). Machar's presence was seen as vital to promoting ethnic unity, and instilled confidence in the Nuer population that their interests were taken into account by a government headed by an ethnic rival (Chothia 2013). Violence broke out in the nation's capital on December 15, 2013 in a state military barracks when soldiers of Dinka descent within the national army the Sudan People's Liberation Army (SPLA) attacked Nuer soldiers. Kiir immediately justified the violence as thwarting an attempted coup d'état, led by the ousted Machar and other political elites. Despite Machar's denial of these accusations, and suggestions that Kiir pre-emptively gave the order for what was a planned coup, hostilities intensified as the Dinka and Nuer bases of Kiir and Machar respectively, took up arms against one another. An egregious campaign of violence ensued in the initial weeks, replaced by sporadic violence across South Sudan during the rainy season and an anticipated increase in hostilities as the rainy season came to a halt.¹⁰

The humanitarian crisis in South Sudan is dire and has been classified as a 'class 3 emergency' by the UN – the highest level of need and priority (UN OCHA 2014). As of April 13, 2015, over 2 million people were forced to flee their homes (approximately 17% of the 11.5 million population) (UN Secretary-General 2015; CIA World Factbook 2014) – 1.5 million people were internally displaced and more than 500,000 had fled to neighbouring countries (UN Secretary-General 2015). 118,000 internally displaced persons (IDPs) are sheltered in UNMISS bases in search of protection from violence, hunger and disease (UN Secretary-General 2015). The hostilities resulted in a doubling of the number of food insecure South Sudanese during the same period in 2013 (UN Secretary-General 2014), meaning that the availability, access, stability, and utilization of food across the country (even in areas without fighting) are alarmingly low (FAO, IFAD & WFP 2014), which can lead to serious public and mental health problems. Despite attempts to reach a temporary cessation of hostilities agreement in the spring of 2014 to allow the activities required for growing season, the fighting continued; as a result, an estimated 2.5 million people are classified as severely food insecure as of April 2015 (UN Secretary-General 2015). Inhibiting crisis response provision to the 4.1 million people requiring assistance (UN

¹⁰ Human rights violations are well documented by Amnesty International, Human Rights Watch, the United Nations and the African Union, among many others.

Secretary-General 2015)¹¹ is the inability of the international community to provide the needed financial resources; in 2014, only 63% of necessary funding was provided - resulting in a shortfall of \$670 million (UN Secretary-General 2014), a trend that appears consistent in the first half of 2015 (UN Secretary-General 2015).

Ongoing violence will continue to deplete the human capital and minimal infrastructure the young state possesses. This year, South Sudan replaced Somalia as the number one fragile state on the Fund for Peace index (Messner 2014), a system that compiles the measurements of twelve social, economic and political indicators and uses data analysis to determine a score that reflects the pressures countries face (Fund for Peace Index 2015). Decades of fighting against the North left South Sudan with a legacy of underdevelopment, robbing it of a sufficient economy, a skilled work force, essential infrastructure, adequate expertise and strong government institutions. Only 27% of the population is literate (CIA World Factbook 2014), among the lowest in the world. At independence, South Sudan, a country the size of France, had only 100 kilometers of paved road (IMF 2011) and despite the discovery of oil, which comprises between 80-98% of recent annual budgets, the young country has been unable to make strides in economic development – a significant plight since oil revenues are expected to shrink as reserves are estimated to be depleted in a decade (Dewaal 2013). Worse still is that 85% of South Sudan's budget is applied to current government expenditure, leaving merely 15% for economic and social development (Anonymous UN Source 2014). With decreasing social, economic, political, and military indicators, and severe human suffering, ongoing violence is unnecessarily debilitating the progress in South Sudan and must be halted.

IGAD, the eight-member¹² trade bloc in East Africa, has been mediating the negotiation process since the outbreak of violence, by facilitating political dialogue between Kiir's Government of the Republic of South Sudan (GRSS), also the head of the Sudan People's Liberation Movement (SPLM) political party, and Machar's Sudan People's Liberation Movement – In Opposition (SPLM-IO). The group mediated several cease-fire agreements over the course of 2014 and 2015,¹³ all violated shortly thereafter by both sides but disproportionately by the SPLM-IO, and both parties to the conflict have stalled negotiation of a unity government in favour of re-arming and recruiting during the rainy season (UN Secretary-General 2014). In March 2015, the UNSC passed Resolution 2206 establishing a targeted sanctions regime against individuals violating and preventing peace and has since created a Panel of Experts on South Sudan for a period of 13 months to monitor and implement the measures of the resolution (Security Council March 2015). This was a decisive move by the Council, who had debated and disagreed on the merits of a sanctions regime since the outbreak of hostilities, while the US and the EU applied targeted sanctions to military commanders on both sides in an attempt to encourage the parties to negotiate in good faith (Wroughton & Mohammed 2014). IGAD has been criticized for favouring Kiir – elected President in a landslide election, receiving 93% of the vote in 2011

11 Currently there are 4 countries classified as level-3 crisis by the UN: Iraq, Syria, CAR and South Sudan. It may not be an unwillingness of the international community to respond to the needs of the South Sudanese, but merely an overwhelming number of needs.

12 Members include Djibouti, Ethiopia, Kenya, Somalia, Sudan, Uganda, Eritrea and South Sudan.

13 Cease-fire agreements were negotiated in January, May and June 2014; and January 2015.

(Sudan Tribune 2014) – and the motivations of IGAD members, especially Uganda, Eritrea and Sudan in perpetuating the conflict, based on alleged support of either side, have been called into question (Mesfin 2014). On March 6, 2015, IGAD indefinitely suspended mediation between the parties for a third time after failure to make progress on the structure of the transitional government, power-sharing ratios, portfolio allocation, composition of government bodies, transitional security, ceasefire arrangements and constitutional and institutional reforms, among many others (Secretary-General 2015). In an effort to revive negotiations, IGAD is expending efforts to create an “IGAD-plus” process that will comprise other regional actors, the UN, the AU, China and the Troika (Norway, the US and the UK) to strengthen the mediation process, but the Government of South Sudan (GRSS) is resisting involvement of those applying targeted sanctions regimes (Security Council Report May 2015).

Complicating matters further are a number of outstanding issues remaining between Sudan and South Sudan. Scholar Douglas Johnson questions the success of the 2005 Comprehensive Peace Agreement (CPA) by pointing out the unresolved border issues in South Kordofan, Blue Nile State and Abyei, and ongoing disagreement on oil revenue that must be pumped from South Sudan into Sudan (Johnson 2011). Abyei is of significant importance because of the potential oil reserves it holds, but also because of the nomadic nature of its residents throughout the year (Johnson 2011). Oil revenue has been a central source of tension between the Sudans with detrimental consequences for both countries, as evidenced by the impact of South Sudan’s 2012 shut down of oil when Sudan refused to stop pumping oil illegally (Dewaal 2013). The oil reserves were shut down for well over twelve months until the African Union and the US were able to mediate a negotiated settlement in April 2013 (Dewaal 2013). This had a devastating impact on South Sudan’s economy, but many accounts indicate that much of the population was not impacted since oil revenues are not dispersed to benefit the general population. While the unresolved Sudan-South Sudan issues prevent positive peace in South Sudan, the country must be united in order for any negotiated settlement with Sudan to be effective – if Sudan is covertly assisting Machar against Kiir, one must question what concessions Machar has indicated might be possible should he replace Kiir. With such uncertainty, Kiir is unlikely to reach any agreement with Sudan, who will hold out for a more favourable deal with Machar. Sadly Sudan is also dealing with a number of internal issues that prevent it from settling issues with South Sudan.

