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Chers lecteurs et lectrices,

La présente édition de la Revue des Études internationales de Glendon (REIG) représente une compilation des meilleurs travaux produits par les étudiants et les étudiantes de Glendon au cours de la dernière année scolaire. Nous en sommes fières puisqu'elle met en évidence la diversité d'opinions et d'approches dans le domaine des Études internationales. Nous espérons que ces articles vous serviront de guide et de référence pour vos propres travaux.

Nous tenons à remercier tous nos éditeurs et éditrices, notamment Brandon Boileau, Krystle Hewitt, Nicole Lessard, Giancarlo Mastrangelo et Dorna Zaboli, nos deux réviseurs, Melissa Felian et Nicole Lewin, ainsi que tous nos évaluateurs, Zain Dar, Obrad Grković, Sonia Hukil, Caroline Katona, Jackie Kovacs, Christopher Long, Valeriya Mazlova, Alexander Moldovan, Alexandra Pullano, Ana Vianei, Vanessa Weedmark et Anne-Marie Yao. Un grand merci à tous les auteurs talentueux qui ont contribué à cette expérience, que leur article ait été publié ou non. Finalement, un énorme remerciement à Professeur Jean Michel Montsion (PhD) et M. Dany Savard (MLIS) pour tout leur aide, support et encouragement. Bonne lecture à tous!

Cordialement,

Jenny David & Nadine Tkatchevskaia

Co-éditrices en chef, REIG 2013-2014



Dear readers,

This edition of the Glendon Journal of International Studies (GJIS) represents a compilation of the best essays produced by Glendon students during the last school year. We are very proud because it highlights the diversity of opinions and approaches in the field of International Studies. We hope these articles serve as a guide and reference for your own work.

We thank our editors, Brandon Boileau, Krystle Hewitt, Nicole Lessard, Giancarlo Mastrangelo and Dorna Zaboli; our two reviewers, Melissa Felian and Nicole Lewin; and all our reviewers, Zain Dar, Obrad Grkovic, Sonia Hukil, Caroline Katona, Jackie Kovacs, Christopher Long, Valeriya Mazlova Alexander Moldovan, Alexandra Pullano, Ana Vianei, Vanessa Weedmark and Anne-Marie Yao. We would also like to thank dearly the authors who contributed to this great experience, regardless of whether their article was published or not. Finally, a huge thank you to our Faculty Advisor, Professor Jean Michel Montsion (PhD), and to our library advisor, Dany Savard (MLIS); your valuable help, support and encouragement were precious. To you all, enjoy the read!

Sincerely,

Jenny David & Nadine Tkatchevskaia

Co-managing editors, GJIS 2013-2014



Le Terrorisme hégémonique américain

Éric Desrochers

Résumé :

Les États-Unis ont supplanté le Royaume-Uni comme hégémonie mondiale depuis la fin de la Seconde Guerre mondiale. Ayant acquis cette nouvelle puissance, les États-Unis en ont profité pour faire usage de terrorisme contre les États qui n'agissaient pas selon les intérêts de l'hégémonie. C'est ainsi qu'ils déposèrent des régimes, en instaurant d'autres qui leur étaient plus favorables. Ces régimes autoritaires s'avéraient souvent tyranniques, causant de la misère et de la colère, poussant plusieurs vers le terrorisme. Dans leur campagne mondiale de terrorisme, les États-Unis entraînaient des milices locales afin de combattre certains de leurs ennemis. Par contre, une fois débarrassés de leur ennemi initial, ces mêmes milices se tournèrent contre les États-Unis. Ce texte cherche à démontrer que la politique étrangère des États-Unis a causé le terrorisme islamiste moderne et que sa solution à ce problème, la « guerre contre le terrorisme », ne fait que perpétuer ce même problème.

Abstract :

Since the end of World War II, the United States have taken the United Kingdom's place as the global hegemony. The United States have made use of this new power to start a worldwide terror campaign against states who do not conform to the interests of the hegemony. They have used this power to depose regimes, replacing them with ones that would be willing to see things their way. These authoritarian regimes were often tyrannical, causing misery and anger, pushing many towards terrorism. In their global terrorist campaign, the United States trained local militias, so that they may fight their enemies in their place. However, once devoid of their original enemy, the United States became their new target. This text argues that the American foreign policy is the cause of modern Islamic terrorism and that even its solution, the "War on Terror", only perpetuates this problem.

Dans le domaine des relations internationales, il existe plusieurs théories et conceptions du monde. D'après les pensées radicales, le monde est composé d'États, mais ceux-ci ne sont pas égaux, tant au niveau économique que politique. Certains États sont ainsi plus puissants que d'autres et utilisent cette puissance pour manipuler les États inférieurs¹. Les États les plus puissants peuvent les prendre sous leur tutelle et se construire ce que les néo-marxistes nomment une hégémonie. Ce concept est le fruit de la pensée d'Antonio Gramsci, théoricien et chef communiste italien. Pour les gramsciens, l'hégémonie est un « ordre fondé sur une domination non ressentie comme telle par ceux qui la subissent² ». C'est donc en se basant sur cette prémisse que les penseurs radicaux rejettent le concept d'une « anarchie internationale³ » où les États seraient égaux, disant que ce concept n'est qu'un produit de la culture hégémonique, qui pousse les penseurs à voir les États comme indépendants. Pour les radicaux, cette pensée ignore la domination hégémonique exercée sur ces États par la puissance dominante qui exploite, à des fins économiques, les États sous son influence. La pensée radicale critique aussi la pensée libérale, la voyant comme une pensée naïve qui ignore les contradictions que démontre la domination mondiale par les États-Unis. Dire que la politique américaine est motivée par la promotion de la démocratie dans le monde est d'ignorer les tendances antidémocratiques de l'hégémonie américaine.

Les approches radicales peuvent être utilisées afin de répondre à des questions qui portent sur l'hégémonie. Dans la tradition gramscienne, on accorde l'hégémonie à trois puissances capitalistes. La première hégémonie était celle des Pays-Bas, au XVII^e siècle. C'était ensuite au

¹ Battistella, « Théories des relations internationales », p. 266.

² *Ibid.*, p. 298.

³ *Ibid.*, p.56.

tour du Royaume-Uni, qui domina lors du XIX^e siècle. La troisième hégémonie est celle des États-Unis, qui a dominé pendant la majorité du XX^e siècle et continue à dominer le monde⁴. Chacune de ces hégémonies a eu un impact durable sur le monde, en particulier sur les régions qui étaient directement dominées par l'hégémonie en question. L'hégémonie américaine est particulière par rapport aux autres, puisqu'elle est, depuis la fin de la Guerre froide, la seule puissance dominante dans le monde. Par contre, l'hégémonie américaine œuvrait dans les États non soviétiques bien avant la chute de l'URSS. Elle renversait des régimes démocratiques, y installait des dictateurs et s'y créait des avenues par lesquelles pourrait voyager le capital de ses compagnies multinationales. Cet ouvrage est donc une critique de l'hégémonie américaine. Il propose que le terrorisme islamiste mondial, c'est-à-dire le jihadisme, soit causé par la politique étrangère des États-Unis. Cette thèse sera prouvée en expliquant ce qu'est le terrorisme, puis en démontrant que les jihadistes furent entraînés par des forces américaines, que l'hégémonie américaine a créé les problèmes dans le monde musulman qui ont mené à la montée de l'islamisme radical et que la guerre contre le terrorisme est en effet un incitatif pour le terrorisme, causant une guerre perpétuelle.

Par « terrorisme », il est entendu toute activité qui est commise « (A) au nom — exclusivement ou non — d'un but, d'un objectif ou d'une cause de nature politique, religieuse ou idéologique, (B) en vue — exclusivement ou non — d'intimider tout ou partie de la population quant à sa sécurité [...] »⁵, malgré la supposition générale qu'un acte terroriste ne peut être commis que par un acteur non étatique (sa définition ne le précise pas) et permettant donc ce que Chomsky nomme le « terrorisme d'État⁶ ». Pour Chomsky, le terrorisme d'État est l'exécution

⁴ Ibid., p. 268.

⁵ Définition tirée de l'article 83 du Code criminel du Canada.

⁶ Chomsky, « 9-11 », p. 23.

d'actes terroristes par un État. Il utilise plusieurs exemples historiques afin d'en accuser les États-Unis. Parmi ceux-ci, il nomme la campagne terroriste commise par les États-Unis contre le Nicaragua pendant les années 1980, en finançant des milices antigouvernementales et en plaçant des mines sous-marines dans les ports du pays. La Cour internationale de Justice avait déterminé que les États-Unis avaient fait un usage de force illégal, ce qui se traduit par du terrorisme d'État⁷. Quoique son interprétation du terrorisme ne soit pas celle recherchée quand il est question de la guerre contre la terreur, il est toutefois important de la connaître afin de mieux comprendre la genèse de ce conflit. À la base même de la guerre contre le terrorisme se trouvent des concepts du terrorisme d'État. D'abord, le processus par lequel est passé le gouvernement américain possède en lui-même des caractéristiques terroristes. Au lieu d'amener un gouvernement devant la Cour internationale de Justice, l'administration Bush a décidé d'envahir des États souverains. Quand l'ONU prit trop de temps à approuver ou mandater la décision du gouvernement américain d'envahir l'Irak, l'administration Bush s'impacienta et décida d'agir en dehors des lois en envahissant un État souverain sans approbation légale. La négligence américaine envers le processus, afin d'arriver à ses objectifs est une démonstration d'un comportement terroriste. Puisque le gouvernement n'était pas directement menacé par l'Irak, il faut en déduire que l'invasion de ce dernier était une tactique d'intimidation utilisée afin de démontrer la suprématie militaire des États-Unis et de dissuader des groupes terroristes qui voudraient affronter l'hégémonie. Cette action était de nature terroriste, puisqu'elle faisait usage de la violence à des fins politiques et dans le but d'intimider à la fois le peuple et le gouvernement de l'Irak. Même si la définition du terrorisme plus souvent utilisée dans les

⁷ Ibid., p. 24-25.

médias est celle de terrorisme commis par des acteurs non étatiques, le terrorisme d'État est d'une plus grande importance et a un effet plus prolongé sur le monde.

Malgré l'importance de l'invasion de l'Irak, les interventions américaines dans le monde musulman sont de plus longue date que cet événement. Les activités hégémoniques des États-Unis remontent en effet jusqu'à la guerre froide. L'entraînement de Moudjahid par les Américains pendant l'invasion soviétique de l'Afghanistan est loin d'être un secret d'État, étant rendu un fait historique sans controverse par rapport à sa véracité⁸. C'est afin de faire échouer l'invasion soviétique que les Américains entraînent ces jihadistes, plusieurs d'entre eux venant d'autres pays musulmans et se battant au nom d'une « guerre sainte » plutôt que d'une guerre d'indépendance. Ces mêmes jihadistes se mirent ensuite à en entraîner d'autres, et ce, partout dans le monde musulman. C'est ainsi que bien des jeunes hommes se retrouvèrent guerriers de l'Islam, ayant comme objectif de chasser les infidèles⁹. Remarquant la présence de l'hégémonie américaine et voyant ses effets négatifs, la pensée jihadiste récolta de plus en plus d'adeptes, tous prêts à donner leur vie pour sauver leur culture et leur mode de vie distinct de celui des États-Unis. En remarquant que les États-Unis, tout comme l'URSS, avaient réussi à s'infiltrer dans la région, les jihadistes commencèrent leur campagne de terrorisme contre les États-Unis. En ayant entraîné ces fondamentalistes extrémistes tout en sachant qu'ils se battaient contre un régime d'« infidèles » et non contre un régime communiste, les États-Unis ont armé une force dangereuse et imprévisible qui s'est éventuellement retournée contre ceux qui l'avaient entraînée. Quoique les Afghans se seraient battus contre l'invasion soviétique avec ou sans l'aide américaine, c'est l'entraînement des jihadistes par les Américains qui les mena à un tel succès contre les troupes gouvernementales d'États du monde musulman qui se retrouvent

⁸Chomsky, « 9-11 », p. 61.

⁹Chomsky, « 9-11 », p. 60.

confrontés à eux. Il serait difficile pour des troupes irrégulières de vaincre des troupes gouvernementales mieux entraînées et équipées, par conséquent leur entraînement par les forces américaines est une cause importante de la montée de groupes jihadistes en Afghanistan, au Pakistan, au Mali et en Somalie, pour n'en nommer que quelques-uns. En voyant l'impact qu'a eu cet entraînement de « guerriers de l'Islam » autant sur le monde musulman que sur d'autres États touchés par des actes terroristes, il est facile de voir l'impact qu'a eu la politique externe américaine en permettant la montée de cette nouvelle force non étatique.

La pensée radicale rejette l'idée que les événements du 11 septembre auraient fait des États-Unis un État innocent, qui n'est que victime de terrorisme. Quoiqu'il n'y ait pas grands débats sur la nature terroriste des actes commis, les États-Unis demeurent une hégémonie puissante qui a, elle aussi, commis bien des actes de terrorisme¹⁰. Il serait ignorant de dire que les attentats du 11 septembre n'ont aucun précédent. Chalmers Johnson élabore en disant que les attentats du 11 septembre n'étaient pas une attaque contre les États-Unis, mais contre leur politique étrangère¹¹. Les États-Unis ont largement contribué à la misère et à la création de régimes autoritaires au Moyen-Orient¹². Un exemple important d'une intervention, et même d'un changement de régime, était celui de l'Iran. En 1953, Mohammed Mossadegh était le premier ministre de l'Iran et avait décidé de nationaliser les ressources pétrolières, qui appartenaient à des compagnies britanniques et américaines. Puisque cette politique allait contre les intérêts de ces compagnies de pétrole, les Américains et Britanniques intervinrent et ôtèrent Mossadegh du pouvoir, le remplaçant par un Shah favorable à l'Occident. Le régime oppressif du Shah dura jusqu'en 1979, année où le peuple iranien se souleva contre ses oppresseurs et mit

¹⁰ Chomsky, « 9-11 », p. 35.

¹¹ Johnson, « Blowback ».

¹² Chomsky, « Hegemony or Survival », p. 215.

en place un gouvernement islamiste et antiaméricain¹³. Le cas iranien démontre comment l'oppression causée par l'hégémonie américaine peut pousser un peuple à se soulever contre cette hégémonie et se radicaliser contre elle. En 1998, l'administration Clinton ordonna le bombardement de l'usine pharmaceutique d'Al-Shifa, sous le prétexte qu'elle était utilisée pour faire des armes chimiques. Cette usine n'était rien d'autre qu'une usine pharmaceutique et son bombardement mena à un nombre élevé, mais indéterminé, de mortalités¹⁴. Ces mortalités s'étendent à bien plus que les morts qui furent directement causées par le bombardement, car cette usine procurait des produits pharmaceutiques à bien des gens qui en avaient besoin pour survivre, mais qui ne purent en faire usage à cause du bombardement. Puisque le Soudan est un pays peuplé surtout par des musulmans, c'est à la suite de ce bombardement que plusieurs groupes jihadistes proclamèrent une guerre sainte contre l'hégémonie américaine. Parmi ces jihadistes se trouvait Oussama ben Laden, alors un dirigeant important d'Al Qaeda. C'est donc par sa politique étrangère hégémonique que le gouvernement américain a créé un terrain propice pour la montée du terrorisme au Moyen-Orient. Contrairement à ce que disent les médias, qui montrent la guerre contre le terrorisme comme une solution au problème, les penseurs de la théorie critique ont plutôt tendance à voir cette guerre comme un incitatif au terrorisme. À ce sujet, Ami Ayalon, chef de la Sûreté générale d'Israël de 1996 à 2000, dit que : « ceux qui veulent la victoire » contre le terrorisme sans répondre à ses causes « veulent une guerre sans fin¹⁵. »

Puisque l'hégémonie et l'ingérence des États-Unis dans les affaires domestiques des États musulmans sont les causes primaires du terrorisme, une augmentation de l'ingérence ne peut

¹³ Id., "Imperial Ambitions: Conversations on the post-9/11 World", p. 43.

¹⁴ Id., « 9-11 » p. 43-54.

¹⁵ Roane Carey et Jonathan Shanin, « The Other Israel : Voices of Refusal and Dissent ».

qu'augmenter le terrorisme et l'insurrection mondiale. C'est justement en intervenant dans des États souverains comme bon lui semble que l'hégémonie américaine fera face à une opposition encore plus grande, hostile et radicale. La guerre contre le terrorisme n'est qu'une augmentation de l'ingérence au Moyen-Orient qui existait avant et qui a déjà attiré assez d'ennuis aux États-Unis. Ce renouveau hégémonique enchaînera un anti-américanisme encore plus important, puisque l'hégémonie en est d'autant plus visible et présente qu'auparavant. En effet : « En jetant des bombes, en lançant des missiles, les États-Unis ne font qu'étendre ces plaies suppurantes. La violence est assimilable à un virus. Plus on la bombarde, plus elle se répand¹⁶ ». Voyant que leurs efforts se heurtent à une résistance, les forces jihadistes voudront redoubler d'effort et faire sortir de leurs pays les nouvelles forces hégémoniques venues pour libérer leur pays des « infidèles ». Une intervention hégémonique est surtout susceptible de recevoir beaucoup de résistance si cette intervention cause la mort de bien des civils. D'ailleurs, le manque total d'humanité envers le meurtre de civils est démontré par le terme utilisé par les militaires afin de définir un tel incident. Ils utilisent le terme « dommage collatéral », déshumanisant complètement les victimes et n'en faisant qu'une autre perte due à la guerre¹⁷. C'est en voyant la mort de civils comme une simple conséquence négligeable que l'hégémonie américaine confirme ses traits terroristes. C'est justement cette attitude inhumaine et terroriste qui génère une rage chez les jihadistes¹⁸. La guerre contre le terrorisme est paradoxale en soi, puisqu'elle ne met pas fin au terrorisme; au contraire, elle le génère. Cela dit, c'est à cause qu'elle est génératrice de terrorisme que la guerre contre le terrorisme a le potentiel de devenir une guerre perpétuelle¹⁹.

¹⁶ James A. Bill et Rebecca Bill Chavez, « The politics of incoherence : the United States and the Middle East », p. 573.

¹⁷ Chomsky, « 9-11 », p. 81.

¹⁸ *Ibid.*, p. 76.

¹⁹ Chomsky, « Hegemony or Survival », p. 213.

Par son approche critique envers les présuppositions de la société, la pensée radicale démontre que les États-Unis sont directement responsables dans la montée du terrorisme mondial, soit par l'entraînement et l'armement de jihadistes dangereux et imprévisibles, par leur politique étrangère hégémonique et par leur « guerre contre le terrorisme ». L'interprétation commune de la définition du « terrorisme » est elle aussi contestée, démontrant qu'il est possible pour un État, comme les États-Unis, de commettre des actes de terrorisme et que par ces actes, les États-Unis sont un État terroriste. De plus, il est aussi proposé que les États-Unis soient impliqués dans une guerre perpétuelle entre le terrorisme d'État américain et le terrorisme insurgé jihadiste. Des questions peuvent donc être posées sur les raisons derrière cette guerre perpétuelle. Se pourrait-il que le gouvernement américain ait l'intention de générer ce conflit perpétuel dans le but de mieux soumettre sa propre population en se permettant d'imposer des limites sur les droits de la personne au nom de la sécurité nationale? Serait-ce pour légitimer la force militaire américaine et apaiser la population quant à ses problèmes domestiques? Peu importe les raisons derrière la guerre contre le terrorisme, en regardant les contradictions au sein du régime américain, on peut bien se demander si la guerre contre le terrorisme est utilisée comme outil afin de mieux opprimer sa propre population, comme dans le roman 1984 de George Orwell.

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International Criminal Tribunal for the Former Yugoslavia: An Instrument for Reconciliation, Peace and Security in the Western Balkans?

Obrad Grković

Abstract:

This paper analyzes the role of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in the context of peace building in the Western Balkans. The central question raised is whether the ICTY, which is the forefather of the permanent International Criminal Court (ICC), can be considered an institution that really plays a role in the reconciliation process of ex-Yugoslav states that were involved in the Yugoslav Wars and by doing so, does it provide peace and security in this turbulent region. Essentially the conclusion drawn is that the International Criminal Tribunal for the Former Yugoslavia is an ineffective tool in reconciling all parties involved in the Yugoslav Wars, and cannot instil a sense of peace and security through justice in the region. This is because of (1) the ICTY's seemingly bias approach to justice due to disproportional indictments and (2) the widespread scepticism of ex-Yugoslav states that justice will help in peace building and create sustainable security in the Western Balkans.

Résumé :

Cet essai analyse le rôle du Tribunal Pénal International pour l'ex-Yougoslavie (TPIY) dans le contexte du renforcement de la paix dans les Balkans occidentaux. La question centrale soulevée est à savoir si le TPIY, qui est l'ancêtre de la Cour Pénale Internationale permanente (CPI), peut être considérée comme une institution qui joue vraiment un rôle dans le processus de réconciliation des États ex-Yougoslaves qui ont été impliqués dans les Guerres Yougoslaves et ce faisant, s'il fournit la paix et la sécurité dans cette région turbulente. Essentially, la conclusion tirée est que le Tribunal Pénal International pour l'ex-Yougoslavie est un outil inefficace pour concilier toutes les parties impliquées dans les Guerres Yougoslaves et ne peut susciter par la justice un sentiment de paix et de sécurité dans la région. Cette conclusion est tirée des causes suivantes : (1) l'approche apparente de polarisation de la TPIY à la justice en raison de mises en accusation disproportionnés et (2) le scepticisme généralisé des États ex-Yougoslaves que la justice aidera grâce au renforcement de la paix et à la création d'une sécurité durable dans les Balkans occidentaux.

On November 16th, 2012, the International Criminal Tribunal for the Former Yugoslavia (ICTY) acquitted Ante Gotovina and Mladen Markač, two Croatian generals most responsible for *Operation Storm* that resulted in the slaughter of “at least 150 Serbs”¹ and the displacement of “about 250,000 Croatian Serbs”² from Croatia. Two weeks later, on November 28th, 2012, the same tribunal acquitted another war criminal by the name of Ramush Haradinaj who committed atrocities on the Serbian, Roma and Albanian populations in Kosovo.³ Most recently, on February 28th, 2013, Momčilo Perišić, a Serbian general from the late Yugoslav National Army was also acquitted by the ICTY despite his involvement in Srebrenica and Sarajevo.⁴ All of these releases by the tribunal have revived and intensified tensions between ex Yugoslavia which leads to the question: is the International Criminal Tribunal for the Former Yugoslavia really an instrument for reconciliation, peace and security in the Western Balkans? Since the ICTY is one of the so-called forefathers of the International Criminal Court (ICC), it is important to thoroughly analyze the implications of this specific international tribunal in relations to peace-building and reintroducing security in the region. By doing so, it will shed light on the future success of the ICC and similar institutions (International Criminal Tribunal for Rwanda for example) in maintaining international peace and security, as “the success of the [ICTY][will] ultimately become the basis for the debate over the need for a

¹ Victor Peskin, “Beyond Victor’s Justice? The Challenge of Prosecuting the Winners at the International Criminal Tribunals for the Former Yugoslavia and Rwanda,” *Journal of Human Rights* 4(2005): 218, accessed March 15th, 2013, doi:10.1080/14754830590952152.

² Lilian A. Barria and Steven D. Roper, “How effective are international criminal tribunals? An analysis of the ICTY and the ICTR,” *Journal of Human Rights* 3(2005): 362, accessed March 21st, 2013, doi: 10.1080/13642980500170782.

³ Thomas Escritt and Fatos Bytyci, “Kosovo ex-premier Haradinaj cleared of war crimes again,” *Reuters*, November 29th, 2012, accessed March 18th, 2013, <http://www.reuters.com/article/2012/11/29/us-kosovo-tribunal-haradinaj-idUSBRE8AS0B820121129>.

⁴ De Launey, Guy. “Momcilo Perisic Hage Acquittal Leavers Little Sense of Justice.” *BBC*, February 28th, 2013, accessed March 5th, 2013, <http://www.bbc.co.uk/news/world-europe-21621695>.

permanent international criminal institution which resulted in the International Criminal Court (ICC).”⁵

In the academic literature examined, there is a general sentiment among scholars that the International Criminal Tribunal for the Former Yugoslavia is an ineffective tool in reconciling all parties involved in the Yugoslav Wars, and cannot instil a sense of peace and security through justice in the region. As Dominic Raab simply puts it, “the ICTY’s results had not been spectacular.”⁶ Two principal reasons for this are (1) the ICTY’s seemingly biased approach to justice due to disproportional indictments of all sides in the war, leading to strained cooperation between the ICTY and the ex-Yugoslav states, and (2) the widespread scepticism of ex-Yugoslav states that justice will help in peace-building and create sustainable security in the Western Balkans.

Yugoslav Wars and the Creation the ICTY

The Yugoslav Wars, which started on March 31st, 1991 with the War in Croatia and lasted until the end of the NATO bombing of Yugoslavia in June 1999, are commonly referred to as being the four armed conflicts (the War in Slovenia, the Croatian War of Independence, the Bosnian War and the Kosovo War including the NATO bombing of Yugoslavia) that brought about the breakup (or dissolution) of the Socialist Federal Republic of Yugoslavia. Numerous war crimes, crimes against humanity and grave violations of international humanitarian law were committed during this period by all parties, involving: “murder, torture, rape, enslavement, destruction of property and other

⁵ Barria and Roper, “How effective are international criminal tribunals,” 349.

⁶ Dominic Raab, “Evaluating the ICTY and its Completion Strategy,” *Journal of International Criminal Justice* 3(2005): 84, accessed March 4th, 2013, doi: 10.1093/jicj/mqi004.

violent crimes”⁷ that shocked the international community and brought about the introduction of the ICTY.

The ICTY was created by the United Nations Security Council, through resolution 827⁸, in 1993 “in response to the atrocities that engulfed the former Yugoslavia” and was considered “the world’s first truly international criminal court.”⁹ It was established as an “ad hoc, territorially specific, international criminal tribunal”¹⁰ to put “those most responsible for violations of the most heinous crimes known to the international community – war crimes, crimes against humanity and genocide”¹¹ on trial. Essentially, by putting the main perpetrators on trial, the ICTY’s aim was to “render justice to thousands of victims and their families, thus contributing to a lasting peace in the area”¹² or simply “restore international peace and security.”¹³ Furthermore, this institution “would send the message both to potential aggressors and vulnerable minorities that the international community will not allow brute force to become the arbiter of disputes.”¹⁴

What made this tribunal different from the post-World War II tribunals, (namely, the Nuremberg Trials and the International Military Tribunal for the Far East) was that “this court would be open to membership from all over the globe and would draw on

⁷ United Nations, *United Nations at a Glance* (New York: United Nations Publications, 2012), 226.

⁸ Robert M. Hayden, “What’s Reconciliation Got to do With It? The International Criminal Tribunal for the Former Yugoslavia (ICTY) as Antiwar Profiteer,” *Journal of Intervention and Statebuilding* 3(2011): 313, accessed March 21st, 2013, doi: 10.1080/17502977.2011.595597.

⁹ John Hocking, “Legal Aid and defence support at the UN International Criminal Tribunal for the former Yugoslavia,” *Commonwealth Law Bulletin* 3(2010): 529, accessed March 17th 2013, doi: 10.1080/03050718.2010.500849.

¹⁰ United Nations, *United Nations at a Glance*, 226.

¹¹ John Hocking, “Legal Aid,” 529.

¹² United Nations, *United Nations at a Glance*, 226.

¹³ Oliver Shuett, “The International War Crimes Tribunal for Former Yugoslavia and the Dayton Peace Agreement: Peace versus Justice?,” *International Peacekeeping* 2(1997): 93, accessed March 9th, 2013, doi: 10.1080/13533319708413668.

¹⁴ *ibid*, 94.

experiences from the different legal systems of the world.”¹⁵ The ICTY “combined common law/civil law procedures and legal environments”¹⁶ and encompasses “the Judges and staff of...over 80 countries.”¹⁷ In addition, the ICTY was established during the Yugoslav Wars in a “sense of emergence” and “sought to strengthen the procedural safeguards of the accused and thereby dispel the spectre of ‘victor’s justice’”, which were not the cases with the Nuremburg and Tokyo trials.¹⁸ It was the first such tribunal in many ways and carved the path for the creation of a permanent International Criminal Court in 2002 whose scope is similar to that of the ICTY. Nevertheless, “the attitude of the international community to war crimes tribunals is currently characterized by a degree of ambivalence”¹⁹ because of reasons which will now be outlined in the context of the ICTY.

ICTY as a Biased Instrument

The Security Council bases the success of the ICTY on the level of cooperation between the ex-Yugoslav states involved in the Yugoslav wars and this institution. Essentially “the states of former Yugoslavia...have a binding legal obligation to provide the tribunals full and immediate cooperation”²⁰ and with it, allow “entities authorized by the Security Council to investigate or prosecute war crimes and other violations of international humanitarian law.”²¹ However, one of the reasons why full and consistent cooperation

¹⁵ John Hocking, “Legal Aid,” 529.

¹⁶ Carla Del Ponte, “Investigation and Prosecution of Large-scale Crimes at the International Level: The Experience of the ICTY,” *Journal of International Criminal Justice* 4(2006): 540, accessed February 17th, 2013, doi: 10.1093/jicj/mq1032.

¹⁷ John Hocking, “Legal Aid,” 530.

¹⁸ Dominic Raab, “Evaluating the ICTY,” 83.

¹⁹ *ibid*, 82.

²⁰ Victor Peskin, “Beyond Victor’s Justice,” 214.

²¹ Oliver Shuett, “Peace versus Justice,” 99.

was not achieved is because Serbia and Croatia both deem the ICTY as being anti-Serb and anti-Croat respectively with its seemingly selective and disproportionate indictments and, at first, severe prosecutions against their so-called 'heroes'. Because of this strained cooperation, the tribunal cannot be seen as a successful instrument in maintaining peace and security in the region, but, rather an instigator for the revitalizing of tensions in the region.

For Serbia, the ICTY is deemed an institution that executes 'victor's justice' instead of proportionally indicting all relevant actors. In relation to this, Oliver Shuett mentions: "the argument could be made that the tribunal has become biased as the majority of the 70 or so indicted persons are Bosnian Serbs...the tribunal's attentions could be seen to reflect an imbalance in the international community's tendency to lay blame almost exclusively on the Bosnian Serbs."²² What makes Serbia "against the tribunal for its supposed anti-Serb bias"²³ is that the Prosecutor's Office has not investigated and pressed charges against a number of atrocities that were committed against Serbs, Roma and other minority groups by the Muslim forces, such as the "shelling of friendly targets"²⁴ in Sarajevo, or by NATO forces "in connection with civilian casualties in Serbia."²⁵ If analyzing it from this perspective, it should not be surprising that during Slobodan Milošević's reign, the Federal Republic of Yugoslavia rejected cooperating with the ICTY. Furthermore, it is not surprising that after Milošević's reign, the Serbian government had great difficulties in tracking down Radovan Karadžić and Ratko Mladić (the last two Serbian indictments) due to the

²² *ibid*, 99.

²³ Victor Peskin, "Beyond Victor's Justice," 218.

²⁴ Oliver Shuett, "Peace versus Justice," 98.

²⁵ Victor Peskin, "Beyond Victor's Justice," 228.

obstructions brought about by a number of people who tried to hide them because of ICTY's 'injustice'.

In the case of Croatia, many Croatians felt that the ICTY was "anti-Croat"²⁶ because it pursued the indictment of Ante Gotovina and other generals who were deemed heroes in their country because of the Homeland Wars. Because of this negative sentiment, Franjo Tudjman "refus[ed] to countenance investigations of the Homeland War"²⁷ and "refused to recognize the tribunal's legal rights to trump state sovereignty and probe the Homeland War atrocities."²⁸ This, in hand, led "tribunal officials [to] press Tudjman for cooperation and frequently criticize his conduct."²⁹ Nevertheless, what made the ICTY seem illegitimate and biased, from the Serbian perspective, was that "from September 1996 through August 1999 the ICTY did not issue a formal complaint to the UN Security Council regarding Croatia's non-compliance in the Homeland War investigations"³⁰ because "the Security Council was reluctant to apply sanctions or seriously punish Croatia."³¹ This was not the case for the Federal Republic of Yugoslavia who was put under economic and political sanctions during Milošević's later reign. Because of Croatia's non-compliance with the ICTY for a period of time, it seemed that "the best hope of bringing victors [supposedly the Croatians] to justice lay in domestic political change and the emergence of a more cooperative government in Zagreb."³²

Yet another aspect that hindered the ICTY's cooperation with ex-Yugoslav states, and its instilment of reconciliation, peace and security in the region, was the fact that

²⁶ Victor Peskin, "Beyond Victor's Justice," 220.

²⁷ *ibid*, 221.

²⁸ *ibid*, 219.

²⁹ *ibid*, 218.

³⁰ *ibid*, 218.

³¹ *ibid*, 219.

³² *ibid*, 219.

politicians in ex-Yugoslavia deemed the ICTY as being “inherently selective because some countries [were] targeted for international prosecution [like the Former Yugoslavia] whereas other countries [were] not (e.g. Angola).”³³ All of these different examples manifest that because ex-Yugoslav countries had negative perceptions of the ICTY, and decided not to fully cooperate with it (where full cooperation would lead to ICTY fulfilling its mandate and bringing about reconciliation, peace and security) This institution could not have been viewed as a force that could reintroduce peace in the region. This is in part because “the truths established by the ICTY are not universally accepted truths, but rather partially contested truths, which compete with each side’s own victim-centred narrative.”³⁴

Miscorrelation Between Justice and Peace

The first President of the ICTY as well as the first Prosecutor both stated that in essence “...Peace and Justice go hand-in-hand” and that the tribunal “would contribute to the restoration and maintenance of peace...and contribute to ensuring that such violations [of international humanitarian law] are halted and effectively redressed.” The relationship between the two notions is discussed quite frequently in the literature, yet there is much contention between scholars whether justice brings about peace. By looking at the ICTY as an example, there is a plethora of evidence that suggests the presence of a sheer gap between justice and peace.

The lack of interconnectedness between the two vast concepts can be understood from the following example. When two individuals that do not get along go to court to

³³ Victor Peskin, “Beyond Victor’s Justice,” 228.

³⁴ Robert M. Hayden, “What’s Reconciliation Got to do With It,” 320.

seek justice over a contentious matter, this does not mean that after the jury's decision they will reconcile and make peace. Essentially, the same scenario applies to the former Yugoslavia. Whatever the ICTY decides to do with the indictments will not contribute to peace building and security; rather it will intensify the tensions between the ex-Yugoslav states if the ICTY keeps making scandalous decisions. This is why "the actions and activities of the ICTY have not been beneficial to achieving reconciliation or stability in the Balkans" and have kept the region "unstable."³⁵ As Hayden puts it, "the ICTY's actions are among the major causes of mutual recrimination within most successor republics and between them."³⁶ In retrospect, it was the Dayton Agreement that ended the war in Bosnia and Herzegovina, not the justice of the ICTY. All of these points show that the correlation between justice and peace is relatively weak, as in general, "judicial institutions are not viewed as organs of peace and security."³⁷ Therefore, the ICTY's mandate to reintroduce peace in the Balkans through justice is only applicable merely in theory. The question that needs to be asked is: what is more important –peace through reconciliation or justice?

Putting the ICTY in the limelight and war criminals in centre stage has greatly marginalized the victims of war. As previously mentioned, the tribunal was essentially created for them to get their justice and consequently seek peace. "National reconciliation [was] a precondition to a permanent peace"³⁸ in which the main actors were supposed to be the victims; however after the creation of the tribunal, they disappeared from the picture. Instead of concentrating on the victims and helping with reconciliation and peace

³⁵ Robert M. Hayden, "What's Reconciliation Got to do With It," 313.

³⁶ Robert M. Hayden, "What's Reconciliation Got to do With It," 316.

³⁷ Barria and Roper, "How effective are international criminal tribunals?," 357.