While acknowledging the need for resolution of these interstate issues for effective peacebuilding, this will not figure prominently in this strategy. A vast literature exists on the need for Sudan and South Sudan to reach a negotiated settlement in order to achieve positive peace; this paper aspires to contribute a timely strategy that assesses peacebuilding from independence to present, taking into account the current fighting in South Sudan with the intent to fill a gap in the literature. Thus it is beyond the scope of this paper to delve into the details of how such agreements might be reached between the two states, only that these issues must be settled because they are affecting attempts to build peace in South Sudan and vice versa.

A Peacebuilding Strategy

The next section of this paper will identify the root causes of the conflict, with a particular focus on the failure of strategies designed during the 2005 CPA and independence. Many of the root causes of the conflict have roots in colonialism, but coverage of the Sudanese civil wars provides comprehensive accounts of these causes. However, it is crucial to assess the persistence of these problems and the failure of South Sudan and the international community to address these concerns. Included in this analysis are parallel situations that provide lessons for building a more effective peacebuilding strategy for South Sudan; the role of the international community, regional/sub-regional bodies and civil society; relevant particularities for understanding peacebuilding in a South Sudan context; and solutions to a path of positive peace. The priority for South Sudan is moving from conflict to negative peace, necessitating consideration of security first.

Security

It must be noted that ethnic allegiances permeate each peacebuilding pillar. Annex I provides a map of South Sudan post-independence and Annex II provides an approximation of the geographic ethnic breakdown. It must also be noted that the South Sudanese have lived in relative insecurity for much of its documented history. Since 1955, the North and South have been engaged in hostilities; if the fighting in Abyei, South Kordofan and Blue Nile are included, the two sides have never stopped being at war. The atrocities the Southern Sudanese suffered at the hands of their Northern 'masters' during this period is well documented by Poggo and others, demonstrating gross atrocities that violate fundamental human rights and humanitarian law (Poggo 2009). The rebel group assembled to fight against Northern repression, the Anya Nya (an earlier manifestation of the SPLA) was equally brutal in its response to the Northerners, and a legacy of brutality remained in inter-ethnic interaction in South Sudan, demonstrated by intrastate fighting in the early 90's, the seasonal cattle raiding/skirmishes and the most recent eruption of violence. These deep-seated divisions and proclivity to violence to resolve differences limits the range of acceptable security agreements and directly impacts composition and total numbers within the security sector.

Security Sector Reform

The December 2013 outbreak of violence demonstrated the persistent weakness of the security sector in South Sudan. Fighting broke out in a state military barracks between Dinka and Nuer troops. Lauren Hutton, a research fellow specializing in conflict and fragility at the Clingendael Netherlands Institute of International Relations, authored a report that provides a detailed and timely narrative on the conflict in South Sudan, filling an analytical gap on the conflict (Hutton 2014). The report identifies ethnic mobilization and recruitment; mass desertions; mass internal deployment; fighting within and between communities; widespread looting and destruction by the armed forces; the breakdown of rudimentary command and control structures; and increased government spending on security as the worst case materializing (Hutton 2014). The ease with which the forces dispersed along ethnic

lines, its terrorization of the civilian population and the initial killing of soldiers without formal adjudication demonstrate the failure of security sector reform efforts, particularly the failure of the SPLA to transform from a rebel mindset to a national force. The legacies from this infighting, namely mistrust within the forces and the civilian population will further complicate security sector reform.

The SPLA faces a number of security sector reform challenges. Following the 2005 CPA and in anticipation for independence, the army of the GRSS increased from 50,000 to 200,000 soldiers (Hutton 2014). The South Sudanese government outlawed armed groups by requiring their integration into a unified SPLA, not a new national army (Hutton 2014). Salaries were regularized, but weaknesses in command, control and professionalism of the forces persisted as forces are highly localized and use of force is dispersed across state and non-state actors (Hutton 2014). Hutton's analysis is on point when she notes that the security challenges facing the country have prevented robust security sector reform (Hutton 2014). Despite the GRSS' stated goal of reducing the national force (Government of the Republic of South Sudan 2011), the security challenges caused by deep ethnic divisions and a menacing Northern neighbour have resulted in little effort to reduce the size of the SPLA. Additionally, the incentive that persuaded armed groups to join the SPLA in the first place, regularized salaries for troops, also prevents the GRSS from dismantling the forces (Small Arms Survey 2011), since there are few opportunities for former soldiers outside of the SPLA.

In order for the security sector to function effectively, a unified force must be the goal. As evidenced by the December outbreak of violence, a fragmented and highly politicized national force is detrimental to the state. That said, the ethnic divisions cannot be wished away – as an anonymous high-ranking UN official pointed out, Machar's Nuer-only protection detail ensured Machar's escape from Juba in December 2013 (Anonymous UN Source 2014). During the IGAD-led negotiations, each side tentatively agreed to the maintenance of two parallel forces during a transitional period, with Kiir reneging in later days (All Africa 2014). The most appropriate solution is a single unified military, with equal parts Dinka and Nuer at all levels and inclusion of other ethnic groups that match the ethnic composition of the country – a lesson learned from the failure of previous agreements between the Sudans. Both Kiir and Machar must be granted the right to maintain their own security detail outside of the national army – details that are to shrink over time as integration, de-politicization, professionalization and reduction of the military occurs.

Law Enforcement

The South Sudan National Police Force plays an integral role in the internal security of the country. A case study on Jonglei that examines cattle raiding as a source of communal violence is instructive in demonstrating the importance of the police force. Pastoral wars are a permanent feature in South Sudan, since the terrain and weather conditions vary by region and season (Richardson 2011). The dry season brings the migrating Nuer into direct competition for water and grazing lands in Jonglei province, on lands occupied by Dinka and Murle tribes (Richardson 2011). In these communities, cattle are an indicator of social standing and wealth (Richardson 2011); it is also how the population sustains itself (Hutton 2014). While cattle raiding is a longstanding problem in Jonglei (and other parts

of South Sudan), the absorption of armed groups into the SPLA following the execution of the CPA, robbed the local population of necessary protection and led to an escalation in the incidences and severity of violence in the following years (Richardson 2011). Cattle raiding further destabilizes the country by feeding the flow of small arms from Ethiopia where one to three cows can be traded for a rifle, compared to 2011 when the same trade required 15 cattle. This demonstrates the increasing ease with which small arms are acquired (Hutton 2014) and creates an organized criminal activity within the illicit meat market that deprives the state of much needed tax revenue (Richardson 2011). The presence of a police force to deter criminal activity and enforce property rights is essential to maintaining order.