³⁸ *ibid*, 362.

building initiatives on the field, the UN Security Council established a very costly tribunal (“it is estimated that by the time it shuts down, the ICTY will have spent \$2.3 billion”³⁹) that provides the accused with many benefits, all in hopes of bringing ‘justice’ and ‘peace’ in the Western Balkans. The situation is bizarre as “it is immoral to spend large amounts of money on them [war criminals] instead of actions that actually do help the victims of war.”⁴⁰

By looking at the ICTY in more depth, there are clear indications that the beneficiaries of this institution are not the victims “in whose name the enterprise claims to operate”⁴¹, but instead nationalist political parties in former Yugoslavia who “oppose the ICTY...in public” as well as the people who work for ICTY and receive “an extensive medical and pension plan, 30 days of annual leave and 10 official holidays a year” as well as salaries that go up to “150,000 Euros”⁴² a year. This is in part why ex-Yugoslav states have begun to strategically comply with the ICTY as a way to “forestall the transfer of an accused or to secure a preferred outcome within a given trial process” and avoid “third party enforcements in the form of military, financial and diplomatic sanctions”⁴³ in order for them to fulfil their national agendas. Because of the ICTY’s institutional and conceptual flaws, the reasons states cooperate with it are not the right ones. States strategically comply with the tribunal not for the purpose of seeking justice, and through it peace, but for “pragmatic reasons rather than moral ones.”⁴⁴ Namely, they seek political truth rather than judicial truth. By cooperating or complying with the ICTY,

³⁹ Robert M. Hayden, “What’s Reconciliation Got to do With It,” 322.

⁴⁰ Robert M. Hayden, “What’s Reconciliation Got to do With It,” 325.

⁴¹ Robert M. Hayden, “What’s Reconciliation Got to do With It,” 324.

⁴² *ibid*, 321.

⁴³ Christopher K. Lamont, “Defiance or Strategic Compliance? The Post-Tudjman Croatian Democratic Union and the International Criminal Tribunal for the former Yugoslavia,” *Europe-Asia Studies* 10(2010): 1684, accessed March 21st, 2013, doi: 10.1080/09668136.2010.522425.

⁴⁴ Robert M. Hayden, “What’s Reconciliation Got to do With It,” 321.

ex-Yugoslav states have more opportunities to receive financial aid from the West and to join the European Union. In essence, this is their motivation, not peace and security through reconciliation and justice. This shows, once again, that justice in the political sense is important for ex-Yugoslav states in order for them to develop economically and successfully join the EU.

Conclusion

Peace and security in the Western Balkans cannot be achieved through justice, at least not the justice the ICTY promotes, primarily because of its biasness that results in states not cooperating fully with the tribunal and because of its conjecture that justice will result in peace and security through reconciliation. Because of these reasons, the ICTY does not fulfil its expected mandate, which is not surprising as there were no cases “in which externally-imposed criminal trials” brought about “transnational justice”, and in hand, peace through reconciliation.⁴⁵ The general ambivalence towards the ICTY leaves room for scepticism with regards to the success of the ICC whose creation can be partially attributed to the International Criminal Tribunal for the Former Yugoslavia. This case study manifests the need for an innovative 21st century peace-building strategy in post-conflict regions that diverges from traditional norms wherein justice will bring peace. In theory, the interdependence of justice and peace seems logical; however, in practice, imposing justice is counterproductive.

⁴⁵ Robert M. Hayden, “What’s Reconciliation Got to do With It,” 316.

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A Juxtaposed Relationship: Analyzing the Impacts of Migrants' Remittances to Sub- Saharan Africa in the 21st Century

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Abstract:

The purpose of this paper is to examine the impacts of labour migrants' remittances to Sub-Saharan Africa (SSA) in the twenty-first century. First it argues that migrants' remittances have led to recent economic, social and political consequences in the region. Following this discussion, it analyses the juxtaposition of the short-term "positive" benefits of migrants' remittances and their potential long-term "negative" consequences. More specifically, the short-term gains of migrants' remittances, notably the economic benefits in terms of increased consumption facilitating economic development, the social benefits with regards to increasing children's ability to attend school and the political benefits namely increased co-operation between states, appear to be laying the roots for future concerns. In the long run, migrants' remittances may foster economic dependence on foreign revenue, fail to harness invested human capital and, promulgate disengagement in political affairs.

Résumé :

Le but de cet essai est d'examiner les impacts des envois de fonds des travailleurs étrangers vers l'Afrique subsaharienne au cours du vingt-et-unième siècle. D'abord, il fait valoir que ces envois de fonds ont eu de récentes conséquences économiques, sociales et politiques dans la région. Après cette discussion, il analyse la juxtaposition de leurs avantages "positifs" à court terme et de leurs potentielles conséquences "négatives" à long terme. Plus précisément, les gains à court terme des envois de fonds des migrants, notamment les avantages économiques en termes d'augmentation de la consommation facilitant le développement économique, les prestations sociales en ce qui concerne l'augmentation de la capacité des enfants à aller à l'école et les avantages politiques à savoir la coopération accrue entre les Etats, semblent développer les racines de préoccupations futures. À long terme, les envois de fonds des migrants peuvent favoriser la dépendance économique sur les revenus étrangers, échouer à maîtriser le capital humain investi et, promulguer le désengagement dans les affaires politiques.

This paper seeks to examine the impacts of labour migrants' remittances to Sub-Saharan Africa (SSA) in the twenty-first century. It will first be argued that migrants' remittances have had, in the context of the new millennium, economic, social and political consequences within the region.¹ It will then be suggested that migrants' remittances have created a disjunction between the perceived positive, short-term benefits and the potential negative, long run consequences for both SSA and its people. The transfer of payments from migrants to households within SSA appears to be creating a situation where the immediate gains lay the foundation for future ramifications.

This paper will begin by defining several technical terms and by providing some brief contextual information. Next, it will be shown that migrants' remittances to SSA since the twenty-first century have or will economically impact the region, notably by increasing domestic households' financial resources in the short-term and by devastating future economic development in the long run. The social impacts of migrants' remittances, with a specific focus on the welfare of children, in terms of their ability to attend school, will then be discussed. It will be argued that migrants' remittances have proved to increase children's ability to attend school, yet the lack of (perceived) opportunity within the region may not allow SSA to benefit from its investment in human capital. In addition, migrants' remittances to SSA since the new millennium will be shown to have had political repercussions, specifically in strengthening current political ties abroad and also through fostering a lack of willingness for SSA citizens to be involved and engaged in the state's (future) affairs.

¹ Note that, for the purpose of this paper, "economic" impacts will refer to those variables, which affect the economy or economic development. In addition, "social" impacts in this paper will focus exclusively on the social welfare of children (in terms of improving their ability to attend school) and the (social) implications this has on society at large. Lastly, "political" impacts will be considered as those outcomes, which affect the political realm, namely relationships between countries as well as the relationship between an individual state and its citizens.

Technical Terms

In order to avoid any ambiguity, the definition of several key terms to be employed throughout this paper will first be provided. For example, “labour migrants” are citizens of a country, and also usually members of a household, that work abroad for a month at minimum.² “Remittances”, to be used interchangeably with “transfer payments from abroad”, are financial assets sent by labour migrants to their home country which are destined to a specific household. Consequently, a “remittance class” is a group of people who, to some extent, depend on remittances for their livelihood.³ In addition, references made to households’ “basic needs,” “subsistence needs” or “essential goods and services” refer to human needs that are fundamental for survival and “well-being”, such as food, clothing, shelter, fuel, education, health and transportation services.⁴

Contextual Information

The primary theory underlying migration, as discussed in this paper, is the New Economics of Labour Migration Theory. Under this paradigm, decisions to migrate are said to be made collectively by families in order to diversify household risk and income in order to maximize (economic) welfare.⁵ “Rational” migrants will then send remittances home with the intent of improving their household’s livelihood.⁶

² Yao Lu and Donald J. Treiman, “Migration, Remittances and Educational Stratification among Blacks in Apartheid and Post-Apartheid South Africa,” *Social Forces* 89, no. 4 (2011): 1136, accessed 11 Nov. 2011, <http://go.galegroup.com.ezproxy.library.yorku.ca/ps/retrieve>.

³ Ebenezer Obadare and Wale Adebani, “Transnational Resource Flow and the Paradoxes of Belonging: Redirecting the Debate on Transnationalism, Remittances, State and Citizenship in Africa,” *Review of African Political Economy* 36, no. 122 (2009): 501, accessed 11 Nov. 2011, <http://www.tandfonline.com.ezproxy.library.yorku.ca/doi/pdf/10.1080/03056240903346129>.

⁴ Belinda Dodson et al., *Gender, Migration and Remittances in Southern Africa* (Kingston: Queen’s University, 2008), 35.

⁵ Lu and Treiman, 1121; Claude Sumata, “Migradollars and Poverty Alleviation Strategy Issues in Congo (DRC),” *Review of African Political Economy* 29, no. 93-94 (2002): 620-1, accessed 11 Nov. 2011,

The proceeding remarks and statistics are intended to provide some context to migrants' remittances to SSA since 2000. For example, in 2002, the dollar value of remittances to SSA, estimated at approximately 1.3% of the region's Gross Domestic Product (GDP), was 4 billion U.S. dollars and 7 billion U.S. dollars by 2005.⁷ In addition, remittances to the region have been said to have increased by more than 55% from 2000 to 2005.⁸ Relative to their GDP, SSA has been labelled as the third largest recipient of global remittances.⁹ Finally, it is worth remarking that predominant shares of the remittances households received are directed toward financing basic needs, particularly the immediate consumption of foodstuffs, basic services and health care.¹⁰

Economic Impacts

Through sending remittances, labour migrants become inadvertently economically affiliated to SSA and, by extension, become directly involved in the region's short-term economic development. It appears that increased transfer payments from abroad since 2000 have become increasingly crucial to the economic development of SSA by providing the financial means to

<http://onlinelibrary.wiley.com.ezproxy.library.yorku.ca/doi/10.1111/j.14682486.2006.00553.x/pdf>.

⁶ Lu and Treiman, 1121, 1138.

⁷ Flore Gubert, "Migrant Remittances and their Impact on Development in the Home Economies: The Case of Africa," in *Migration, Remittances and Development*, ed. Organization for Economic Co-operation and Development (OECD Publishing, 2005), 43; Obadare and Adebani, 503.

⁸ Obadare and Adebani, 503.

⁹ Ibid.

¹⁰ Stuart S. Brown, "Can Remittances Spur Development? A Critical Survey," *International Studies Review* 8, no. 1 (2006): 61, accessed 11 Nov. 2011, <http://onlinelibrary.wiley.com.ezproxy.library.yorku.ca/doi/10.1111/j.1468-2486.2006.00553.x/pdf>.

Siyanbola Tomori and Michael A. Adebisi, "Migrants' Remittances and the Nigerian Economy: Theoretical and Impact Issues," in *Towards Africa's Renewal*, ed. Jeggan C. Senghor et al. (Aldershot: Ashgate Publishing Limited, 2007), 297-9; Dodson et al., 34-6, 38, 44; "Remittances: Determinants and Implications for Development," in *Making Migration a Development Factor: The Case of North and West Africa*, ed. International Institute for Labour Studies (Geneva: International Institute for Labour Studies, 2010), 63, 81.

increase domestic consumption.¹¹ This may be the case if, once remittance-receiving households have satisfied their subsistence needs, additional finances are used for social and economic investment within the household and throughout the local community.¹² For example, it was found that Senegalese households that receive remittances relative to other households that did not receive financial assistance have a higher propensity to consume and are also more likely to save and invest in their local economy.¹³ As a result, migrants' remittances, given that they provide an alternative way for citizens to finance investment by serving as a substitute or complement to domestic revenue, can promote (short-term) economic development.

Owing to the fact that migrant remittances represent a major inflow of capital for small and/or local enterprises, remittances to SSA can additionally be seen as encouraging and facilitating local entrepreneurial activity.¹⁴ Under this analysis, migrants' remittances to SSA may "positively" impact the region's (short-term) economic development through encouraging domestic and foreign participation in the region's economy. In other words, provided that the additional funds from remittances serve as the start-up capital for small-scale businesses, migrants' remittances can encourage local investment within the region.¹⁵

Given the above, SSA's reliance on remittances may also "negatively" impact the region economically in the long-run, as excessive reliance on transfers from abroad may cause individual countries within SSA to postpone or avoid (necessary) structural reform.¹⁶ Consequently, not only may SSA be more vulnerable to economic downturn, but domestic public

¹¹ Sumata, 621; Senghor et al., 297, 304; Dodson et al., 27, 29, 34-5.

¹² Senghor et al., 297.

¹³ Sumata, 621; Senghor et al., 297-9.

¹⁴ Sumata, 627; Brown, 57.

¹⁵ Brown, 57; David de Ferranti and Anthony J. Ody, "What Can Remittances and Other Migrant Flows Do For Equitable Development?" in *Diasporas and Development*, ed. Barbara J. Merz et al. (Cambridge: Harvard University Press, 2007), 68; International Institute for Labour Studies, 63.

¹⁶ International Institute for Labour Studies, 63

resources may also become inefficiently allocated if there is little or no incentive to address economic issues.¹⁷ A second possible negative economic impact of migrants' remittances to SSA may arise if citizens become dependent on remittances as a source of household income to such an extent that they become unwilling to work. In other words, remittance flows (in so far as they act as a substitute for labour income) may very well reduce the labour supply and work effort within SSA.¹⁸ Of course, this would not stimulate economic development, but would only further SSA's dependency from abroad for household income.

Overall, it seems that migrants' remittances to SSA since 2000 have had short-term economic impacts within the region, mainly in terms of increasing households' consumption habits, which has inadvertently expanded (local) SSA economies and promoted economic development. However, it also appears that labour migrants' remittances to SSA, granted that they provide short-term economic benefits, are laying the foundation for regional foreign economic dependence and thereby impeding development.

Social Impacts

Arguably, migrant remittances to SSA since 2000 have generated social impacts related to the welfare of children in terms of improving their ability to attend school. That is, migrants' remittances tend to assist families living in SSA with covering the costs related to financing children's' education, such as school fees, books, etc.¹⁹ Moreover, transfer payments from abroad can directly impact children living in SSA by alleviating the burden often placed on them in

¹⁷ Ibid.

¹⁸ Senghor et al., 308; Brown, 66-7.

¹⁹ Lu and Treiman, 1122, 1133; Brown, 61-2; Merz et al., 68.

providing financially for the household.²⁰ Given that remittances can mitigate time and energy constraints on SSA households, demand for child labour appears to be reduced in remittance-receiving households compared to other households that do not receive remittances.²¹

By extension, the alleviation of financial constraints may also reduce interfamilial educational inequalities and socio-economic inequalities in SSA school enrolment. In other words, remittances can further contribute to households' social welfare by reducing gender inequalities and disparities if all children, rather than strictly males, are given the opportunity to attend school.²²

The reduced pressure and need for children to financially support their family can further contribute to children's short-term well-being if it enables them to focus more time and energy on their education. Here, data suggests that both urban and rural families receiving remittances since 2000, opposed to households with no labour migrants or households with labour migrants that were not receiving remittances, were substantially more likely (by approximately two times) to have and to keep their children in school.²³

In terms of investing in an individual's intellectual skills and abilities, increasing the amount of children attending school can be regarded as a human capital investment made by SSA households. Here, however, the phenomenon of a "brain drain", the emigration of qualified professionals from developing countries and the subsequent loss of human capital more rapidly than it can be replaced, opposed to a "brain gain," may prove to be a future social ramification of migrants' remittances to SSA.²⁴ As previously discussed, perceptions regarding the financial success of labour migrants abroad may induce educated children to also migrate in order to

²⁰ Lu and Treiman, 1122, 1133; Brown, 61-2.

²¹ Lu and Treiman, 1122, 1133; Brown, 61-2.

²² Lu and Treiman, 1134, 1139.

²³ Ibid., 1128-31, 1134.

²⁴ Senghor, 296.

achieve similar “successes”. Unable to reap or gain from the social benefits initially invested in by SSA households made possible by migrants’ remittances, the long-term impact of remittances may prove to deprive the region from the human capital it arguably needs. This trend may already have begun, and can be substantiated with the migration of Nigerian doctors to the U.S.A. Following a study from the United Nations Development Program (UNDP), it was found that more than 21,000 Nigerian doctors reside in the U.S.A., despite the fact that Nigeria is itself severely lacking medical personnel.²⁵

Juxtaposing short- and long-term regional impacts, labour migrants’ remittances to SSA may be creating a social disjunction. Although remittances have arguably increased social welfare in the short-term—by increasing the number of children who are able to attend school—it is uncertain whether long-term social benefits will also arise. The possibility of a SSA brain drain, which would thereby lessen the region’s ability to reap the social benefits of the human capital it invested in, must be considered.

Political Impacts

In the context of the new millennium, labour migrants’ remittances to SSA can be viewed as having certain political impacts. If migrants are financially connected to the regional economy of SSA, a certain bond may be formulated between migrants’ country of work, generally a “developed” country, and their country of origin. As a result, migrants’ remittances to SSA, if viewed as foreign investment and the transfer of capital and trade, may result in strengthened political relationships or bonds formed (in the short-term) between the SSA countries sending

²⁵ Ibid.

and those countries receiving migrants.²⁶ Such relations, for example, may be manifested in formal or informal agreements or policy initiatives taken to facilitate or encourage the flow of labour migrants and funds. Undoubtedly, both the sending countries, viewing migrants as means to increasing short-term domestic economic development, and the receiving countries, recognizing that migrants tend to hold jobs undesired by locals, may regard migrants as “agents of development” who facilitate co-operation between their respective home and host countries.²⁷

However, future political strife in SSA in the long-term may be a “negative” consequence of migrants’ remittances, especially if “disaffection” between SSA countries and citizens arises. In turn, disaffection may give rise to a “sovereignty gap” and foster citizens’ perception of estrangement from the state.²⁸ For example, increased remittances, in terms of the volume as well as the dollar amount sent from abroad may promote SSA citizens’ perceptions of “wealth” and “opportunity” abroad.²⁹ As a result, SSA citizens who either have family or friends abroad sending remittances or know of others who are benefiting from remittances may come to feel a sense of civic disappointment and thereby develop an “appetite for elsewhere”.³⁰ As discussed above, a growing number of households within SSA have come to rely heavily on remittances in order to provide their basic needs. Not being able to realize or attain such opportunities in their country, the remittance class of SSA may gradually come to feel that their individual state is not able to serve and provide for their needs, thus creating negative (and severe) long-term socio-political consequences.³¹

²⁶ Sumata, 625.

²⁷ Senghor et al., 297.

²⁸ Obadare and Adebaniwi, 500, 508.

²⁹ *Ibid.*, 509.

³⁰ *Ibid.*

³¹ *Ibid.*, 500-3, 507.

As a case study, feelings of civic disappointment within Nigeria can be used to further this claim. Although quantifying feelings of citizenship or civic culture is arguably difficult, it can be said that remittances sent to this country have already begun to act as an impediment to (rather than a facilitator of) feelings of genuine citizenship and civic culture to the home country. More specifically, Nigerian citizens' dependence on migrants' remittances for various provisions such as education, health and housing has introduced notions of "withdrawal of faith in the state" amongst the country's population.³² Consequently, it can be suggested that increased feelings of detachment or disloyalty to the domestic country may foster a lack of interest or motivation within SSA citizens to "improve" or change domestic conditions such as ameliorations to local infrastructure, public health, education or the economy, and can thereby lessen individuals' sense of "moral obligation" to their homeland.³³

Overall, it appears that there is a certain tension created by the political impacts of migrants' remittances to SSA in the twenty-first century. Although increased financial flows from abroad have the potential to encourage co-operation between SSA states and countries receiving labour migrants in the short-run, the political implications resulting from remittance dependency may prove to have damaging and devastating political ramifications in the long run.

Critical Reflection

First and foremost, the sources examined for this paper wildly acknowledge that there is currently a lack of concrete empirical evidence with regards to the impacts of migrants' remittances' to Sub-Saharan Africa in the twenty-first century.³⁴ As a result, the arguments provided regarding

³² Ibid., 509, 512.

³³ Ibid., 507, 512; Brown, 64.

³⁴ Merz et al., 67, 69; International Institute for Labour Studies, 81.

impacts of migrants' remittances to SSA since 2000, regardless if they are perceived to be "positive" or "negative" for either the short or long-term, are, to a certain extent, products of guesswork.

In addition, many countries within SSA do not have the statistical tools to evaluate remittances and their local impacts.³⁵ As a result, information regarding the dollar value of transfers and the use of remittances in household's budgets is unknown for many SSA countries, which compounds the extent of uncertainty concerning the impacts described in this paper. Moreover, the empirical information gathered, specifically regarding the dollar value of migrants' remittances to households in SSA, the use of remittances and the impact of remittances on GDP, is likely to be unrepresentative of the true flow of remittances. Based on the sources examined, it is generally agreed that the share of transfers sent via informal channels is likely to be high, so that the true dollar amount of migrants' remittances is underestimated, granted that official records only take into consideration legal transfer channels.³⁶

Finally, this paper examining the impacts of remittances in the region of SSA, rather than a more defined region or an individual African country, may be limiting. In other words, treating SSA, which is a diverse region of various characteristics and identities, as a whole and arguing that similar impacts are or will be observed across the region was a shortcoming of the above analysis.

Conclusion

Overall, there appears to be a disjunction between the perceived short-term benefits and the potential long-run consequences of remittances for SSA and its citizens in the context of the

³⁵ Gubert, 43.

³⁶ Ibid., 42-43; Senghor et al., 205

twenty-first century. This paper highlighted how (perceived) short-term gains of migrants' remittances, notably the economic benefits in terms of increased consumption facilitating economic development, social benefits with regards to increasing children's ability to attend school and political benefits namely increased co-operation between states, appear to be laying the roots for future economic consequences. This is noted notably through economic dependence on foreign revenue as a source of households' income, social losses in terms being unable to utilize invested human capital and political strife through citizens' withdrawal of faith in their state.

To conclude, this paper sought to demonstrate how the economic, social and political impacts of labour migrants' remittances have created favourable conditions to future tension within SSA in the twenty-first century. A definition of several key terms that were employed and a brief contextual background of the issue were first provided, followed by an analysis of the short and long run economic, social and political ramifications of labour migrants' remittances then ensued. Lastly, this paper critically assessed and examined the "validity" of the data used to support the arguments made. Here, it should be noted that further research might contribute to the current lack of concrete empirical evidence regarding the consequences of remittances. More specifically, continued research may reveal alternative policy options or directives that SSA should consider or adopt in order to fully harness the perceived short-term benefits and avoid potential negative long-term consequences. Above all, if these policies were pursued and successfully implemented, their outcomes have the potential to significantly impact the lives of individuals across Sub-Saharan Africa.

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In Pursuit of Sustainable Development: Social and Political Efforts to Effectively Embrace the Principles Underlying International Environmental Law

Erica Lavecchia

Abstract:

This paper asks how sustainable development can be fostered using the principles underlying international environmental law effectively. A definition of several key terms employed, as well as a brief description of several main principles underlying international environmental law, will first be provided. The latter portion of this paper will attempt to demonstrate that certain social requirements and political efforts must be undertaken at both the national and international levels to actively promote sustainable development and effectively engage the principles currently articulated in international environmental law. This, more specifically, seems to require a decreased disparity between the rich and poor as well as increased national and international cooperation. Such efforts, it will be argued, are inextricably interlinked and, like the concept of sustainable development itself, cannot be achieved without the provision of the other.

Résumé :

Ce travail se demande de quelle façon le développement durable peut être facilité efficacement en utilisant les principes du droit environnemental international. Une définition de plusieurs termes clés utilisés ainsi qu'une brève description de plusieurs principes de droit environnemental international seront d'abord fournis. La dernière partie de ce travail tentera de démontrer la nécessité d'entreprendre certains prérequis sociaux et certains efforts politiques aux niveaux tant national qu'international afin de promouvoir le développement durable d'une manière active et d'engager les principes articulés par le droit environnemental international d'une manière efficace. Ceci requiert, d'une façon plus spécifique, un écart diminué entre les riches et les pauvres ainsi qu'une augmentation de la coopération nationale et internationale. Il peut être articulé que ces efforts sont liés inextricablement et, tout comme le concept du développement durable, ne peuvent être accomplis sans la provision de l'autre.

Definition of Key Terms

This section will provide a definition of several of the key concepts that will be employed throughout this paper. “International law,” for example, is to be understood as the body of rules (legally) binding and impacting states’ interactions with one another.¹ “International environmental law” thereby encompasses the substantive, procedural and institutional rules of international law which have, as their primary objective, the protection and conservation of the environment.² By extension, the “environment” will be interpreted as “the objects or the region surrounding anything,” thereby taking into consideration the features of the natural world as well as the products human civilization.³ “Effectively” embracing the principles underlying international environmental law will refer to the actualization or realization of the intent and objectives which the principles were designed to achieve.

First formally emphasized at the 1972 UN Stockholm Declaration on the Human Environment, the concept of sustainable development is based on three pillars, namely economic growth, social development and environmental protection and seeks to meet the development needs of the present without compromising future generations’ needs. As such, advocates of sustainable development seek to ensure equitable consideration is given to the environment in projects designed to promote economic development, while simultaneously taking into consideration the social-dimension of such initiatives.⁴ It is interesting to note that, within the literature reviewed for this paper, it was almost unanimously agreed that the multi-dimensional framework of sustainable development has prevented the formulation of a comprehensive definition of sustainable development. As a result, the concept is generally used and applied as an

¹ Philippe Sands, *Principles of International Environmental Law I: Frameworks, standards and implementation* (Manchester: Manchester University Press, 1995), 103.

² *Ibid.*, 17.

³ *Ibid.*

⁴ Sumudu A. Atapattu, *Emerging Principles of International Environmental Law* (Ardsey: Transnational Publishers, Inc., 2006), 77, 108.

umbrella term that encompasses two components, chiefly: 1) substantive components (which outline the rights of future generations, the sustainable and equitable use of natural resources as well as the integration of the environment and development) and 2) procedural elements (which consider individuals' rights to have access to information regarding the environment, individuals' rights to participate in the decision-making process and individuals' rights to seek remedies to current issues).⁵ Fundamental to the concept of sustainable development, it is worth noting, is development within the framework of human rights, which includes the right to development and the right to a healthy environment.⁶ "Impoverished individuals" will be broadly defined to include those who face "subpar" or "substandard" health conditions, "inadequate" living standards and/or lack the basic necessities essential for survival.⁷ It should be noted that this definition, however broad, is not meant to disregard or make light of the contestable conditions that necessitate "impoverishment".

Lastly, the practice of "good governance" will be understood as the practice of transparency and accountability by a governing body or institution exercised over a given jurisdiction or mandate.⁸ In terms of practical efforts, good governance can be exercised by having an independent judiciary body, following democratic decision-making models, pursuing "sensible" economic and social policies, creating a market-friendly environment that is conducive for development and by installing measures within the governance system that are designed to combat corruption.⁹ Notwithstanding, good governance may not necessitate democratic-styled governance and this paper should not be interpreted as a call for societies to embrace democratic principles. This interpretation of good governance is, however, only meant to highlight the

⁵ Ibid., 93, 95, 129.

⁶ Ibid., 108-9.

⁷ Atapattu, 111.

⁸ Ibid., 179.

⁹ Ibid.

system of “checks and balances” often upheld in democratic institutions that generally are (or have historically proven to be) absent in undemocratic systems.¹⁰

Key Principles Underlying International Environmental Law

Prior to providing a concise description of several key principles underlying international environmental law, a brief historical overview of these principles will be given. For example, it may be relevant to highlight that the traditional principles of international environmental law (such as the Principle of Sovereignty) are primarily based on the notions of territorial sovereignty and state responsibility, as international environmental law is rooted in attempts to solve cross-border issues.¹¹ In order to accommodate “second generation” environmental issues (such as ozone depletion and global warming), new principles and tools to address these concerns (namely the Polluter Pays Principle, the Precautionary Principle, Environmental Impact Assessment (EIA) and the concept of sustainable development) have more recently emerged.¹²

International human rights are a fundamental element of international environmental law. That of particular concern for this paper is the non-binding, widely accepted declaration supporting an individual’s right to a clean environment.¹³ First formulated at the United Nations (UN) General Assembly in 1968 and later reiterated in the 1972 Stockholm Declaration, it has been argued that the preservation of a clean environment is a prerequisite right necessary to the achievement of all other (recognized) international human rights.¹⁴

The Principle of Harm Prevention, as it was formulated in Principle 21 at the Stockholm Declaration, reiterated at the Rio Declaration and later endorsed by the International Court of

¹⁰ Ibid., 180.

¹¹ Ibid., 5; Sands, 183, 186.

¹² Atapattu, 5-6.

¹³ Sands, 222.

¹⁴ Ibid.

Justice (ICJ), creates a general obligation of states to respect the environment of other states as well as the environment of the global commons.¹⁵ Sometimes referred to as the Principle of Preventative Action, this principle requires states to take preventative action (in the form of reducing, limiting and controlling activities which might cause environmental damage) at early stages before (more) harm has the potential to occur.¹⁶

The Principle of Good Neighbourliness and International Co-operation, as enunciated in Article 74 of the UN Charter, calls for the development and application of rules that promote co-operation between states in social, economic and commercial matters.¹⁷ In particular, techniques designed to assure information sharing and increased participation in decision-making amongst states are key practical measures for the realization of this principle.¹⁸

A final key principle of international environmental law is the Principle of Equity, which encompasses considerations of justice and fairness in the establishment, operation or application of the rule of law.¹⁹ In order to ensure that future generations are provided with an environmentally clean and safe environment, the Equity Principle gives rise to several branching notions; namely the Principle of Sustainable Development and its sub-concepts of intra- and inter-generational equity.

Arising from the polarizing debate on environmental protection versus economic development, the Principle of Sustainable Development seeks to encompass elements of both inter- and intra-generational equity in development projects.²⁰ These two notions of equity call for the preservation of resources for the benefit of future generations (intra-generational equity)

¹⁵ Atapattu, 3-4.

¹⁶ Sands, 194-5.

¹⁷ Ibid., 197.

¹⁸ Ibid., 197-8.

¹⁹ Ibid., 124.

²⁰ Ibid., 199; Atapattu, 77-8, 95; Anita Margrethe Halvorssen, *Equality Among Unequals in International Environmental Law: Differential Treatment for Developing Countries* (Boulder: Westview Press, 1999), 42.

and for states to “equitably” use current resources so that the present needs of other present countries and individuals are taken into consideration (inter-generational equity).²¹ As a relatively new principle of international environmental law, it is interesting to note that the Sustainable Development Principle, unlike its predecessor principles, does not make reference to environmental protection, but seeks to embrace, integrate and merge concerns for the environment with economic development.²²

In order to achieve sustainable development, several offspring principles have subsequently been established or have become practiced norms. These mainly include the Precautionary Principle and the Polluter Pays Principle, with EIA as a national tool used to uphold these principles.²³ Reflected in Principle 15 of the Rio Declaration, the Precautionary Principle calls for caution in areas where there is scientific uncertainty regarding potential harm or damage that certain acts may have on the environment.²⁴ In addition, the Polluter Pays Principle insists that the “cost” of pollution be borne by those responsible for causing the pollution.²⁵ Finally, EIA is a systematic process for the examination and evaluation of the environmental effects of proposed activities that are considered to likely have a significant impact on biophysical and social environments.²⁶

²¹ Sands, 199; Ulrich Beyerlin and Thilo Marauhn, *International Environmental Law* (Oxford: Hart Publishing Ltd., 2011), 77.

²² *Ibid.*, 73, 79; Atapattu, 78; Sands, 199; Halvorssen, 42.

²³ Atapattu, 129.

²⁴ Sands, 208; Lynda Collins, “Are We There Yet? The Right to Environment in International and European Law,” *McGill International Journal of Sustainable Development and Policy* 3, no. 2 (2007): 151.

²⁵ Sands, 213.

²⁶ Michael Kidd, “EIA and the Four Ps: Some Observations from South Africa,” in *Land Use Law for Sustainable Development*, eds. Nathalie J. Chalifour et al. (Cambridge: Cambridge University Press, 2007), 181; Michael I. Jeffery, “Environmental Impact Assessment: Addressing the Major Weaknesses,” in *Land Use Law for Sustainable Development*, eds. Nathalie J. Chalifour et al. (Cambridge: Cambridge University Press, 2007), 451.

Efforts at the National Level

Social Efforts Targeting Poverty Minimization or Eradication

In order to promote sustainable development, the minimization (if not eradication) of poverty may be a social directive that allows for the effective practice of the principles underlying international environmental law. For instance, it has been observed that increased levels of poverty (within a given state or region) not only impede sustainable development, but further allow for the violation of other human rights (such as the right to development and the right to a clean environment).²⁷ These findings are rooted in the likelihood that those living in impoverished areas (where it may be difficult for individuals to satisfy their basic needs) are less likely to have great concern for environmental protection and the social impacts of economic development projects.²⁸ In other words, impoverished individuals may allow environmental and social concerns to play a subsidiary role in resource use and project construction, especially if they are under the impression that economic development would ameliorate or improve their current conditions.²⁹ This assumption, however, contradicts the multi-dimensional framework of sustainable development. Thus, in order to fully embrace the notion of sustainable development, poverty reduction (if not total eradication) at the national level may be imperative in generating equal concern and attention to economic, environmental and social factors underlying (development) projects. By extension, this may call for a framework of collective responsibility, possibly requiring more inclusionary (global) participation and co-operation.³⁰

²⁷ Jeffery, 111, 175.

²⁸ Ibid., 175; Louis J. Kotzé, "The Judiciary, the Environmental Right and the Quest for Sustainability in South Africa: A Critical Reflection," *Review of European Community and International Environmental Law* 16, no. 3 (2007): 311; Edith Brown Weiss, "Environmental Equity: The Imperative for the Twenty-First Century," in *Sustainable Development and International Law*, ed. Winfried Lang (London: Graham & Trotman Ltd., 1995), 23.

²⁹ Atapattu, 175; Kotzé, 311; Weiss, "Environmental Equity: The Imperative for the Twenty-First Century," 23.

³⁰ Atapattu, 113.

Given the above, reducing national poverty levels may not only assist in the promotion of sustainable development, but may further reiterate and reinforce those human rights articulated in and principles underlying international environmental law. More specifically, the right to development and the right to a clean environment may be (more) effectively and fully realized (especially in the sense of being applicable to a greater number of individuals) following successful efforts of poverty reduction. Moreover, a decrease in poverty may also have positive implications in terms of improving inter- and intra-generational equity; as such efforts arguably have the potential to raise the “well-being” or living standards and conditions (especially in terms of economic growth, the provision of a clean environment and social development) for individuals in the present and future.

Political Efforts Toward Integrated Decision-Making

It has been argued that, in the pursuit of achieving sustainable development, there are specific “positive” attributes associated with and derived from integrated decision-making models. Given the inclusionary nature of such models (whereby both an increased amount of individuals as well as contrasting views from various disciplines are represented), integrated decision-making may allow for environmental considerations and social goals to be better incorporated into formal or institutionalized decision-making processes concerning economic development projects.³¹ Under this consideration, integrated decision-making may more effectively respond to the multi-dimensional nature of environmental stresses and issues as well as the core relationship between the environment, economic development and social factors underlying sustainable development.³²

³¹ Ibid., 131.

³² Ibid., 132.

As such, integrated decision-making, appears to effectively embrace the Principles of Cooperation and Equity articulated in international environmental law. Firstly, decision-making processes that call for a wider array of participation amongst individuals (including experts in a given field and the common public) may allow for a greater number of voices and opinions to be heard. In particular, widespread participation may more effectively operationalise sustainable development (as well as ensure individuals' procedural rights are upheld) as it is translated into law and policy tools simply because of the broad scope of the debate.³³ Consequently, aspects of economic development, environmental considerations and social issues, which must be given equal consideration in sustainable development projects, may be less likely to be treated as distinct and separate issues and instead become more effectively integrated throughout the decision-making process. Of course, such participation as a mechanism of fostering sustainable development implicitly assumes that all individuals are willing and prepared to actively and meaningfully participate in such processes. Further, some may be inclined to suggest that a wider spectrum of differing viewpoints may give rise to strife, inefficiency and ultimately fail to reach a final decision. However, it must be acknowledged that the very act of bringing together these (dissenting) views may at least allow for others to understand and appreciate the concerns of dissenting parties. An optimal outcome would, of course, involve parties to compromise and to ultimately reach the "best" decision.