The international community must continue to work with the South Sudan National Police Force to guarantee the security of the population and their property. The DPKO Mission in South Sudan, UNMISS, continues to work with the police force to ensure the protection of civilians (Loej 2014) and UNDP's 2013 annual report boasts of advances made in building capacity and training for police forces (UNDP 2013). This work must be continued, scaled up and extended to ensure effective property recovery for all ethnic groups.

Disarmament, Demobilization & Rehabilitation (DDR)

Failed DDR programs have contributed to the current outbreak of violence and have been rife with problems that need to be rectified to ensure enduring peace. One of the primary problems was the selective disarmament of the Lou Nuer in Jonglei, leaving them vulnerable to cattle raiding by the Dinka and the Murle in 2005 and 2006 (Richardson 2011). Before long, the Nuer rearmed in order to protect themselves and their property (Richardson 2011) – a sequence of events that could have been prevented by equally disarming the other ethnic groups. Simultaneously, the number of troops has increased four fold since 2005 and military spending has also increased. During the oil shut down of 2012-2013, strict austerity measures were imposed by the GRSS with cuts across all sectors except military spending – constituting 55% of pre-shutdown spending (Dewaal 2013). Eligibility for such programs is another significant problem – the GRSS mandated that only those enlisted in national security groups were eligible for DDR programming (Small Arms Survey 2013). With the SPLA at the helm of DDR programming, it is feared that the program will be used to reward loyalists, potentially fuelling ethnic tensions (Small Arms Survey 2013).

Current DDR programs are also not evenly dispersed throughout the country's ten provinces. The Graduate Institute of International and Development Studies notes that international efforts will focus on establishing DDR programs in Mapel, Western Bahr El Ghazal; Jonglei; and Torit, Eastern Equatoria (Small Arms Survey 2013). Much of the recent and most severe fighting has occurred in the oil powerhouse provinces of Unity and Upper Nile, yet neither has a prospective DDR program. While fighting persists with Sudan in these regions, South Kordofan and Blue Nile, the presence of a professionally trained SPLA is a much better alternative to armed groups like the White Army that perpetuate ethnic fighting (Pelton 2014). It is essential that these DDR arrangements be made to benefit these provinces.

The role of the international community in the provision of security and guarantees is significant. Despite engagement, there has been little commitment from the international community to fund programs and political wrangling over ownership has further stalled the process (Small Arms Survey 2013). It is critical that the international community provide adequate funding and pressure on the political leadership to implement a DDR program that benefits all ethnic groups and security guarantees. The AU should commit a rapid response force to intervene should any party attempt to gain advantage once the other disarms, while ensuring that no Ugandan, Ethiopian, Eritrean and Sudanese nationals comprise the force. The international community must assist the GRSS in designing and implementing the program. Furthermore, violators should be held accountable by the UNSC and sub-regional IGAD through a targeted sanctions regime. UNMISS can continue to play a monitoring and capacity building role. From local populations to political elites, all groups will need security guarantees from the international community to convince them to disarm and reform. A non-violent dispute resolution mechanism must be rolled out and the GRSS must move towards a monopoly on the use of force in order to achieve negative peace. Ensuring equal ethnic representation and safeguards in the political arrangements will provide ease to the parties on the state's monopoly on the use of force.

Political Arrangements

In the case of South Sudan, any improvement in the security situation is dependent on President and leader of the SPLM Salva Kiir and SPLM-IO leader Riek Machar reaching a political arrangement. Alliances made between different factions of the SPLM to ensure a smooth independence transition have run their course and are now dividing the country, as political elites stoke ethnic tensions to gain/maintain political power. According to Hutton, the international community overlooked political fracture at the highest level, preventing anticipation of the current outbreak of hostilities (Hutton 2014). The IGAD-led negotiations are at a standstill as neither party is willing to compromise on the terms of a power-sharing agreement. The international community, regional/sub-regional organizations, and local civil society have an important role to play in generating political will from both parties to enter into, implement, and abide by a power-sharing agreement. This section will analyze the root causes of the current political crisis and propose a power-sharing arrangement that allows Kiir to remain at the helm while providing a meaningful role for Machar – a compromise that meets both their interests and emphasizes the lessons learned from the 2008 Zimbabwe power-sharing arrangement between bitter political rivals.

Internal Legitimacy & Single Party Hegemony

The SPLM has struggled internally to achieve unity of purpose (Hutton 2014). It is the largest political party in South Sudan, holding 160 of 172 seats in the national legislature (Sudan Tribune 2014), but has increasingly deep divisions along ethnic and ideological lines. Poggo's account of the Anya Nya, the Southern Sudanese resistance group to Northern oppression, demonstrates that South Sudan has a long history of struggling to achieve unity of leadership (Poggo 2009). Utilizing anecdotal evidence

from major figures within and connected to the movement, he finds that only for a brief moment in 1972 were the Southern Sudanese able to present a united front at the negotiating table with the North (Poggo 2009). At independence the SPLM comprised four prominent and ambitious factions: Kiir's inner circle, Garang loyalists; SPLA-Nasir; and Machar's SSDF loyalists (Hutton 2014). These factions differ in ideology and in some cases ethnicity. The SPLM is viewed by the South Sudanese as liberators, and has the effect of raising ethnic suspicions since it is Dinka dominated (Hutton 2014). Since independence Kiir has played a political balancing game, attempting to pacify the different factions, but has begun to replace Garang loyalists with his own group of advisors – a move that permeates all institutions, including governors, civil servants and guards (Hutton 2014). As Hutton indicates, the current conflict is about control over the state and its material resources (Hutton 2014) - as perceived ethnic bias emerges. Kiir's dismissal of Machar as Vice-President in July 2013,¹⁴ based on Machar's non-compliance to relieve his Nuer-only protection detail and accept Kiir's presidential guard (Anonymous UN Source 2014), was a further step in his consolidation of power and was perceived threateningly by the Nuer population. The de-facto one-party state experiment has failed in South Sudan as the different SPLM factions publicly oppose President Kiir. A more diverse political landscape that is rife with divisions has emerged and a reflective power-sharing arrangement must be reached.

Power-Sharing

The Transitional Constitution of the Republic of South Sudan, 2011, provides for the dispersion of power among the three levels of government (The Government of the Republic of South Sudan 2011). The national government comprises three institutions of government: the legislature, executive and judiciary (The Government of the Republic of South Sudan 2011). The constitution does not take into account ethnic divisions in its governance structures, but establishes a strong executive branch - particularly for the president, presuming a harmonious and united cabinet. A suitable power-sharing arrangement must expand representation at the executive level, and contain safeguards that restrict powers between the parties in this branch.