Secondly, integrated decision-making that takes into consideration contrasting viewpoints from a variety of disciplines, has a temporal quality. In other words, there may be a greater probability that final decisions take into account the long-term impact of projects or activities and thereby incorporate inter-generational equity.³⁴ Here, one may argue that it is often difficult for

³³ Ibid., 93.

³⁴ Ibid., 134.

humans to know, let alone predict, the long-term consequences of their actions, so that any decisions are limited to a certain extent by scientific uncertainty.³⁵ One may also suggest that humans exemplify or tend to lack a willingness or ability to plan for events in the near or far future.³⁶ This, of course, places into jeopardy the extent to which integrated decision-making approaches can be “practically” applied. As a response to the above concerns, certain “tools”, such as model of good governance and EIAs may be adopted in order to maximize the effectiveness of integrated decision-making approaches.³⁷

The practice of good governance may be closely intertwined with the success of integrated decision-making if corrupt institutions do not uphold principles of transparency and accountability and so, in turn, do not provide a conducive environment for active citizen participation.³⁸ As argued above, the multi-dimensional nature of sustainable development does, however, call for the voices of differing views to be heard. Thus, it may be the case that the successful practice of good governance is not only a prerequisite for the promotion of individual procedural rights, but is further required in order to foster sustainable development.

EIAs may be seen as an additional tool whereby integrated decision-making can be actualized in order to foster sustainable development. From a public policy perspective, the very use of EIAs represents a significant change from the general retrospective and punitive nature of traditional “command and control” methods of (environmental) regulation.³⁹ EIAs can therefore be thought of as a distinct tool (relative to past forms of environmental regulation) because they

³⁵ Ibid.

³⁶ Ibid., 135.

³⁷ Ibid., 134.

³⁸ Ibid., 93, 170 179.

³⁹ Jeffery, 451.

adopt a preventative approach and so embrace the Principle of Harm Prevention and the Precautionary Principle.⁴⁰

A well-informed and educated citizenry may play an important role in the decision-making process in order for EIAs be effective, as increased public participation may better embrace the multi-dimensional nature of sustainable development. In addition, if decisions concerning land use and natural resource development are inherently public and political acts (rather than merely processes of technical evaluation), this may imply that any and all decisions involve the allocation of public resources and competing individual priorities.⁴¹ As discussed above, a more integrated decision-making approach has at least the potential to allow for the interests, needs, values and concerns of those (in)directly implicated by a project to be heard and considered, so that traditional and ordinary forms of knowledge are recognized.⁴² Consequently, a broader array of concerns and voices may not only allow individuals to feel empowered and promote social equity, but increased participation within the assessment process may further allow for the “true” social, economic and environmental impacts of a given project to be given due consideration.⁴³ For such a model to be truly effective, a more active, better educated and well-informed public may be required, so that individuals can come to understand and appreciate the multi-dimensional goal of sustainable development as well as meaningfully participate in deliberations.⁴⁴ This, in turn, may demand for reduced national poverty levels in order to place all members of the public at an “equal” playing ground where they are in a position to appreciate, consider, understand and partake in the pertinent debates surrounding the economic, environmental and social impacts of a given project.

⁴⁰ Ibid.

⁴¹ Ibid., 453.

⁴² Ibid; Kidd, 188.

⁴³ Kidd, 188; Jeffery, 453-4.

⁴⁴ Jeffery, 454.

Efforts at the International Level

A Call for Greater and More Effective International Co-operation

Attempts to effectively engage the principles underlying international environmental law with the intent of promoting of sustainable development may be barred at the international level by minimal, or a complete lack of, co-operation amongst the relevant international bodies. Although countries may share a commonality of interests in maintaining the robustness and integrity of the planet, it cannot be denied that there are deep differences among their ideologies and policies over the (equitable) allocation of the burdens of addressing such issues as well as the manner through which these issues should be addressed.⁴⁵ Moreover, states may not always agree on individual and common short- and long-term goals or priorities; specifically whether to satisfy immediate needs of poverty alleviation to pursue policies that prevent or minimize environmental degradation.⁴⁶ These “clashes” of interests, ideologies, perceptions and priorities have the potential to intensify, especially as countries attempt to reach a consensus on what is “equitable” in the context of sustainable development.⁴⁷

Thus, in order to more effectively achieve sustainable development, it can be argued that such conflicts and disparities should be minimized.⁴⁸ As an underlying principle of international environmental law, co-operation is, without doubt integral for effective and efficient decision-making between states. More specifically, given that sustainable development encompasses economic development, social and environmental considerations, international co-operation in

⁴⁵ Edith Brown Weiss, “International Environmental Law: Contemporary Issues and the Emergence of a New World Order,” *Georgetown Law Journal* 81, no. 3 (1993): 710.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

these three key areas may prove to yield more effective policies and agreed upon norms regarding sustainable development.⁴⁹

By extension, increased and effective international co-operation may demand that the general norm of sustainability and an objective of sustainable development become the basis for state and non-governmental activities.⁵⁰ Although the importance and primacy of the state's role in international affairs and discussions regarding sustainable development is beyond the scope of this paper, the potential for the state to play an active role may be considered; which itself would likely entail for greater international co-operation between states and other relevant actors, such as the private sector, the scientific community and other relevant non-governmental institutions and actors.⁵¹

As a tool whereby discussion is facilitated, differing views are sought and listened to, and consensus or agreements are (hopefully) achieved, international institutions may also play a significant role in fostering sustainable development. It has, however, been suggested that it may be necessary to reform current institutions so that a more holistic and coordinated approach (that more appropriately conforms to models of sustainable development) is promoted.⁵² In addition, certain environmental issues, especially those (unaddressed) issues experienced by developing countries (such as desertification and soils, shelter and urbanization, management of wastes, food security and sustainable agriculture, environmental emergencies and other problems arising from poverty) may need to be emphasized and given equal attention relative to the concerns held by industrialized countries.⁵³ That is not to say that problems experienced by industrialized nations

⁴⁹ Atapattu, 122.

⁵⁰ Nico Schrijver, *The Evolution of Sustainable Development in International Law: Inception, Meaning and Status* (Boston: Martinus Nijhoff Publishers, 2008), 225.

⁵¹ *Ibid.*

⁵² Atapattu, 128.

⁵³ John Ntambirweki, "The Developing Countries in the Evolution of an International Environmental Law," *Hasting International and Comparative Law Review* 14, no. 4 (1991): 926-7.

should be ignored or minimized or that these issues are not as relevant; rather, this is strictly a call to ensure that the environmental problems faced by developed and developing states are given equal attention by international organizations.

Should sustainable development become an integral aspect of international institutions' mandate or their primary focus, a reformation of several current international institutions may be necessary.⁵⁴ Firstly, realigning current institutional priorities, if truly embraced, may prove to be more effective in promoting sustainable development practices. Moreover, better co-ordination of duties and responsibilities between present international environmental, economic and development institutions (such as the UNEP, the Commission on Sustainable Development (CSD), the United Nations Development Programme (UNDP) and the World Bank) may be required.⁵⁵ This is not to say that overlap of activities can be minimized completely, but effective co-operation and meaningful dialogue between key institutions, as a principle underlying international environmental law, has the potential to more efficiently integrate the multi-dimensional nature of sustainable development.

Social Efforts to "Bridge the Gap" Between Industrialized and Developing States

As at the national level, increased disparity between rich and poor states may bar effective implementation of the principles underlying international environmental law as well as impede the pursuit of sustainable development. To reiterate, "impoverished" nations tend to place more focus and emphasis on projects and policies intended to allow for economic growth; thereby placing environmental and social concerns and consequences of initiatives to play secondary and

⁵⁴ Atapattu, 129.

⁵⁵ Ibid., 180-1.

tertiary roles.⁵⁶ Again, such behaviour is not only contradictory to the practice of sustainable development, but may further fail to embrace certain principles and rights (especially the right to a clean environment and the Principle of Equity) articulated in international environmental law. Thus, it can be suggested that, in order to foster sustainable development on a global scale, social efforts designed to decrease the disparity between rich and poor nations may be essential.

Certain (legally binding) provisions designed to provide “technical assistance” (namely technology transfers from industrialized to developing countries) may prove to be a specific international co-operation initiative whereby the current disparity between rich and poor states may be reduced.⁵⁷ Understood as all forms of international co-operation and collaboration other than purely commercial relations between states, technical assistance, it can additionally be suggested, may a keystone requirement to help “bridge the gap” if it allows developing countries to give the environment due consideration in development projects designed to contribute to the acceleration of economic growth and social development.⁵⁸ This, in turn, may ultimately call for increased international co-operation amongst states and other international actors with regards to the agreement or design of (formalized) arrangements declaring or providing these transfers. As demonstrated in several international agreements and conventions (such as the Basel Convention, the Vienna Convention, the Montreal Protocol, the Long Guidelines for Exchange of Information and Chemicals in Trade as well as the legal instruments within the UNEP), the manner through which technical assistance is provided is, of course, likely to differ amongst legal instruments.⁵⁹

Above all, (increased) technology transfers may be imperative in order to minimize or extinguish present inequalities and disparities between current generations. Technology transfers

⁵⁶ Weiss, “Environmental Equity: The Imperative for the Twenty-First Century,” 23.

⁵⁷ Ntambirweki, 916.

⁵⁸ *Ibid.*, 916, 918.

⁵⁹ *Ibid.*, 916.

may additionally allow for a more effective actualization of the Principle of Equity as it concerns standards of living and “well-being” of current and future generations.⁶⁰ Reducing the amount of disparity may also contribute to efforts aimed at promoting sustainable development, as it may allow decision-makers and the public at large to (have the means to) become (more) concerned, involved and aware of the multi-dimensional aspects of a given project.

Concluding Remarks

Following this discussion, it appears that increased co-operation, along with decreasing the disparity between the rich and poor, are integral to the promotion of sustainable development at both the national and international levels. Not only would such social and political action allow for more effective implementation of the main principles underlying international environmental law, but they further seem to be inextricably and inversely interlinked. At the national level, increased, active and meaningful participation of individuals requires a well-educated and well-informed (or, less impoverished) population that is able to equally consider and make sense of economic, environmental and social concerns. Additionally, increased co-operation between different players on the international stage appears to be imperative to ensure that the various needs and issues faced by industrialized and developing countries are equally met and addressed.

In order for such initiatives to be realized, the reduction of poverty (thereby reducing social and financial disparity) between individuals and states may prove to be imperative for the wide-spread and meaningful participation and co-operation that is required. In other words, the disparity between the rich and poor appears to be inversely related to increased and meaningful co-operation aimed at achieving sustainable development; the greater the disparity, the less potential there is for such co-operation. Tools or initiatives that may foster sustainable

⁶⁰ Ibid., 924.

development by making effective use of the principles underlying international environmental law may include processes of “good governance” and increased EIAs at the national level, as well as reformed roles of international institutions and the provision of (increased) technical assistance at the international level.

Overall, this paper sought to outline certain social and political efforts that may actively promote sustainable development and effectively engage the principles underlying international environmental law. After defining a number of key terms and briefly describing several main principles articulated in international environmental law, it was suggested that social action aimed at decreasing the “gap” between the rich and poor, along with the extent and level of co-operation amongst various actors, are inextricably and inversely interlinked. To foster sustainable development and effectively uphold certain principles underlying international environmental law may therefore call for a reduction in poverty levels and increased co-operation in decision-making processes on both the national and international stage.

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Misguided Defensive and Offensive Realism Based on the Sino-Myanmar Pipeline Project

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Abstract:

This paper attempts to analyze China's foreign policy in regards to the Sino-Myanmar pipeline project through a look at misguided uses of defensive and offensive realism. The argument of this paper is that in the anarchical international system, states do not seek security as defensive and offensive realism commonly hold. Rather, states seek to control and shape their external environment. First, defensive and offensive realism are briefly discussed, specifically within the context of the Sino-Myanmar pipeline project. Further, it is suggested that neoclassical realism may be a better guide to understand the contemporary oil situation in China.

Résumé :

Ce travail tente d'analyser la politique étrangère de la Chine en ce qui a trait au projet pipeline Sino-Myanmar à travers d'une interprétation de l'utilisation erronée des réalismes défensif et offensif. L'argument de ce travail maintient qu'au sein du système international anarchique les états ne recherchent pas la sécurité tel qu'il est soutenu par les réalismes défensif et offensif. Les états cherchent plutôt à contrôler et définir leur environnement externe. D'abord, les réalismes défensif et offensif sont discutés brièvement dans le contexte du projet pipeline Sino-Myanmar spécifiquement. Plus loin, il est suggéré que le réalisme néoclassique pourrait être un meilleur guide pour comprendre la situation pétrolière contemporaine en Chine.

Energy security is inevitable in China's foreign policy since China's economic growth is heavily dependent on imported energy resources, mainly oil. Most of the Chinese oil industry depends on comes from the Middle East and Africa passing by the Strait of Malacca, where it connects the Indian Ocean with the South China Sea. However, China fears that the United States might block oil flows into China through the Strait of Malacca in the event of its military action against Taiwan.¹ China also worries that the U.S. might control the Strait of Malacca since international terrorists might target ships passing through the critically strategic waterway.² The Sino-Myanmar pipeline project is one of China's efforts to find alternative pathways to avoid the vulnerability in the Strait of Malacca.³ Between defensive realism and offensive realism, where can China's pipeline project in Myanmar be situated as its empirical example? Can defensive realism explain it fully since it predicts that when nations feel threatened they will pursue military, economic, and diplomatic strategies to increase security?⁴ However, offensive realism might argue that “states begin with a defensive motive, but are forced to think and sometimes act offensively because of the structure of the international system.”⁵

The purpose of this paper is to show that both defensive realism and offensive realism are misguided. This is from the perspective of neoclassical realism, which can explain the Sino-Myanmar pipeline project. The argument of this paper is that in the anarchical international system, states do not seek security as defensive and offensive realism commonly hold. Rather, states seek to control and shape their external environment. Depending on the amount of their resources or power

1 Park K Lee, “China's Quest for Oil Security: Oil (War) in the Pipeline?”, *The Pacific Review* 18, no. 2 (2005): 269, quoted in Shaofeng, “China's Self-Extrication,” 9.

2 Shaofeng, “China's Self-Extrication,” 9.

3 *Ibid.*, 11.

4 Blazevic, “Defensive Realism,” 60.

5 Mearsheimer, “Back to the future: Instability in Europe after the Cold War.” in Brown et al.; *idem*(fn.4): 337, quoted in Rose, “Neoclassical Realism,” 149.

with which states can influence other states, states determine the degree of their foreign policies.⁶ This paper consists of six parts. First, the paper describes briefly the debate between defensive realism and offensive realism. Second, it examines China's concerns on the Strait of Malacca. Third, it examines the backgrounds of the Sino-Myanmar pipeline project. Fourth the paper examines why defensive realism is misguided, followed by examining why offensive realism is misguided based on the Sino-Myanmar pipeline project. The paper concludes by discussing Myanmar's changing foreign policy toward China.

Defensive realism vs. Offensive realism

As theories of foreign policy which deals with a particular state and its motivations, policies, and behaviour with respect to international affairs,⁷ both defensive realism and offensive realism, as Rose argues, derive from the common assumption that “the international system is anarchic nature and states are motivated by a desire for security.”⁸ Similarly, Kirshner argues “virtually all realists share the view that fear - alertness to the dangers of the world - is a primal motive of behaviour, and that security is a principal and urgent desire.”⁹ However, the two branches disagree with respect to the logical implications of anarchy.

Defensive realism holds that international anarchy is not as malignant as generally assumed, that is that “security is often plentiful rather than scarce and that rational states pursuing security can often afford to be relaxed, only responding to external threats, which are rare.”¹⁰ In the defensive realists’ world, international anarchy provides incentives for expansion only under

6 Rose, “Neoclassical Realism,” 52.

7 Feng and Ruizhuang, “The Typologies,” 117; Rose, “Neoclassical Realism,” 145.

8 Rose, “Neoclassical Realism,” 149.

9 Kirshner, “The tragedy,” 55.

10 Rose, “Neoclassical Realism,” 149.

certain conditions.¹¹

Offensive realism, in contrast, holds that international anarchy is generally Hobbesian; security is scarce and states try to achieve it by maximizing their relative advantage.¹² Mearsheimer argues that states, motivated to ensure their own security, will recognize that the safest position in the system is “one of regional hegemony.”¹³ In regard to the rise of China, for example, Mearsheimer argues that “a powerful China will seek to dominate Asia the way the United States dominates the western hemisphere” and urges the US “to reverse course and do what it can to slow the rise of China.”¹⁴ For offensive realists, anarchy provides strong incentives for expansion and all states strive to maximize their power because only the most powerful states can guarantee their survival.¹⁵ In the offensive realists world, rational states pursuing security are liable to take actions that can lead to conflict with others.¹⁶ Mearsheimer concludes, “China cannot rise peacefully”; as its capabilities increase, China will become “an aggressive state determined to achieve regional hegemony.”¹⁷ Whether China's pipeline project is derived from its ambitious desire to be regional hegemony or for preparing for a rainy day will be discussed in the next section.