President Kiir had originally embraced a failed Kenyan model of executive power sharing that comprises five executives and has the potential to be an innovative structure that could unite the country, with some tweaking. This model comprises a president, a vice-president under the president, a prime minister (isolated from the president) and two deputies under the prime minister; the SPLM-IO has rejected this model, claiming that it was inadequate in the Kenyan context and that South Sudanese society is more divided than Kenyan society (All Africa 2014). South Sudan is home to at least 18 ethnic groups (CIA World Factbook 2014) and 23 political parties (Sudan Tribune 2014); such diversity makes this an appropriate way to share power among different ethnic groups. As the two largest ethnic groups, the constitution should provide for a combination of Dinka and Nuer representation for the presidency and prime minister, with the majority vote holder granted the presidency. Representatives from the other political parties should fill the vice-president and deputy positions - a suitable candidate would be the leader of the SPLM-DC, Lam Akol, which is the second largest political party in South Sudan holding five seats (Sudan Tribune 2014). This arrangement secures leadership roles for both Kiir and Machar.

¹⁴ President Kiir dismissed his entire cabinet based on charges of corruption, per the Clingendael report.

Delineating the scope and interaction of each office is equally as important. With regards to political and judicial appointments, a joint decision-making mechanism must be established that also provides for ethnic quotas. The scope of each office is more difficult; Machar is concerned that Kiir will continue to abuse power and block reforms (All Africa 2014), while Kiir's landslide victory in the previous election endows him with the legitimacy of the office (Sudan Tribune 2014). Thus, it is essential that Kiir retain the highest level of power, but he will have to concede power to the prime minister in specific spheres of concern to the Nuer. Machar has identified the system for bidding on infrastructure projects and protection for minorities as areas of interest (Pelton 2014). Kiir should concede the infrastructure portfolio; provide space for the SPLM-IO in drafting the new constitution; and allow the new function of the prime minister a role in managing the police forces and prison system to offset the power the president will retain over the national military, under the conditions previously stated. For portfolios of joint concern that Kiir wants to retain under the presidency, bipartisan or third party audit commissions can be established to provide oversight, particularly over natural resource revenues. Separation of office – the complete isolation of the president and the prime minister from removal and appointment by the other - is absolutely essential. This breakdown, while not ideal to either party, serves the primary interests of both: Kiir retains power and Machar gains a meaningful leadership role.

Implementation and compliance with the terms of the power-sharing arrangement are of the utmost importance and provide a strong role for the international community. The 2008 power-sharing agreement between Zimbabwe's political rivals, President Robert Mugabe and Prime Minister Morgan Tsvangirai, demonstrates the temptation of the parties to violate power-sharing agreements when little attention is focused on them (Bratton 2010). While the power-sharing arrangement was never smooth, it brought economic gains and reduced violence in Zimbabwe (Bratton 2010). In 2010, President Mugabe unilaterally re-appointed his party's governors to the country's ten provinces, in violation of the power-sharing agreement that mandated he consult with his prime minister. Given the deep-seated hatred and mistrust between Kiir and Machar (Anonymous UN Source 2014), trusting the political rivals to comply with a power-sharing agreement on their own is impractical. The international community, regional and sub-regional bodies must be willing to apply targeted sanctions and other repercussions against violating parties to ensure accountability. Furthermore, initiatives aimed at strengthening civil society must be pursued to ensure sustainable local-ownership over the political process.

Economic Development

After decades of neglect, South Sudan emerged as an independent nation with a number of development challenges. A number of international players emerged to assist the young country. The GRSS circulated a 437-page development strategy that failed to prioritize any particular development objective – perhaps an indication of the array of needs. Peacebuilding in South Sudan will require concerted, long-term attention and resource commitment by the international community. Facilitating and financing capacity building in governance, infrastructure and human resources is critical. This component of the paper examines economic barriers to peacebuilding and remedies.

Oil

Management of natural resource revenue has at best been poor, and at worst, incredibly corrupt. In 2012, the GRSS shut down the oil when unable to agree on a price with Sudan; Khartoum began to illegally pump South Sudan's oil and sell it (Dewaal 2013). The shut down persisted until April 2013 and devastated South Sudan's economy, which the World Bank estimates comprises 63% of the country's total economy (World Bank 2013-2014). The GRSS imposed stringent austerity measures on all sectors (excluding the military), reducing spending by 26%. Development projects were put on hold; salaries were late; poverty increased; currency reserves were depleted; and South Sudan had to take out a number of high interest loans to finance their expenditures (World Bank 2013-2014). While the GRSS was able to reach an agreement with Khartoum that allowed the oil to begin flowing, the outbreak of hostilities again threatens oil production as the SPLM-IO vies for control of the resource; as of March 2014, output had been reduced to 150,000 barrels per day from pre-conflict levels of 240,000 (Davison 2014). Efforts at normalizing relations between Sudan and South Sudan are important to ensuring continued oil flow, providing the GRSS with much needed revenues to develop state and human capacity. With estimates indicating South Sudan's oil reserves will be depleted in the next decade, talks of building a pipeline to Kenya are becoming impractical (Davison 2014).

Corruption

Corruption is deeply embedded in South Sudanese politics and has a detrimental impact on confidence in the state. While it is unlikely that corruption can be fully eliminated in a short period of time, efforts at curbing corruption are necessary for economic growth. The World Bank and state authorities have identified systemic corruption within the government, especially in relation to oil revenues. South Sudan's Auditor-General was unable to account for \$1 billion in 2012; further, a total of \$4 billion in oil revenues (almost 1/3 of total revenue) was unaccounted for in the period 2005-2012 (Hutton 2014). While President Kiir wrote letters to 75 current and former officials accusing them of stealing state money and dismissed his entire cabinet in July 2013 on corruption charges, the Anti-Corruption Committee has recovered only \$60 million from fraudulent transactions and misappropriation of funds by government officials (Hutton 2014). This naturally leads to questions of the seriousness with which Kiir is pursuing violators, and the political allegiance of those being pursued. Steps to limit corruption, such as appointing bipartisan officials to the Anti-Corruption Committee; greater access to government accounts and documents; and international pressure to pursue violators and implement preventive measures will contribute to a lasting peace.

Informal & Illicit Economy

Kaysie Studdard asserts that incorporation of informal and illicit economies are necessary to achieving lasting peace (Studdard 2004). In the South Sudanese context, it is imperative that informal and illicit economic activities are regulated by the state. As oil revenues dry up, South Sudan will come to rely on revenues from informal agriculture and illicit mineral trade. Interestingly, Hutton points out that the formal sector in South Sudan is a facade, since only about 12% of the population depends on the

formal sector, with less than 4% engaged in entrepreneurial activities (Hutton 2014). She further notes that despite 50% of the wealthiest segment of the population depending on farming as their main source of livelihood, there is no evidence of domestic crop production (Hutton 2014). The GRSS must begin to adequately account for domestic crop production to bolster its economy and ensure it has the means to deliver essential services to the people. GRSS losses also occurred to the illicit economy - in 2013, the GRSS estimated that it lost \$200 million per year in illegal gold mining (Sudan Tribune 2013); it is estimated that approximately \$660 million of gold is bartered for low prices in markets and traded for goods in Kenya (Hutton 2014). Incorporating these informal and illicit economies into the formal economy is vital to economic development, and to achieving a positive peace.

IFIs and the Peacebuilding Commission

As expressed above, the role of the international community is substantial in building enduring positive peace, in terms of financing, expertise and guarantees. It is well established that addressing the economic development problems of post-conflict states differs from that of a stable underdeveloped state. While South Sudan is not a recipient of IMF loans (IMF 2014), a result of the breakdown of an IMF deal due to the currency devaluation debacle (Hutton 2014), it is the recipient of World Bank financing. The *World Bank's Interim Strategy Note for FY 2013-2014* demonstrates that the bank is cognizant of the unique needs of South Sudan, other international efforts and its area of expertise – in this case improving economic management and governance; and piloting public works and skills operation on livelihoods (World Bank 2013-2014). While privatization, deregulation of the market and encouragement of foreign direct investment will likely figure into economic management, the Bank acknowledges the importance of increasing access to basic services and empowering small local businesses (World Bank 2013-2014). Time will tell whether inappropriate economic strategies are imposed on South Sudan, but for the moment the World Bank seems cognizant of the unique needs of the fragile state.

In the case of South Sudan, a unique role exists for the Peacebuilding Commission (PBC). The PBC is very effective at attracting funding and maintaining awareness of the needs of countries on its agenda. In its *Interim Strategy Note* the World Bank notes that there is a “crowded donor and NGO presence” in the country, ranging from the AU, the African Development Bank, UNECA, UNDP, the African Capacity Building Foundation, the United States, Canada and a number of others (World Bank 2013-2014). Although the GRSS is working with donors to draw out the priorities from its Development Statement, there seems an urgent need for coordination – another activity the PBC purports to provide. Most importantly, the PBC can provide a watchful eye over South Sudan upon the cessation of hostilities and advocate for continued funding when international attention wanes. An anonymous source working within the PBC revealed to the author that there have been a number of serious discussions about adding a South Sudan country-specific configuration, but the political will of the GRSS dissipates before any official action is taken. Adding South Sudan to the PBC will instil confidence in the South Sudanese population and the warring parties that their needs will not be forgotten once hostilities cease. It will also act as a deterrent to violators, since the country will be under observation.

Justice & Reconciliation

In South Sudan, justice and reconciliation are very important to attaining positive peace. The ethnic diversity of the society, the deep-seated mistrust and fear make justice and reconciliation a very important tool for enduring peace. Measures for justice and reconciliation should commence as soon as possible, but should not be prioritized relative to the other pillars.

Ethnic Divisions

Decades of ethnic violence and competition have soured relations between the different ethnic groups, most notably the Dinka and the Nuer. As demonstrated above, ethnic competition permeates every aspect of security, political and economic life leading to mistrust and fear. Hutton describes a strong sense of duty and obligation existing within ethnic groups, but notes that for the most part it does not exist outside of the ethnic group (Hutton 2014). Bridging the gap between ethnicities is paramount, and to do so requires acknowledgement of wrong doings and forgiveness. Initiatives aimed at empowering local populations to participate in and organize truth and reconciliation commissions should be prioritized. The power of South Sudanese civil society is demonstrated by the New Sudan Council of Churches in February 1999, when women conducted their own version of shuttle diplomacy and organized the Wunlit Tribal Summit halting Dinka and Nuer fighting by negotiating shared rights to water, fishing and grazing; the return of prisoners; and guaranteed freedom of movement (Hunt & Posa 2001). The South Sudanese are a resilient people – as demonstrated by their shared hope and aspirations on independence despite decades of fighting and suffering, with a rich network of inter-ethnic connections.

The South African Conception of Justice

In South Sudan, the warring ethnic groups are both victims and perpetrators. The recent human rights and humanitarian law violations by government and rebel forces confirm that both sides are guilty of atrocities. South Sudan is faced with two models of justice and reconciliation: the truth and reconciliation process undertaken by South Africa, or the retributive justice process undertaken by Rwanda, as outlined by Graybil and Lanegran (Graybil & Lanegran 2004). Given the multi-ethnic diversity of South Sudan, and the pressures retributive justice placed on the Rwandan justice system, the truth and reconciliation commission process is more appropriate for South Sudan. Rwandan justice is proving to be more divisive than unifying, and healing at the individual/local level in a decentralized state like South Sudan must be made the ultimate objective of justice and reconciliation efforts.

Conclusion: Realistic Expectations

It is important to note one final caveat – even if South Sudan were to follow this peacebuilding strategy in its entirety, the young state will struggle with a fragile peace for years to come. Consistent

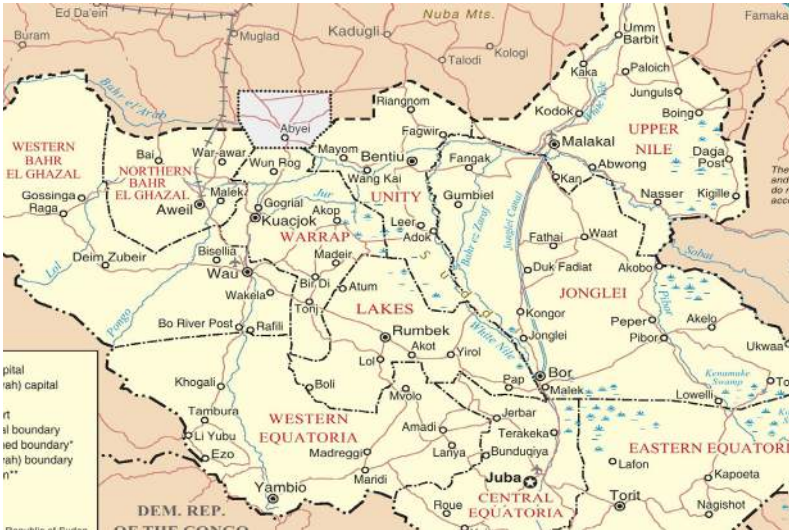
international attention and resources are vital to the cessation of hostilities and enduring peace. This paper has applied academic peacebuilding literature, case studies, South Sudanese history, current events and analysis of same to develop an appropriate, context-specific peacebuilding strategy with general and sometimes very specific solutions. This paper has not considered British or UN trusteeship of South Sudan, since this proposal is unlikely to receive support internationally, as the UN denies allegations that trusteeship is under consideration (Poni 2014).

In each of the spheres, this paper has demonstrated the need for greater engagement, better program planning and better coordination among peacebuilding actors in South Sudan to replace the seemingly piecemeal and patchwork efforts that have persisted. In the security space, peacebuilding actors might provide funding and programming for proportionate ethnic and geographical inclusion in the security sector and in DDR efforts. Incentives and assistance in training local police forces would alleviate local tension between the groups and deter violence. Incentives and pressure to ensure that political arrangements comprise broader inclusion of all groups at each level of decision-making and the protection of leaders representing various ethnic groups must be provided. Peacebuilding actors can provide technical assistance, funding and monitor resource management and corruption. Engaging with South Sudanese civil society organizations on how to effectively formalize agricultural and mining activities may further strengthen economic development. Although treated minimally, peacebuilding actors must recognize the importance of justice and reconciliation, the deep ethnic divisions in the South Sudanese context and the limited capacity of the justice system. Disparate and fragmented approaches by numerous peacebuilding actors were evident within each sphere, let alone across spheres.