China's concerns with the Strait of Malacca

Eighty per cent of China's oil imports pass through the Strait of Malacca.¹⁸ As Shaofeng describes, in every respect can the Strait of Malacca be regarded as “a life line of the rising dragon,”

11 Taliaferro, “Security Seeking,” 129.

12 Rose, “Neoclassical Realism,” 149.

13 Kirshner, “The tragedy,” 60.

14 Ibid., 59-60

15 Taliaferro, “Security Seeking,” 128; Kirshner, “The tragedy,” 60.

16 Rose, “Neoclassical Realism,” 149.

17 Kirshner, “The tragedy,” 59.

18 Zhao, “China,” 2; Shaogeng, “China's Self-Extrication,” 2; Kong, “The Geopolitics,” 58.

therefore, any disruption or blockade on the Strait of Malacca, either by groups or by nation states, will definitely interrupt China's economic growth.¹⁹ Shaofeng describes China's three major concerns.²⁰

The first concern is ongoing piracy incidents. In the 1980s and 1990s, the yearly reported piracy incidents in Southeast Asian waters were below sixty, but there were 1220 (one thousand two hundred and twenty) actual and attempted attacks over 1999 to 2005.²¹ As a result, Southeast Asia was regarded as one of the world's two most frequent scenes of pirate attacks against seaborne vessels, and the Strait of Malacca is frequently troubled by piracy attacks, just next to Indonesia.²² Despite the three littoral states in the Strait of Malacca, Indonesia, Malaysia, and Singapore, have launched coordinated patrols and brought the piracy attacks down; possibilities of pirate attacks can hardly be deterred.²³

Maritime terrorism is another concern with China's increasing reliance on seaborne shipments. However, the seriousness of this problem is interpreted differently among countries. Countries like the U.S. and Singapore tend to highlight the vulnerability of the Strait of Malacca to terrorist attacks, claiming that the threat of terrorist attacks have increased since September 11th 2001.²⁴ However, Indonesia and Malaysia believe that some countries including the U.S. use the greater risk of terrorist attacks in the Strait of Malacca as an excuse to control the economically strategic waterway.²⁵ China has fears that international terrorists might target ships passing through

19 Shaofeng, "China's Self-Extrication," 2.

20 Ibid., 8-9.

21 Ibid., 8.

22 Ibid.

23 Ibid.

24 Ibid.

25 Ibid., 9.

the Strait of Malacca and the U.S might control the waterway.²⁶

The third concern, and probably the deepest one, rests with the U.S.' active presence in the Asian Pacific waters.²⁷ In the eyes of some Chinese strategic analysts, the Strait of Malacca is crucial for the U.S. “to gain geopolitical preeminence, check the rise of China and other powers, and control the flow of world energy.”²⁸ China particularly worries that the U.S. might obstruct seaborne oil flows into China in the event of its military action against Taiwan.²⁹ China also holds that the U.S. would make use of its presence in the strategic Strait of Malacca to halt the People's Liberation Army Navy to go to blue waters, a precondition for its rise as a world power.³⁰ This raises the question of what the probability is for the U.S. to interrupt China's oil imports.

Many Chinese analysts believe that an oil blockade by the U.S. would be highly unfeasible because of questionable legality in international law while Chinese military analysts and energy experts are “nearly unanimous” in their conclusion that a U.S. blockade of China's oil imports would be tantamount to war.³¹

The U.S. oil blockade may remote, yet the psychological impact of its very possibility is often far greater than physical consequence.³² Much of this anxiety stems from the belief that China's economy cannot tolerate a substantial disruption to its oil supply and this belief has led the

26 Ibid.

27 Ibid.

28 Shi, “Potential threat,” quoted in Shaofeng, “China's Self-Extrication,” 9.

29 Shofeng, “China's Self-Extrication,” 9; Blair, Yali, and Hagt, “The oil weapon,” 42; Pamwar, “India and China,” 5.

30 Shofeng, “China's Self-Extrication,” 9.

31 Blair, Yali, and Hagt, “The oil weapon,” 42.

32 Ibid., 43.

Chinese government to a global search for alternative pathways.³³ Zhao argues that China needs to place a high priority on getting “as much future oil and gas as possible from as close as home as possible.”³⁴ The Sino-Myanmar pipeline project will open a fourth route for China's oil and natural gas imports, after ocean shipping via the Strait of Malacca, the Sino-Kazakhstan crude oil and natural gas pipelines, and the Sino-Russian oil pipeline.³⁵

Sino-Myanmar Pipeline Project: origin, expectations, and challenges

This section begins with explaining the origin of the pipeline proposal because it was not China who approached Myanmar first. India's gas pipeline was proposed before China's approach and Myanmar dramatically switched its decision to make pipelines with China from India.³⁶ This is important in order to understand how national interests or decision makers' calculations on those interests impact on a country's foreign policy in international relations.

In late 2003, a consortium of South Korean and Indian companies led by Daewoo International discovered substantial reserves of natural gas in three gas fields - Shwe, Shwe Phyu and Mya - located off the Myanmar city of Sittwe in the Gulf of Bengal and it was thought that India would be granted exclusive buying rights over the Shwe gas fields.³⁷ In January 2005, in a trilateral meeting, India, Bangladesh and Myanmar agreed to transport natural gas from Myanmar to India by pipeline transiting through Bangladesh.³⁸ India's domestic energy priorities led to a close Indo-Myanmar relationship regardless of “great power disapproval” such as the United States

33 Ibid., 36.

34 Zhao, “China-Myanmar,” 95.

35 Ibid.

36 Lall, “Indo-Myanmar,” 428; O'Connor, “State building,” 15; Panwar, “India and China,” 14.

37 O'Connor, “State building,” 15.

38 Ibid.

and the United Kingdom, and India's proposed gas pipeline with Myanmar through Bangladesh was of particular interest.³⁹ India's effort to have good relations with Myanmar aimed not only for energy security for its economic growth but also its opening up the trade with Myanmar which would enhance India's relations with the rest of Southeast Asia.⁴⁰

However, the Bangladesh government's demands on India hold the Indo-Myanmar pipeline project and in late 2005, eventually, China's state owned the company, PetroChina, signed a Memorandum of Understanding with State owned Myanmar Oil and Gas Enterprise.⁴¹ This allowed China, who came late for the project, to have purchasing rights of gas from the Shwe fields on the basis that it would be exported to Yunnan Province in China through a pipeline.⁴² In late 2008 the consortium led by Daewoo who owns fifty one per cent of the equity stakes in the three gas fields finally agreed to grant exclusive purchasing rights of the Shwe gas to China for a period of thirty years.⁴³

Through all those dramatic events, finally in June 2009, a MoU between China and Myanmar on the construction of the Sino-Myanmar oil pipeline to be laid next to the gas pipeline was signed⁴⁴ and the construction of pipelines was officially launched in 2010 and is expected to be in operation in 2013.⁴⁵ China is responsible for the construction and operation of the pipelines while Myanmar will provide security for the pipelines.⁴⁶ In addition to financing the construction of pipelines and pipeline related facilities, China will pay Myanmar a sizable transit fee (about one billion or more in annual revenue), which will generate stable source of income for Myanmar's

39 Lall, "Indo-Myanmar," 426.

40 Ibid.

41 O'Connor, "State building," 15; Zhao, "Introduction," 186; Panwar, "India and China," 14.

42 O'Connor, "State building," 15.

43 Panwar, "India and China," 14; Zhao, "Introduction," 186.

44 O'Connor, "State building," 16.

45 Panwar, "India and China," 15.

46 Zhao, "China-Myanmar," 3.

government over 30 years.⁴⁷

It is commonly held that the Sino-Myanmar pipelines, once operational, would eliminate Chinese reliance on present Malacca Strait enhancing China's oil supply security, and would create a transport reduction to China's southern coast.⁴⁸ However, given that the pipeline will only deliver ten per cent of China's current oil imports,⁴⁹ its impact is likely to be marginal, meaning the reliance on the Strait of Malacca are still likely to be continued.⁵⁰ Moreover, the Sino-Myanmar pipeline project would come at a high cost since pipeline related facilities, such as transport infrastructure, a deep-water crude oil serving dock, and an oil storage facility, have to be built along with pipelines.⁵¹ Aside from the high cost of building, there are some challenges that the Sino-Myanmar pipelines might face. Firstly, the pipelines have to travel across a set of complex and diverse terrains, including transverse mountains, surging rivers, virgin forest, and parts of Yunnan province that are prone to landslides, erosions, and mudflows.⁵²

Secondly, the pipeline route passes close to areas controlled by ethnic militias in the northern Shan state bordering China.⁵³ There have been continuous conflicts between these opposition groups and the Myanmar government. The Sino-Myanmar pipelines could be endangered by civil conflict in Myanmar.⁵⁴ Thirdly, there is increasing resentment towards Chinese businessmen among local Myanmar people. Local people complain that there are no job opportunities for them and land use is not properly compensated.⁵⁵ However, Chinese companies

47 Kong, "The Geopolitics," 64.

48 Panwar, "India and China," 15.

49 Zhao, "Introduction," 95; Kong, "The Geopolitics," 63.

50 Kong, "The Geopolitics," 63.

51 Zhao, "Introduction," 101; Kong, "The Geopolitics," 63.

52 Kong, "The Geopolitics," 63; Zhao, "Introduction," 101-02.

53 Zhao, "Introduction," 102.

54 Zhao, "Introduction," 102; Kong, "The Geopolitics," 64.

55 Zhao, "Introduction," 90, 101.

say they could not find enough qualified local workers to get involved in the pipeline project.⁵⁶ The local people's discontent might lead to an attack or disruption on the Sino-Myanmar pipelines.

In sum, China's effort to deliver oil to Yunnan province through a pipeline passing by Myanmar seems not to be immune to the similar risks as those of oil ships passing by the Strait of Malacca. China's oil security might be still under uncertainties. This raises the question of what China's ultimate objective is from the Sino-Myanmar pipeline project if it is not for oil security. Which international relations theory can explain this?

Why defensive realism is misguided

Defensive realism predicts that when nations feel threatened they will pursue economic, diplomatic, and military strategies to increase security.⁵⁷ According to this analysis, the Sino-Myanmar pipeline project can be understood as China's search for oil security because China fears an oil disruption by the U.S. (as the deepest concern) given that there is no overarching authority to prevent the U.S. from using violence or the threat of violence to disrupt China's oil shipments passing by the Strait of Malacca. However, from a neoclassical realist perspective, defensive realism is misguided because it emphasizes countries' responses to threats and overlooks the fact that one's perceptions of threat are partly shaped by "one's relative material power with which states can influence each other."⁵⁸ How much does China feel threatened by the U.S.? China, as an emerging great power, is notably an important strategic rival of, and economically with, the U.S.⁵⁹

China, first of all, is one of the five permanent members of the United Nations Security Council (China, France, Russia, United Kingdom, and the United States). Each member of the

⁵⁶ Ibid., 102.

⁵⁷ Blazebic, "Defensive Realism," 62.

⁵⁸ Rose, "Neoclassical Realism," 150.

⁵⁹ Krishner, "The tragedy," 59.

Security Council holds a veto power, which can be exercised unilaterally. In other words, any permanent member alone can block any resolution. For example, China used a veto power to protect Myanmar whenever the U.N. Security Council, which includes the U.S., tried to impose sanctions on Myanmar for its violations of human rights and want of political reforms.⁶⁰ Second, China's massive dollar holdings are a key pillar of support for the stability of the U.S. dollar.⁶¹ Finally, China's possession of nuclear weapons is another aspect to be considered when it comes to China's perception of threat.

Given that China has capabilities or resources with which it can influence the U.S., China's perceived threat would be marginal compared to the one of those states, which does not have as much political or economic power as China. China's fear of an oil blockade by the U.S. on the Strait of Malacca would remote its possibility.⁶² More importantly, given that China's effort to seek oil security through the Sino-Myanmar pipelines might be interrupted by opposition groups or local people in Myanmar, defensive realism seems to be insufficient to explain full range of state behaviour with respect to international affairs.

Why offensive realism is misguided

The distinction between defensive and offensive realism is a distinction with respect to whether states maximize security or power.⁶³ All of the scholars with the latter camp argue that states maximize power in order to achieve the primary goals that states seek; survival and security, and

60 Panwar, "India and China," 8.

61 Krishner, "The tragedy," 63.

62 Blair, Yali, and Hagt, "The Oil Weapon," 55.

63 Feng and Ruizhuang, "The Typologies," 122.

further contend that states tend towards aggressive policies that can lead to conflict with others.⁶⁴ According to this view, China's action in Myanmar is a part of the effort to be the most powerful state in the system to ensure its survival and it might lead to conflict with other states; possibly with the U.S.

China benefits immensely from its ability to access the American market.⁶⁵ Besides, as Kirshner describes, China lives in “a very crowded neighborhood” in which it «is extremely unlikely to achieve regional hegemony.”⁶⁶ China shares a long border with Russia, which has a very large nuclear force. China borders India, which is also a nuclear armed state and has a latent economic potential similar even to that of China. Japan is also very close by. Japan, which is a strong ally of the U.S., if frightened or provoked, has the capacity to develop an independent nuclear force. Nuclear-capable North Korea would be another regional player sharing a border with China.⁶⁷ In sum, there is no reason to believe that if China were a rational actor motivated primarily to survive, it would embark upon a bid for hegemony.⁶⁸

For offensive realists, domestic differences between countries are considered to be relatively unimportant, because pressures from the international system are assumed to be strong and straightforward enough to make similarly situated states behave alike, regardless of their internal characteristics.⁶⁹ However, this view is misguided, from a neoclassical realist perspective because to understand the way states interpret and respond to their external environment, one must analyze how systemic pressures are translated through unit-level intervening variables such as

64 Feng and Ruizhuang, “The Typologies,” 123-24; Rose, “Neoclassical Realism,” 149; Kirshner, “The tragedy,” 61.

65 Kirshner, “The tragedy,” 59.

66 Ibid.

67 Ibid.

68 Ibid.

69 Rose, “Neoclassical Realism,” 149.

decision-makers' perception and domestic state structure.⁷⁰

In an example of the Sino-Myanmar pipeline project, one of China's interests in Myanmar is to develop its western provinces, especially landlocked Yunnan and Sichuan, which lagged behind from China's economic boom.⁷¹ Security concerns of China, in relation to Myanmar, are the flow of drugs, cross border human trafficking and a growing HIV/AIDS epidemic. Yunnan province is the most affected by these concerns.⁷² As examined above, what has led defensive and offensive realism misguided is the common assumption between defensive and offensive realism that states seek security under anarchy. In the following section, I will show how the Sino-Myanmar pipeline project can be explained differently.

The Sino-Myanmar Pipeline Project: oil security or something else?

Instead of assuming that states seek security, neoclassical realists assume that states respond to the uncertainties of international anarchy by seeking to control and shape their external environment.⁷³ For neoclassical realists, “states are likely to want more rather than less external influence and pursue such influence to the extent that they are able to do so.”⁷⁴ From a regional perspective, the Sino-Myanmar pipeline project is expected to enhance energy cooperation between China and Southeast Asia.⁷⁵ Southeast Asia is richer in natural gas than in oil. As for individual countries, Indonesia, Malaysia, and Brunei are the main gas exporters among Association of Southeast Asian Nations (ASEAN) countries. In 2002, ASEAN member states adapted the ASEAN MoU on the Trans-ASEAN Gas Pipeline (TAGP). Since then, several regional gas pipelines have been

70 Ibid., 152.

71 Panwar, “India and China,” 10.

72 C S Kuppaswamy, “Myanmar: Sandwiched between China and India and gaining from both”, South Asia Analysis Group, no. 2574 (2005), quoted in Panwar, “India and China,” 10.

73 Rose, “Neoclassical Realism,” 152.

74 Ibid.

75 Zhao, “China and Myanmar,” 96.

completed and several more are in the process of design and construction.⁷⁶ Full interconnection of these pipelines would see “the creation of an interconnected gas grid” and increasing gas trade throughout ASEAN countries.⁷⁷ Given the ambitious magnitude of the Trans-ASEAN gas pipeline and the Sino-Myanmar pipelines, it is possible that the network would connect with gas markets in China, Japan, and India, making it the largest pipeline network in the world.⁷⁸

In addition to the oil and gas trade, China's increasing investment in oil and gas exploration and production in Myanmar and other Southeast Asian countries is another important aspect of China-ASEAN energy cooperation. In fact, in 2004, Indonesia expressed that it would further strengthen energy cooperation with China.⁷⁹ Given the importance of Southeast Asia in China's oil and gas supply, the level of oil and gas cooperation between China and other ten ASEAN countries is much higher and important than that between China and Myanmar.⁸⁰ In sum, for China, the Sino-Myanmar pipeline is a “catalyst for China-ASEAN cooperation.”⁸¹ China's desire to influence its external environment and its economic power to able to do so seem to follow neoclassical realists' line of explaining why a state behaves in a particular way.

Another importance of Myanmar for China is its strategic location. Myanmar is a doorway to the Indian Ocean and South Asia for China.⁸² Financing the pipeline construction would limit the influence other countries might have on Myanmar and turn to the country into a strategic buffer zone.⁸³ Since China established a closer relationship with Myanmar after military suppression of

76 Ibid.

77 Ibid., 97.

78 Patricia Ohli, “Trans-Asian gas network could cost \$66 billion, Pipeline&Gas Journal, 221, no. 8 (1994): 1-2, quoted in Zhao, “China and Myanmar,” 97.

79 Zhao, “China and Myanmar,” 97.

80 Ibid.

81 Ibid., 94.

82 Panwar, “India and China,” 10.

83 Kong, “The geopolitics,” 58.

pro-democracy movement in 1988, China has contributed greatly to regime survival. China aided Myanmar with massive arms supply and, in return, Myanmar gave China opportunity to afford control over the Strait of Malacca.⁸⁴ China modernized Myanmar's naval facilities in the Bay of Bengal, aiming to constrain and contain Indian and U.S. naval ambitions through direct monitoring in Bay of Bengal.⁸⁵

Conclusion

Although India failed in the competition with China for the pipelines, its energy cooperation with Myanmar is in continuation. India holds shares in the Sino-Myanmar pipeline project and is negotiating with Myanmar on building further oil and gas pipelines to western and eastern India.⁸⁶ The fact that the Myanmar government allowed Indian energy companies to be involved in its China-bound pipelines suggests that Myanmar has no intention of being subject to any foreign power.⁸⁷ Rather than seeking security by tilting toward either China or India, Myanmar wants to shape the magnitude of its foreign policy to the extent that its strategic location and its possession of vital energy resources allow the country to do so.