Despite limited international engagement and political will to peacebuilding in South Sudan since the CPA in 2005 and the incredible state building challenges the young country faced, this paper has exposed gaps that permeate peacebuilding in most countries. Sustained engagement, context specific programming and coordination all remain problems across the peacebuilding space. There is some effort at the international level to ensure at least a minimal commitment to peacebuilding processes, culturally sensitive programming and coordination with the establishment of the UN PBC. The PBC strives to provide some coordination; awareness; and fundraising but its work and contribution are questioned as conditions worsen in the DRC and Burundi, both PBC countries. While this paper has called for South Sudan to come under the purview of the PBC as the best chance for better coordination and sustained engagement, the comparative study of peacebuilding efforts in several PBC countries and non-PBC countries (notably South Sudan) may provide better insight into how the PBC may enhance peacebuilding efforts.

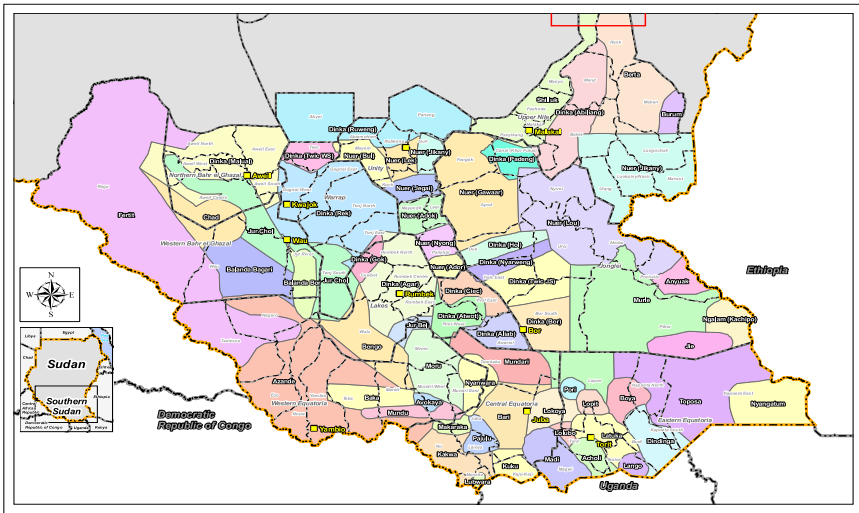
This strategy does not profess to solve all of South Sudan's problems, nor does it claim to be a comprehensive peacebuilding strategy. Peacebuilding strategies by their very nature change based on context and time, and a number of other variables. This strategy is a starting point – a way to think about how peacebuilding efforts might be conceived of in the young, struggling nation. Ultimately, this strategy aims to enlighten on the complexities of South Sudanese society, and the unique challenges it faces.

Annex I



(UN Department of Field Support, 2011)

Annex II



(UN OCHA, 2009).

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Should there be a “Right to the City”?

Arguments in Favour of Conceptually Separating Control of Space and Place from Ownership.

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Abstract

Henri Lefebvre coined the phrase the ‘right to the city’ in 1968, which encapsulates a set of collective rather than individual rights. It is based on two principals for urban dwellers: the right to participate in decision-making in regard to the city and the right to appropriate or “physically access, occupy, and use urban space” (Purcell 2002, 103). This original social-philosophical discussion has recently evolved to include legal arguments in the context of a global system which espouses the supremacy of human rights. Though there is not anywhere with a functioning, Lefebvre-inspired “right to the city”, radical and incremental attempts to create its foundations are occurring in South America and common law jurisdictions.

Introduction

The sociologist Henri Lefebvre coined the phrase the ‘right to the city’ in 1968 (Purcell 2002, 99), which encapsulates a set of collective rights, providing a framework through which to pursue individual human rights. David Harvey captures its essence by defining it as “a common rather than an individual right since this transformation inevitably depends upon the exercise of a collective power to reshape the processes of urbanization” (2008, 23). It is based on two principles for urban dwellers: the right to participate in decision-making in regard to the city, and the right to appropriate or physically access, occupy, use and produce urban space (Lefebvre 1996, 179). It recognises that the city is “individually and collectively” made “through our daily actions and our political, intellectual and economic engagements” (Harvey 2003, 940). This original social-philosophical discussion has recently evolved to include legal arguments in the context of a global system, which espouses the supremacy of human rights, such as the freedom of movement and the freedom of association (Grey and Grey 1999, 23). Current conversations surrounding the “right to the city” reconceptualise the notion of citizenship, exploring the potential practical steps that can be taken to create a truly democratic system at and beyond the urban level (Fernandes 2007; Harvey 2003; Marcuse 2009; Purcell 2002). This article will take the ideal form of democracy as deliberative democracy, a radical idea ‘of democracy as a process for preference building’ guided by the ‘popular control and political equality from which can be drawn out a range of other principles such as openness, accountability, responsiveness, and participation’ (Morison 2007, 134). The democratisation of urban land use is becoming an important issue because as of 2014, 54% of the global population lives in urban areas, a large shift from 1960 when this figure was only 34% (World Health Organisation 2014).

This article will propose that wealth disparity affects the use of public space, and will explain how the law regarding the use of public space is framed. This is not a uniquely contemporary phenomenon; in

the nineteenth century, the ruling class tended to be large landowners and voting rights were limited to those owning property until franchise reform began in 1867 in the United Kingdom. Today citizens who are eligible to participate in democracy are drawn from the full spectrum of society. However, there are restrictions on the use of space in urban areas traditionally considered ‘public’ due to private ownership of the land by corporations and big businesses. Such disparities are caused by neoliberal economic policies, particularly the privatisation of public services. Neoliberalism stands for ‘open, competitive and unregulated markets, liberated from state intervention and the actions of social collectives, represent the optimal mechanism to socio-economic development... This is the response of a revived capitalism to “the crisis of Keynesian welfarism” in the 70s’ (Hall 2011, 10). In this light, neoliberalism has diminished democracy; organisations consisting of unelected people are given power to decide policy which was previously under government remit. In Britain, Business Improvement Districts are privately owned companies that govern centres of 20 towns and cities (Minton 2006, 2). As Brazil has implemented a legal system based on a “right to the city”, in order to combat urban problems such as stark class separation which requires a high level of direct participation, it will serve as an alternative to the increasing privatisation of British governance structures. Examples of legal framing, taken from the United Kingdom and the United States Supreme Court, where these policies of privatisation originated, demonstrate how the law gives supremacy to the rights of property owners over the rights of individual citizens. An attempt to develop a ‘right to the city’ in the UK and the U.S is a way to reduce inequalities in society, requiring the law to reject the supremacy of absolute property rights in urban areas and implement participatory urban processes. A ‘right to the city’ could alter the law’s conceptualisation of land ownership and its use.

Rights of Access to Public Spaces

The current legal arguments for the conceptual separation of space and place from ownership in common law focus on the question of access. The dispute over private ownership of large swathes of urban land, and attempts to exclude members of the public from using them is not a new phenomenon. In early nineteenth century England, before the establishment of local government, aristocratic competition for property fuelled the geographic expansion of London. Private estates, with their own private security and no rights of way for the public, became commonplace. This is the case in contemporary British and American cities with the development of city centre shopping malls and private corporate complexes (Gray and Gray 1999). As local government began to develop, landed elites lost absolute authority over these properties. Indeed, in the years between 1864-65 the control of 163 miles of privately owned London roads and streets was transferred to the local governments (Minton 2009, 20). However, restrictions remained into the 1880s when public opinion against these large private estates reached its peak; for example the *Daily Telegraph* declared that the aristocracy ‘have enjoyed that fantastically feudal privilege quite long enough’ (1882, 5). This led to the adoption of public spaces by local authorities becoming the norm.

In recent decades a similar situation is emerging in the context of the modern city through corporate ownership of large areas of land, as exemplified by the construction of the private estate, Canary Wharf, in the 1980s. This “architecture of extreme capitalism” (Minton 2009, 5) is the location of huge

global financial firms and all other establishments are created in order to cater solely to employees. It is clear that Canary Wharf and similar places in the London Docklands belong to a particular social class, one with privileged access to the education, and thus skills, necessary for employment in the financial sector. Meanwhile at the next tube station stop, the population of the Isle of Dogs has an unemployment rate of 25%. A quarter of the community do not have the qualifications for any kind of work or do not have the means to secure the type of work they have a preference for. The class distinction of these two locales is mirrored by the physical distinction of corporate culture, and a local population feeling as if they have no stake in the development; ‘On one side of the road, by the station, are newly built office blocks and a host of construction sites, while on the other side is a dilapidated housing estate’ (Minton 2009, 5-8). As will be discussed later, there have been a number of cases taken by members of the public against landowners, attempting to claim their right to use spaces such as Canary Wharf and shopping centres. The growing distinctions between the rich and poor in urban areas are the result of the involvement of corporate actors in the governance of cities, and as a result of neo-liberal policies.

Neoliberalism and Access to Land

Neo-liberalism and the policies it inspires orients the global economic system to the pursuit of profit above all else, causing huge material inequalities as a result. Like the increasing privatisation of city space, this inequality is not novel; the gap between rich and poor is similar, if not wider, than the gap that existed at the beginning of the First World War (Piketty 2014, 15). Mark Purcell argues that governance is becoming privatised, and as a result, less democratic (2002, 100). For example, the redevelopment of the London Docklands was the “result of planning outside of laws”, involving “no recourse to local democracy” (Minton 2009, 10). Decisions were made by quasi-autonomous non-governmental organisations (QUANGOs) like the Urban Development Corporation, chaired by property developers, and empowered to implement compulsory purchase orders. This QUANGO forced businesses and property owners to sell their land for development after proving that it was for the benefit of the public (Minton 2009, 22). The Planning and Compulsory Purchase Act 2004 reformed the definition of public benefit by allowing the aim of a development to be a choice between “any one or more of the following objects- the promotion or improvement of the economic well-being of their area; the promotion or improvement of the social well-being of their area; the promotion or improvement of the environmental well-being of their area” (Part 8 Section 99, 78-79). This is problematic because what is considered to contribute to the ‘well-being’ of business (in economic terms- profit) does not necessarily correlate with what is needed for the ‘well-being’ of the population in a particular locale such as the Isle of Dogs. Continuing in this vein, city centres such as Manchester have been governed since the 2000s by private companies known as Business Improvement Districts (BIDs), who aim to improve the local trading environment. They are businesses operated for profit and their policies are aimed at helping other businesses to make profits. A local governance system which does not have any explicit interest in solving social problems is completely at odds with a modest model of democracy, where citizens vote for politicians to represent their interests, never mind a more participatory conception.

This shift in governance has disenfranchised citizens of nation-states by excluding them from decision-making, in relation to the economy and political system. Citizens are traditionally “associated with the rise of a ‘public realm’ in which both citizens and public institutions...are more or less insulated from private interests” (Clarke 2007, 2). In contemporary Britain and America, citizens participate in the system by voting for a representative; yet these representatives have given powers to private corporations. While there is a substantial body of literature and popular concern regarding the democratic deficit between individuals and supranational organisations, such as the European Union (Peters and Piene 2004; Follesdal 2006), outside critical urban studies there does not seem to be as much discussion about the democratic deficit at the local level: the place where decision-making should be most intimately connected with the individuals who make up the community. Perhaps this is because “the distinction between public power and private power is not clear-cut and one may shade into the other” (Gray and Gray 1999, 26) rendering it opaque to the general population who is a member of the public service and who is not.

This problem could be combatted by a form of urban participatory budgeting, as used in Brazilian cities such as Porto Alegre. The process encourages citizens to engage with local government and community organisers to decide on investment priorities, mostly in regard to infrastructure. It has shown that the priorities of local governance organisations are not in line with those of the urban population. For example, in the first year of participatory budgeting in Porto Alegre, “the administration thought that poor people’s priority was public transport but what they voted for in Participatory Budgeting was water supply and sewerage” (Souza 2001, 167-168). In 2008 there were about 100 European cities with a participatory budget, but the majority of processes are not “the ideal-type ‘Porto Alegre adapted for Europe’” (Sintomer and Herzberg 2008, 170). Granted, European cities do not suffer from privatisation to the same extent as Britain; steps were taken to protect small business owners in Italy, France, and Germany (Minton 2009, 26). As a result, poverty is characteristically concentrated in the suburbs, while in the U.S and Britain it is concentrated in inner-city areas.

An Alternative Approach from Brazil

The infamous slogan of Margaret Thatcher’s neo-liberal programmes which spawned the corporate take-over of cities was ‘There is no alternative’ (TINA) (Minton 2009, 9). However, an example of an alternative has been implemented by the Brazilian government. In Brazil, a traditionally corporate state, there was a realisation by the federal government that private interests were given precedent over those of the very poor public in urban areas. This resulted in the ‘City Statute’ of July 2001, explicitly recognising the “right to the city” as a collective right and establishing a new legal-urban order. In his work on South America, Edesio Fernandes outlines the arguments which led to Brazil’s attempt to separate the control of space and place from ownership. He argues that a “right to the city” is necessary, as the socio-economic, political and territorial changes of the last two centuries, due to industrialisation and urbanisation, have not been accompanied by a change to the conceptualisation of democracy (Fernandes 2007, 205).