Zhao describes how the external environment changes have led Myanmar's foreign policy gradually change, especially in its relations with China.⁸⁸ For example, Myanmar has expressed its support for India to become a permanent member of the U.N. Security Council; Myanmar has improved its relations with the U.S. and its allies, and is ready to accept Western capital; its leaders

84 Panwar, "India and China," 10.

85 Zhao, "Introduction," 2; Panwar, "India and China," 12.

86 Zhao, "China and Myanmar," 101.

87 Kong, "The geopolitic," 65.

88 Zhao, "China and Myanmar," 104.

suspended the construction of a China-backed dam, which was a complete surprise to China.⁸⁹ All this raises serious challenges to China's relationship with Myanmar in coming decades. Neoclassical realism might be a guide, again, to explain all the dynamic events that Myanmar might generate dealing with China. Neoclassical realism holds that “as their relative power rises states will seek more influence abroad, and as it falls their actions and ambitions will be scaled back accordingly.”⁹⁰

89 Zhao, “China and Myanmar,” 104; Sun, “China's strategic Misjudgment on Myanmar,” 84.

90 Rose, “Neoclassical Realism,” 152.

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Geo-Security, Liberal Institutions and Regional Integration: The Horizontal Expansion of the European Union

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Abstract:

This paper will examine the evolution of the accession process in the European Union (EU) over the past 25 years looking specifically at the case of Romania. It will be argued that through its period of liberal structural changes the EU and the member states still hold a disproportionate say within the process of horizontal integration. The paper will first outline a brief history of the EU pre-1989 and post the fall of the Berlin wall followed by an expansion on Romania's accession within the historical and political contexts. It will further be argued that Romania's shift in foreign policy has led to relative gains.

Résumé :

Ce travail examinera l'évolution du processus d'accèsion à l'Union Européenne (UE) au cours des 25 dernières années en analysant spécifiquement le cas de la Roumanie. Il sera soutenu qu'à travers la période de changements structureaux libéraux l'UE et ses états membres détiennent toujours un pouvoir disproportionné à l'intérieur du processus d'intégration horizontale. Ce travail délimitera d'abord une brève histoire de l'UE avant 1989 et après la tombée du mur de Berlin suivi d'une expansion sur l'accèsion de la Roumanie dans les contextes historique et politique spécifiques. Il sera soutenu plus loin que le changement dans la politique étrangère de la Roumanie a mené à des gains relatifs.

Introduction

The evolution of the European Union (EU) accession process over the past 25 years will be examined in this paper. It will chart the evolution of this process from the reliance on multilateral agreements to a more liberal structure. I will argue that through its period of liberal structural changes the EU and the member states still held a disproportionate say within the process of horizontal integration. I will specifically look to the case of Romania in its accession proceedings to better understand this new process and outcomes. The Romanian accession is interesting because it is one of the most recent members to join, with a lengthy period of “negotiations” and geopolitical developments shaped its accession process. Despite Romania’s struggles in achieving accession targets it joined but was subjected to post-accession agreements. In this paper I will argue that geostrategic political interests, instead of economic determinants dominated the accession process. I will also explore the precedent setting phenomenon of post-accession monitoring and conditionality and its relation to the conceptuality of geo-strategic influence within the EU.

Process

Pre-1989

The horizontal expansion of the European Union has been one of its most effective tools in achieving economic and political success. A horizontal expansion from an “inner six” to twenty-seven member-states has helped drive the vertical process of economic integration along with the development of institutional and judicial integration. Just as each new stage of economic and institutional integration has brought both new levels of co-operation and challenges, every new addition to the EU has facilitated its shortcomings and successes.

Before the Treaty on the European Union enlargement proceedings were largely conducted on a strictly multilateral basis with decision making power in accession proceedings given to the existing member states. This method worked to preserve the stability of the internal market systems, as well as the institutions, as potential members were heavily vetted and existing members were given a veto over negotiations. There were, however, some systemic drawbacks in this non-institutionalized setting of multilateral negotiations, as potential applicants could be vetted through non-economic or institutional factors contained in the policy of the government of one member state (e.g. France vetoed Britain's entry).¹ For the most part the EU member states were able to chart expansionary efforts to coincide with each new geopolitical and economic turn of events in the pre-1989 world.

The Fall of the Berlin Wall

De-Stalinization and the transitional democracies that emerged in Eastern Europe post-1989 presented the European Union with a geopolitical dilemma. EU leaders had to ask themselves: What to do with these new and/or emerging market democratic states next door? How do we ensure economic and military security in the region? How can our institutions function to stabilize the region? And what is the best measure to take to facilitate stabilization?

As we know, through the blessings of hindsight, EU policy makers opted to ensure stabilization through a process of inclusion, exhibited through the Council's declaration "that the associated countries in Central and Eastern Europe that so desire shall become members of the

¹ Ginsberg, Roy. *Demystifying the European Union The Enduring logic of Regional integration*. 2nd ed. Rowman & Littlefield Publishers, Inc., 2010: 68-70.

European Union.”² The concept of expansion equals stabilization was reiterated when the Prodi Commission claimed in 1999 that “enlargement was the ‘best way’ to achieve ‘peace and security, democracy and rule of law, growth and the foundations of prosperity throughout Europe’.”³ Although these comments exemplify the desire of many of the leaders of the EU to facilitate stability on the continent through integration, they do not show us how this happened in a technical sense.

The Maastricht Treaty established the framework by which Eastern European states could be integrated. It accomplished this by re-configuring and solidifying the process by which states would join and integrate into the EU. This treaty reworked the process of integration where the European Commission would act in an evaluative capacity to the European Parliament and the European Council. However, the Council would still assert a final say in membership negotiations, with a consensus needed to accept any new members, and the Parliament was given a say as any accession treaty required the Parliament’s approval.⁴ This scheme appears to build further on the liberal aspects of institutionalization within the EU by deepening the accession process through the development of checks and balances at a supranational level and implementing a process of external evaluations to measure prospective candidates for accession.

In 1993, the Council, comprising of the EU12 states, convened in Copenhagen where it “held a thorough discussion of the relations between the Community and the countries of Central and Eastern Europe.”⁵ The outcome of this meeting was the production of an accession criterion. This criterion acted as a blue print for the Commission to put together progress reports on the

² Phinnemore, David. "And We'd Like to Thank... Romania's Integration into the European Union, 1989-2007." *European Integration*. 32.2 (2010): 229.

³ Howell, Chris. "Rethinking Institutions and Institutional Change in European Industrial Relations." *British Journal Of Industrial Relations*. 49.2 (2011): 231-255.

⁴ European Union. The Council of the European Union. *Treaty on the European Union*. Maastricht, 1993.

⁵ European Union. The European Council. *Presidency Conclusions Copenhagen European Council*. 1993.

development of states seeking accession; therefore, gave weight to the new powers the Commission gained through the Maastricht treaty. It would also give prospective candidates a glimpse of the figurative hoops they would need to go through to accede.

The outline of the Copenhagen membership-criteria state:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.⁶

However, as much as these reforms catered to an interconnecting web of international institutions, executive decision making remained, first and foremost, in the hands of the member states; thus, the conceptualization of geostrategic decisions still remain the most pertinent factor in the accession.

The Agreements in Motion

Introduction

The European Union cemented its stance 1993, following the Copenhagen meetings, and began negotiations with prospective member states. Sweden, Austria and Finland were the first states to enter the Union under the Copenhagen criteria in the Fourth Enlargement. They were followed by Malta, Cyprus, Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Slovenia, and Hungary as the first part of the Fifth Enlargement who were then followed by Romania and Bulgaria in the second part. In the span of twelve years the Union more than doubled in size. Each of these states joined for their respective reasons and had their own difficulties in integrating.

⁶ Ibid

The Blunders of Expansion

The two areas of pre-accession treaty agreements and post-accession coping difficulties among newer member-states included areas of political and economic reforms. When referring to economics, it is the process of market integration and financial reforms to better integrate within the Union. Political refers to the adoption of the *aquis communautaire*, the legal stipulations of the rights of minorities, an enshrinement of human rights domestically, and the creation of a fair electoral process with free elections and a multi party system. Each nation state that joined post-accession faced its own problems in these two areas.

In the area of economics, it is rather overt to remark subtle economic sliding faced by newer member-states. Sweden, for example, was mid-recession with a protracted and vicious fight between labour and capital as it concluded negotiations, membership in the Union.⁷ Many of Central Eastern European countries (i.e. Poland, Hungary, Czech Republic, etc) had no market track record, a limited labour relations scheme; horrible fiscal records, and massive international debt.⁸ Moreover since these states had a limited capacity for capitalistic production upon entry their only competitive advantage was a cheap labour force.⁹ This was worrying for EU12 states as single market expansion eastwards could cause capital flight and put strain on the scope of union.

It is also worthy of mention that the financial crash of 2007 and the subsequent sovereign debt crises has plunged these CEE states into near bankruptcy. Many of these states have turned to the World Bank and IMF for bailouts (i.e. Hungary) and others are suffering through some of

⁷ Howell, Chris. "Rethinking Institutions and Institutional Change in European Industrial Relations." *British Journal Of Industrial Relations*. 49.2 (2011): 231-255.

⁸ Levitz, Phillip, and Pop-Eleches Grigore. "Monitoring, Money and Migrants: Countering Post-Accession Backsliding in Bulgaria and Romania." *Europe-Asia Studies*. 62.3 (2010): 461-479.

⁹ Ginsberg, Roy. *Demystifying the European Union The Enduring logic of Regional integration*. 2nd ed. Rowman & Littlefield Publishers, Inc., 2010: 68-70.

the worst austerity measures implemented in their histories (Romania, Bulgaria, etc).¹⁰ This speaks miles of the need for an EU financial and monetary crises management system so that generally smaller economies will not fall victim to severe recessional backlash.

The proper implementation of the *acquis* and the establishment of fully functioning representative democratic regimes with fair elections along with a noted respect for human rights were the distinctive feature of the political criterion to join the Union.¹¹ Initially many CEE countries were on pact with Commission set targets and made required progress in subsequent monitoring efforts. However, public perception polls show that in the eyes of the citizenship many CEE states, after attaining accession into the Union, halted, slowed down and in some cases even reversed of the reform policies that got them into the Union.¹² Furthermore, there was much concern over the rise of the far-right in many of the new CEE states. The inclusion of the Austrian Freedom Party in Austrian Government in the 1999–2000 elections, just 5 years after accession, sent a bit of a ‘white scare’ through the ranks of western leaders provoking subversive “sanctions” against that member-state.¹³ Recently Hungary has encountered larger trouble with its constitutional reforms and censorship of the press.¹⁴ Also, former Croatian ultra-nationalists endorsing Croatian accession is demonstrative that the threat of the nationalism is a persistent problem in the CEE region and in Europe as a whole.¹⁵ In the cases where treaty law is under threat of being in violation, the EU needs to have regulating measures in place to enforce compliance among its member-states, but this topic and its difficulties are for another discourse.

¹⁰ International Monetary Fund. *IMF Survey Magazine*. *IMF Agrees \$15.7 Billion Loan to Bolster Hungary's Finances*.; Ionita, Sorin. "Viewpoint: Romania protests a warning from the street." *BBC News* 18 Jan 2012, n. pag.

¹¹ European Union. The European Council. *Presidency Conclusions Copenhagen European Council*. 1993.

¹² Levitz, Phillip, and Pop-Eleches Grigore. "Monitoring, Money and Migrants: Countering Post-Accession Backsliding in Bulgaria and Romania." *Europe-Asia Studies*. 62.3 (2010): 368.

¹³ Tran, Mark. "Austria's Freedom Party." *Guardian* 28 Jan 2000, n. pag.

¹⁴ Krugman, Paul. "The Unconstitutional Constitution." *New York Times* 02 Jan 2012, n. pag.

¹⁵ "General jailed for war crimes back Croatia EU entry." *EUbusiness* [Zagreb] 21 Jan 2012, n. pag.

Road to Romanian Accession

Unlike the transitions in Poland or Czechoslovakia, where pro-democracy activists rose to power, a coup of low level Communist Party elites took control of the state in 1989. They called themselves the National Salvation Front (FSN) and governed in the interim, under the auspices of restoring democracy and implementing market economic reforms. Romania signed a first generation (Trade and Cooperation) agreement in 1990; it was included into the PHARE transition program in 1990 (which brought 607.7 million European currency units into the country by 1995); it signed a Europe Agreement in 1993; and submitted its official application to join the European Union in 2004. From 2004 to 2007, it has been the directive of every major government within Romania to conclude negotiations and accede to the EU.¹⁶ Romania is a key case to demonstrate the geopolitical underpinnings of the integration process.

“Revolution” to Negotiations (1989-2004)

The period of 1989 to 1996 cast doubt on the seriousness of the Romanian government’s attempt to accede. Moreover, as previously discussed, the period marked a shift in EU policy aimed at expansion. The FSN sparked immediate national controversy by declaring its participation in the presidential and parliamentary election to be held in May 1990, which caused civil unrest with students and opposition members began protesting in Bucharest. These protests were subsequently crushed by FSN backed miners. Miners from the Jiu Valley would be repeatedly called in to quell instances of civil unrest; in fact the intervention of the miners into political

¹⁶ Noutcheva, Gergana, and Dimitar Bechev. "The Successful Laggards: Bulgaria and Romania's Accession to the EU." *East European Politics and Societies*. 22.1 (2008): 117-120.

affairs became so frequent that a new word to describe the events has come into the Romanian language: *Mineriades*.¹⁷

Although the May 1990 elections were considered valid by many international observers they were heavily critiqued. The International Foundation for Electoral Systems notes that:

[T]he delegation was concerned with 1) flaws in election day procedures, 2) a lack of understanding and appreciation of the electoral process among the electorate and 3) the violent character of the campaign period. Because of the magnitude of these latter two concerns, most in the delegation departed Romania with serious reservations about viability of the electoral process as a whole.¹⁸

In monitoring the 1992 elections the International Republican Institute and the National Democratic Institute for International Affairs concluded that:

The government [of Romania] used elections for an exercise in legitimacy rather than an exercise in choice, opening the political process just enough to gain the valuable approval of western powers¹⁹

Free and democratic election were missing in this early period of post-communist development, but it is very important to understand that the domestic elites maintained the image of transparency and democratic freedom in order to facilitate their entry into preliminary agreements with the West and especially the EU.

Romania, during this period and onwards, was also subject to the rise of an ultranationalist movement. Factions like the Greater Romania Party, headed by noted anti-Semite Corneliu Tudor, and the Party of Romanian National Unity attained seats in the national legislature and were outspoken in the national discourse in advocating explicit expansion and

¹⁷ Phinnemore, David. "And We'd Like to Thank... Romania's Integration into the European Union, 1989-2007." *European Integration*. 32.2 (2010): 294-5.

¹⁸ Dorosin, Joshua. "Romania: A Dream Deferred - The 1990 Elections and Prospects for Future Democracy." 1990.

¹⁹ International Republican Institute, , and National Democratic Institute for International Affairs. "Report on Romania." 1-2.

minority suppression rose (at the loss of existing EU member-states).²⁰ This rhetoric was also a factor in the ethnic riots that erupted in Transylvania in 1990.²¹ The involvement of these parties in the national legislature along with the failure of the government and judiciary in maintaining independence in the aftermath of the ethnic clashes gave rise to multiple questions of the commitment of the state's responsibility to respect human rights and protect minorities, a covenant. Yet despite the aforementioned events Romania signed a Europe Agreement with the EU. Strangely enough, it signed this agreement—a prerequisite before negotiations— before it joined the Council of Europe, which is the institution that safeguards and administers the treaties and agreements of the human rights regime on the continent.²² In this period, it is fairly evident that the Romanian state was not meeting basic standards of democracy and human rights set out by the Maastricht and Copenhagen criteria yet it was still being fast tracked into the EU framework.

Besides a questionable record on human rights and electoral freedoms in the Romanian post-communist transition, corruption remains a systemic problem. Corruption stems from many elements of transitional society but high level corruption stems from the way in which state companies were broken down to the employees and management. Political elite often broke up companies and privatized them to their associates or families. In many cases, the situation grew to be so bad that profiteering occurred. For example, a huge pyramid scheme was unveiled in 1996 involving a company called Caritas who promised poor Romanians an eightfold increase on their initial investment. As a testament to the interconnectedness of societal corruption, the mayor of Cluj-Napoca, one of Romania's largest cities and the 2008 European capital of culture,

²⁰ Pop, Valentina. "Romania's far right MEPs to stay home." *euobserver* [Brussels] 10 Jun 2009, n. pag.

²¹ Phinnemore, David. "And We'd Like to Thank... Romania's Integration into the European Union, 1989-2007." *European Integration*. 32.2 (2010): 295.

²² Council of Europe. *Romania*.

endorsed Caritas and gave them office space in the city's administrative buildings.²³ This is only but one example of the omnipresent culture of corruption in Romania which, despite ongoing EU criticism, still went through to accede.

Geopolitical Interplay

Despite these very serious domestic flaws Romania was rapidly signing pre-accession target agreements all while receiving EU aid. An explanation for the rapid pace of negotiations continuing while the applicant showed little progress to EU and third party observers was the geopolitical needs at play. Taking the timeframe into account Romania signed a Europe Agreement as civil war in Yugoslavia raged and tanks were rolling into Red Square. These events brought regional security risks for the West to the forefront of the West's security concerns. Romania played a key role in assuring the west of not only a non-hostile and relatively stable state in the Balkans and Eastern Europe but an active partner in assuring western interests in the region. Romania has been recognized as "a helpful partner to the allied forces during the first Gulf War, particularly during its service as president of the UN Security Council." Additionally, Romania has actively supported missions "in Afghanistan, UNAVEM in Angola, IFOR/SFOR in Bosnia, KFOR and EULEX in Kosovo."²⁴

The involvement of Romania in these western-led missions is more than just a unilateral show of support for stabilization in the region. According to authors like David Phinnemore, the governments of "France, Greece and Italy, were actively encouraging positive treatment" toward

²³ Perlez, Jane. "Pyramid Scheme a Trap for Many Romanians." *New York Times* 13 Nov 1993, n. pag.

²⁴ "ROMANIA." *American Logistics University*. American Logistics University.

Romania as to not “risk stability in south-eastern Europe.”²⁵ Romania’s commitment to regional stability and closeness with the foreign policies of Western Europe worked for them in their negotiations with the EU bearing the aforementioned of integration/stabilization via an accession process that is largely state centric.

Negotiations and Post-Accession Treaty Romania

Negotiations

Although the FSN would rebrand itself multiple times it fell from power in the parliamentary and presidential elections in 1996 and in 2004.²⁶ Negotiations took place in 2004 with the Commission presenting unflattering reports on the pace of reforms while the European Parliament was very vocal in their hesitancy to conclude negotiations. In early 2004, The Commission presented the Romanian Government with a “To Do List” of needed reforms to be completed before July 2004. However, with the slow pace of reforms internally and the accelerated timetable externally, negotiations were only able to be concluded after the adoption of many safeguard clauses in the accession treaty enabling post-accession monitoring by the EU institutional framework.²⁷ Although Romania acceded to the Union on January 1st 2007 many of these safeguards were still in effect and the EC could act in a capacity to discipline Romania should reforms slow down or halt.