The development of the City Statute legislation was preceded by a number of individual reforms: the introduction of urban planning, the social right to housing, the right to environmental preservation, the right of the state to capture surplus value of individual properties, and the right to the regularisation of informal settlements. Taken together, these changes recognise that the interests of private property owners “necessarily co-exist with other social, cultural, and environmental interests of other groups and the city as a whole” (Fernandes 2007, 213). Building rights are separated from property rights so that land use can be regulated, rendering them coincidental with a local Master Plan concerned with planning and environmental laws. The legal foundation of a ‘right to the city’ has been laid on the federal level, but it is up to municipalities and their communities to produce both policies and programmes to construct a city which recognises and serves the interests of its inhabitants. As of 2009, 87% of “Brazilian cities completed master plans ‘incorporating the guidelines and instruments of the City Statute’ (Caldeira and Holston 2014, 5). Understandably, ‘there is a distance between discourse, law and reality’ (Friendly 2013, 171).” Caldeira and Holston’s work documents that citizen groups are being used in the development of urban planning but so far discussions have been dominated by the upper-classes and corporate interests. For now, it is “the courts and the Public Ministry” of cities that “legitimate and safeguard principles such as the social function of property and the democratic management of cities” (2014, 12). In the meantime, officials must find a way to include the working-class in discussions, as those in Porto Alegre managed to do in the 1980s (Souza 2001, 170). Criticism of the City Statute itself is based on the legal view of property rights as supreme, “regardless of wider social and environmental interests” (Fernandes 2010, 66). Fernandes accredits this to the curriculum of law courses in Brazil, in which the formal aspects of civil law are fundamental, and urban law is not taught. In this respect, Brazil is not alone. Examples from America and Britain in particular, reveal how the legal emphasis has been on the rights of property owners, rather than the effect those rights have on the rest of the population.

Property Rights in the English and U.S Courts

In common law jurisdictions, there have been cases where absolutist conceptions of property rights have either been confirmed or recognised as unsuitable, specifically in relation to the characteristics of a modern city. A step towards establishing the rights of the public to merely be present in quasi-public spaces, such as shopping centres, is outlined by Kevin and Susan Gray. In their analysis of the English Court of Appeal case *CIN Properties v Rawlins* ([1995] 2 EGLR 130), they raise the human rights implications of a private property owner’s privilege of arbitrary exclusion, invoked to ban a group of mostly black teenagers from their city centre shopping mall, despite them not being guilty of any criminal activity. Originally intended to protect citizens against the intrusion of the state, this conception of land law is unsuitable for questions relating to the freedom of movement within city centre shopping malls. They are essentially enclosed city squares, spaces traditionally open to public use without restriction; they are not only a place in which to be a consumer, but afford “much of the recreational aspect of a social, cultural and artistic meeting place” (Gray and Gray 1999, 11). The problem is that it is “the unemployed, the disadvantaged and the discouraged” (Ibid, 21) who are the easiest to exclude, through invoking security risk profiling based on stereotypes (von Hirsch and Shearing 2000, 78). Courts in the U.S, Australia and Canada have been better at recognising the

damage that is being done “to a range of more highly rated human interests and values”, such as freedoms of association, assembly, and movement (Gray and Gray 1999, 62). Although a promising development and one that would be welcome in Britain, this particular argument for the conceptual separation of space and place from ownership has admittedly “relatively modest parameters”, as it “affects only public land or land “affected with a public interest” (Gray and Gray 1999, 38). Their argument is for a small change, which is nonetheless a form of the right to appropriation, and a move towards the adoption of more principles of “the right to the city”.

The treatment of corporations as individuals with rights of exclusion was used historically as a way to promote structural inequality in American society, the results of which are still obvious today. The Supreme Court ruled in the Civil Rights cases of 1883 (109 U.S. 3 1883) that African Americans, who had been granted legal equality in 1875, could be excluded from public accommodations on the grounds that “the actions of owner... were ‘private’ actions, not ‘state’ actions” (Moore 2014, 73). This “invention” (Gray and Gray 1999, 48) resulted in the protection of property accumulation by white men during the era when African Americans themselves were considered property. Further developments in favour of ‘the right to the city’ will occur only if legal framing favouring property and capital owners, and in regard to a wide range of issues, is recognised by legislators, legal practitioners and judges. As Thrasymachus argued in Plato’s *Republic*, “each form of government enacts the laws with a view to its own advantage” (Plato 1930, 338e-339a). More often than not, the advantage goes to those well represented in business and politics; in 2007 83% of all company owners in the U.S (United States Census Bureau 2007) and 77% of Congress members were white males (Manning and Brudnick 2014, 80-81).

Towards the Right to the City

Nothing captures the essence of the “right to the city” better than the idea that “the homeless man in Los Angeles has not won the right to the city when he is allowed to sleep on a park bench in the centre” (Marcuse 2009, 192). The right to appropriation of space is important, but can only be fully realised when economic, social and political problems are addressed in the context of a more participatory model of democracy. Different groups of people will have alternate and sometimes conflicting interests, but surely our governance system should reflect the complexity of our society. Racial minorities may use appropriation to resist their “spatial concentration...in areas of economic disinvestment”, gay people may resist their “heteronormative marginalisation”, and women would seek the right “to equal access and safe movement in urban space” (Purcell 2002, 106). The elderly, and those with families, would probably advocate free public seating to facilitate their right to do nothing (loiter), or activities that do not involve consumption whilst in the city centre.

Legal reforms will have to exceed the legal right to be present in a quasi-public place, to encompass a Brazilian-style set of rights, including local neighbourhood participation in the planning and building of cities. If the model of corporate architecture, such as Canary Wharf, was only one of many models of city development, then it could contribute to “the pursuit of heterogeneous and hybrid urban geographies, all of which nevertheless share in common a city produced to meet the complex and multiple needs of urban inhabitants” (Marcuse 2009, 187). The problem in Britain and America is that

corporate architecture is now the only model, and threatens to make cities “more ghettoized as the rich seal themselves off for protection while the poor become ghettoized by default” (Harvey 2003, 940). The construction of places in which to consume is for a particular strata of society: ‘ABC1s’, who have disposable income and can easily identify where they ‘belong’, according to architectural cues. While it may seem like a utopian dream to separate the pursuit of profit and governance or to separate the control and ownership of space and place, there are sectors of society which have proved that worthwhile projects can be pursued without profit-making as an end in itself. Non-governmental organisations and co-operatives are based on collaboration with local communities and businesses to improve distribution, while Peer to Peer production has produced a ‘third mode of production’ creating use rather than exchange value (Bauvens 2006). A system which would recognise a right to the city would also recognise that urban space is not only valuable due to its ability to “generate maximum returns in terms of shopping and spending” but “must be about more than a balance sheet, or they will fail to connect with local communities” (Minton 2006, 4).

Conclusion

The current system of city governance and its effects have roots in the economic and political policies pursued in 1980s Britain and America, but there were alternatives. In France and other European countries, steps were taken to protect small business owners and restrict the establishment of large stores (Minton 2010, 26). Lefebvre claimed that each historical period produces the kind of public space, and therefore public life, best reflecting the political realities of the time (Lefebvre 1970, 124-134). The contemporary control and ownership of space and place has resulted in the imposition of the architecture and values of capitalism in the very fabric of our cities. Worryingly, this reflects the political realities of our society and cities all too well. Steps should be taken to realise a fully democratic system in which “the right to the city” is a given framework through which the participation of citizens, and the recognition by the legal system of the importance of their rights, could be more genuinely pursued. While it might be tempting to wait and see how a liberal legal-urban framework plays out in the democratic laboratory of South America, no system can be successfully cloned between jurisdictions. The citizens of America and the UK will have to work out the best way to govern their cities.

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