²⁵ Phinnemore, David. "And We'd Like to Thank... Romania's Integration into the European Union, 1989-2007." *European Integration*. 32.2 (2010): 300.

²⁶ Dorosin, Joshua. "Romania: A Dream Deferred - The 1990 Elections and Prospects for Future Democracy." 1990.

²⁷ Pridham, Geoffrey. "The Effects of the European Union's Democratic Conditionality: The Case of Romania during Accession." *Journal of Communist Studies and Transition Politics*. 23.2 (2007): 233-258

Monitoring & Austerity

Romania was subjected to several safeguard conditions outlined by the EU in the framework of the Treaty of Accession. One such condition was the postponement of the date of accession to 2008 instead of 2007 should Romania not implement desired reforms by the initial date.²⁸ The EU was taking Romania into the fold due to geopolitical reasons and was exerting as much pressure as possible so that the pace of domestic reforms would not slow down post-accession, so as not to engender EU economic slowdown.

Postponement of accession was not the only trick the EU had up its sleeve, it chose to subject Romanian “to continued EU monitoring” for three years after accession, with “respect to corruption, organized crime and judicial function”.²⁹ Penalties for slow progress, as Phillip Levitz and Pop-Eleches Grigore claim, included “sanctions (cuts in EU aid) or non-recognition of judicial decisions.”³⁰ The three safeguard clauses however are more generally written in the annexes of the treaty by simply mentioning that the EU could instil sanctions in the “areas of the economy, single market, and justice and home affairs” should Romania not take serious steps in reforms.³¹ These sanctions, if invoked could “be applied beyond the [initial three year] period” until “the shortcomings are remedied.”³² These were serious measures not placed upon any country before, but they were put in place to “facilitate and support [a] smooth accession...while

²⁸ European Union. The European Commission. *Official Journal of the European Union Protocol Concerning the conditions and arrangements for admission of the republic of Bulgaria and Romania to the European Union*. 2005..

²⁹ Levitz, Phillip, and Pop-Eleches Grigore. "Monitoring, Money and Migrants: Countering Post-Accession Backsliding in Bulgaria and Romania." *Europe-Asia Studies*. 62.3 (2010): 470.

³⁰ Ibid

³¹ Noutcheva, Gergana, and Dimitar Bechev. "The Successful Laggards: Bulgaria and Romania`s Accession to the EU." *East European Politics and Societies*. 22.1 (2008): 125.

³² European Union. The European Commission. *Official Journal of the European Union Protocol Concerning the conditions and arrangements for admission of the republic of Bulgaria and Romania to the European Union*. 2005.

safeguarding the proper functioning of EU policies and institutions.”³³ With regards to the wording of the Treaty of Accession, Romania was to be subjected to external decision making in domestic affairs, as they put it indefinitely.

Although some may suppose this sanction to be “toothless,” the simple threat of implementation has often spurred the Romanian government into action. Moreover, empirical economic data demonstrates that Romania was significantly poorer than its comparable CEE-8 counterparts with GDP per capita in those countries roughly 80% higher than that of Romania which continuously ranks in the bottom three economies within the European Union.³⁴ EU aid agencies such as the European Regional Development Fund, the Cohesions Fund, the European Social Fund, and the European Agricultural Fund for Rural Development have all had significant impacts in Romania. Annual EU funding commitments to Romania between 2007 and 2013 are projected to total 5% of EU GDP.³⁵ The loss of these capital investments through sanctions present a very real threat to Romania’s domestic economy.

These sanctions soon became real in 2008 when the Commission implemented its first cuts to Bulgarian aid due to slow progress in combating corruption.³⁶ These cuts to Romania’s neighbour, who was in a similar post-communist socio-economic situation, made the continuing threats by the EU a reality and continued to spur forward commitments for reform. In Romania’s “Return to Europe,” the real threat of sanctions combined with the longevity of the monitoring amounts to a loss of sovereignty to Brussels for domestic policy makers.

³³ Levitz, Phillip, and Pop-Eleches Grigore. "Monitoring, Money and Migrants: Countering Post-Accession Backsliding in Bulgaria and Romania." *Europe-Asia Studies*. 62.3 (2010): 470.

³⁴ *Ibid.*, 461-4.

³⁵ *Ibid.*, 471-2.

³⁶ Levitz, Phillip, and Pop-Eleches Grigore. "Monitoring, Money and Migrants: Countering Post-Accession Backsliding in Bulgaria and Romania." *Europe-Asia Studies*. 62.3 (2010): 470.

Concluding Thoughts

Romania's accession to the EU was not so much a testament to the strength of the Copenhagen and Maastricht reforms, but rather an example of how strategic shift in foreign policy for a economically weaker nation leads to relative gains vis-à-vis entry into a perceivably beneficial regional integration agreement. Romania was able to maneuver its foreign policy in such a way as to aid the Western powers during several periods of regional and global crises to aid their efforts. In this paper I have demonstrated that the aforementioned factors were the primary reasons that lead up to Romanian accession, rather than the, much touted reforms in the treaty arrangement that supposedly streamlined entry based on an economic and legal criterion.

Furthermore, the post accession monitoring, imposed by the Euro-troika, was used to discipline and deter a relatively weak partner in following through with prescribed reforms. In threatening domestic policy makers with real sanctions in key areas of domestic policy such as homeland affairs, justice, and economy, the monitoring regime cemented Romania's place in the EU as a periphery nation among great powers.

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Quel facteur est le plus significatif pour distinguer les Études internationales des Relations internationales : Sa méthodologie ou son regard ontologique plus élargi?

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Résumé :

Si pendant longtemps, les concepts de Relations Internationales (RI) et d'Études Internationales (EI) ont été assimilés, il est aujourd'hui admis que ce sont deux disciplines à part entière. On range d'ailleurs de plus en plus les relations internationales dans le catalogue des sciences politiques dans la mesure où elles régissent les rapports entre les États. Les études internationales sont, quant à elles, appréhendées comme l'interaction de plusieurs disciplines. Ainsi, malgré les débats, la majorité des auteurs s'accorde pour dire que ces deux disciplines se distinguent de deux façons. D'une part par leur approche méthodologique et d'autre part par leur conception ontologique. Autrement dit, les études internationales se caractérisent par leur interdisciplinarité, alors que les relations internationales représentent une certaine spécialisation. Cependant, cet essai démontrera que l'existence de ces deux facteurs de distinction ne justifie pas une pertinence égale. Finalement, l'interdisciplinarité reste le critère par excellence qui permet de différencier les relations internationales des études internationales.

Abstract:

For a long time, the concepts of International Relations (IR) and International Studies (IS) have been assimilated and it is now recognized that these are two disciplines of their own. International Relations are placed in the field of political sciences as they govern relations between States. International Studies are understood as an interaction of several disciplines. Thus, despite the debate, most authors agree to say that these two disciplines differ in two ways: on the one hand by their methodological approach, and on the other hand by their ontological design. In other words, International Studies are characterized by their interdisciplinarity while International Relations represent a specialization. However, this essay will demonstrate that if these two distinguishing factors exist, they do not have the same relevance. In the end, the interdisciplinarity remains the ultimate criterion that differentiates International Relations and International Studies.

Les concepts de Relations internationales (RI) et d'Études internationales (EI) ont longtemps été confondus et assimilés pour désigner l'étude des grandes questions du système international. Cependant après moult débats et discussions on est finalement arrivé à la conclusion que ce sont deux disciplines distinctes même si certains auteurs avancent que les Relations internationales sont une sous-division des Études internationales¹. En effet, il est aujourd'hui admis et reconnu que les Relations internationales relèvent de la science politique et désigne généralement les rapports entre États. C'est la position adoptée par Patrick Forest, Mathieu Tremblay et Philippe Le Prestre lorsqu'ils affirment, à l'instar de Jeanne Hey, que «les RI constituent un domaine de spécialisation, relevant de la science politique, qui traite principalement des questions de conflits, de paix, de commerce ou de politique étrangère»². De la même façon, on considère de nos jours que « les Études internationales constituent une approche interdisciplinaire pour explorer le monde»³. En d'autres termes, on peut concevoir les Études internationales comme un échange ou une confrontation entre plusieurs disciplines⁴ au service des enjeux globaux contemporains. Par conséquent, il ne fait plus aucun doute que ces deux concepts sont différents au moins à deux niveaux; d'une part d'un point de vue méthodologique et d'autre part si on tient compte de la substance de leur objet d'étude, c'est-à-dire de leur ontologie. En effet, les Études internationales affichent une méthodologie interdisciplinaire là où les Relations internationales se caractérisent par une certaine spécialisation. En outre, le champ des Études internationales est plus vaste, plus élargi que celui des Relations internationales. De notre point de vue, si ces deux aspects sont importants, il n'en reste pas moins que l'interdisciplinarité constitue le facteur le plus significatif

¹ Patrick Forest, Mathieu Tremblay et Philippe Le Prestre. 2009. «Des Relations internationales aux Études internationales : Éléments de construction d'un champ de recherche et d'action interdisciplinaire» *Études internationales*, 40(3) page 419.

² Ibid.

³ Ibid.

⁴ Bertrand Calenge. 2002. «A la recherche de l'interdisciplinarité? *BBF* 47(4), page 6.

pour distinguer ces deux disciplines. C'est ce que cet essai tentera de démontrer en mettant en avant d'une part la non pertinence de l'ontologie, car les politologues peuvent aujourd'hui se vanter d'avoir un objet d'étude de plus en plus large faisant ainsi de l'ontologie un facteur de distinction moins déterminant, et d'autre part la prise en compte de l'interdisciplinarité à tous les niveaux de réflexion.

Comme mentionné précédemment, le critère de l'ontologie élargie comme signe distinctif des Relations internationales et des Études internationales est moins pertinent que celui de l'interdisciplinarité, car de nombreux politologues estiment que le l'objet d'étude de leur discipline est très vaste et n'a rien à envier à celui des Études internationales. C'est d'ailleurs le cas de Diane Ethier qui affirme que :

Les Relations internationales constituent un objet d'études extrêmement vaste puisqu'il englobe les rapports de toute nature que les organismes publics et privés, les groupements de personnes et les individus des divers États ont noués entre eux dans le passé, entretiennent dans le présent et prévoient développer dans le futur⁵.

Cela démontre bien une certaine tentative de sortir de la spécialisation. Par ailleurs, la confusion autour de la relation entre les Relations internationales et les Études internationales favorise l'embrouillement du champ de ces deux disciplines. On assiste parfois même à une mise à l'écart des Études internationales au profit des Relations internationales. Les experts en Relations internationales s'imposent dans un domaine qui devrait relever des Études internationales, restreignant de la sorte le champ de cette dernière. C'est ce que Forest et ses collègues expliquent lorsqu'ils avancent que les politologues se sont accaparés les publications dans la revue *International Studies Quarterly* (ISQ) permettant de la sorte «que le champ des EI soit étroitement

⁵ Diane Ethier, 2010. «Introduction aux relations internationales» Les presses de l'Université de Montréal, 4ème édition, page 9.

associé aux RI et à la science politique»⁶. De toute évidence, les politologues, sans vouloir se renier, auront toujours tendance, compte tenu des enjeux qui sont de plus en plus globaux et mondialisés, à s'intéresser à des sujets plus larges. Cependant, les politologues doivent reconnaître et accepter leurs limites pour se concentrer sur leur objet d'étude et ainsi être plus performants dans leur domaine ; à vouloir trop s'éparpiller en étendant le regard ontologique des Relations internationales, ils s'éloigneront de l'expertise qui est la leur et de surcroît empêcheront les Études internationales d'être ce «lieu de convergence des chercheurs portant avec eux le bagage théorique et paradigmatique en vigueur dans leur discipline»⁷. Cela reviendrait implicitement à accepter la caractéristique principale des Études internationales qui est son interdisciplinarité. C'est ainsi que, citant Anderson Sheldon, Forest et ses collègues affirment que :

L'étude de la politique interétatique représente un élément crucial des Études internationales mais demeurent différentes car les Relations internationales constituent un champ d'étude intrinsèquement politique, plutôt qu'interdisciplinaire⁸.

En effet, l'interdisciplinarité qui, selon Calenge,

est aujourd'hui une notion largement répandue, voire invoquée, qui suggère essentiellement une ouverture au-delà des canons certifiés de systèmes de pensée, ne serait-ce qu'en confrontant ces canons entre eux, en poussant à leur interpénétration ou du moins à leur questionnement réciproque, ou simplement en favorisant leur juxtaposition pour multiplier les regards sur un objet commun⁹,

s'est imposée car on a compris que «la spécialisation est une forme de «cancérisation épistémologique»¹⁰. Confirmant en ce sens la pensée de Bernard Valade, Forest et consorts soulignent que l'interdisciplinarité permet

⁶ Patrick Forest, Mathieu Tremblay et Philippe Le Prestre. 2009. «Des Relations internationales aux Études internationales : Éléments de construction d'un champ de recherche et d'action interdisciplinaire» *Études internationales*, 40(3) page 420.

⁷ Ibid, page 437.

⁸ Ibid, page 419.

⁹ Bertrand Calenge. 2002. «A la recherche de l'interdisciplinarité? *BBF* 47(4) page 6.

¹⁰ Patrick Forest, Mathieu Tremblay et Philippe Le Prestre. 2009. «Des Relations internationales aux Études internationales : Éléments de construction d'un champ de recherche et d'action interdisciplinaire» *Études internationales*, 40(3) page 421.

la fécondité des échanges entre les spécialistes de champs distincts, propre à encourager le transfert de connaissances et de méthodologies d'une discipline à l'autre. Cet enrichissement réciproque ouvre la voie à une résolution originale des problèmes qui ne peuvent être réglés par le recours à un seul champ de connaissance¹¹.

Tout cela indique que l'interdisciplinarité est un enrichissement dans la mesure où il permet une ouverture d'esprit, un élargissement de la connaissance. Cependant, cette interdisciplinarité a fait couler beaucoup d'encre, particulièrement concernant les Études internationales qui, pendant longtemps, ont fait l'objet d'une crise identitaire. Blanton explique bien cette situation:

en tant que champs d'études qui ne tombe pas dans les paramètres disciplinaires traditionnels, les EI ont fait face à une sorte de « crise d'identité » au cours des années. En tant que champs de recherche, des études ont démontré que les études internationales sont largement dominées par la science politique – en tant que programme éducationnel, les EI sont bien plus éclectiques. La vaste majorité des programmes d'EI n'ont aucun « foyer » départemental et ils incorporent le contenu de plusieurs autres disciplines, incluant l'anthropologie, l'économie, la géographie, l'histoire, la science politique, la religion et la sociologie.¹²

En effet, si comme l'affirme Forest, « les études internationales sont le carrefour de segments disciplinaires spécialisés dans l'objet de l'international »¹³, cette interdisciplinarité reconnue est parfois complexe et difficile à mettre en œuvre notamment au niveau de la recherche en bibliothèque. C'est généralement la spécialisation qui est le principe bibliothécaire, car on part de l'idée que « le point de vue disciplinaire reste le pivot du savoir constitué et reconnu, sans lequel la tentation interdisciplinaire perdrait sa vigueur »¹⁴. Pour Calenge, « plus que le savoir, la bibliothèque doit servir le développement des connaissances partagées »¹⁵. Il rajoute cependant que l'état des lieux en bibliothèque est décevant, non pas seulement à cause des bibliothécaires qui classent les documents par discipline, mais également à cause du comportement des utilisateurs de

¹¹ Ibid, page 424

¹² Robert Blanton. 2009. « Surveying International Studies Programs. Where do we stand? » *International Studies Perspectives* 10 – Traduction libre, page 224.

¹³ Patrick Forest, Mathieu Tremblay et Philippe Le Prestre. 2009. « Des Relations internationales aux Études internationales : Éléments de construction d'un champ de recherche et d'action interdisciplinaire » *Études internationales*, 40(3) page 427.

¹⁴ Bertrand Calenge. 2002. « A la recherche de l'interdisciplinarité? » *BBF* 47(4) page 8.

¹⁵ Ibid, page 7.

la bibliothèque qui se cantonnent à leurs spécialités¹⁶. Malgré tous ces obstacles, nul ne peut nier l'importance voire la nécessité de l'interdisciplinarité surtout au niveau des Études internationales pour mieux appréhender les enjeux globaux et trouver des solutions adaptées aux problèmes qui se posent. L'apport de toutes ces disciplines qui s'entrecroisent ne peut être que bénéfique, car il permettrait d'analyser un problème, une situation sous divers angles, et ainsi de générer des solutions plus concrètes. En somme, c'est cette interdisciplinarité qui permettra aux Études internationales d'être «un lieu de dialogue favorisant le brassage des idées, ainsi qu'une ouverture vers l'autre»¹⁷.

En définitive, il est incontestable que les Études internationales et les Relations internationales soient deux disciplines distinctes tant par leur champ d'action que par leur méthodologie disciplinaire ou interdisciplinaire. Il faut concevoir les Relations internationales d'abord comme relevant des sciences politiques et ensuite comme étant une sous-division des Études internationales qui ont un champ plus large. De cette façon, chacune de ses disciplines jouera pleinement sa partition, l'une l'amélioration des relations entre États et l'autre une meilleure exploration du monde. Cependant, au-delà de cette distinction, il faut bien comprendre que ces deux disciplines peuvent être complémentaires «en situant les Relations internationales sous le chapeau des Études internationales»¹⁸. Là encore, c'est cette interdisciplinarité des Études internationales qui permet cette complémentarité, cette ouverture qui débouche sur une meilleure compréhension des enjeux globaux.

¹⁶ Ibid.

¹⁷ Patrick Forest, Mathieu Tremblay et Philippe Le Prestre. 2009. «Des Relations internationales aux Études internationales : Éléments de construction d'un champ de recherche et d'action interdisciplinaire» *Études internationales*, 40(3) page 437.

¹⁸ Patrick Forest, Mathieu Tremblay et Philippe Le Prestre. 2009. «Des Relations internationales aux Études internationales : Éléments de construction d'un champ de recherche et d'action interdisciplinaire» *Études internationales*, 40(3) page 419.

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